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# REPORT

with recommendations to the Commission on application of the principle of equal pay for male and female workers for equal work or work of equal value (2011/2285(INI))

Committee on Women's Rights and Gender Equality

Rapporteur: Edit Bauer

(Initiative – Rule 42 of the Rules of Procedure)

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**with recommendations to the Commission on application of the principle of equal pay for male and female workers for equal work or work of equal value**

**(2011/2285(INI))**

*The European Parliament,*

- having regard to Article 225 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Articles 8 and 157 TFEU,
- having regard to Directive 2006/54/EC of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)<sup>1</sup>,
- having regard to the Commission's communication of 21 September 2010 entitled Strategy for Equality between Women and Men 2010-2015 (COM(2010)0491),
- having regard to the Commission's communication of 5 March 2010 entitled A Strengthened Commitment to Equality between Women and Men, A Women's Charter (COM(2010)0078),
- having regard to the Commission's report of May 2010 entitled The Gender Pay Gap in Europe from a Legal Perspective,
- having regard to the Commission's report of February 2009 by the European network of legal experts in the field of gender equality entitled The Transposition of Recast Directive 2006/54/EC,
- having regard to the Commission's communication of 18 July 2007 entitled Tackling the pay gap between women and men (COM(2007)0424),
- having regard to the Commission's report of February 2007 by the Commission's network of legal experts in the fields of employment, social affairs and equality between men and women entitled Legal Aspects of the Gender Pay Gap,
- having regard to the European Pact for gender equality (2011 - 2020) adopted by the Council on 7 March 2011,
- having regard to the case law of the Court of Justice of the European Communities based on Article 157 of the Treaty on the Functioning of the European Union,
- having regard to the report of the European Foundation for the Improvement of Living and Working Conditions of 5 March 2010, entitled Addressing the gender pay gap:

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<sup>1</sup> OJ L 204, 26.7.2006 p. 23.

Government and social partner actions,

- having regard to the European Social Partners’ Framework of Actions on Gender Equality of 1 March 2005, its follow-up reports of 2006, 2007 and 2008 and the final evaluation report of 2009,
  - having regard to the provisions of the International Labour Organisation’s (ILO) 1994 Part-Time Work Convention<sup>1</sup>, which requires countries to incorporate into their public procurement contracts a labour clause including the issue of equal pay,
  - having regard to ILO Convention 100, “Equal Remuneration”,
  - having regard to the ILO – UN Global Compact webinar of March 2011: “Equal Pay for Work of Equal Value: How do we get there?”,
  - having regard to Article 11(1)(d) of the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the UN General Assembly in its Resolution 34/180 of 18 December 1979,
  - having regard to its resolution of 18 November 2008 on Application of the principle of equal pay for men and women<sup>2</sup>,
  - having regard to the Commission’s follow-up of 3 February 2009 to the resolution of 18 November 2008,
  - having regard to the initiative of 8 March 2010 by 10 of its Members to draw up a legislative initiative report on ‘Equal Pay for Equal Work’ pursuant to Rule 42 of the Rules of Procedure,
  - having regard to Rules 42 and 48 of its Rules of Procedure,
  - having regard to the report of the Committee on Women’s Rights and Gender Equality and the opinion of the Committee on Employment and Social Affairs (A7-0160/2012),
- A. whereas according to the latest provisional and incomplete figures, women across the European Union earn on average 16.4% less than men in the EU and the gender pay gap varies between 4.4% and 27.6% in the Member States, and whereas – despite the significant body of legislation in force for almost 40 years and the actions taken and resources spent on trying to reduce the gap<sup>3</sup> – progress is extremely slow (the disparity at EU level was 17.7% in 2006, 17.6% in 2007, 17.4% in 2008, 16.9% in 2009 and 16.4% in 2010), and in some Member States the gap has even widened; while the gender pay gap could be higher than indicated as three Member States’ data are still missing;

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<sup>1</sup> <http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=178&chapter=1&query=%23status%3D01&highlight=on&querytype=bool&context=0>.

<sup>2</sup> OJ C 16 E, 22.1.2010, p. 21.

<sup>3</sup> Sustainable development in the European Union: 2011 monitoring report of the EU sustainable development strategy, Eurostat, 2011.

- B. whereas the causes of the persistent high gender pay gap are complex, multiple and often interrelated, and go far beyond the single issue of equal pay for equal work or work of equal value; whereas these causes include direct and indirect discrimination, as well as social and economic factors such as occupational and highly horizontally and vertically segregated labour markets, undervaluing of women's work, inequality in the balancing of work and private life, and traditions and stereotyping, including in the choice of educational paths, in educational guidance, in access to trades and professions and consequently in professional careers, particularly for girls and women, leading them towards typically female professions which are less well paid; whereas, according to expert analysis, discrimination, direct and indirect, is responsible for approximately half the difference;
- C. whereas all too often the pay gap is linked to cultural legacies and legal and economic factors present in modern-day society;
- D. whereas on average women needed to work until 2 March 2012 in order to earn as much as men had earned on average in the year up to 31 December 2011;
- E. whereas implementation of the principle of equal pay for the same work and for work of equal value is crucial to achieving gender equality; whereas the Commission and the Member States should be called upon to compile and regularly issue statistics showing not only average hourly wages, but also the amounts of pay that men and women receive for equal work or work of equal value;
- F. whereas the recast Directive 2006/54/EC has contributed to the improvement of women's situation in the labour market but has not profoundly changed the legislation on closing the gender pay gap; whereas preliminary studies by experts show that little or no change has been made in Member States' legislation and no sanctions have been taken against employers; whereas the complexity of the issue requires not only improvement of the legislation but also a Europe-wide strategy to address the gender pay gap, which, in turn, requires strong EU leadership in coordinating policies, promoting good practices and involving various actors;
- G. whereas trends show that salaries are more frequently individually negotiated, resulting in a lack of information and transparency on the individualised pay system which leads to increased pay disparities among employees at similar levels, and can result in widening the gender pay gap; whereas a more decentralised and individualised system of wage setting should therefore be assessed as a rather worrying development, while data protection cannot be taken as a legitimate excuse for not publishing statistical information on salaries;
- H. whereas, in all Member States, female students achieve a higher pass rate at school than their male counterparts and represent as many as 59% of all university graduates; whereas, however, thanks to traditions and stereotypes in education they are a minority among university graduates in fields like mathematics and computer engineering;
- I. whereas women's skills and competences are often undervalued, as are the professions and jobs in which women predominate, without this necessarily being justified by any objective criteria; whereas broadening women's career prospects and changing education

patterns could have a positive influence on addressing the gender pay gap, for example by increasing the numbers of female scientists and engineers;

- J. whereas women are more often employed in part-time work, and whereas the gender pay gap is almost twice as wide among part-time workers as among full-time workers;
- K. whereas, according to expert analysis, the gender pay gap starts to be visible after a woman's return to the labour market from her first maternity leave, gets higher with repeated career interruptions because of external factors, such as child-related employment breaks and caring for dependent family members and tends to grow with age and educational level; whereas women's slower, shorter and/or interrupted careers also create a gender differential in contributions to social security systems, thus increasing women's risk of poverty in old age;
- L. whereas data indicate that qualifications and experience acquired by women result in financially lower rewards than those acquired by men; whereas, in addition to the concept of 'equal pay for work of equal value', which must not be biased by a gender-stereotyped approach, societal roles that have hitherto significantly influenced education and employment paths must be broken away from, and education can and must contribute to eradicating gender stereotypes from society; whereas, furthermore, maternity and parental leave must not give rise to discrimination against women in the labour market;
- M. whereas employers in feminised industries and occupations pay lower wages on average, and whereas these industries and occupations usually have less collective representation and bargaining power;
- N. whereas, according to legislation and European case law, employers must apply the same evaluation criteria to all staff, remuneration arrangements must be understandable and transparent, and the criteria applied must take into account the nature and type of work and must be free from discriminatory elements;
- O. whereas the pay gap is even more pronounced among women with multiple disadvantages, such as women with disabilities, women belonging to minorities and unqualified women;
- P. whereas only a few claims concerning discrimination in the form of a gender pay gap make their way to the competent courts<sup>1</sup>; whereas there are many explanations for this scarcity, including lack of information on pay, the problematic scope of comparison, the claimants' lack of personal resources, and the failure to supervise and impose penalties on bodies which neglect to publish information on salaries;
- Q. whereas the European Institute for Gender Equality can play a fundamental role in monitoring the development of the gender pay gap, analysing its causes and assessing the impact of legislation;
- R. whereas Parliament has repeatedly called on the Commission to take initiatives, including

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<sup>1</sup> Background document accompanying the Commission communication entitled Strategy for Equality between Women and Men 2010-2015, SEC(2010)1080, p. 36.

the revision of existing legislation, in order to tackle the gender pay gap, and to eliminate the risk of poverty of pensioners, which is greater among women as a direct effect of the gender pay gap;

1. Requests the Commission to review Directive 2006/54/EC by 15 February 2013 at the latest, in accordance with Article 32 thereof, and to propose amendments to it on the basis of Article 157 TFEU, following the detailed recommendations set out in the annex to this resolution, at least in relation to the following aspects of the gender pay gap issue:
  - definitions,
  - analysis of the situation and transparency of results,
  - work evaluation and job classification,
  - equality bodies and legal remedy,
  - social dialogue,
  - prevention of discrimination,
  - gender mainstreaming,
  - sanctions,
  - streamlining of EU regulation and EU policy;
2. Confirms that the recommendations respect fundamental rights and the principle of subsidiarity;
3. Considers that the proposal requested will have no financial implications;
4. Recognises that there are multiple causes which exacerbate the pay gap and, therefore, that a multi-level, multifaceted approach requires strong leadership from the European Union in coordinating policies, promoting best practice and involving various actors such as the European social partners and non-governmental organisations, with the aim of creating a Europe-wide strategy to address the gender pay gap;
5. Calls on the Member States to implement and enforce the recast Directive 2006/54/EC consistently, encourage the private and public sectors to play a more active role in closing the gender pay gap, and allow partners to negotiate plans for equality between men and women at company, national and European level; the Member States and the Commission should encourage the social partners, including employers, to undertake job evaluation schemes free from gender bias, to implement job classification systems, and to foster the concept of work based on equal pay;
6. Calls on the Member States to act in an exemplary manner themselves in regard to combating unequal pay for women in government, public institutions and public companies in general;

7. Points out that collective negotiation and bargaining have an important role to play in combating discrimination against women, not least as regards access to employment, pay, working conditions, career advancement and vocational training;
8. Welcomes the Commission's Equal Pay Day initiative, first established on 5 March 2011 and held for the second time on 2 March 2012;
9. Notes that pay inequality due to any other factor such as race, ethnicity, sexual orientation or religion must not be tolerated;
10. Welcomes the Council's initiative under the Belgian Presidency in 2010 on evaluating and updating the set of quantitative and qualitative indicators;
11. Encourages the Commission to foster closer coordination among Member States in relation to research, analysis and taking full advantage of best-practice sharing;
12. Encourages the Member States, whenever possible with the involvement of the social partners, to exchange best practices and increase the cooperation in developing new ideas in tackling the gender pay gap;
13. Calls on the Commission and the Member States to oppose inequality in pay between the sexes in all relevant EU policies and national programmes, in particular in those geared towards the fight against poverty;
14. Suggests that Member States may wish to appoint an Equal Pay Champion to monitor the situation in individual Member States and report back to their national parliaments and the European Parliament on the progress that is being made;
15. Calls on the Commission to revise the Council directive concerning the Framework Agreement on part-time work, with the aim of closing the gender pay gap;
16. Encourages the social partners to shoulder their responsibility in terms of creating a more gender-equal wage structure; to provide training courses on negotiation skills, including wage negotiation; to promote awareness of equal pay in the first instance, with a view to working towards compulsory pay audits; and to strengthen women's positions within the social partnership structure, in particular in decision-making posts;
17. Calls on the Member States to provide for the possibility of collective redress against violations of the equal pay principle, as a means enabling individuals and/or representative bodies to bring a case on behalf of consenting complainants in court proceedings and to grant NGOs and trade unions the legal standing to represent victims of discrimination, also in administrative proceedings; calls on the Commission to examine, in the context of its forthcoming proposal for a horizontal instrument on collective redress, the inclusion of collective redress against violations of the equal pay principle;
18. Stresses that only very few claims concerning gender pay discrimination have made their way to the competent (regular or administrative) courts; encourages the Commission and the Member States, therefore, to continue with awareness-raising campaigns, including providing adequate information on the burden of proof, given that it plays a significant



role in ensuring the principle of equal treatment;

19. Takes the view that the procedures and mechanisms for defending the principle of equal pay for work of equal value and for prohibiting any and every form of gender-based discrimination need to be improved and simplified;
20. Calls on the Member States and workers' and employers' organisations to jointly develop objective job evaluation instruments, in order to reduce the pay gap between men and women;
21. Encourages the Member States to determine objectives, strategies and time limits for reducing the gender pay gap and equalising equal pay for the same work and work of the same value;
22. Calls on the Commission to promote further research on flexicurity strategies in order to assess their impact on the gender pay gap and determine how these strategies can help tackle gender discrimination;
23. Welcomes the Council conclusions of 6 December 2010 calling on the Member States to take wide-ranging measures to overcome the causes of this pay inequality;
24. Maintains that greater female employability, especially in the top flight, could help to narrow gender pay gaps; points to the need for women to play a more active part in economic decision-taking, using their influence to bring about solutions encompassing a gender equality perspective; draws attention to studies which have found that there is a strong correlation between larger numbers of women in company management positions and higher company profits from assets, sales, and investment capital;
25. Reminds the Member States of their commitments regarding a review of the effect that employment and tax policies have on the pay gap;
26. Proposes that Parliament should offer a 'Women and Business in Europe' prize, which could be awarded to employers (undertakings, institutions and authorities) who lead the way in promoting women, supporting female managers and practising equal pay;
27. Stresses the need to take measures to promote professional and career development under conditions of genuine gender equality; points out that this principle forms part of the concept of corporate social responsibility, which is promoted at international and national level and needs to be developed in all the Member States;
28. Instructs its President to forward this resolution and the accompanying detailed recommendations to the Commission, the Council and the governments and parliaments of the Member States.

## **ANNEX TO THE MOTION FOR A RESOLUTION: DETAILED RECOMMENDATIONS AS TO THE CONTENT OF THE PROPOSAL REQUESTED**

### **Recommendation 1: DEFINITIONS**

Directive 2006/54/EC contains a definition of equal pay, by copying the provisions of Directive 75/117/EEC. To have more precise categories as tools for dealing with the gender pay gap (GPG) it is important to define the different concepts more precisely, such as:

- GPG, the definition of which must not cover gross hourly pay alone, while there needs to be a distinction between unadjusted and “net” gender pay gap;
- Direct and indirect pay discrimination;
- Remuneration, the definition of which should cover any net wages and salaries as well as any work-related financial entitlements and in-kind benefits;
- Pension gap (in different pillars of pension systems, e.g. in pay-as-you-go systems, occupational pensions, as a continuation of the pay gap after retirement);
- Work treated as ‘equal’ (in individual categories of occupations);
- Work of the same value, so that relevant factors are mentioned;
- Employer, to ensure that responsibility for the employee’s pay and any possible inequality in pay, is clearly defined;
- Professions and collective agreements – it should be made more clear that jobs related to different collective agreements and different professions can be compared in court, provided that the jobs are comparable as equal work or work of equal value.

### **Recommendation 2: ANALYSIS OF THE SITUATION AND TRANSPARENCY OF RESULTS**

2.1. The lack of information and awareness among employers and employees about existing of possible pay gaps within their company as well as their ignorance weakens the implementation of the principle enshrined in the Treaty and in existing legislation.

2.2. Acknowledging the lack of accurate, comparable and coherent statistical data, including on the part-time gender pay gap and the gender pensions gap, and the existing lower pay rates for women especially across professions traditionally dominated by women, Member States should take full account of the gender pay gap in their social policies and treat it as a serious problem.

2.3. It is therefore essential that regular pay audits, as well as the publication of their results, bearing in mind the personal data protection, are made compulsory within companies (e.g. in companies with at least 30 employees and each sex is represented in at least 10 % of the employees). The same requirement can also apply to information on remuneration in addition to pay. This information should be accessible to employees, trade unions and adequate authorities (e.g. labour inspections, equality bodies).

2.4. Employers should provide employees and their representatives with results in the form of wage statistics, broken down by gender but bearing in mind the personal data protection. This data should be compiled at sectoral and national level in each Member State.

2.5. There should be a requirement on employers to adopt transparency policy in relation to wage composition and structures, including extra pay, bonuses and other advantages forming part of remuneration.

2.6. When wage statistics show group or individual differences in pay on grounds of sex, employers are obliged to analyze these differences further and react to eliminate them.

### **Recommendation 3: WORK EVALUATION AND JOB CLASSIFICATION**

3.1. The concept of the value of work must be based on qualifications, interpersonal skills and responsibility emphasising quality of work, with the aim of promoting equal opportunities between women and men. This concept should not be marked by a stereotyped approach unfavourable to women, for example putting the emphasis on physical strength rather than on interpersonal skills and has to ensure that work involving responsibility for human beings is not considered of lower value than those with responsibility for material or financial resources. Women must therefore be provided with information, assistance and/or training in wage negotiations, job classification and pay-scaling. It must be possible for sectors and companies to be asked to examine whether their job classification systems reflect the gender dimension in the required manner, and to make the necessary corrections.

3.2. The Commission's initiative should encourage Member States to introduce job classification complying with the principle of equality between women and men, enabling both employers and workers to identify possible pay discrimination based on a biased pay-scale definition. Respecting national laws and traditions concerning industrial relations systems remain important. Work evaluation and classification should also be transparent and be made available to all stakeholders and to labour inspectorates and equality bodies.

3.3. Member States should carry out a thorough assessment centred on professions dominated by women.

3.4. A gender-neutral job evaluation should be based on new systems for classifying and organising staff and organising work and on professional experience and productivity assessed above all in qualitative terms, such as education and other qualifications, mental and physical requirements, responsibility for human and material resources, for use as a source of data and assessment grids for determining pay, with due regard to the principle of comparability.

### **Recommendation 4: EQUALITY BODIES AND LEGAL REMEDY**

Equality promotion and monitoring bodies should play a greater role in diminishing GPG. The bodies should be empowered to monitor, report, and, where possible, enforce gender equality legislation more effectively and more independently while they should be adequately funded. Article 20 of Directive 2006/54/EC should be revised so as to enhance the bodies' mandate by:

- supporting and advising victims of pay discrimination;
- providing independent surveys concerning the pay gap;
- publishing independent reports and making recommendations on any issue relating to pay discrimination;
- legal powers to initiate their own investigation;
- legal powers to impose sanctions in cases of breaching the principle of equal pay for equal work and/or to bring wage discrimination cases to court;
- providing special training for the social partners and for lawyers, judges and ombudsmen based on a toolbox of analytical instruments and targeted measures to be used either when drawing up contracts or when checking whether rules and policies to address the pay gap are being implemented, as well as providing training courses and training materials on non-discriminatory job evaluation for employers.

### **Recommendation 5: SOCIAL DIALOGUE**

Further scrutiny of collective agreements and applicable pay scales and job classification schemes are necessary, mainly concerning the treatment of part-time workers and workers with other atypical work arrangements or extra payments/bonuses including payments in kind. Such scrutiny should cover not only primary but also secondary working conditions and occupational social security schemes (rules on leave, pension schemes, company cars, childcare arrangements, flexible working time, bonuses etc.). Member States, while respecting national law, collective agreements or practice, should encourage social partners to introduce gender-neutral job classifications, enabling both employers and employees to identify possible pay discrimination based on a biased pay-scale definition.

Management can play an important role not only with regard to pay equity, but also in terms of creating a climate to support the equal sharing of care responsibilities and careers advancement for both male and female workers.

The social partners should be empowered to put equal pay issues on the agenda, not only within their own sectors, but also to opt for an intersectoral balance.<sup>1</sup>

The Commission should work out an operative, practical and user-friendly guidebook for social dialogue in companies and Member States. This should include guidelines and criteria for deciding the value of work and for comparing jobs. It should also include suggestions for possible job evaluation methods.

### **Recommendation 6: PREVENTION OF DISCRIMINATION**

Specific reference should be made to pay discrimination in Article 26 (on prevention of discrimination) of Directive 2006/54/EC, with a view to ensuring that Member States, with the involvement of the social partners and equal opportunity organisations, adopt:

- specific measures relating to training and job classification, aimed at the vocational-training

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<sup>1</sup> European Foundation for the Improvement of Living and Working Conditions: Addressing the gender pay gap: Government and social partner actions, 5 March 2010, page 30.

system and designed to remove and prevent discrimination in training and classification and in the economical valuation of skills,

- specific policies to make it possible to reconcile work with family and personal life, covering high-quality and affordable childcare and care for other dependent persons, as well as other care services, flexible work organisation and hours, and maternity, paternity, parental and family leave,
- concrete actions (under Article 157(4) of the Treaty on the Functioning of the European Union) to redress the pay gap and gender segregation, to be given effect by the social partners and equal opportunity organisations at various levels, both contractual and sectoral, such as: promoting pay agreements to combat GPG, investigations in relation to equal pay for equal work, setting of qualitative and quantitative targets and benchmarking and supporting the exchange of best practice,
- a clause in public contracts requiring respect for gender equality and equal pay for equal work.

### **Recommendation 7: GENDER MAINSTREAMING**

Gender mainstreaming should be enhanced by including in Article 29 of Directive 2006/54/EC precise guidelines for the Member States concerning the principle of equal pay and closing the gender pay gap. The Commission should gear itself to providing assistance to the Member States and to stakeholders as regards practical measures to bridge the gender pay gap by means of the following:

- devising reporting schemes for the purposes of assessing pay gaps between men and women,
- creating a data bank containing information concerning changes to the systems for the classification and the organisation of workers,
- collating and disseminating the results of experiments relating to the reform of work organisation,
- distributing information and guidelines on practical means, particularly for SMEs (e.g. on IT based tool LOGIB-D) of redressing the pay gap, including national or sectoral collective agreements,
- developing a European equal pay quality certificate in cooperation with social partners and associations, which institutions, undertakings and authorities could use to advertise their compliance with specific criteria in relation to equal pay, e.g. wage transparency,
- devising specific guidelines for the monitoring of pay differentials within the context of collective bargaining, to be made available on an internet site translated into various languages and accessible to all.

### **Recommendation 8: SANCTIONS**

8.1. The legislation in this field is for different reasons evidently less effective and, bearing in mind that the whole problem cannot be solved by legislation alone, the Commission and

Member States should reinforce the existing legislation with appropriate types of effective, proportionate and dissuasive sanctions.

8.2. It is important that Member States take the necessary measures to ensure that infringement of the principle of equal pay for work of equal value is subject to appropriate sanctions according to the legal provisions in force.

8.3. In spite of the existing legislation, inspections and punitive action are often woefully inadequate where the principle of equal pay is concerned. These matters need to be treated as a priority, and the agencies and bodies responsible for them must be provided with the necessary technical and financial resources.

8.4. It is recalled that under Directive 2006/54/EC, Member States are already obliged to provide compensation or reparation (Article 18), as well as penalties (Article 25). However, these provisions are not sufficient to avoid infringement of the equal pay principle. For this reason, it is proposed to conduct a study on the feasibility, effectiveness and impact of launching possible sanctions such as:

- penalties, which must include the payment of compensation to the victim;
- administrative fines (for example in the event of failure of notification or of compulsory communication or unavailability of analysis and evaluation of wage statistics disaggregated by gender (according to Recommendation 2)) requested by labour inspectorates or the competent equality bodies;
- disqualification from public benefits, subsidies (including EU funding managed by Member States) and public procurement procedures, as already provided for by Directives 2004/17/EC<sup>1</sup> and 2004/18/EC<sup>2</sup> concerning the procurement procedure;
- identification of offenders, which should be made public.

### **Recommendation 9: STREAMLINING OF EU REGULATION AND EU POLICY**

9.1. One area for urgent action concerns the fact that a wage penalty appears to be linked to working part-time. This requires an evaluation and possible revision of Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC - Annex: Framework agreement on part-time work<sup>3</sup>, which prescribes equal treatment between full-time and part-time workers as well as more targeted and effective actions in collective agreements.

9.2. A concrete target for reducing the pay gap should be introduced urgently in the Employment Guidelines, inter alia regarding access to vocational training and recognition of women's qualifications and skills.

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<sup>1</sup> OJ L 134, 30.4.2004, p.1

<sup>2</sup> OJ L 134, 30.4.2004, p.114.

<sup>3</sup> OJ L 14, 20.1.1998, p. 9.

28.3.2012

## **OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS**

for the Committee on Women's Rights and Gender Equality

on the European Parliament's recommendations to the Commission on application of the principle of equal pay for male and female workers for equal work or work of equal value (2011/2285(INI))

Rapporteur: Gabriele Zimmer

(Initiative – Rule 42 of the Rules of Procedure)

### **SUGGESTIONS**

The Committee on Employment and Social Affairs calls on the Committee on Women's Rights and Gender Equality, as the committee responsible:

- to incorporate the following suggestions in its motion for a resolution:
- 1. Deplores the fact that the Commission has not yet responded appropriately to Parliament's resolution of 18 November 2008, or to its resolution of 10 February 2010, and has not started work on a legislative initiative, or made wide-ranging use of the 'European Year of Equal Opportunities for All' (2007) to tackle the problem of unequal pay for male and female workers effectively, given that closing the gender pay gap remains a political priority shared by all Member States and other key players at European level, as reflected in the Council Conclusions on the European Pact for gender equality for the period 2011 - 2020;
- 2. Emphasises that the gender pay gap principally exists as a result of stereotypes and women being seen solely from the point of view of the traditional distribution of roles; therefore calls on the Member States to promote equal pay by setting up social initiatives at both national and local level;
- 3. Is very concerned that in the past decade progress has only been achieved very slowly, that the wage differential between men and women has remained persistently high in recent years and that, despite the legally binding principle of equal pay for work of equal value, women's hourly earnings in the EU-27 were on average 17.5 % less than men's for the same work in 2009 (up to 30% less in the private sector, equal merit and qualifications

notwithstanding); is concerned at the very wide pay gap between highly qualified women and men in some Member States; stresses that women are among the sections of society worst affected by insecure employment and the social consequences of the crisis; points out that, according to the International Labour Organization report entitled 'Global Employment Trends 2012: Preventing a deeper jobs crisis', more women than men are in vulnerable employment (50.5 %, as against 48.2 %);

4. Considers that protection of women through flexicurity contractual arrangements enhances social cohesion in the labour market, particularly for women who become mothers or may have caring responsibilities towards the elderly; notes that women's working time arrangements should be sufficiently flexible to meet their needs and to improve their work-life balance;
5. Calls on the Member States to recognise the real added value of women in their workplaces and to create adequate conditions to improve their employability and increase their participation in the labour market, through affordable care and child-care, parental leave schemes and flexible working conditions, particularly when women return to the labour market after long periods of inactivity as a result of having children or meeting other family commitments;
6. Calls on the Commission to promote further research on flexicurity strategies in order to assess their impact on the gender pay gap and determine how these strategies can tackle gender discrimination;
7. Welcomes the Council Conclusions of 6 December 2010 calling on the Member States to take wide-ranging measures to overcome the causes of this pay inequality;
8. Emphasises that the pay gap widens to women's disadvantage in proportion to the level of the position and qualifications held;
9. Points out that in some countries the pay gap widens to women's disadvantage during the most difficult times for them, i.e. when they are of child-bearing age and as they approach retirement age;
10. Stresses that the causes underlying the gender pay gap remain numerous and complex; considers that this inequality has a strong negative impact on the lives of many women, particularly after retirement age, as lower pay can result in smaller pensions and may be an explanation for the fact that a higher proportion of women than men suffer poverty in old age – 22 % as against 16 %; stresses that in many cases the reason retired women live in poverty is that they have undertaken care tasks, as it is more common for women to take temporary or part-time employment in order to combine work with family responsibilities; therefore calls on the Commission and Member States to continue their efforts to eliminate these inequalities and ensure equal treatment of men and women in relation to pensions;
11. Considers that female workers performing jobs of similar skill, effort and responsibility to those performed by men should have equal opportunities at all ages for training, advancement, re-skilling and re-training, as well as pension rights and unemployment benefits that are equal to those applicable to men;



12. Believes that a reduction in the wage gap between women and men would have a positive impact on promoting an increase in parenthood and reducing the demographic trends which are gaining pace – dramatically in the case of the eastern part of Europe – and would improve the situation of women with children, particularly if they become single mothers, thereby reducing the risk of child poverty;
13. Considers that a labour market free of stereotypes could increase not just women's income, but also Member States' gross domestic product; notes that, according to the findings of several studies, if female participation in the labour market were to rise to 70 %, matching the male rate, this would have a highly beneficial economic impact (between 4 % and 8 %) on EU GDP;
14. Stresses that the failure to apply the principle of 'equal pay for equal work or work of equal value' undermines the Europe 2020 employment objectives; points out that the more active involvement of women on the employment market helps enhance the sustainability of insurance schemes, particularly in the light of demographic trends;
15. Notes, however, that approaches consisting of measures tackling one or another cause of the pay gap in isolation have not proved adequate for closing pay gaps between men and women effectively;
16. Emphasises that, as well as focusing on private companies and the public sector, attention should also be paid to the unequal treatment of women in family businesses and in farming, where women are not only paid less than men but often receive no payment at all; calls for steps to be taken to raise public awareness of the impact that this situation has on the unfavourable position that women are in where social security and pensions are concerned;
17. Observes that statistics must be coherent, comparable, gender-specific, complete and designed to take account of new systems of classifying and organising staff and reforming work organisation; considers that, in assessing the pay gap, not only should differences in gross hourly wages be taken into account, but also other aspects such as individual pay, contract type, supplements and bonuses, professional qualifications, personal aptitudes and skills, work organisation, professional experience and productivity, which should be measured not only in quantitative terms (hours when the worker is physically present at the workplace) but also in qualitative terms and in terms of the impact which reductions in working hours, periods of leave and absences because of care activities have on automatic pay rises;
18. Calls on the Member States to implement gender mainstreaming strategies, because gender issues overlap with child-care, tax policies and public procurement;
19. Maintains that greater female employability, especially in the top flight, could help to narrow gender pay gaps; points to the need for women to play a more active part in economic decision-taking, using their influence to bring about solutions encompassing a gender equality perspective; draws attention to studies which have found that there is a strong correlation between larger numbers of women in company management positions and higher company profits from assets, sales, and investment capital;

20. Stresses that the EU 2020 Strategy explicitly sets a target of raising the employment rate for women and men aged 20-64 to 75 %, which can be promoted through measures aiming to close the gender pay gap, to reinforce the training of women and to promote female entrepreneurship as part of a wider plan for economic recovery, taking into account Member States' relative starting positions and national circumstances;
21. Calls on the Member States to take the necessary steps to make pay more transparent; considers that the transparency of pay systems should be developed and promoted and that employers should monitor wages – cash and non-cash remuneration – in relation to duties, qualifications and experience, taking gender issues into account; points out that firms' remuneration policies, as well as the rules on granting allowances and bonuses, should be transparent;
22. Points out that it is up to Member States to implement the EU 2020 Strategy and that Member States are best placed to allocate their own resources in terms of effectively achieving the agreed targets;
23. Stresses the need to take measures to promote professional and career development under conditions of genuine gender equality; points out that this principle forms part of the concept of corporate social responsibility which is promoted at international and national level and needs to be developed in all the Member States;
24. Notes that the pay gap is often linked to a series of legal, social and economic factors present in modern-day society, but considers that the only way to give practical effect to the principle of 'equal pay for equal work or work of equal value' is to adopt policies enabling family responsibilities to be shared equally between men and women;
25. Points out that there is a need to promote standards on fair and ethical conduct towards staff, with a particular focus on an equal and transparent remuneration system;
26. Points out that family responsibilities limit women's career options; notes that women are, for that reason, over-represented in part-time work, a fact which greatly reduces the duration of gainful employment, and make up most of the workforce in the informal economy, in which they are more likely to be in precarious jobs, more vulnerable to dismissal, and not properly covered by social security systems;
27. Considers it a priority to promote a new culture of shared responsibility – both in private life and at work – as regards bringing up children and household management tasks, thus making it easier to reconcile family life with having a career; maintains that the option of using the child-minding, neighbourhood and care services offered by institutions should also be promoted; calls on the Member States to make the cost of these services tax-deductible;
28. Points out to the Commission and the Member States that positive measures need to be taken for women and men, not least to enable them to return to work after devoting time to their families (bringing up children and/or caring for a sick or disabled relative), and policies promoted to help them (re)integrate into the labour market and hence regain financial independence;

29. Takes the view that initiatives and measures must be taken, principally in the field of education, at every stage and at both national and European level, to combat stereotyped perceptions of female employment as being associated with subsidiary household income, which have done much to cultivate and maintain the gender pay gap;
30. Stresses the need to broaden women's career prospects and to encourage women to take up traditionally 'male' technical and scientific occupations;
31. Considers that legislative and non-legislative measures are needed at both national and EU level to close the wage gap, to enhance female participation in male-dominated sectors and to increase the recognition of women's skills and economic performance in the workplace so as to overcome horizontal and vertical exclusion as well as prevent the stereotyping of certain occupations and sectors as being typically the realm of women; stresses that such measures should promote the involvement of women in decision-making at all levels and in all sectors and calls on the Commission and the Member States to consider a legally binding quota for the appointment of women in public and private enterprises, in particular to senior posts; deplores the fact that women with multiple disadvantages (e.g. disabled women and women with a minority or immigrant background) are even more affected by the pay gap;
32. Maintains that measures need to be taken as a matter of urgency to combat wage discrimination, be it by revising the existing directive, drawing up phased industry-wide plans with clear-cut goals – such as narrowing the pay gap to 0.5 % by 2020 – aimed at doing away with direct and indirect forms of discrimination, or encouraging collective bargaining and the training of equality advisers, remedying the inequality between women and men in terms of unpaid work, and laying down equality plans for factories and other workplaces; believes that transparency in wage determination should become the rule, so as to strengthen the bargaining position of women workers;
33. Deplores the fact that, although Parliament endorsed the revision of Directive 92/85/EEC relating to maternity leave on 20 October 2010, the Council has still not adopted a formal position on the proposal; points out that if the female employment rate is to reach 75 % and pay gaps are to be narrowed, as called for in the EU 2020 Strategy, further measures will have to be implemented to facilitate work-life balance; calls on the Member States to determine their position on these matters in order to pave the way for institutional negotiations to produce the necessary agreement;
34. Calls on the Member States to combat the undeclared employment of women, since it is not only undermining the sustainability of insurance funds but also contributing to the full deregulation of women's pay structures, causing increased poverty among women, particularly in later life;
35. Welcomes the introduction by the Commission of an EU equal pay day to highlight pay inequalities between men and women, as well as the development of software to measure the pay gap; takes the view that the Commission should continue the pay gap information and awareness-raising campaign in the 27 Member States;
36. Calls for legal proceedings defending the legally binding principle of equal pay for work of equal value to be made simpler, swifter and more accessible to employees;

37. Calls on the Member States to review wage structures in female-dominated professions and occupations as a means of breaking down gender stereotypes anchored in the pay gap problem;
38. Calls on the Member States to ensure that women have access to education, training and lifelong learning at all levels, and, with a view to combating the existing sexist stereotypes, to encourage women to pursue scientific studies and careers; stresses that a higher number of young qualified women involved in science and technology would boost Europe's growth and competitiveness;
39. Calls on the Commission to seek optimum coordination between Member States under the employment guidelines with a view to applying the principle of equal pay for equal work and work of equal value; calls on the Member States to adopt extensive legally binding rules in order to implement this principle in practical terms and, where judged necessary, step up national provisions by introducing penalties on a par with those applicable to other labour law infringements such as undeclared work; emphasises that urgent action must be taken to improve the situation of women whose employment arrangements are insecure, as these women are affected particularly badly and are vulnerable in times of social and economic crisis;
40. Calls on the Commission and the Member States to oppose inequality in pay between the sexes in all EU policies and national programmes, and in particular in those geared towards the fight against poverty;
41. Stresses the need for the involvement of the social partners, which have an important role to play in pay negotiations at all levels in order to tackle unequal pay for male and female workers and to combat discrimination against women, including in connection with access to employment, pay, working conditions, career advancement and vocational training; calls, accordingly, on the Commission and the Member States to step up cooperation with the social partners;
42. Notes that the Commission's measures must be directly addressed not only to Member States and the social partners but also to equal rights agencies, women's groups, women's initiatives and community and occupational equal opportunities officials who could provide training on gender issues – with special regard to the gender pay gap – in particular for social partners, lawyers, judges and ombudsmen;
43. Maintains that the concept of 'work of equal value' needs to be clarified more fully; considers that the duties serving to determine the 'equal value' of different kinds of work should be assessed on the basis of objective criteria and non-discriminatory analysis; also believes that, when evaluating 'equal pay' and laying down wage scales, it is necessary to factor in the individual components of the pay-package, in particular the basic salary and fringe benefits;
44. Calls on the Member States and social partners to adopt measures against discrimination on grounds of gender, against inequalities of training between men and women and against segregation of the labour market, to promote a successful balance between work and private life and complete transparency with regard to pay, and to include these issues in legislation or collective agreements;

45. Calls on the Member States, in cooperation with the social partners, to promote gender-balanced employment policies and enforce a uniform gender-neutral job evaluation which should be applied to employers in order to close the gender pay gap and combat discrimination at work; stresses the need to strike a good work-life balance through high-quality childcare and flexible family-friendly work arrangements;
  46. Maintains that the appropriate effective legal procedures are required in order to eliminate pay gaps; recognises the usefulness of labour inspections in this area and considers that judges, lawyers and labour inspectors must be given specific training and opportunities to acquire the necessary expertise in wage discrimination issues;
  47. Emphasises that, for the pay gap between men and women to be reduced in practice, the measures in the European Strategy for Growth and Employment need to be implemented and support given to the exchange of best practices at Union level, whenever possible with the involvement of the social partners;
  48. Takes the view that the procedures and mechanisms for defending the principle of equal pay for work of equal value and for prohibiting any and every form of gender-based discrimination need to be improved and simplified;
  49. Encourages the Member States to provide adequate financial support and appropriate training to women wishing to set up businesses, with a view to fostering female entrepreneurship;
  50. Reminds the Member States of their commitments regarding a review of the effect that employment and tax policies have on the pay gap;
  51. Considers that, in view of the lack of progress, the Member States should give consideration to effective and, where appropriate, legislative measures and lay down penalties against employers who contravene the principle of equal pay; maintains that it should be possible, in particular, to lodge complaints on the grounds of wage discrimination; takes the view, furthermore, that the Member States should encourage businesses which take steps to encourage pay equality, in order to disseminate good practice;
- to incorporate the following recommendations in the annex to its motion for a resolution:
52. Considers that a combination of strategies and measures, taking account of the gender mainstreaming principle, can eliminate the gender pay gap and should comprise the following:
    - (a) specific measures to make it possible to reconcile work, study, vocational education and training or re-training with family and private life through access to care services (which must be affordable, easily accessible and independent of employment status and type of employment contract), through working-time patterns that are adapted to the needs of employed people, particularly single parents, and through maternity, paternity, paternal and family leave in conjunction with the possibility of smooth reintegration into work and equal participation by women in the labour market;

- (b) appropriate fiscal and social security policies and family protection measures, including measures to dismantle the significant disadvantages in retirement pensions owing to work interruptions and part-time work by parents, and gender-specific measures designed to compensate for unfair and unjustified pay differences, to enhance the quality of female employment and to provide for atypical services with regard to care within the family or its broader environment,
  - (c) practical measures to be implemented by the social partners and equal rights agencies (pursuant to Article 157(4) TFEU) to overcome the pay gap and exclusion at the various contractual and sectoral levels, such as obliging social partners to conclude pay agreements, to undertake regular investigations in relation to equal pay, to ensure the implementation of companies' equality plans, the setting of qualitative and quantitative targets and benchmarking, and the exchange of best practice validated by the parties concerned and accompanied by accounts of the obstacles and difficulties encountered,
  - (d) inclusion of a clause on respect for gender equality and equal payment in public procurement contracts,
  - (e) adoption of measures to implement the policy of equality and equal payment for women and men by businesses;
  - (f) the development of a European equal pay quality certificate in cooperation with social partners and associations, which institutions, undertakings and authorities could use to advertise their compliance with specific criteria in relation to equal pay, e.g. wage transparency;
  - (g) a list of examples for overcoming gender and pay discrimination,
  - (h) information and guidelines on practical solutions for closing the pay gap,
  - (i) developing transparent and neutral work evaluation systems for assessing whether job descriptions and pay criteria are ensuring non-discrimination,
53. Proposes that the European Parliament should offer a 'Women and Business in Europe' prize that could be awarded to employers (undertakings, institutions and authorities) which lead the way in promoting women, supporting female managers and practicing equal pay;
54. Considers it necessary to interpret and implement Article 157(1) and (2) of the Treaty on the Functioning of the European Union appropriately and adapt the relevant directive at EU level and at the stage at which it is implemented and applied at national level;
55. Is convinced of the need for better, swifter implementation of the provisions of the relevant directive with regard to equality agencies and social dialogue in order genuinely to overcome the pay gap by means of measures to be implemented by the Member States, social partners and equality agencies;
56. In the light of the economic crisis and of demographic changes, considers equal pay for

women and men for equal work and an absence of discrimination with regard to remuneration to be of major importance in terms of competitiveness, economic growth and ensuring that women in the European Union can live in dignity;

57. Maintains that workers' and employers' organisations and other appropriate bodies, such as government gender equality commissions, should be involved in the adoption of policies and measures under the Member States' national programmes for equality at work; believes that the purpose of their involvement should be to improve understanding of, and publicise, best practices and laws aimed at promoting wider application of equal pay and to set up systems to monitor and oversee their implementation;
58. Calls on the Commission to submit to Parliament an analysis showing which legal acts at EU and/or national level would be an appropriate means of bringing about a significant reduction in the pay gap in the shortest possible time;

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	27.3.2012
<b>Result of final vote</b>	+: 39 -: 0 0: 5
<b>Members present for the final vote</b>	Regina Bastos, Edit Bauer, Phil Bennion, Pervenche Berès, Vilija Blinkevičiūtė, Philippe Boulland, David Casa, Alejandro Cercas, Ole Christensen, Derek Roland Clark, Marije Cornelissen, Emer Costello, Frédéric Daerden, Karima Delli, Sari Essayah, Thomas Händel, Marian Harkin, Roger Helmer, Nadja Hirsch, Danuta Jazłowiecka, Jean Lambert, Veronica Lope Fontagné, Olle Ludvigsson, Thomas Mann, Elisabeth Morin-Chartier, Csaba Őry, Siiri Oviir, Konstantinos Poupakis, Elisabeth Schroedter, Joanna Katarzyna Skrzydlewska, Jutta Steinruck, Traian Ungureanu, Inês Cristina Zuber
<b>Substitute(s) present for the final vote</b>	Sergio Gaetano Cofferati, Tamás Deutsch, Sergio Gutiérrez Prieto, Richard Howitt, Filiz Hakaeva Hyusmenova, Ramona Nicole Mănescu, Ria Oomen-Ruijten, Csaba Sógor, Gabriele Zimmer
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Ioan Enciu, Louis Grech



## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	24.4.2012
<b>Result of final vote</b>	+: 28 -: 0 0: 1
<b>Members present for the final vote</b>	Edit Bauer, Emine Bozkurt, Andrea Češková, Iratxe García Pérez, Zita Gurmai, Mikael Gustafsson, Mary Honeyball, Livia Járóka, Nicole Kiil-Nielsen, Silvana Koch-Mehrin, Rodi Kratsa-Tsagaropoulou, Astrid Lulling, Barbara Matera, Elisabeth Morin-Chartier, Angelika Niebler, Siiri Oviir, Antonyia Parvanova, Joanna Katarzyna Skrzydlewska, Marc Tarabella, Britta Thomsen, Marina Yannakoudakis, Anna Záborská, Inês Cristina Zuber
<b>Substitute(s) present for the final vote</b>	Franziska Katharina Brantner, Christa Klaß, Ana Miranda, Mariya Nedelcheva, Katarína Nevedálová, Antigoni Papadopoulou
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Tamás Deutsch