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## Biography of Mr Martin SCHULZ, President of the European Parliament



Martin Schulz was born on 20 December 1955 and grew up in Hehlrath Germany, close to the German-Dutch-Belgian borders. After high school he decided to try to make a living out of his passion for books and he did an apprenticeship as a bookseller. In 1982 he opened his own bookstore in Würselen, which he successfully ran for 12 years.

Joining the Social Democratic Party of Germany at the age of 19, he started out his political career. Aged 31, he was elected as the youngest mayor of North Rhine-Westphalia, a post he held for 11 years.

Since 1994, Martin Schulz is a Member of the European Parliament and has served in a number of committees, first serving on the sub-committee on Human Rights and then on the Committee on Civil Liberties and Home Affairs. He led the SPD MEPs from 2000 and was subsequently elected Vice-Chair of the Socialist MEPs.

In 2004 he was elected group leader of the second largest group in the European Parliament. As leader of the Socialists and Democrats in the European Parliament, Martin Schulz campaigned for social justice, promoting jobs and growth, reforming financial markets, fighting climate change, championing equality and creating a stronger and more democratic Europe.

Martin Schulz was elected President of the European Parliament on 17 January 2012 for a mandate of two and half years with 387 votes.

He is married with two children, and his hobbies include reading, history and football. Among his favourite books is "the Leopard" by Tomasi di Lampedusa and all books of Eric Hobsbawm.

## CV

- Apprentice bookseller (1975-1977).
- Worked in various bookshops and publishing houses (1977-1982).
- Bookshop proprietor (1982-1994).
- Member, SPD Bureau and Federal Executive (since 1999).
- SPD Representative for EU Relations (since 2009).
- Municipal councillor, Würselen (since 1984).
- Mayor of Würselen (1987-1998).
- Member of the European Parliament (since 1994).
- Socialist Group coordinator, Subcommittee on Human Rights (1994-1996).
- Socialist Group coordinator, Committee on Civil Liberties and Home Affairs (1996-2000).
- Chairman, SPD Group, European Parliament (2000-2004).
- First Vice-Chairman, Socialist Group (2002-2004).
- Chairman Socialist Group (2004-2009).
- Chairman S&D Group (since 2009).
- President of the European Parliament (since January 2012).

## Biography of Mr Mikael GUSTAFSSON, Chair of the Committee on Women's Rights and Gender Equality of the EP



Confederal Group of the European United Left - Nordic Green Left - Vice-Chair  
Sweden Vänsterpartiet

Born on 6 March 1966, Dragsfjärd

### **Curriculum vitae**

- Post-secondary education in Urban and Regional Planning at the University of Stockholm, studied community development, specialising in physical planning and environmental protection (1988-1993).
- Transport policy expert, Left Party group in the Swedish Parliament (2005-). Deputy head of administration, Left Party group in the Swedish Parliament (2004-2005). Financial policy expert, Left Party group in the Swedish Parliament (2000-2004). Secretary for local and county council affairs, Left Party administration (1996-2000). Educational administrator, Stockholm Teacher Training College students' union (1994-1995). Childminder at nursery school, Stockholm (1984-1988).
- Member of the Left Party's programming committee (2004-), Chair since 2008. Substitute member of Nynäshamn Council (2010-). Substitute on the Environmental and Community Development Committee (2010-). Member of the Södertörn Environmental and Health Protection Association (2010-). Member of Tyresö Council (1998-2008). Member of Planning Committee, Tyresö Council (1999-2008). Member of Community Development committee, association of local authorities, Stockholm County (2003-). Agenda 21 group, Tyresö Council (1998-2002). Substitute member of the municipal executive board, Tyresö Council (2002-2006). Official licensed to carry out civil marriages and registered partnerships (2006-). Member of Children's and Educational Committee, Tyresö Council (2003-2006).

# **Biography of Ms Karin ENODD, President of the Women's Committee of the European Trade Union Confederation (ETUC)**

## **Personalialia**

Name: Karin Vigdis Enodd, born in Norway 27 May 1947  
Nationality: Norwegian  
Marital status| Married  
Address Observatorie terrasse 7A, 0270 Oslo, Norway

## **Education:**

1993-1994 Norwegian School of Management: Study on “Organisation and Management” (part time)  
1984 College for Trade Unionists in Manchester  
- English language  
- Working life in Britain  
- British and Nordic Trade Union Movements  
- Written report on “Women in the Trade Unions”  
1972 – 1975 Upper Secondary school  
1961 – 1964 High school

## **Work Experience**

### **2007 -2012**

Research manager in The Norwegian confederation of Trade Unions’ (LO-Norway) International department and LO Norway’s Brussels Office. Responsible for LO Norway’s international work on gender (ETUC, International Labour Organisation (ILO), UN – the Committee on the Status of Women). Vice President in the ETUC Women’s Committee from 2009 till 2011, elected President in November 2011.

### **2006– 2007**

Norway’s department for information where the main task was making a study on the possibilities for 6 hours working day.

### **2003-2006**

Councillor of Labour at the Mission of Norway to the European Union

**1986- 2003** Head of LO Norway’s Equal Rights Department

### **1986 - 1996**

Organiser and wage negotiator in the Norwegian Union of Municipal Employees with special responsibilities for equal pay.

**1984-1986** Midtre Gauldal Municipality, secretary for the municipal treasurer’s department

# **Biography of Ms Agneta STARK, Professor of economics, Sweden**

## **Personalialia**

Name: Agneta Stark, born on 9 February, 1946.

Nationality: Swedish

Agneta Stark obtained an LL. M. from Stockholm University, a B Ec from Stockholm School of Economics, and a PhD in Business Administration from Stockholm University, where she was also appointed Reader.

Her research areas include economic theory, accounting theory as well as gender and economic change, concepts of work, international comparisons of paid and unpaid work in a gender perspective, and gender and ageing. She has been a Marie Jahoda Guest Professor at the University of Bochum in Germany.

2004 -2010 she was Vice Chancellor to the University of Dalarna and 2006-10 vice chair of the Association of Swedish Higher Education. She has been awarded a PhD honoris causa by Karlstad University.

Agneta Stark is President-Elect of the International Association for Feminist Economics and also chair of the Board of Directors of the Swedish University of Dance and Circus. She has lectured in many European countries, and is a feminist activist with extensive publications on gender issues in Sweden.

### ***Her recent publications include***

Stark Agneta, 2005, "Warm Hands in Cold Age - on the Need of a New World Order of Care", *Feminist Economics vol. 11 No. 2*, pp. 7-36

Stark, Agneta, 2007, "Don't Disturb the Men – a Viable Gender Strategy?" in *Global Perspectives on Gender Equality: Reversing the Gaze*, Naila Kabeer and Agneta Stark with Edda Magnus, 2007, Routledge/UNRISD Research in Gender and Development.

## **Biography of Ms Agnes PARENT THIRION, Representative from Eurofound**

### **Personalia**

Name: Agnès Parent-Thirion  
Nationality: French  
Date of birth: 30-07-1968

### **WORK EXPERIENCE**

Agnès Parent-Thirion is the senior programme manager on working conditions of the eurofound, the European foundation for the improvement of living and working conditions. She is the project manager for the European working conditions survey. She is involved in the European Company survey as well as the European Working Conditions Observatory. She has been working in European social research for 15 years. Her research interests include quality of work and employment issues, working conditions, work organization, gender and time. Prior to her appointment in eurofound, she has been working for the European commission in Dg employment, in Caisse Centrale de Mutualité sociale Agricole - a social insurance body for farmers, a research center, a French TV. She was an entrepreneur for a while and had set up a tv producing company. She is a sociologist.

### **EDUCATION**

She received her initial education at Paris IX-Dauphine, and Paris 1 Pantheon Sorbonne.

She is working full time and has 4 children.

## **Biography of Ms Alena GAJDUSKOVA, Vice-President, Senate, Czech Republic**

D. Alena Gajdušková,

Senator, Vice - President of the Senate of the Parliament of the Czech Republic

Electoral district: 78 - Zlin

Date and Place of Birth: April 15, 1954, Prague

Married

### **Education:**

Faculty of Education in Ostrava

- Primary school teaching – arts and crafts

University of Economics, Prague

- Public administration and regional development



### **Other qualification:**

Human resources, economics, quality standards

### **Membership in Interest Organizations:**

Czech Red Cross, Sokol, Forum 50 %, Civil Association – Club of Women in Politics, Czech Association of Patients, PNND (Parliamentarians for Nuclear Non-proliferation and Disarmament)

### **Employment:**

1977 - 1992 teacher

1992 - 1996 caucus secretary in Chambers of Deputies

1996 - 1999 head of a human resources department

1999 - 2002 head of the Department of Education, Culture, Health, Youth and Physical Education of the City of Zlin

2002 - Senator

2002 – 2004 advisor to the Prime Minister Vladimír Špidla

From 1986 she is involved in regional politics, in 1990 member of City Council (Zlin)

### **Senate Activities:**

- 1. Vice – Chairman of the Czech Social Democratic Party Caucus
- Chairman the Czech Social Democratic Party Caucus
- Vice – President of the Senate of the Parliament of the Czech Republic

### **Membership in Senate Committees and Commissions:**

- Vice- Chairman of the Committee on European Affairs
- Vice – Chairman of the Standing Senate Commission on Media
- Member of the Standing Senate Commission on the Constitution of the Czech Republic and Parliamentary Procedures
- Member of the Standing Senate Commission on Senate Chancellery Activities
- Member of the Permanent Delegation of the Parliament of the Czech Republic to the Parliamentary Assembly of the Council of Europe

### **Functions in Czech Social Democratic Party:**

From 1997 member of the Czech Social Democratic Party. Member of the National Executive Board, Vice – Chairman and Chairman of the Regional Executive Board, Zlin. Currently she is member of the Political Board of the Czech Social Democratic Party. From 2010 spokesperson of the Czech Social Democrat Party Shadow Cabinet for research and science from 2010.

### **Other Membership:**

Guest of the Trade Delegation of the Regional Tripartite, Member of the Administration Board of the Tomas Bata University in Zlin, 1.Vice – President of the Czech Association of Patients a Patient Ombudsman for Moravia and Silesia. Councillor of Zelechovice nad Drevnici

**Biography of Ms Teresa ANJINHO, Member of Committee on Constitutional Affairs, Rights, Freedoms and Guarantees, Assembly of the Republic, Portugal**

**Curriculum Vitae**



**Personal information**

First name(s) / Surname(s) **Teresa Anjinho**  
Telephone(s) +351 21 3917363  
Fax(es) +351 213917433  
  
Nationality Portuguese  
  
Date of birth 03/10/1974

**Occupational field**

**Member of the Portuguese Parliament** (Committee on Constitutional Affairs, Rights, Freedoms and Guarantees)

**Jurist**

**Education and training**

Dates 1992/1997  
Title of qualification awarded Law Degree  
Name and type of organisation providing education and training Coimbra University  
  
Dates 1997/1998  
Title of qualification awarded European Master's Degree in Human Rights and Democratization (EMA)  
Name and type of organisation providing education and training Padua University (Italy) – Centre for Training and Research on Human Rights and the Rights of the Peoples  
  
Title of qualification awarded Course on European Criminal Law

Name and type of organisation providing education and training	Maastricht University (Holland)
Title of qualification awarded	Attending PhD (thesis on Violence Against Women in the ruling of International Courts)
Name and type of organisation providing education and training	Lisbon University (Universidade Nova de Lisboa)
<b>Seminars and Lectures</b>	
Date	April 10-11, 2002 (Lisbon) Workshop on Human Rights Litigation – Law and Practice in International and Domestic Courts European Roma Rights Center (ERRC) e Bar Association
Date	June 17-19, 2002 (Strasbourg) Study Session on the European Convention on Human Rights Directorate General of Human Rights (D.G. II) and Directorate General of Social (D.G. III) Cohesion in co-operation with ERRC Council of Europe
Date	November 28-30, 2002 (Brussels) Implementing European Anti-Discrimination Law ERRC and Interights
Date	March 10, 2003 Permanent Seminar on the State and the Rule of Law Address on “ <i>Sexual Violence in the ruling of the Ad-hoc International Court for former Yugoslavia</i> ”
Date	March 25, 2006 International Conference – International Criminal Court and the changes on International Law Address on “ <i>Gender violence and the International Criminal Court</i> ”
Date	October 25, 2009

Masters In Palliative Care  
Address On “*Women and death: palliative care and gender*”

## **Publications**

‘*The Apprehension of Suspected War Criminals in Bosnia-Herzegovina*’ (EMA)

‘*Europol and Future Challenges*’ (EMA)

‘*War, Women and Rape*’ (EMA, thesis)

‘*Human Rights in the European Parliament*’ (internal publication of the EP)

“*Gender violence in the Rome Statute of the International Criminal Court*” (Law and Justice, Law School of the Universidade Católica Portuguesa, 2006)

‘*The history of female suffrage in Portugal*’ (co-author, together with Professor Maria Lúcia Amaral)

‘Gender Equality in Europe’ (article, co-author, together with Professor Teresa Pizarro Beleza, in *Dictionary ‘Portugal and Europa*’, financed by the Bank of Portugal e Calouste Gulbenkian Foundation)

## **Professional Experience**

Dates 2000 and 2002/OSCE – Supervisor in municipal elections, Kosovo

1999/OSCE – Supervisor in Parliamentary Elections, Russia,

1998/OSCE – Supervisor In Parliamentary Elections, Bosnia Herzegovina,

Dates January-June 2000

Ministry of Foreign Affairs – Unit for the Balkans/External Policy DG

March-July 1999

Internship in the European Commission – DG IA – External Relations: Europe and new Independent States

October-December 1998

Internship in the European Parliament – LIBE Committee/Subcommittee of Human Rights

Dates October 1999

Legal Advisor – Rebelo de Sousa and Associates (Law Firm)

Dates Guest Member of the teaching body:

- Coimbra University – Law School
- Post-graduation on Human Rights;
  
- Lisbon University (Universidade Nova de Lisboa) – Law School
- Social Equality Law (Women’s Law)
- International Criminal Law
- International Public Law
- Humanitarian International Law

## Biography of Mrs Viviane REDING, Commissioner responsible for Justice, Fundamental Rights and Citizenship, European Commission



### *Curriculum vitae*

**Nom** Viviane Reding  
**Nationalité** Luxembourgeoise  
**État civil** Née le 27 avril 1951 à Esch-sur-Alzette, Luxembourg  
Divorcée, trois enfants  
**Formation** Docteur en Sciences humaines, Sorbonne, Paris

### *Carrière professionnelle*

1978-1999 Journaliste au Luxemburger Wort  
1986-1998 Présidente de l'Union luxembourgeoise des journalistes

### *Carrière politique*

1979-1989 **Députée du Parlement luxembourgeois**

- Présidente de la Commission des affaires sociales
- Membre du Bureau de la Chambre des députés
- Membre de l'Assemblée parlementaire du Benelux
- Membre de l'Assemblée de l'Atlantique Nord (chef du groupe démocrate chrétien/conservateur)

1981-1999 **Conseiller communal d'Esch-sur-Alzette (Luxembourg)**

- Présidente de la Commission des affaires culturelles 1992-1999

1988-1993 **Présidente nationale des Femmes Chrétiennes Sociales (Luxembourg)**

1995-1999 **Vice-présidente du Parti Chrétien Social (Luxembourg)**

1989-1999 **Membre du Parlement européen**

- Présidente de la Commission des pétitions 1989-1992
- Vice-présidente de la Commission des affaires sociales et de l'emploi 1992-1994
- Vice-présidente de la Commission des libertés civiles et des affaires intérieures 1997-1999
- Chef de la délégation du Luxembourg au PPE
- Membre du bureau du groupe du PPE

**1999-2004 Membre de la Commission européenne**, en charge de l'Education, de la Culture, de la Jeunesse, des Médias et des Sports

**2004-2010 Membre de la Commission européenne**, en charge de la Société de l'Information et des Médias

**Depuis février 2010 Vice-présidente de la Commission européenne**, en charge de la Justice, des Droits fondamentaux et de la Citoyenneté

***Prix et distinctions***

1992 Croix Saint Georges de la Generalitat de Catalunya

2001 Médaille d'Or du Mérite européen

2004 Doctorat Honoris Causa de l'université Fu Jen de Taiwan

2004 Doctorat Honoris Causa de l'université de Gênes

2004 Médaille Robert Schuman

2004 Doctorat Honoris Causa de l'université de Turin

2004 Prix coopération internationale Prince des Asturies

2005 "Gloria Artis" Médaille d'honneur de la Pologne

2005 Officier dans l'ordre national de la Légion d'honneur, France

2007 Commissaire de l'année, European Voice

2007 Deutscher Mittelstandspreis

2009 Doctorat Honoris Causa de la US Université "Sacred Heart", Luxembourg

2010 BeNeLux-Europa Award

## **Biography of Mr Egemen BAGIS, Minister for European Union Affairs and Chief Negotiator, Turkey**



Aiming to serve his country, Bagis continues as a minister to adopt the principles of "**Strength in Unity**" and "**Unity in Tolerance**" as the basis of all his endeavors.

### **Minister for EU Affairs and Chief Negotiator**

Egemen Bagis was first elected to Parliament in 2002 as a deputy of Istanbul. He was first appointed as Minister for EU Affairs (State Minister) and Chief Negotiator on January 2009. He was appointed as Minister for EU Affairs and Chief Negotiator in the 61st government on July 6, 2011.

Until 2009, Bagis was AK Party's Vice Chairman in charge of Foreign Affairs. As the Vice Chairman, he had been a member of AK Party's Central Executive Committee, the highest executive body of the party.

Bagis directed the national and international relations of the party, as well as its local organizations, on matters regarding foreign policy.

Bagis was the most influential key official of the party for diplomacy and international relations. He directed and coordinated the party's national and international network as well as local branches on foreign policy matters. He also coordinated the flow of key global developments to the party leadership.

Egemen Bagis's current titles include:

- Minister for EU Affairs and Chief Negotiator
- Head of the Turkish Delegation for EU Negotiations
- Member of the Parliament, representing Istanbul

Between the years 2002 and 2011, Mr. Bagis served as;

- Minister for EU Affairs and Chief Negotiator (State Minister)
- AK Party Vice Chairman in charge of Foreign Affairs and Representative Offices

AK Party, Member of the Central Executive Committee  
AK Party, Member of the Central Decision Making and Administrative  
Committee  
Foreign Policy Advisor to Prime Minister Recep Tayyip Erdogan  
Chairman of Turkey-USA Inter-Parliamentary Friendship Caucus  
Chairman of NATO-PA Subcommittee on Transatlantic Relations  
Deputy Chairman of the Turkish Delegation to NATO Parliamentary  
Assembly

Bagis who is also a patron of arts, has contributed to two major projects, “İstanbul 2010 European Capital of Culture” and “İstanbul 2012 European Capital of Sports”, and served as the founding Chairman of the Advisory Board of these projects. Egemen Bagis has also promoted the establishment of İstanbul Museum of Modern Art and Santral Museum of Art & Industry and is also a founding board member of the museums.

Bagis is the founder of the Global Affairs Platform at Istanbul Bilgi University and is the chairman of the advisory committee of the platform. He is also a founding member of the İstanbul Center in Brussels, and currently a member of the Administrative Board of the Center.

He was also awarded the Cavaliere, Order of Merit of the Italian Republic in 2006 and Commendatore, Order of Merit of the Italian Republic in 2011.

In the 1990's, Bagis was the President of the Federation of Turkish-American Associations in New York, an umbrella organization. A popular leader, Bagis is the only President in this organizations' history, who was unanimously re-elected for two terms. He has also served as the Advisory Board member of Turkish Citizens Abroad, a government body based in Ankara.

Bagis was born in Bingol, Turkey, in 1970. His family originates from the neighboring Siirt province, where his late father, Abdullah Bagis served as mayor from 1974 to 1979.

He holds a Bachelor of Arts degree in Human Resources Management as well as a Master of Public Administration degree, both from Bernard M. Baruch College of The City University of New York.

He is married to Beyhan N. Bagis, and they have two children.

**Biography of Ms Edit BAUER, Member of the Committee on Women's Rights and Gender Equality, rapporteur on "Application of the principle of equal pay for male and female workers for equal work or work of equal value"**



Group of the European People's Party (Christian Democrats)  
Slovakia Strana mad'arskej koalície - Magyar Koalíció Pártja

Born on 30 August 1946, Šamorín

**Curriculum vitae**

- Economist (1968). PhD (sociology) (1980)
- Specialist, National Association of Artisans' Cooperatives (1968-1969). Researcher in economics and sociology (1969-1990).
- Member of the Hungarian Coalition Party (SMK-MKP) (1990). Vice-Chair of the Hungarian Coalition Party (1998-2004). Member of the Executive of the Hungarian Coalition Party (2004-).
- Parliamentary representative, National Council of Slovakia (1990-1998, 2002-2004). Chair of the Subcommittee for Science (1992-1994). Vice-Chair, Social Affairs Committee (2002-2004).
- Undersecretary of State, Employment, Social and Family Affairs Ministry (1998-2002).
- Member of the European Parliament (since 2004).
- Member of the Board of the Hungarian Academy of Sciences (1995).

# Draft report by Ms Edit Bauer on the application of the principle of equal pay for male and female workers for equal work or work of equal value



EUROPEAN PARLIAMENT

2009 - 2014

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*Committee on Women's Rights and Gender Equality*

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**2011/2285(INI)**

7.2.2012

## **DRAFT 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)

(Authors of the proposal: Franziska Katharina Brantner, Karima Delli, Eider Gardiazábal Rubial, Kartika Tamara Liotard, Barbara Matera, Marisa Matias, Emma McClarkin, Ramona Nicole Mănescu, Mariya Nedelcheva, Catherine Stihler)

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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 the 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),
- 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: 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 Article 11(1)(d) of the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the UN General Assembly by 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 (A7-0000/2012),

A. whereas women earn on average 17.1% less than men in the European Union and the gender pay gap varies between 3.2% and 30.9% in 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, 18% in 2008 and 17.1% in 2009),

B. whereas the causes of the 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 sectoral segregation in the labour market, 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 and employment patterns; whereas, according to expert analysis, discrimination, direct and indirect, is responsible for approximately half the

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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.

difference;

C. 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;

D. whereas implementation of the principle of equal pay for the same work and for work of equal value is crucial to achieving gender equality;

E. 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;

F. 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;

G. 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 women's skills and competences are often undervalued – especially in those occupations where women predominate – without, necessarily, any justification on the basis of objective criteria;

H. 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; whereas women's slower, shorter and/or interrupted careers also create a gender differential in contributions to personal pension accounts, thus increasing women's risk of poverty in old age;

I. 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;

J. whereas women work in lower-paid industries or in low-paid sectors with less collective representation and bargaining power;

K. 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;

L. whereas only a few claims concerning discrimination in the form of a gender

pay gap make their way to the competent courts<sup>4</sup>; whereas there are many explanations for this scarcity, including a lack of information on pay, the problematic scope of comparison and the claimants' lack of personal resources;

M. 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;

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. Recognises that a multi-level, multifaceted approach requires strong leadership from the European Union in coordinating policies, promoting good practices and involving various actors as European social partners, with the aim of creating a Europe-wide strategy to address the gender pay gap;
3. Confirms that the recommendations respect fundamental rights and the principle of subsidiarity;
4. Considers that the proposal requested will have no financial implications;
5. Calls on the Member States to implement and enforce the recast Directive 2006/54/EC consistently and to encourage the private sector to play a more active role in closing the gender pay gap;
6. 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

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<sup>4</sup> Background document accompanying the Commission communication entitled Strategy for Equality between Women and Men 2010-2015 SEC(2010)1080, p. 36.

training;

7. Welcomes the Commission's Equal Pay Day initiative which was first established on 5 March 2011;
8. Welcomes the Council's initiative, under the Belgian Presidency in 2010, on evaluating and updating the set of quantitative and qualitative indicators;
9. Encourages the Commission to foster closer coordination among Member States in relation to research, analysis and taking full advantage of best-practice sharing;
10. Call 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;
11. Encourages the social partners to shoulder their responsibility for creating a more gender-equal wage structure;
12. Calls on workers' and employers' organisations jointly to develop objective job-evaluation instruments in order to reduce the pay gap between men and women;
13. 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;

### **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 part-time gender pay 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 accessible information on their results, are made compulsory within companies (e.g. in companies with at least 100 employees and where at least 10% of employees are women). The same requirement must 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. 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.

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

3.1. The concept of the value of work must be based on qualification, skills or responsibility emphasising quality of work, with the aim of promoting equal opportunities between women and men and should not be marked by a stereotyped approach unfavourable to women, for example putting the emphasis on physical strength rather than on interpersonal skills or responsibility. 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 invite 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 system remains important. Such elements of 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 systems for classifying and organising staff and work and on professional experience and productivity assessed above all in qualitative terms, for use as a source of data and assessment grids for determining pay, with due regard to the principle of transparency and 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.

The responsibility of trade unions should be strengthened, while management could also 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>5</sup>

### **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 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 childcare and other care services, flexible work organisation and hours, and maternity, paternity, parental and family leave, ,
- concrete affirmative 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, 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.

### **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,

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<sup>5</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.

- 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.

### **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. 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>6</sup> and 2004/18/EC<sup>7</sup> concerning the procurement procedure.

### **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>8</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>6</sup> OJ L 134, 30.4.2004, p.1

<sup>7</sup> OJ L 134, 30.4.2004, p.114.

<sup>8</sup> OJ L 14, 20.1.1998, p. 9.

## **Contributions by National Parliaments**

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### **Question 1**

- **Has your Parliament in recent years addressed the issue of the gender pay gap in any of its decisions/resolutions?**

Not yet.

- **Have specific reasons for the existing gender pay gap in your country been identified in those decisions/resolutions or in the broader political debate?**

There are some studies identifying gender prejudices and stereotypes (for example Czech Statistical Office and the Academy of Sciences of the Czech Republic) as the main reasons for gender pay gap in the Czech Republic. However, the debate is dominated by NGOs and it is not really perceived as a "real issue" by broader public or politicians. Therefore, low awareness of the topic as well as non existing political debate could be characterized as second reason for the persisting gender pay gap of the 26 % in the Czech Republic, e.g. the target group (women) is very often not even aware of the existence of gender pay gap. The consequence of this knowledge or information deficit is absence of public pressure towards law makers with the aim to solve this problem.

### **Question 2**

**Legislative policy:**

- **What changes did Directive 2006/54/EC<sup>9</sup> impose on the legislation on equal pay in your country?**
- **Does the existing legislation on equal pay in your country contain any of the following provisions?**
  - **Definitions (remuneration, gender pay gap, direct or indirect pay discrimination, pension gap);**
  - **Transparency of remuneration; gender disaggregated wage statistics;**
  - **Work evaluation and job classification;**
  - **Role of equality bodies;**
  - **Social dialogue; inclusion of equal pay in collective agreements;**
  - **Sanctions applicable in case of breaches of the equal pay rule.**
- **Since its introduction of the current legislation in your country, has there been an improvement as regards gender pay gap?**
- **Does your Parliament envisage any revision of the current legislation on equal pay in your country in order to improve the situation?**

Directive 2006/54/EC was implemented into the Czech legal system i.a. by the Act No. 198/2009 Coll., on equal treatment and on the legal means of protection against discrimination and on amendment to some laws (the Anti-Discrimination Act). This long-awaited law provides basic anti-discrimination rules as defined under EU law.

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<sup>9</sup> [Directive 2006/54/EC of the European Parliament and of the Council 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 \(recast\)](#)

Except for “remuneration” which is defined in Anti-Discrimination Act, the above mentioned definitions are not regulated under the Czech law.  
There is no new legislation on equal pay prepared at the moment.

### **Question 3**

**Non-legislative policy:**

- **What kind of specific activities which address the issue of gender pay gap have recently been organised in your country (information campaigns, equal pay day initiative, promotion of best practices, etc.)?**
- **What kind of positive effect(s) did result from such activities as regards the situation of gender pay gap in your country?**

There are some specific activities (campaigns, training for women aimed at salary negotiation, happenings, etc.) conducted especially by NGOs. Also Czech media often pay attention to the issue of gender pay gap. The positive effect of these activities is that the public awareness of this kind of discrimination is rising.

### **Question 1**

- **Has your Parliament in recent years addressed the issue of the gender pay gap in any of its decisions/resolutions?**
- **Have specific reasons for the existing gender pay gap in your country been identified in those decisions/resolutions or in the broader political debate?**

The Hellenic Parliament in recent years has addressed and debated upon general issues of gender equality; the specific issue of gender pay gap has not been addressed individually.

### **Question 2**

**Legislative policy:**

- **What changes did Directive 2006/54/EC<sup>10</sup> impose on the legislation on equal pay in your country?**
- **Does the existing legislation on equal pay in your country contain any of the following provisions?**
  - **Definitions (remuneration, gender pay gap, direct or indirect pay discrimination, pension gap);**
  - **Transparency of remuneration; gender disaggregated wage statistics;**
  - **Work evaluation and job classification;**
  - **Role of equality bodies;**
  - **Social dialogue; inclusion of equal pay in collective agreements;**
  - **Sanctions applicable in case of breaches of the equal pay rule.**
- **Since its introduction of the current legislation in your country, has there been an improvement as regards gender pay gap?**
- **Does your Parliament envisage any revision of the current legislation on equal pay in your country in order to improve the situation?**

Our country's national law has been harmonized to the provisions of **Directive 2006/54/EC** on implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation; the Directive has been transposed to national legislation by **Law 3896/2010**.

Law 3896/2010 strengthens as well as codifies the entire previous legal frame. Its implementation scope is broadened, in order to apply generally on all employees. More specifically, according to its article 17, provisions applying on persons employed or are about to be employed both in the Public sector, as well as the private sector, in any form of employment relationship, including contract and mission mandate, regardless of the provided services' nature, on freelance professionals and persons under training of about to receive professional training of any kind whatsoever. Moreover, the aforementioned law corrects deficiencies of previous laws and initiates regulations and arrangements facilitating the transition from equal rights

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<sup>10</sup> [Directive 2006/54/EC of the European Parliament and of the Council 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 \(recast\)](#)

of men and women to equal treatment in employment and equal opportunities of men and women.

The position of the Greek Ombudsman as the Equality Body responsible for the promotion of legislation for equal treatment between men and women in employment has been significantly reinforced. Law 3896/2010, enacted in December 2010, broadened the competences of the Ombudsman with regard to tackling discrimination. The existing legislation on equal pay contains **definition on remuneration**; moreover, the Constitution of Greece, the aforementioned Law 3896/2010 and Law 3846/2010 contain provisions mandating equal pay for equal work and non-discrimination in hiring practices on basis of gender. Issues concerning pension are addressed by Law 3863/2010.

In this respect, issues of **work evaluation and job classification** are associated to the principle of equal pay, implemented by binding provisions, yet of a relaxed( loose) nature.

### **Role of equality bodies**

The Independent Authority of the Greek Ombudsman, which fully complies with the independence criterion imposed by Directive54/2006, since 2006 initially, by virtue of the provisions of article 13 of Law 3488/2006 and onwards pursuant to article 25 of Law3896/2010, has been defined and operates as the sole national competent authority to promote and supervise the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, as well as terms and conditions of labor and professional social security schemes, in both the public and the private sector. By virtue of the recent law its tasks and mission are enhanced and safeguarded.

More specifically, and only as far as the private sector is concerned, pursuant to para10 of the same article, a special cooperation scheme has been determined between the Greek Ombudsman and the Labour Inspectorate Body (SEPE), as responding to the Directive's criterion for provisions' application supervision by an independent authority. Thus, in case of complaints and labour disputes, the inspection procedure and the imposition of sanctions entrusted to the local labour inspection services which are responsible by field of knowledge, might be facilitated.

In accordance with the above mentioned provision, the Labour Inspectorate Body (SEPE) continues to be entrusted with the inspection and the imposition of sanctions in case of violation of legislation having been obliged with the provision of information to the Greek Ombudsman about any complaint lodged to it, concerning the application of the above Law, and the communication of the outcome of the inspection it has carried out.

In all cases, the Greek Ombudsman is entitled to carry out its own inspection, to play its role of mediator with a view to eliminate discriminatory treatment on grounds of sex and to come to its own conclusion which, given the Ombudsman's mission and duties, is of great importance for the Labour Inspectorate Body, for the imposition of fines and the drawing of the final conclusion.

Finally, we would like to note that, the Greek Ombudsman

participated actively in the law-making process of Law 3896/2010, as well as of the repealed Law 3488/2006. The relevant cooperation fully satisfies the Independent Authority as well, which encourages such cooperation.

Hereafter the Ombudsman can take up preventive actions in order to promote equal opportunities and equal treatment of men and women in matters of employment and occupation, in cooperation with agents of public administration, social partners, enterprises, NGOs, etc, adopting a more active role in promoting change of gender perceptions in the labour market. Moreover, when it comes to complaints related to gender-based discrimination, the Ombudsman is not obliged to end its investigation in case the complainant files a lawsuit; instead it will be entitled to continue its mediating efforts till the first actual hearing in court of the lawsuit or the relevant petition for the issue of a temporary injunction.

### **Social dialogue**

Article 29 stipulates the following: The Greek State encourages dialogue between social partners, and the dialogue with NGOs promoting equality of men and women. The Economic and Social Committee, in the frame of its special mission on social policy issues encourages dialogue with member-organizations, aiming at their information, sensitization and active participation in promotion the principle of equal opportunities and equal treatment.

### **Sanctions**

Violation of the aforementioned provisions constitutes violation of the labor law, entailing administrative sanctions pursuant to articles 23 and 24 of L.3996/2011, as well as civil sanctions pursuant to article 23 of L.3896/2010. In accordance with the above mentioned provisions (article 25), the Labour Inspectorate Body (SEPE), as mentioned above, continues to be entrusted with the inspection and the imposition of sanctions in case of violation of legislation.

Specific data concerning the pay gap have not been updated.

No revision of current legislation is envisaged for the time being.

### **Question 3**

#### **Non-legislative policy:**

- **What kind of specific activities which address the issue of gender pay gap have recently been organised in your country (information campaigns, equal pay day initiative, promotion of best practices, etc.)?**
- **What kind of positive effect(s) did result from such activities as regards the situation of gender pay gap in your country?**

Following proposal of the National Secretariat for Gender Equality, on March 9, 2012 the European Commission's delegation in Greece, will co-organize with the European Parliament's Information Office in Greece a one-day conference with subject "Equal pay for Work of Equal Value"

## **Question 1**

### *1.1 Votre parlement s'est-il emparé de la question des inégalités salariales dans des décisions ou résolutions récentes ?*

Le Sénat a adopté le 16 février 2012 la proposition de loi sur l'égalité salariale déposée par Mme Claire-Lise Campion, Mme Michèle André, Mme Catherine Génisson, M. François Rebsamen et les membres du groupe socialiste et apparenté. Cette proposition de loi a été transmise à l'Assemblée nationale.

Le dispositif de cette PPL renforce les sanctions à l'encontre des entreprises qui ne respectent pas la législation visant à réduire les écarts de salaires entre hommes et femmes, en prévoyant notamment de priver, à partir du 1<sup>er</sup> janvier 2013, toute entreprise n'ayant pas conclu d'accord définissant et programmant les mesures permettant de supprimer les écarts de rémunération entre les hommes et les femmes, des allègements et exonérations sur les cotisations sociales de la branche maladie ainsi que des réductions d'impôts dont elle pourrait bénéficier.

Auparavant, l'article 99 de la loi du 9 novembre 2010 portant réforme des retraites avait déjà institué une première pénalité financière d'un montant maximum de 1 % de la masse salariale, applicable à toutes les entreprises de 50 salariés qui ne seraient pas couvertes par un accord relatif à l'égalité professionnelle ou, à défaut d'accord, par un plan d'action.

### *1.2. Des causes spécifiques à l'écart salarial dans votre pays ont-elles été identifiées dans des décisions, résolutions ou dans des débats politiques ?*

En France, on estime entre 25 % à 27 % l'écart de salaires persistant entre les femmes et les hommes.

Nombreux sont les chercheur(e)s qui ont cherché à expliquer ces différences salariales persistantes, que l'augmentation du taux d'activité et du niveau de qualification des femmes sur le marché du travail aurait dû estomper.

Les travaux de Dominique Meurs et Sophie Ponthieux<sup>11</sup> ont mis en lumière une classification de facteurs :

- le temps de travail est déterminant : il explique un écart de salaire de 12 % ;
- la structure des emplois explique 8 % de l'écart ;
- enfin 7 % de l'écart serait dû à des différences de productivité.

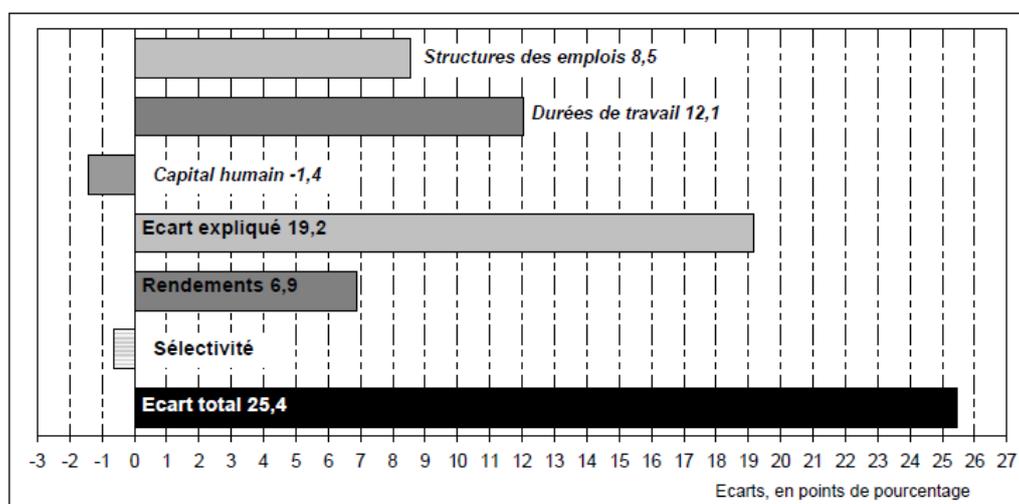
Par conséquent, les 6 % restants « inexpliqués » représenteraient l'effet de la discrimination.

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<sup>11</sup> Dominique Meurs et Sophie Ponthieux, *Quand la variable femme ne sera plus explicative dans les équations de gains. Travail, genre et sociétés*, 2006/1, n° 15, p.51-67.

Ces facteurs sont représentés dans le graphique<sup>12</sup> reproduit ci-dessous (issu du rapport précité de Brigitte Grésy) :

Graphique 6 : Composantes de l'écart des salaires mensuels entre les hommes et les femmes<sup>35</sup>



*Note : le « capital humain » comprend le niveau d'éducation, l'expérience et l'ancienneté ; les « structures des emplois » comprennent la catégorie professionnelle, la fonction, le secteur d'activité, les particularités du poste (travail samedi, dimanche, nuit), des indicatrices pour les emplois non-qualifiés, les contrats à durée déterminée, le secteur public ; la nationalité et la région de résidence sont contrôlées, et une variable corrige le biais de sélection.*

*Champ : salariés, hors apprentis et stagiaires de la formation professionnelle, travaillant au moins 10 heures par semaine. Source : Insee, enquête emploi 2002.*

Ces facteurs traduisent des caractéristiques bien connues de l'emploi des femmes :

- ♦ les femmes sont surreprésentées parmi les emplois non qualifiés (60 %) et 30 % des femmes qui travaillent ont un emploi sans qualification reconnue ;
- ♦ 75 % des salariés à temps partiel sont des femmes<sup>13</sup> ;
- ♦ plus on s'élève dans la pyramide organisationnelle, moins les femmes sont nombreuses. Selon une enquête de l'INSEE, en 2002, on comptait seulement 31,4 % de femmes parmi les cadres d'état major et cadres de gestion courante des grandes entreprises.

## **Question 2**

2.1. *Quels changements la directive 2006/54/EC a imposé à la législation relative à l'égalité salariale ?*

Cette directive n'a pas fondamentalement modifié la législation française puisque celle-ci reposait déjà à cette date sur une solide architecture issue des lois suivantes :

- ♦ **la loi n° 72-1143 du 22 décembre 1972** relative à l'égalité de rémunération entre les hommes et les femmes a inscrit dans le code du travail (article L. 3221-2) le principe : « *Tout employeur assure, pour un même travail ou pour un travail de valeur égale l'égalité de rémunération entre les femmes et les hommes* ».

<sup>12</sup> Dominique Meurs et Sophie Ponthieux, 2006, même article, p.65.

<sup>13</sup> Selon l'Observatoire des inégalités.

♦ **la grande loi fondatrice est la loi n° 83-635 du 13 juillet 1983 dite « Loi Roudy »**. Elle dispose que le principe de l'égalité professionnelle entre les hommes et les femmes s'applique en matière de recrutement, rémunération, promotion et formation. Une même rémunération doit être octroyée aux personnes effectuant des travaux de valeur égale, ces derniers étant ceux qui « *exigent des salariés un ensemble comparable de connaissances professionnelles consacrées par un titre, un diplôme ou une pratique professionnelle, de capacités découlant de l'expérience acquise, de responsabilités et de charge physique ou nerveuse.* » (article L. 3221-4 du code du travail).

Elle crée le **rapport de situation comparée (RSC)** que les employeurs doivent élaborer sur les conditions d'emploi et de formation des femmes et des hommes dans l'entreprise, et transmettre pour avis au comité d'entreprise ou à défaut aux délégués du personnel, puis pour information aux délégués syndicaux et à l'inspecteur du travail.

Ce rapport doit comporter « *une analyse chiffrée permettant d'apprécier pour chacune des catégories professionnelles de l'entreprise la situation professionnelle des hommes et des femmes en matière d'embauche, de formation, de promotion professionnelle, de qualification, de classification, de conditions de travail et de rémunération effective.* » Il doit aussi recenser les mesures prises au cours de l'année écoulée et les mesures prévues pour l'année suivante, accompagnées d'une définition qualitative, quantitative et financière des actions à mener.

♦ **la loi n° 2001-397 du 9 mai 2001 relative à l'égalité professionnelle entre les hommes et les femmes, dite « Loi Génisson »** intègre dans le code du travail plusieurs dispositions protectrices sur le travail de nuit, notamment des femmes enceintes (articles L. 3122-29 et suivants et articles L. 1225-9 et suivants), sur le harcèlement sexuel (articles L. 1153-1 et suivants), et sur une représentation équilibrée des femmes et des hommes aux élections prud'homales et aux élections professionnelles dans l'entreprise (article L. 2324-6) ainsi que dans les jurys de recrutement et de promotion dans la fonction publique. Un RSC des conditions d'emploi et de formation dans la fonction publique est également prévu (article 6 *quater* de la loi n° 83-634 du 13 juillet 1983).

S'agissant du rapport de situation comparée, elle complète le contenu obligatoire qui doit désormais comporter une analyse de la situation comparée des femmes et des hommes dans l'entreprise « *sur la base d'indicateurs pertinents, reposant notamment sur des éléments chiffrés, définis par décret et éventuellement complétés par des indicateurs qui tiennent compte de la situation particulière de l'entreprise.* » (article L. 2323-57 du code du travail).

Ces indicateurs doivent être portés à la connaissance des salariés des entreprises de plus de 300 salariés par voie d'affichage (article L. 2323-59 du code du travail). Dans les entreprises d'au moins 200 salariés le comité d'entreprise doit constituer une commission de l'égalité professionnelle chargée de préparer les délibérations du comité d'entreprise sur le RSC (article L. 2325-34 du code du travail).

La loi du 9 mai 2001 instaure également une obligation triennale pour chaque branche professionnelle de négocier sur l'égalité professionnelle sur la base d'un RSC établi

notamment pour les domaines suivants : conditions d'accès à l'emploi, formation et promotion, condition de travail et d'emploi, dont celles des travailleurs à temps partiel qui sont à plus de 80 % des femmes (article L. 2241-3 du code du travail).

Elle oblige les entreprises d'au moins 50 salariés à négocier chaque année sur l'égalité professionnelle. Déclenchée à l'initiative de l'employeur ou à défaut à la demande d'un syndicat représentatif, la négociation est engagée à partir du RSC. Si elle conduit à un accord, sa périodicité est portée à trois ans (article L. 2242-5 du code du travail).

Enfin, elle prévoit l'intégration d'objectifs d'égalité professionnelle dans les négociations de branche obligatoires annuelles sur les salaires et quinquennales sur les classifications (articles L. 2241-7 et L. 2241-9 du code du travail), ainsi que dans les négociations annuelles obligatoires dans les entreprises qui doivent porter, outre l'égalité professionnelle, sur les salaires et la durée du travail, le régime de prévoyance maladie, l'intéressement, la participation et l'épargne salariale et les travailleurs handicapés (article L. 2242-6 du code du travail).

♦ **la loi n° 2001 du 16 novembre 2001 relative à la lutte contre les discriminations** institue pour les délégués du personnel un droit d'alerte en matière de discrimination directe ou indirecte en raison du sexe et permet aux organisations syndicales d'engager une procédure à la place du salarié victime de discrimination. Par ailleurs, elle renverse la charge de la preuve devant les Prud'hommes : c'est désormais l'employeur qui doit justifier la mesure contestée en arguant de motifs professionnels.

♦ **la loi n° 2006-340 du 23 mars 2006 relative à l'égalité salariale entre les hommes et les femmes** garantit un accès équilibré des femmes et des hommes aux filières de formation continue (article L. 6112-1 et suivants du code du travail) et inscrit l'intéressement et la distribution d'actions dans la liste des moyens pouvant constituer des discriminations salariales indirectes (article L. 1132-1 du code du travail).

Elle précise les dispositions préexistantes en matière d'égalité professionnelle :

- en imposant aux employeurs de plus de 50 salariés de prendre en compte les objectifs en matière d'égalité professionnelle entre les hommes et les femmes dans l'entreprise et les mesures permettant de les atteindre (article L. 1142-5 du code du travail).

- en définissant les domaines sur lesquels la négociation sur l'égalité professionnelle doit notamment porter : conditions d'accès à l'emploi, à la formation et à la promotion professionnelle, conditions de travail et d'emploi des salariés à temps partiel, articulation entre vie professionnelle et familiale.

- en prévoyant que le plan de gestion prévisionnelle des emplois et des compétences doit prendre en compte les périodes de congé maternité, paternité et présence parentale pour le calcul des droits au titre du DIF, et que les personnes de retour d'un congé maternité ou adoption ont le droit de bénéficier des augmentations générales de salaire accordées pendant leur absence, et de la moyenne des augmentations individuelles de salaires perçues par les salariés de leur catégorie professionnelle (article L. 1225-44 du code du travail).

**De plus, la loi du 23 mars 2006 fixait une date butoir au 31 décembre 2010 pour la suppression des écarts de rémunération entre les hommes et les femmes :**

- avant le 31 décembre 2010, les écarts de rémunération dans les branches entre les femmes et les hommes devaient être supprimés à l'issue d'une négociation spécifique tendant à l'adoption de mesures programmées au cours des négociations annuelles sur les salaires et des négociations annuelles sur les classifications sur la base du RSC de branche. À défaut, le ministre du travail pouvait réunir une commission mixte pour engager cette négociation. (article L. 2241-9 à 12 du code du travail).

- avant le 31 décembre 2010, les écarts de rémunération entre hommes et femmes dans les entreprises d'au moins 50 salariés devaient être supprimés par l'adoption de mesures spécifiques dans le cadre des négociations annuelles sur les salaires, prises sur la base du RSC d'entreprise. Les accords devaient être déposés auprès de l'autorité administrative, sous condition que l'employeur ait ouvert « *sérieusement et loyalement* » les négociations sur la résorption des écarts de rémunération.

En contrepartie de ce qui était considéré par le Gouvernement et la majorité parlementaire comme une sujétion imposée aux entreprises, la loi de 2006 prévoyait une aide forfaitaire aux entreprises de moins de 50 salariés recrutant un travailleur temporaire pour remplacer la salariée en congé de maternité. Cette aide a été supprimée par la loi de finances pour 2008.

**Question 3**

*3.1. Des politiques publiques en faveur de l'égalité salariale ont-elles été récemment menées dans votre pays ?*

Récemment, en France, le Gouvernement a lancé une campagne d'information pour lutter contre les violences faites aux femmes (voie d'affichage, sports publicitaires...). La délégation aux droits des femmes du Sénat, à l'occasion de l'examen de la PPL sur l'égalité salariale, a demandé qu'une campagne similaire soit financée pour lutter contre les inégalités professionnelles.

Par ailleurs, le 3<sup>ème</sup> volet du Plan interministériel de lutte contre les violences faites aux femmes 2011-2013 est consacré, en 2012-2013, à la lutte contre le harcèlement sexuel au travail.

## FRANCE - L'ASSEMBLÉE NATIONALE FRANÇAISE

Si la Constitution affirme depuis 2003 l'égalité des chances entre les femmes et les hommes en matière électorale, la révision constitutionnelle de 2008 a souhaité élargir cette déclaration de principe aux responsabilités professionnelles. Ainsi, l'article 1<sup>er</sup> de la Constitution prévoit désormais que « *la loi favorise l'égal accès des femmes et des hommes aux mandats électoraux et fonctions électives, ainsi qu'aux responsabilités professionnelles et sociales* » .

### 1. De nombreux textes se sont efforcés d'établir l'égalité entre les femmes et les hommes

**L'article L. 3221-2 du code du travail** oblige tout employeur à assurer, pour un même travail ou pour un travail de valeur égale, l'égalité de rémunération entre les femmes et les hommes.

**L'article L. 1142-4 du code du travail** prévoit explicitement la possibilité d'instaurer des mesures de discrimination positive, par voie réglementaire, par la négociation collective ou par l'application du plan pour l'égalité professionnelle entre les femmes et les hommes. Il s'agit de remédier aux inégalités de fait qui affectent les chances des femmes (recrutement, formation, promotion, conditions de travail...).

**Les articles L. 2323-47 et L. 2323-57 du code du travail** imposent aux entreprises de plus de 50 salariés et plus de transmettre, chaque année, aux délégués syndicaux et au comité d'entreprise, un **rapport sur la situation comparée des femmes et des hommes** dans l'entreprise (formation, promotion, conditions de travail, rémunération...), et cela pour chaque catégorie professionnelle. Ce rapport recense les mesures prises pendant l'année afin d'assurer l'égalité professionnelle, ainsi que les objectifs retenus pour l'année à venir.

**La loi n° 2011-103 du 27 janvier 2011**, relative à la représentation équilibrée des femmes et des hommes au sein des conseils d'administration et de surveillance et à l'égalité professionnelle, **est une première application majeure de cette disposition constitutionnelle**. En effet, s'appliquant aux sociétés dont les actions sont admises aux négociations sur un marché réglementé et aux sociétés (à partir du 1<sup>er</sup> janvier 2017) qui emploient un nombre moyen d'au moins 500 salariés et dont le total de bilan ou le montant net du chiffre d'affaires est au moins égal à 50 millions d'euros, elle instaure un dispositif progressif (afin de laisser aux entreprises un temps d'adaptation nécessaire) reposant sur trois piliers :

– la loi pose tout d'abord un principe général : « *Le conseil d'administration* <sup>(14)</sup> (ou) *le conseil de surveillance est composé en recherchant une représentation équilibrée des femmes et des hommes* <sup>(15)</sup>. » ;

– ce principe est ensuite complété et précisé par un nombre plancher de représentants de chaque sexe au sein des conseils d'administration et de surveillance. Ce seuil est fixé à 20 % en 2014 et à 40 % en 2017 ;

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<sup>(14)</sup> Article L. 225-17 du code de commerce.

<sup>(15)</sup> Article L. 226-4 du code de commerce.

– enfin, le dispositif est contraignant. En effet, toute nomination intervenue en violation de la règle paritaire est nulle. Par suite, les jetons de présence ne peuvent être attribués à l’administrateur placé sous le coup de cette nullité. Ces avancées législatives accompagnent une certaine évolution des comportements. En effet, certains secteurs professionnels traditionnellement réservés aux hommes (aviation civile, ingénierie...) tendent à se féminiser. Cette situation est le reflet d’une double évolution : d’une part, les jeunes filles hésitent moins à se tourner vers des secteurs dits masculins, et, d’autre part, les employeurs ont moins *d’a priori* quant à l’embauche de femmes dans ces secteurs. Même si l’ampleur de ce mouvement reste faible, il convient d’en souligner l’importance en tant qu’elle est un premier pas important vers une égalité de fait entre les femmes et les hommes, lors du recrutement.

## 2. Les difficultés rencontrées

Si cette évolution législative est positive, la mise en œuvre de ces dispositifs se heurte à certaines difficultés, maintes fois recensées dans les rapports d’information de la Délégation <sup>(16)</sup>.

**En premier lieu**, un grand nombre de femmes rappellent que leur ascension professionnelle est souvent plus difficile que celle des hommes. Peu d’entre elles parviennent ainsi à se hisser en haut de l’échelle hiérarchique, phénomène communément désigné par l’image du « plafond de verre ».

De fait, les congés de maternité, les congés parentaux, les décisions de travail à temps partiel et le manque de structures permettant de concilier la vie familiale et la vie professionnelle entraînent le plus souvent un « décrochage » des femmes du monde du travail pendant quelques années. Il leur est ensuite difficile de « rattraper le temps perdu » et d’accéder aux postes à responsabilités, auxquels elles auraient pu prétendre avant leurs maternités. En outre, à leur retour dans la sphère professionnelle, peu d’entreprises offrent à ces femmes des formations qui leur permettraient afin d’adapter leurs compétences aux nouveaux besoins de la société <sup>(17)</sup>.

Toutefois, beaucoup de femmes continuent de travailler en parallèle avec leur maternité. L’analyse développée ne suffit donc pas à expliquer le faible nombre de femmes au sommet de l’échelle hiérarchique des sociétés. En fait, le « plafond de verre » reste le fruit d’un blocage des mentalités refusant aux femmes l’accès à des postes de responsabilité.

**En deuxième lieu**, dans les faits, l’égalité salariale des femmes et des hommes n’est toujours pas acquise, quelles que soient les catégories professionnelles. En effet, les salaires des femmes sont en moyenne inférieurs de 23,4 % à ceux des hommes, chez

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<sup>(16)</sup> Rapport d’activité n° 2125 de Mme Marie-Jo Zimmermann, décembre 2009 et rapport d’information n° 3621, présenté par Mme Marie-Jo Zimmermann, sur l’application des lois sur l’égalité professionnelle au sein des entreprises, juillet 2011.

<sup>(17)</sup> En revanche, il convient de souligner les politiques exemplaires mises en place par certaines entreprises, telle Air France. En effet, l’avancement hiérarchique dépend de l’ancienneté et les femmes s’étant arrêtées pendant leur grossesse ne reculent pas dans le « tableau ». De plus, le retour au travail après un congé maternité est aménagé afin que les jeunes mères puissent « se remettre à niveau ». Par exemple, si elles font partie du personnel navigant, des séances sur simulateur leur sont proposées, dès qu’elles en expriment le souhait.

les cadres, de 17,5 %, chez les ouvriers et de 5,7 % chez les employés<sup>(18)</sup>. À poste et expérience équivalents, elles perdent 19,2 % du salaire masculin. Si le principe « À travail égal, salaire égal » a fait l'objet d'une jurisprudence abondante, il ne trouve toujours pas d'application concrète entre les femmes et les hommes.

**Par ailleurs**, les auditions réalisées par la Délégation révèlent que toutes les entreprises labellisées « Égalité » ne respectent pas leurs obligations. Ce label permet d'inciter les femmes à postuler à l'embauche dans les établissements concernés, mais il ne contraint pas véritablement ces derniers à mettre en œuvre des mesures effectives visant à assurer l'égalité femmes/hommes. De fait, il semblerait que les mesures de son suivi et de son contrôle<sup>(19)</sup> ne soient pas suffisantes pour s'assurer que les entreprises ne s'en tiennent pas à des « mesures d'affichage ».

**Enfin**, il convient de souligner l'insuffisance de l'appareil statistique dans toutes les entreprises. Il serait nécessaire que toutes les sociétés publient des chiffres illustrant la proportion de femmes dans chaque catégorie professionnelle.

### 3. La mobilisation de la Délégation aux droits des femmes

Consciente de ces difficultés, la Délégation s'est penchée à plusieurs reprises sur le problème de l'accès des femmes aux responsabilités dans l'entreprise et elle a formulé plusieurs recommandations afin de permettre d'obtenir une amélioration en ce domaine.

Tout d'abord, dans le rapport d'activité pour 2009, consacré au thème de « l'accès des femmes aux responsabilités dans l'entreprise »<sup>(20)</sup>, la Délégation, ayant constaté l'absence des femmes au sein des instances de gouvernance des entreprises (conseils d'administration et de surveillance) et au sein de différentes institutions en liaison avec ces dernières (syndicats et juridictions prud'homales), **s'est prononcée en faveur de quotas afin de corriger cette inégalité**. Cette solution semblait, à court terme, la plus efficace, en ce qu'elle devait provoquer un changement de mentalité.

Le travail de la Délégation a été partiellement suivi d'effets, la loi n° 2011-103 du 27 janvier 2011 relative à la représentation équilibrée des femmes et des hommes au sein des conseils d'administration et de surveillance et à l'égalité professionnelle imposant la parité au sein des conseils d'administration et de surveillance des sociétés anonymes.

Ensuite, la Délégation a tenu à s'assurer que le dispositif législatif ne restait pas lettre morte et qu'il était concrètement appliqué dans les entreprises. Ainsi, l'application des lois sur l'égalité professionnelle dans les entreprises a fait l'objet d'un rapport d'information en 2011<sup>(21)</sup>.

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<sup>(18)</sup> *Chiffres Clés 2010 : l'égalité entre les femmes et les hommes*, Ministère des Solidarités et de la Cohésion sociale, p.47.

<sup>(19)</sup> Le label n'est théoriquement valable que trois ans, un contrôle intermédiaire intervenant au bout de 18 mois afin de s'assurer du respect des critères.

<sup>(20)</sup> Rapport d'activité n° 2125 de Mme Marie-Jo Zimmermann, décembre 2009.

<sup>(21)</sup> Rapport d'information n° 3621, présenté par Mme Marie-Jo Zimmermann, sur l'application des lois sur l'égalité professionnelle au sein des entreprises, juillet 2011.

La Délégation y constate la faible volonté des entreprises à mettre en œuvre les mesures relatives à l'égalité femmes/hommes. Par exemple, **les rapports de situation comparée ne sont que très rarement transmis aux instances représentatives du personnel et la négociation collective relative à l'égalité n'est pas des plus importante** : très peu d'entreprises ont mis en place un accord spécifique à l'égalité professionnelle et le rattrapage des écarts de rémunération entre les femmes et les hommes n'a que très rarement été abordé lors de la négociation annuelle obligatoire.

La Délégation souligne par ailleurs dans ce rapport que le « plafond de verre » est le fruit d'un « blocage » des mentalités lié à la persistance des représentations associées au sexe <sup>(22)</sup>.

Enfin, un an après l'entrée en vigueur de la loi précitée du 27 janvier 2011, la présidente de la Délégation a souhaité faire le point, le 7 décembre 2011, sur l'évolution de la parité au sein de la gouvernance des entreprises, lors d'un colloque intitulé : « *Les sociétés cotées, où en sommes-nous de l'application de la loi du 27 janvier 2011 sur la représentation équilibrée des femmes et des hommes dans les conseils d'administration et les conseils de surveillance ?* » <sup>(23)</sup>.

En se basant sur une étude statistique réalisée, à partir des rapports annuels et des procès-verbaux d'assemblées générales de 500 sociétés cotées sur Euronext Paris <sup>(24)</sup>, divers constats s'imposent :

– tout d'abord, on observe une très faible évolution de la place des femmes à la tête même des exécutifs des entreprises. En effet, on compte seulement 4 % de femmes à la présidence d'un conseil d'administration, 14 % à la présidence du conseil de surveillance (+ 2 % par rapport à 2009) et 2 % exercent les fonctions de Présidente directrice générale (+ 2 % par rapport à 2009) ;

– en revanche, l'évolution est encourageante en ce qui concerne les fonctions d'administratrice. En effet, la progression a été très rapide dans les sociétés du CAC 40, qui comptent en moyenne 20 % d'administratrices. Si ce mouvement a été plus faible dans les plus petites entreprises (*Mid caps* <sup>(25)</sup> et *Small caps* <sup>(26)</sup>), toutes les sociétés ont connu une progression de la présence des femmes au sein des conseils d'administration d'au moins 4 %. Ainsi, 162 administratrices ont été nommées dans 103 sociétés dont les conseils d'administration n'avaient pas de femmes ;

– si 118 sociétés n'ont encore aucune femme au sein de leurs conseils d'administration, 81 sont en accord avec la loi (n'ayant nommé aucun homme, elles n'étaient pas dans l'obligation de nommer une femme), à la différence des 37 autres, devant se mettre en conformité avec la loi sous 6 mois ;

– afin d'atteindre le premier objectif posé par la loi du 27 janvier 2011 (un effectif de 20 % de femmes dans les conseils d'administration à l'issue des trois

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<sup>(22)</sup> *Id.*, p.31.

<sup>(23)</sup> La vidéo du colloque peut être librement consultée sur le site : [www.assemblee-nationale.fr/commissions/delf-index.asp](http://www.assemblee-nationale.fr/commissions/delf-index.asp).

<sup>(24)</sup> Étude Gouvernance et Structures : « Situation au 30 juin 2011 – Impact de la loi du 27 janvier 2011 ».

<sup>(25)</sup> Sociétés dont la capitalisation se situe entre 150 millions et 1 milliard d'euros.

<sup>(26)</sup> Sociétés dont la capitalisation est inférieure à 150 millions d'euros.

premières années suivant la promulgation de la loi), 500 femmes doivent encore être nommées. Ce chiffre passe à 1 000 pour le second objectif de la loi (40 % de femmes en 2017).

De façon générale, la loi du 27 janvier 2011 s'avère être un puissant levier, dans la réalisation de l'égalité femmes/hommes au sein de l

### **Question 1**

- **Has your Parliament in recent years addressed the issue of the gender pay gap in any of its decisions/resolutions?**
- **Have specific reasons for the existing gender pay gap in your country been identified in those decisions/resolutions or in the broader political debate?**

During the 16th Parliament, the necessity of measures contrasting gender pay gap was addressed in a joint resolution (resolution n. 8-00070, consolidating resolutions n. 7-00274, on. Codurelli, n. 7-00285 on. Pelino n. 7-00306 on. Paladini) approved on 8 June 2010 by the Committee on public and private sector employment of Italy's Chamber of Deputies. The joint resolution, among other things, commits the Government to taking actions in order to further implement the Action Plan "Italia 2020", adopted by the Ministry of Labour and social affairs and by the Ministry of equal opportunities.

### **Question 2**

**Legislative policy:**

- **What changes did Directive 2006/54/EC<sup>27</sup> impose on the legislation on equal pay in your country?**
- **Does the existing legislation on equal pay in your country contain any of the following provisions?**
  - **Definitions (remuneration, gender pay gap, direct or indirect pay discrimination, pension gap);**
  - **Transparency of remuneration; gender disaggregated wage statistics;**
  - **Work evaluation and job classification;**
  - **Role of equality bodies;**
  - **Social dialogue; inclusion of equal pay in collective agreements;**
  - **Sanctions applicable in case of breaches of the equal pay rule.**
- **Since its introduction of the current legislation in your country, has there been an improvement as regards gender pay gap?**
- **Does your Parliament envisage any revision of the current legislation on equal pay in your country in order to improve the situation?**

Directive **2006/54/EC** of the European Parliament and of the Council 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** was transposed into Italian law by **Legislative Decree no. 5 of 25 January 2010**.

Article 1 of the foregoing Decree amends and supplements several sections of the **Equal Opportunities Code** introduced by Legislative Decree 198 of 11 April 2006<sup>28</sup>, and, in particular:

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<sup>27</sup> [Directive 2006/54/EC of the European Parliament and of the Council 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 \(recast\)](#)

- the rules governing the **National Committee** for the implementation of the principle of equal treatment of men and women and equal opportunities for male and female workers, a body set up within the Ministry of Labour, Health and Social Policies (articles 8-10), and revises **the composition and duties of the Committee**;
- the nature of the post of the **Equality Advisors** (Articles 12-17);
- discrimination suffered as a result of **pregnancy, maternity or paternity**, or as a result of a refusal to accept **harassment** or sexual harassment (article 25);
- it bans all forms of discrimination with reference to **access to employment, training, vocational training and promotion, and working conditions, pay discrimination and discrimination in career advancement** (Articles 27-30);
- it introduces a ban on discrimination (both direct and indirect) in **collective agreements on complementary pension plans** (article 30-bis);
- sets in place **judicial safeguards** and **a system of sanctions** (via the updating of articles 36-38 and the addition of a new article, 41-bis);
- provides for **affirmative action** (as defined therein), which now also seeks to accord proper recognition to the professional content of the types of work where women are most represented (article 42);
- makes it mandatory for **collective agreements** to include specific measures, including codes of conduct, guidelines and best practices, for the prevention of all forms of gender discrimination (and, in particular, for the prevention of harassment and sexual harassment) (**article 50-bis**).

#### **Equal opportunities in the workplace**

Over the years, lawmakers have sought to forge a series of legislative tools to ensure **equal opportunities in the workplace, combat discrimination and promote the employment of women**.

- Law no. 903 of 9 December 1977, "Equal treatment of men and women in matters of employment", **prohibited all gender-based discrimination** in access to employment;
- Law no. 125 of 10 April 1991, "Affirmative actions for the achievement of gender equality in the workplace" (since repealed and merged into the Equal Opportunities Code 198/2006), set down rules for "**affirmative action**", i.e. measures that, by creating conditions favourable to women, succeed in removing obstacles to equality in the workplace;
- Legislative Decree 196/2000 enhanced the functions and powers of national, regional and provincial **Equality Advisors**<sup>29</sup> whose office was created with a view to promoting and monitoring the implementation of the principles of equal opportunity and non-discrimination in the workplace;
- The ban on gender discrimination for access to employment, with specific reference to marital status, family or pregnancy, was reinforced by article 3 of

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<sup>28</sup> Legislative Decree 198 of 11 April 2006, "Code of Equal Opportunities between Men and Women", pursuant to Article 6 of Law 246 of 28 November 2005

<sup>29</sup> Equality Advisors were created between the 1980s and early 1990s. The powers and functions assigned to them were modified by Legislative Decree no. 196 of 23 May 2000, "Rules Governing the Activities of Equality Advisors and Provisions relating to Affirmative Action, Pursuant to Article 47 of Law 144 of 17 May 1999. The Legislative Decree was later incorporated into the Equal Opportunities Code.

Legislative Decree no. 151 of 2001, which introduced measures **for maternity and paternity protection and support**<sup>30</sup>.

Legislative Decree no. 198 of 11 April 2006, containing the **Equal Opportunities Code**<sup>31</sup> provided for a restructuring of the existing provisions on equal opportunities.

The Decree is divided into four books containing measures for the promotion of equal opportunities between men and women regarding, respectively:

- general matters (Book I, articles 1-23);
- ethical and social relations (Book II, articles 24 and 25);
- economic relations (Book III, articles 26-57);
- civil and political relations (Book IV, articles 58 and 59).

As regards, more specifically, **equal opportunities in matters of employment**, Title I (articles 25-51) of Book III is divided into five Chapters dealing with discrimination, the proscription thereof, judicial safeguards, the promotion of equal opportunities in employment and maternity and paternity protection and support. We also draw attention to the following:

- **the outlawing of pay discrimination (article 28)**, which refers to all discrimination, whether direct or indirect, concerning any aspect of or condition in the remuneration for the same work or work of equal value. The law also specifies that mechanisms of job classification for the purposes of determining remuneration must adopt the same criteria for men and women, and must be structured so as to exclude discrimination;
- **the prohibition of discrimination in access to social security benefits (Article 30)**, according to which female workers who fulfil the requirements for receiving an old-age pension are entitled to continue in employment up to the same age limit as men, as defined by law, regulations and contracts. The ban also extends to collectively negotiated complementary pensions (**article 30-bis**), in respect of which any direct or indirect discrimination is also proscribed;
- **the Committee for equal opportunities between men and women**<sup>32</sup>, which provides advice and technical-scientific support for the framing and implementation of gender policies connected with measures that fall within the remit of the State. Accordingly, it draws up an annual programme of work, monitors developments in equal opportunities policies, points out actions that need to be taken in furtherance of effective equality in government offices, prepares the annual report for the Minister on the state of implementation of equal opportunities policies, holds hearings, produces publications and carries out research;
- **The National Committee for the implementation of the principles of equal treatment and equal opportunities for male and female workers (article 10).**

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<sup>30</sup> Legislative Decree no. 151 of 26 March 2001, "Consolidated text of legislative measures for the protection and support of maternity and paternity rights, pursuant to article 15 of Law no. 53 of 8 March, 2000", which was subsequently amended and supplemented by Legislative Decree no. 115 of 23 April 2003.

<sup>31</sup> In implementation of article 6 of Law no. 246 of 28 of November 2005 (Law for the simplification and revision of the regulatory framework for the year 2005).

<sup>32</sup> Article 3 of Presidential Decree no. 115 of 14 May 2007 containing "Regulations for the Reorganisation of the Commission for Equal Opportunities between Men and Women, Pursuant to Article 29 of Decree Law no. 223 of 4 July, 2006, as amended and ratified by Law 248 of 4 August 2006.

The responsibilities of the Committee include framing proposals on general issues relating to the attainment of equality and equal opportunity objectives, the promotion of consciousness-raising campaigns, the furtherance of a funded programme of affirmative action, the development of codes of conduct relating to equality, the carrying out of checks on the enforcement of existing legislation, the encouragement of dialogue between social partners, the resolution of collective labour disputes and ensuring women are represented on national and local public bodies in charge of work-related matters;

- as far as **sanctions are concerned, non-compliance with the discrimination laws mentioned above is punishable** with a fine of 250-1,500 euros (article 41). For persons/organisations in receipt of benefits to which they are entitled by virtue of current legislation, and persons/organisations that have entered into agreements for the execution of public works or the delivery of services or supplies in the public sphere, non-compliance can lead to the revocation of the benefit and to the debarment of the person/organisation concerned for a period of up to two years from further financial or credit facilities, and from the assignment of public contracts;
- public and private companies with more than one hundred employees must prepare a **report at least every two years on the situation of their male and female employees**, indicating, among other things, **effective remuneration levels**. The report is then forwarded to the company union representatives, to regional and national bodies for the enforcement of equality, to the Ministry of Labour and Social Affairs, and to the Department of Equal Opportunities in the Office of the President of the Council of Ministers (article 46).

#### **Equal opportunities in the area of social security.**

The current law provides for special welfare benefits for working mothers, including those whose pensions are contribution-defined, and makes no distinction on the basis of whether or not maternity resulted in absence from work.

In particular, pursuant to article 1, paragraph 40, letter c) of Law no. 335 of 1995), a working mother may:

- retire ahead of the minimum threshold required for the receipt of the old-age pension by four months for each child, up to a maximum of twelve months (after the third child, therefore, there is no additional allowance);
- obtain a higher pension by raising the value of the multiplier used for the calculation of pension entitlements by the equivalent of one year if she has had one or two children, and by two years, if she has had three or more children. In the first case the increase amounts to around 3.5%.

There are also recognised notional credits towards pension entitlements to cover absences from work to cater to the educational and childcare needs of offspring up to the sixth year of age (for a total of 170 days for each child). Pension credits are also granted for assistance given to handicapped children older than six, or to a spouse or parent (if living in the same household) suffering from a handicap, as provided for by **Law no. 104 of 1992**). The credit in this case amounts to 25 days per year, up to a maximum of 24 months.

### **Question 3**

#### **Non-legislative policy:**

- **What kind of specific activities which address the issue of gender pay gap have recently been organised in your country (information campaigns, equal pay day initiative, promotion of best practices, etc.)?**
- **What kind of positive effect(s) did result from such activities as regards the situation of gender pay gap in your country?**

Looking at the labour market, it becomes evident that in spite of adequate legislation, the gender pay gap remains wide, and women are underutilised as a labour resource. In the current debate among politicians and trade unionists over the reform of the labour market, the pay gap is generally recognised as a pressing matter that has to be resolved to improve working conditions for women, along with the provision of family support services that can contribute towards the achievement of a healthy work-life balance.

CNEL (the National Council for the Economy and Labour) recently published a **research paper (October 2011)**, showing that the pay gap between men and women is still a significant problem in Italy. CNEL reported that the pay gap between men and women with equivalent qualifications and jobs varied from 10% to 18%, and was entirely ascribable to discrimination.

In light of these findings, on 2 February 2012, CNEL hosted a "General Assembly" to discuss working women. The event was aimed at highlighting critical factors affecting the employment status of women in Italy and suggesting possible remedial initiatives, also in respect of the pay gap. Another important initiative worth noting is the "Charter for equal opportunities and equality in the workplace", issued on 5 October 2009 and signed on a voluntary basis by companies of all sizes. The Charter seeks to encourage a corporate culture conducive to human resource policies that are inclusive, free of discrimination and prejudice and capable of making optimal use of talents in all their diversity.

Finally, we would also mention "**ITALIA 2020**, a Programme of action for the inclusion of women in the labour market" adopted by the Berlusconi government in December 2009. This programme is intended to lead to the preparation of a strategic plan of action to facilitate work-life reconciliation and foster equality of opportunity in access to employment, the main objective being to create conditions that can increase the participation of women in the labour market.

**Question 1**

- **Has your Parliament in recent years addressed the issue of the gender pay gap in any of its decisions/resolutions?**
- **Have specific reasons for the existing gender pay gap in your country been identified in those decisions/resolutions or in the broader political debate?**

**Answer to question n. 1.**

The issue of gender equality in the workspace, also with reference to the problem of pay discrimination, has been the subject of the Chamber of Deputies Labour Committee resolution n. 8/00070 of June 2010. This resolution urges the Government to take actions to further follow the Plan of Action "Italy 2020", adopted by the Minister of Labour and Social Affairs and the Minister for Gender Equality, which identifies strategic actions to promote equal opportunities in the labour market.

**Question 2**

**Legislative policy:**

- **What changes did Directive 2006/54/EC<sup>33</sup> impose on the legislation on equal pay in your country?**
- **Does the existing legislation on equal pay in your country contain any of the following provisions?**
  - **Definitions (remuneration, gender pay gap, direct or indirect pay discrimination, pension gap);**
  - **Transparency of remuneration; gender disaggregated wage statistics;**
  - **Work evaluation and job classification;**
  - **Role of equality bodies;**
  - **Social dialogue; inclusion of equal pay in collective agreements;**
  - **Sanctions applicable in case of breaches of the equal pay rule.**
- **Since its introduction of the current legislation in your country, has there been an improvement as regards gender pay gap?**
- **Does your Parliament envisage any revision of the current legislation on equal pay in your country in order to improve the situation?**

**Answer to question n. 2.**

Directive 2006/54/EC, transposed in Italy by Legislative Decree 25 January 2012, n. 5, amends some articles of the "Equal Opportunities Code" (Legislative Decree 11 April 2006, n. 198).

Article 25 of the Code (as amended) provides the definition of direct and indirect discrimination in the workplace, while Article 28 prohibits pay discrimination in respect of identical work or of work considered of equal value. Moreover, job ranking criteria for the discrimination of remuneration should be the same for men and women. Articles 27, 29 and 30 of the Code prohibit any other possible form of

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<sup>33</sup> [Directive 2006/54/EC of the European Parliament and of the Council 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 \(recast\)](#)

discrimination in the workplace, intending access to employment, vocational training and promotion, working conditions, job performance and career development.

Article 30-bis prohibits discrimination in collective complementary pension schemes, while Article 36 to 40-bis of the Code provide for legal protection and establish penalties for breaking anti-discrimination provisions.

In the actual labour market, despite adequate legislation the gender pay gap is still wide and the resource of women's work is still underused. Actually, the issue to improve women's working conditions is mainly a priority for the Italian Government.

### **Question 3**

**Non-legislative policy:**

- **What kind of specific activities which address the issue of gender pay gap have recently been organised in your country (information campaigns, equal pay day initiative, promotion of best practices, etc.)?**
- **What kind of positive effect(s) did result from such activities as regards the situation of gender pay gap in your country?**

**Answer to question n. 3.**

In recent years, on February 2<sup>nd</sup> 2011 the so called "States General on Women's Work in Italy" were held in order to highlight the challenges to women's labour in Italy and the actions to take, also with reference to the pay gap.

We also must cite the "Charter for Equal Opportunities and Equality at Work", launched in Italy on 5 October 2009 and endorsed by companies of all sizes: the Charter aims to spread a corporate culture and an approach to human resources that should be inclusive, free from discrimination, unbiased and capable of enhancing diverse talents.

**Question 1**

**Has your Parliament in recent years addressed the issue of the gender pay gap in any of its decisions/resolutions?**

No.

The Cyprus House of Representatives has adopted Law 177 (I)/2002 and amending Law 193(I)/2004 on Equal Pay between Men and Women for the Same Work or for Work to which Equal Value is attributed.

**Have specific reasons for the existing gender pay gap in your country been identified in those decisions/resolutions or in the broader political debate?**

The Cyprus Government is aware that bridging the gender pay gap is a gradual and complex process and that no legislative framework is adequate unless combined with comprehensive and targeted measures. A study prepared for the Department of Labour Relations in 2007, regarding the gender pay gap in Cyprus, revealed that gender stereotyping, the overrepresentation of women in non-skilled occupations and low-wage sectors (labour market segregation), and the underrepresentation of women in collective bargaining are the main causes of pay gaps. Moreover, the shorter periods of women's accumulated professional experience, caused by more frequent interruptions to their career-paths due to family-related leave, also contribute to wage gaps. Finally, women's greater presence in temporary and part-time employment also explains part of the pay gap between employed men and women.

**Question 2**

**Legislative policy:**

**- What changes did Directive 2006/54/EC impose on the legislation on equal pay in your country?**

The Law (L. 177(I)/2002) on Equal Pay between Men and Women for the Same Work or for Work to which Equal Value is attributed was amended in 2009, for the purposes of transposing the Directive 2006/54/EC into national legislation.

**- Does the existing legislation on equal pay in your country contain any of the following provisions?**

**- Definitions (remuneration, gender pay gap, direct or indirect pay discrimination, pension gap);**

The existing legislation contains definitions for "remuneration", "direct gender discrimination" and "indirect gender discrimination", as well as other definitions.

**- Transparency of remuneration; gender disaggregated wage statistics;**

Article 6(A)(2) of the Law encourages employers to promote equal treatment for men and women in a planned and systematic way in the workplace and to provide their employees and/or their representatives, upon request, once a year or at other appropriate intervals, that will be agreed between them, with appropriate information on equal pay for men and women in business. Such information includes an overview

of the proportions of men and women at different levels of the organisation, their pay and pay differentials, as well as, possible measures to improve the situation in cooperation with employees' representatives.

**- Work evaluation and job classification;**

Article 18 of the Law provides for specific criteria for comparing and evaluating work to which equal value is attributed. The criteria are, among others: i) the nature of the employee's duties, ii) the degree of responsibility, iii) skills, qualifications and experience, iv) requirements regarding physical or mental skills, v) work conditions etc.

**- Role of equality bodies;**

Article 23C of the Law provides that the Gender Equality Committee in Employment and Vocational Training can provide independent legal aid to victims of discriminatory behaviour.

**- Social dialogue; inclusion of equal pay in collective agreements;**

According to article 6A of Law, the employers and employee organisations should proceed in social dialogue aiming at promoting the principle of equal pay between men and women.

According to article 7, provisions in legislation or collective agreements that are contrary to the principle of equal pay are abolished to the extent that they contain a direct or indirect discrimination against one of the sexes. Moreover, article 8(1) provides that, within three months from the Law enactment, the competent authority should invite the employers' and workers' organisations to examine whether collective agreements, contain any provisions that are contrary to the Law and have it amended in a way that so that any direct or indirect discrimination against one sex be formally eliminated. This task was completed in 2005.

**- Sanctions applicable in case of breaches of the equal pay rule.**

According to article 24 of Law, breaches of the equal pay principle entail a fine are up to 6,834 Euros or imprisonment up to six months, or both.

**- Since its introduction of the current legislation in your country, has there been an improvement as regards gender pay gap?**

The gender pay gap in Cyprus has significantly decreased significantly since 1995 (29%) and keeps following a downward trend, from 24% in 2006, to 22,8% in 2007, 21, 8% in 2008, and 21,3% in 2009 (latest official data).

**- Does your Parliament envisage any revision of the current legislation on equal pay in your country in order to improve the situation?**

No.

**Question 3**

**Non-legislative policy:**

**- What kind of specific activities which address the issue of gender pay gap have recently been organised in your country (information campaigns, equal pay day initiative, promotion of best practices, etc.)?**

The Ministry of Labour and Social Insurance, amore specifically the Department of Labour Relations implements a Project on "Actions for reducing the gender pay gap",

which is co-financed by the European Social Fund. The Project consists of a broad mix of measures, which includes among others:

- Theoretical as well as on-the-job training of Officers and Inspectors to monitor the enforcement of equal pay and equal treatment in employment legislation.
- Participation of Labour Relations Officers and Inspectors in study visits to other member states, in order to get familiar with procedures and techniques used by other inspection mechanisms.
- Establishment of a gender equality Certification Body, which will evaluate enterprises as regards the incorporation or the application of best practices of equal treatment and/or equal pay principles in their working environment.
- Measures for eliminating occupational and sectoral segregation, which include educational programmes, e.g. specialised training programmes for career professional advisers, as well as for 10,000 primary and secondary education teachers.
- Training of enterprises' managerial staff on the use of codes of practice regarding the enforcement of equal pay, as well as on the use of job evaluation tools.
- Training programmes for trade unions and employers associations, as well as manuals, guides, self-assessment tools, codes of practice and job evaluation tools for managers/human resource professionals.
- Examination of all collective agreements in order to identify any direct pay discrimination.
- A tripartite Conference on exchanging best practices regarding equal pay (government officials, members of trade unions and employers organizations).
- Campaigns for raising awareness on equal pay.

**- What kind of positive effect(s) did result from such activities as regards the situation of gender pay gap in your country?**

As the implementation of the above-mentioned project is currently taking place, no results are available yet. It was launched in 2010 and will be concluded by the end of 2015.

### **Question 1**

- **Has your Parliament in recent years addressed the issue of the gender pay gap in any of its decisions/resolutions?**
- **Have specific reasons for the existing gender pay gap in your country been identified in those decisions/resolutions or in the broader political debate?**

No there is no specific initiatives (decisions/resolutions) have been carried out by Parliament regarding gender pay gap.

### **Question 2**

**Legislative policy:**

- **What changes did Directive 2006/54/EC<sup>34</sup> impose on the legislation on equal pay in your country?**
- **Does the existing legislation on equal pay in your country contain any of the following provisions?**
  - **Definitions (remuneration, gender pay gap, direct or indirect pay discrimination, pension gap);**
  - **Transparency of remuneration; gender disaggregated wage statistics;**
  - **Work evaluation and job classification;**
  - **Role of equality bodies;**
  - **Social dialogue; inclusion of equal pay in collective agreements;**
  - **Sanctions applicable in case of breaches of the equal pay rule.**
- **Since its introduction of the current legislation in your country, has there been an improvement as regards gender pay gap?**
- **Does your Parliament envisage any revision of the current legislation on equal pay in your country in order to improve the situation?**

**Legislative policy:**

- Requirements of Directive 2006/54/EC in relation to equal pay are implemented mainly in the Labour Law. According to Article 7 of the Labour Law everyone has an equal right to fair work remuneration. The rights provided shall be ensured without any direct or indirect discrimination – irrespective of a person's gender or other circumstances.

Differential treatment based on the gender of an employee is prohibited when establishing employment legal relationships, as well as during the period of existence of employment legal relationships, in particular when promoting an employee, determining working conditions, work remuneration or occupational training or raising of qualifications, as well as when giving notice of termination of an employment contract. Differential treatment based on the gender of employees is permitted only in cases where a particular gender is an objective and substantiated precondition, which is adequate for the legal purpose reached as a result, for the performance of the relevant work or for the relevant employment. If in case of a

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<sup>34</sup> [Directive 2006/54/EC of the European Parliament and of the Council 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 \(recast\)](#)

dispute an employee indicates conditions which may serve as a basis for his or her direct or indirect discrimination based on gender, the employer has a duty to prove that the differential treatment is based on objective circumstances not related to the gender of the employee, or also that belonging to a particular gender is an objective and substantiated precondition for performance of the relevant work or the relevant employment. If the prohibition against differential treatment and the prohibition against causing adverse consequences is violated, an employee in addition to other rights specified in the Labour Law, has the right to request compensation for losses and compensation for moral harm. In case of dispute, a court at its own discretion shall determine the compensation for moral harm (Article 29 of the Labour Law).

Article 60 of the Labour Law provides that an employer has a duty to specify equal work remuneration for men and women for the same kind of work or work of equal value. If an employer has violated the provisions of Paragraph one of this Article, the employee has the right to request the remuneration that the employer normally pays for the same work or for work of equal value. An employee may bring the action referred to in Paragraph two of this Article to court within a three-month period from the day he or she has learned or should have learned of the violation of the provisions of Paragraph one of this Article.

A minimum wage shall not be less than the minimum level determined by the State. The minimum monthly salary within the scope of normal working time, as well as minimum hourly wage rates, shall be determined by the Cabinet. The procedures for the specification and review of the minimum monthly wage shall be determined by the Cabinet (Article 61 of the Labour Law). At present the minimum monthly wage is 200 LVL (~284.57 EUR).

The State Labour Inspectorate monitors and controls observance of the requirements of regulatory enactments regarding employment legal relationships and labour protection (Article 3 of the State Labour Inspection Law).

The Latvian Administrative Violations Code determines, which action or inaction shall be acknowledged as an administrative violation, and what administrative sanction, by which institution (official) and in accordance with which procedures may be imposed upon a person who has committed an administrative violation. Article 41 of the Latvian Administrative Violations Code envisages that:

“(1) In the case of a violation of regulatory enactments regulating employment legal relations relating, except for the cases, which are specified in Paragraphs two and three of this Article – a warning shall be issued or a fine shall be imposed on the employer – for a natural person or an official in an amount from LVL 25 up to LVL 250, and for a legal person – from LVL 50 up to LVL 750.

(2) In the case of not entering into a written form of the contract of employment – a fine shall be imposed on the employer – for a natural person or an official in an amount from LVL 100 up to LVL 350, and for a legal person – from LVL 750 up to LVL 5000.

(3) In the case of not ensuring the State specified minimal monthly wage, if the person is employed for a normal working time, or not ensuring the minimal hourly tariff rates – a fine shall be imposed on the employer – for a natural person or an official in an amount from LVL 300 up to LVL 400, and for a legal person – from LVL 600 up to LVL 5000.

(4) In the cases of the violations provided for in Paragraph one of this Article, if they have been recommitted within a year after the imposition of administrative sanction – a fine shall be imposed on the employer – for a natural person or an official in an

amount from LVL 250 up to LVL 500, and for a legal person – from LVL 750 up to LVL 2000.

(5) In the cases of the violations provided for in Paragraphs two and three of this Article, if they have been recommitted within a year after the imposition of administrative sanction – a fine shall be imposed on the employer – for a natural person or an official in an amount from LVL 400 up to LVL 500, and for a legal person – from LVL 5000 up to LVL 10 000.”

- The existing legislation on equal pay in Latvia contain:
  - ✓ definition of remuneration:

#### **The Labour Law**

##### **“Article 59. Concept of Work Remuneration**

Work remuneration is the regular pay for work payable to an employee, and which includes a salary and supplements specified by regulatory enactments, the collective agreement or the an employment contract, as well as bonuses and other kinds of payments related to work.”

- ✓ definition of equal work remuneration as regards gender pay gap:

#### **The Labour Law**

##### **“Article 60. Equal Work Remuneration**

(1) An employer has a duty to specify equal work remuneration for men and women for the same kind of work or work of equal value.

(2) If an employer has violated the provisions of Paragraph one of this Article, the employee has the right to request the remuneration that the employer normally pays for the same work or for work of equal value.

(3) An employee may bring the action referred to in Paragraph two of this Article to court within a three-month period from the day he or she has learned or should have learned of the violation of the provisions of Paragraph one of this Article.”

- ✓ definition of direct and indirect discrimination as regards pay:

#### **The Labour Law**

##### **„Article 29. Prohibition of Differential Treatment**

[..]

(5) Direct discrimination exists if in comparable situations the treatment of a person in relation to his or her belonging to a specific gender is, was or may be less favourable than in respect of another person. Less favourable treatment due to granting of a prenatal and maternity leave, or a leave to the father of a child shall be considered as direct discrimination based on the gender of a person.

(6) Indirect discrimination exists if apparently neutral provisions, criterion or practice cause or may cause adverse consequences for persons belonging to one gender, except in cases where such provisions, criterion or practice is objectively substantiated with a legal purpose the achievement of which the selected means are appropriate.

[..]

(9) The provisions of this Article, as well as Article 32, Paragraph one and Articles 34, 48, 60 and 95 of this Law, insofar as they are not in conflict with the essence of the relevant right, shall also apply to the prohibition of differential treatment based on race, skin colour, age, disability, religious, political or other conviction, national or social origin, property or marital status, sexual orientation or other circumstances of an employee.

[..]”

- The Labour Law doesn't provide requirements for *transparency of remuneration*, but the employer has a duty to take into consideration regulation of equal work remuneration and in the case of a dispute the employer has a duty to prove that he has complied with the provisions of the Labour Law.
- With regard to *work evaluation and job classification* the Labour Law envisages that a job interview is an oral or written inquiry prepared by the employer to assess the suitability of applicants. An applicant has a duty to provide information to the employer regarding the occupational preparedness insofar as this is of significance for entering into an employment contract and for performance of the intended work (Article 33). When preparing an employment contract for the performance of such work as requires special knowledge or skills, an employer has the right to request the applicant to present documents that certify his or her education or occupational preparedness (Article 35). In accordance with Paragraph two of Article 40 of the Labour Law an employment contract shall include the trade, profession, speciality (occupation) of the employee in conformity with the Classification of Occupations and the general description of the contracted work. In the case of termination of employment legal relationships, e.g. in the case of a reduction in the number of employees, preference to continue employment relations shall be for those employees who have higher performance results and higher qualifications.

Paragraph one of Article 29 envisages that differential treatment is prohibited when establishing employment legal relationships, as well as during the period of existence of employment legal relationships, in particular when promoting an employee, determining working conditions, work remuneration or occupational training or raising of qualifications, as well as when giving notice of termination of an employment contract.

- *The State Labour Inspectorate* monitors and controls observance of the requirements of regulatory enactments regarding employment legal relationships and provides free consultations to employers, employees regarding the requirements of regulatory enactments with respect to employment legal relationships (Article 3 of the State Labour Inspection Law). Officials of the Labour Inspectorate have the right to impose, in accordance with the procedures prescribed for the examination of administrative violations, administrative sanctions on employers and possessors of dangerous equipment, as well as on other persons (Article 5 of the State Labour Inspection Law).

The Ombudsman Law provides that *the Ombudsman* shall have the following functions, e.g., to promote the protection of the rights and lawful interests of a private individual; to promote the compliance with the principles of equal treatment and prevention of any kind of discrimination; to promote the public awareness and understanding of human rights, of the mechanisms for the protection of such rights and the activities of the Ombudsman (Article 11). In the performance of the functions specified by the Ombudsman Law, the Ombudsman shall, e.g., accept and examine submissions of private individuals; in accordance with the procedures specified by the Ombudsman Law, shall resolve disputes between private individuals and institutions, as well as disputes in respect of human rights between private individuals; facilitate conciliation between the parties to the dispute; in resolving disputes in respect of human rights issues, shall provide opinions and recommendations to private individuals regarding the prevention of human rights violations; provide persons with consultations regarding human rights issues (Article 12).

- *Regulation of social dialogue* is determined in the Labour Law. Section 10 of the Labour Law provides that employees shall exercise the defence of their social, economic and occupational rights and interests directly or indirectly through the mediation of employee representatives. Within the meaning of the Labour Law, employee representatives shall mean: an employee trade union on behalf of which a trade union institution or an official authorised by the articles of association of the trade union acts; or authorised employee representatives. Authorised employee representatives may be elected if an undertaking employs five or more employees. Authorised employee representatives shall be elected for a specified term of office by a simple majority vote at a meeting in which at least half the employees employed by an undertaking of the relevant employer participate. The course of the meeting shall be recorded in minutes and decisions taken shall be entered in the minutes. Authorised employee representatives shall express a united view with respect to the employer. Rights and duties of employee representatives are provided in Section 11 of the Labour Law.

Employee representatives, when performing their duties, have the following rights:

1) to request and receive from the employer information regarding the current economic and social situation of the undertaking, and regarding possible changes as well as corresponding information in relations to the employed temporary-work agency workers in the undertaking;

2) to receive information in good time and consult with the employer before the employer takes such decisions as may affect the interests of employees, in particular decisions which may substantially affect work remuneration, working conditions and employment in the undertaking;

3) to take part in the determination and improvement of work remuneration provisions, working environment, working conditions and organisation of working time, as well as in protecting the safety and health of employees;

4) to enter the territory of the undertaking, as well as to have access to workplaces;

5) to hold meetings of employees in the territory and premises of the undertaking; and

6) to monitor how regulatory enactments, the collective agreement and working procedure regulations are being observed in employment legal relationships.

The rights of employee representatives shall be exercised so that the efficiency of the operations of the undertaking is not reduced.

Employee representatives and experts who provide assistance to employee representatives have the duty not to disclose information brought to their attention that is a commercial secret of the employer. The employer has the duty to indicate in writing what information is to be regarded as a commercial secret. The duty not to disclose information applies to employee representatives and experts who provide assistance to employee representatives also after their activities have terminated.

Performance of the duties of an employee representative may not serve as a basis for refusal to enter into an employment contract, for termination of an employment contract, or for otherwise restricting the rights of an employee.

A collective agreement in an undertaking shall be entered into by the employer and an employee trade union or by authorised employee representatives if the employees have not formed a trade union (Paragraph one of Section 18 of the Labour Law).

A collective agreement in a sector or territory (hereinafter – general agreement) shall be entered into by an employer, a group of employers, an organisation of employers or an association of organisations of employers, and an employee trade union or an

association (union) of employee trade unions if the parties to the general agreement have relevant authorisation or if the right to enter into a general agreement is provided for by the articles of association of such associations (unions) (Paragraph two of Section 18 of the Labour Law).

However as the Labour Law provides the obligation of employer to observe equal work remuneration, in collective agreements normally envisages other matters that are not determined by laws.

Besides the National Tripartite Cooperation Council (NTCC) is an institution working at national level of tripartite social dialogue, where the appointed representatives of Government, the Employers' Confederation of Latvia and the Free Trade Union Confederation of Latvia collaborate as social partners. The aim of NTCC is to foster the cooperation of social partners at national level and to ensure an integrated way of dealing issues on socioeconomic development in compliance with the interests of whole society and state, that would guarantee social stability, increase of the level of well-being and economical growth in the country.

- *Sanctions* are provided in Article 41 of the Latvian Administrative Violations Code (please see above).
- Lately there have not been any amendments or envisaged revision of the Labour Law regarding gender pay gap.

### **Question 3**

**Non-legislative policy:**

- **What kind of specific activities which address the issue of gender pay gap have recently been organised in your country (information campaigns, equal pay day initiative, promotion of best practices, etc.)?**
- **What kind of positive effect(s) did result from such activities as regards the situation of gender pay gap in your country?**

*Non-legislative policy:*

- The State Labour Inspectorate provides free consultations to employers, employees regarding the requirements of regulatory enactments with respect to employment legal relationships (Article 3 of the State Labour Inspection Law).
- The Ombudsman Law provides that the Ombudsman promotes the compliance with the principles of equal treatment and prevention of any kind of discrimination (Article 11). The Ombudsman provides persons with consultations regarding human rights issues (Article 12).

Besides the Employers' Confederation of Latvia and the Free Trade Union Confederation of Latvia provides persons with consultations regarding the requirements of regulatory enactments with respect to employment legal relationships.

- Positive effect from such activities is that employees are better informed of their rights and employers – of their duties.

The Ministry of Welfare is the focal point of the European Union Pay gap campaign. In the frame of campaign the Ministry of Welfare provide society with an information and materials regarding gender pay gap as well as promote awareness of the gender pay gap issue through the press release, media and seminars for different specialists.

## LIETUVA (Lithuania) - SEIMAS

Implementing the provision on gender equality declared in the Constitution of the Republic of Lithuania and aiming at a fully-fledged membership of the EU, Lithuania adopted *the Law on Equal Opportunities for Women and Men* on 1 December 1998 (the Law came into effect on 1 March 1999). This document provides the basis for the creation of a legal system to defend and protect the rights of men and women. The Law also establishes the duties of the Equal Opportunities Ombudsman, which are fully in line with the provisions of the Directive regarding equality bodies.

In the year 2005, the new *Law on Equal Treatment* came into force ensuring the right to file complaints to the Equal Opportunities Ombudsman in case of discrimination on the grounds of gender, race, nationality, language, origin, social status, belief, convictions or views, age, sexual orientation, disability, ethnic origin or religion.

The issue of gender pay gap and specific reasons for this phenomenon are discussed in the National Programme on Equal Opportunities for Women and Men. This Programme has been consistently implemented for five years with the support to project activities of NGOs that aim at encouraging women's participation in political and economic life and the reduction of their social exclusion. One of the tasks of the National Programme on Equal Opportunities for Women and Men is to mainstream gender issues, including equal pay, in the social dialogue.

The National Programme on Equal Opportunities for Women and Men 2010-2014 provides for a number of activities related to the elimination of the causes of gender pay gap, first of all, the reduction of vertical and horizontal segregation of the labour market, such as training of labour market institutions on non-stereotypical vocational guidance for the unemployed, training of journalists on non-stereotypical images and gender sensitive approaches.

The existing *Law on Equal Treatment* and *the Law on Equal Opportunities for Women and Men* include the provisions on direct discrimination, as well as on indirect discrimination. *The Law on Equal Opportunities for Women and Men* establishes the employer's duty to provide equal pay for the same work or for the work of equivalent value, including all the additional remuneration paid by the employer to employees for the performed work.

The definition of "pay", as it is required by the Directive 2006/54/EC, is provided in the Labour Code. The definitions of direct and indirect discrimination, fully in line with the definitions in the Directive, are included in *the Law on Equal Opportunities for Women and Men*. The Directive does not establish the definitions of gender pay gap or pension gap and does not require introducing these concepts in the national legislation. However, the National Programme on Equal Opportunities for Women and Men 2010-2014 addresses gender pay gap. Targeted measures aimed at reducing gender pay gap have a positive impact on the reduction of pension gap as well.

Transparency of remuneration is addressed by the Labour Code and its by-laws, e.g. methodology of assessment of work and positions. Wage statistics disaggregated by sex have been collected in Lithuania since 1997.

The Office of the Equal Opportunities Ombudsman is authorized to investigate complaints related to discrimination based on gender discrimination, including all cases related to different pay regimes for the same work which have been applied for women and men. After investigating these complaints, the Ombudsperson has a right to choose and to take a decision prescribed by Law:

- 1) to refer the investigation material to a pre-trial investigation institution or the prosecutor if features of a criminal act have been established;
- 2) to address an appropriate person or institution with a recommendation to discontinue the actions violating equal rights and to amend or repeal a legal act related thereto;
- 3) to hear cases of administrative offences and impose administrative sanctions;
- 4) to dismiss the complaint if the violations indicated in it have not been corroborated;
- 5) to terminate the investigation if the complainant withdraws his complaint or when there is a lack of objective evidence about the committed violation or when the complainant and offender conciliate or when acts that violate equal rights cease to be performed or when a legal act that violates equal rights is amended or repealed;
- 6) to admonish for committing a violation.

Gender pay gap in Lithuania has been decreasing slowly due to the multiple causes. Some of them are of systemic nature and are not so easy to regulate by legislation (e.g. gender stereotypes that influence horizontal and vertical segregation of the labour market). It should be mentioned that the economic crisis made a visible impact on the reduction of pay gap in Lithuania. The statistical data related to pay gap clearly illustrates the situation in Lithuania: 18.3 % in 2000, 17.66 % in 2005, 19.36% in 2008, 12.74% in 2009, 14.27 % in 2010.

Lithuania has managed to achieve the objective of the Lisbon Strategy of ensuring a minimum of 60 per cent of women's participation in the labour market. These achievements were welcomed on the international level when a decision was taken to establish the European Gender Equality Institute in Vilnius.

POLSKA (Poland) - SEJM

**Pytanie 1.**

- Czy Państwa parlament w ostatnich latach zajął się problemem różnic w wynagrodzeniach kobiet i mężczyzn w którejś ze swoich decyzji/uchwał?

**Odpowiedź**

Nie

- Czy w tych decyzjach /uchwałach lub w szerszej debacie politycznej zostały zidentyfikowane konkretne powody dla istniejącej różnicy w wynagrodzeniach kobiet i mężczyzn w Państwa kraju?

**Odpowiedź**

Nie

**Pytanie 2.**

Polityka legislacyjna:

- Jakie zmiany nie Dyrektywa 2006/54/WE<sup>35</sup> nakłada na ustawodawstwo dotyczące równej płacy w Państwa kraju?

- Czy istniejące prawodawstwo dotyczące równej płacy w Państwa kraju zawiera postanowienia dotyczące którejs z następujących kwestii?

- - Definicje (wynagrodzenie, różnica w wynagrodzeniu kobiet i mężczyzn, bezpośrednia lub pośrednia dyskryminacja płac, różnica w wysokości emerytur);
- - Przejrzystość wynagrodzeń; statystyki płac według płci;
- - Ocena pracownicza i klasyfikacja zawodowa;
- - Rola organów ds. równości;
- - Dialog społeczny; włączenie kwestii równości wynagrodzeń do umów zbiorowych;
- - Sankcje nakładane w przypadku naruszenia zasady równego wynagrodzenia.

**Odpowiedź**

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<sup>35</sup> Dyrektywa 2006/54/EC Parlamentu europejskiego i Rady z dnia 5 lipca 2006 w sprawie wprowadzenia w życie zasady równości szans oraz równego traktowania mężczyzn i kobiet w dziedzinie zatrudnienia i pracy.

Przepisy dyrektywy 2006/54/WE Parlamentu Europejskiego i Rady z dnia 5 lipca 2006 r. w sprawie wprowadzenia w życie zasady równości szans oraz równego traktowania kobiet i mężczyzn w dziedzinie zatrudnienia i pracy są implementowane do polskiego systemu prawnego w przepisach art. 18<sup>3a</sup>-18<sup>3e</sup> ustawy z dnia 26 czerwca 1974 r. – Kodeks pracy (dalej zwana „k.p.”) oraz w ustawie z dnia 3 grudnia 2010 r. o wdrożeniu niektórych przepisów Unii Europejskiej w zakresie równego traktowania (dalej zwana „ustawą z dnia 3 grudnia 2010 r.”).

Zgodnie z Kodeksem pracy pracownik ma prawo do jednakowego wynagrodzenia za jednakową pracę lub za pracę o jednakowej wartości. Zgodnie z art. 18<sup>3c</sup> § 2 k.p. wynagrodzenie to obejmuje wszystkie składniki wynagrodzenia, bez względu na ich nazwę lub charakter, a także inne świadczenia związane z pracą, przyznawane pracownikom w formie pieniężnej lub w innej formie niż pieniężna. Przepis ten w cytowanym brzmieniu obowiązuje od 1 stycznia 2004 r.

„Art. 18<sup>3c</sup>

§ 1. Pracownicy mają prawo do jednakowego wynagrodzenia za jednakową pracę lub za pracę o jednakowej wartości.

§ 2. Wynagrodzenie, o którym mowa w § 1, obejmuje wszystkie składniki wynagrodzenia, bez względu na ich nazwę lub charakter, a także inne świadczenia związane z pracą, przyznawane pracownikom w formie pieniężnej lub w innej formie niż pieniężna.

§ 3. Pracami o jednakowej wartości są prace, których wykonywanie wymaga od pracowników porównywalnych kwalifikacji zawodowych, potwierdzonych dokumentami przewidzianymi w odrębnych przepisach lub praktyką i doświadczeniem zawodowym, a także porównywalnej odpowiedzialności i wysiłku.”

Kodeks pracy zobowiązuje pracodawcę do udostępnienia pracownikom tekstu przepisów dotyczących równego traktowania w zatrudnieniu w formie pisemnej informacji rozpowszechnionej na terenie zakładu pracy lub zapewnienia pracownikom dostępu do tych przepisów w inny sposób przyjęty u danego pracodawcy (art. 94<sup>1</sup> k.p.).

Obydwa wspomniane powyżej akty prawne, tj. *Kodeks pracy* w art. 18<sup>3d</sup> oraz *ustawa z dnia 3 grudnia 2010 r.* w art. 13 ust.1, przewidują roszczenia o odszkodowanie z tytułu naruszenia zasady równego traktowania ze względu na płeć.

Przepisy *k.p.* stosuje się, gdy naruszenie zasady równego traktowania dotyczy pracownika wykonującego obowiązki służbowe w ramach stosunku pracy. We wszelkich pozostałych przypadkach (tj. gdy świadczenie pracy następuje na innej podstawie niż stosunek pracy, czyli np. na podstawie umowy cywilnoprawnej) zastosowanie znajdzie *ustawa z dnia 3 grudnia 2010 r.* (art. 2 ust. 2 tej ustawy wyłącza zastosowanie jej rozdziałów 1 i 2 do pracowników w zakresie uregulowanym przepisami *k.p.*).

- Czy od czasu jego wprowadzenia do przepisów obowiązujących w Państwie kraju, nastąpiła poprawa w zakresie niwelowania różnic w płacach kobiet i mężczyzn?

**Odpowiedź**

Pomimo istniejących regulacji prawnych różnice w wynagrodzeniach kobiet i mężczyzn nadal są znaczne. Badania Głównego Urzędu Statystycznego struktury wynagrodzeń według zawodów (na formularzu o symbolu Z-12) wykazują, że płeć jest istotną determinantą wysokości wynagrodzenia. Co dwa lata GUS wydaje również publikacje *Struktura wynagrodzeń według zawodów*. Ostatnie publikacja pochodzi z października 2010 roku.

Według GUS w 2010 roku zaobserwowano poprawę relacji pomiędzy wynagrodzeniem kobiet i mężczyzn. O ile w 2002 roku przeciętne miesięczne wynagrodzenie brutto kobiet stanowiło 83,1% przeciętnego wynagrodzenia mężczyzn, to w 2010 roku relacja ta wzrosła do 85,0%. Ta relacja wynagrodzeń wzrosła w sektorze publicznym – o 5,2 punkta procentowego, lecz w sektorze prywatnym – zmniejszyła się o 3,5 punkta procentowego.

Tabela Przeciętne wynagrodzenia miesięczne brutto (w zł) według sektorów własności oraz płci za październik 2002-2010 roku

Rok badania Z-12 <sup>1)</sup>	Ogółem			Sektor publiczny			Sektor prywatny		
	ogółem	mężczyźni	kobiety	ogółem	mężczyźni	kobiety	ogółem	mężczyźni	kobiety
2002	2229,80	2425,00	2015,79	2343,39	2680,77	2102,37	2132,22	2275,96	1903,35
2004	2368,52	2571,64	2150,44	2527,63	2859,63	2303,83	2244,24	2422,58	1968,01
2006	2654,13	2903,68	2385,68	2869,62	3238,17	2616,98	2505,53	2746,07	2151,93
2008	3232,07	3557,24	2892,88	3432,29	3899,32	3151,61	3110,28	3425,47	2651,50
2010	3543,50	3831,73	3256,06	3804,70	4252,54	3556,64	3367,68	3662,17	2934,18

1) Z-12 – reprezentacyjne badania struktury wynagrodzeń według zawodów w jednostkach o liczbie pracujących powyżej 9 osób.

W przekroju według wielkich grup zawodowych największą różnicę w poziomie przeciętnego wynagrodzenia ogółem brutto za październik 2010 r. kobiet i mężczyzn zanotowano w grupie „Robotnicy przemysłowi i rzemieślnicy”. Relacja przeciętnego wynagrodzenia kobiet do przeciętnego wynagrodzenia mężczyzn wyniosła w tej grupie 67,1 %. Najmniejsze zróżnicowanie wynagrodzeń miało miejsce w wielkiej grupie zawodowej „Pracownicy biurowi”, gdzie przeciętne wynagrodzenie kobiet wynosiło 97,9 % przeciętnego wynagrodzenia mężczyzn. W 2010 r. w zakresie przeciętnych miesięcznych wynagrodzeń brutto kobiet w stosunku do wynagrodzeń mężczyzn, w porównaniu z 2002 r. zaobserwowano:

a) poprawę przeciętnych miesięcznych wynagrodzeń brutto w następujących wielkich grupach zawodów (w punktach procentowych) o:

- 5,3 punkta**      3. Technicy i inny średni personel
- 3,8 punkta**      7. Robotnicy przemysłowi i rzemieślnicy
- 3,7 punkta**      2. Specjaliści
- 2,9 punkta**      5. Pracownicy usług osobistych i sprzedawcy
- 0,4 punkta**      1. Przedstawiciele władz publicznych, wyżsi urzędnicy i kierownicy

b) pogorszenie przeciętnych miesięcznych wynagrodzeń brutto w wielkich grupach zawodów (w punkt. procentowych) o:

- 1,0 punkt**      4. Pracownicy biurowi

- 7,3 punkta 9. Pracownicy przy pracach prostych  
 7,5 punkta 8. Operatorzy i monterzy maszyn i urządzeń  
 13,8 punkta 6. Rolnicy, ogrodnicy, leśnicy i rybacy

Przeciętne wynagrodzenia miesięczne brutto (w zł) według wielkich grup zawodów oraz płci za październik 2002 i 2010 roku przedstawia poniższa tabela.

**Tabela** Przeciętne wynagrodzenia miesięczne brutto (w zł) według wielkich grup zawodów oraz płci za październik 2002 i 2010 roku

Symbol i nazwa wielkiej grupy zawodów wg KZiS <sup>1)</sup>	Październik 2002 r.			Październik 2010 r.		
	ogółem	mężczyźni	kobiety	ogółem	mężczyźni	kobiety
<b>OGÓŁEM</b>	<b>2229,80</b>	<b>2425,00</b>	<b>2015,79</b>	<b>3543,50</b>	<b>3831,73</b>	<b>3256,06</b>
1. Przedstawiciele władz publicznych, wyżsi urzędnicy i kierownicy	5191,62	5807,64	4172,67	7344,00	8403,14	6067,64
2. Specjaliści	2972,29	3526,73	2652,24	4327,31	5046,08	3980,40
3. Technicy i inny średni personel	2275,73	2776,83	2026,56	3652,71	4156,12	3254,65
4. Pracownicy biurowi	1992,55	2009,22	1985,77	2978,82	3019,98	2955,59
5. Pracownicy usług osobistych i sprzedawcy	1348,37	1471,86	1246,81	2107,36	2286,26	2003,48
6. Rolnicy, ogrodnicy, leśnicy i rybacy	1489,60	1512,88	1384,37	2203,32	2361,58	1835,51
7. Robotnicy przemysłowi i rzemieślnicy	1869,92	2007,50	1270,90	2772,46	2946,70	1978,36
8. Operatorzy i monterzy maszyn i urządzeń	1983,29	2035,46	1700,20	3006,33	3131,33	2380,29
9. Pracownicy przy pracach prostych	1305,13	1422,45	1220,95	2074,15	2384,43	1871,63

<sup>1</sup> W ciągu okresu 2002-2010 klasyfikacja zawodów i specjalności (KZiS) ulegała różnym zmianom, np. w latach 2002-2004 obowiązywała następująca nazwa pierwszej „wielkiej” grupy zawodów: „Parlamentarzyści, wyżsi urzędnicy i kierownicy”. Obecnie stosowana KZiS (wprowadzona na podstawie Rozporządzenia Ministra Pracy Polityki Społecznej z dnia 27 kwietnia 2010 r. w sprawie klasyfikacji zawodów i specjalności dla potrzeb rynku pracy oraz zakresu jej stosowania (Dz.U. Nr 82, poz. 537).) została znacznie zmieniona w stosunku do poprzednio obowiązującej.

Ze względu na utrzymującą się różnicę w zarobkach rząd polski podejmuje działania na rzecz rozpowszechniania informacji na temat istniejących przepisów – m.in. poprzez realizację projektów współfinansowanych ze środków UE, jak również biorąc udział w działaniach świadomościowych, kampaniach Komisji Europejskiej. Polska jest jednym z 5 krajów, które wzięły udział w kampanii na poziomie Unii Europejskiej informującej społeczeństwo o istniejących różnicach w wynagrodzeniach kobiet i mężczyzn w 2009 roku. Głównymi nośnikami kampanii w 2009 roku były autobusy opatrzone informacjami na temat równych wynagrodzeń kobiet i mężczyzn oraz citilighty na przystankach autobusowych. Działania w ramach kampanii realizowane były tylko w Warszawie, Brukseli, Budapeszcie, Madrycie i Berlinie. W 2010 roku w kampanii uczestniczyły już wszystkie kraje UE. Tak jak w 2009 r. w stolicach krajów pojawiły się citilighty i bilbordy informujące o różnicach

w wynagrodzeniu kobiet i mężczyzn. Ponadto popularyzowano plakat, broszurę, ulotkę i prezentację przygotowane przez Komisję Europejską na drugą edycję kampanii. Od 2010 r. organizowany jest również Dzień Równości Płac.

Od 2009 roku organizowany jest Kongres Kobiet Polskich którego współorganizatorem jest Ministerstwo Pracy i Polityki Społecznej. Kongres Kobiet powstał w czerwcu 2009 r. jako ruch społeczny, aktywizujący kobiety w Polsce społecznie i politycznie. Obecnie Kongres Kobiet jest społeczną inicjatywą zrzeszającą osoby indywidualne, organizacje pozarządowe, przedstawicielki biznesu, polityki, świata nauki, sztuki, dziennikarstwa, związków zawodowych, związków pracodawców oraz wiele innych. Tematyka różnic w wynagrodzeniach kobiet i mężczyzn na tym samym stanowiskach była podejmowana podczas wszystkich trzech Kongresów. Wyrównanie płac kobiet i mężczyzn na tych samych stanowiskach było jednym z postulatów sformułowanych podczas obrad III Europejskiego Kongresu Kobiet we wrześniu 2011 roku.

### **Rola organów ds. równości**

Zgodnie z art. 20 *dyrektywy* Państwa Członkowskie wskazują i podejmują niezbędne ustalenia dotyczące utworzenia organu lub organów do spraw promowania, analizowania, monitorowania i wspierania równego traktowania wszystkich osób bez dyskryminacji ze względu na płeć.

Wykonywanie zadań dotyczących realizacji zasady równego traktowania w Polsce zostało powierzone Pełnomocnikowi Rządu do Spraw Równego Traktowania oraz Rzecznikowi Praw Obywatelskich.

### **Pełnomocnik Rządu do spraw Równego Traktowania**

Pełnomocnik Rządu do spraw Równego Traktowania powołany został na mocy rozporządzenia Rady Ministrów z dnia 22 kwietnia 2008 r. (Dz. U. z 2008 r. Nr 75, poz. 450), zmienionego rozporządzeniem Rady Ministrów z dnia 9 czerwca 2010 r. (Dz. U. z 2010 r. Nr 109, poz. 710). W związku z wejściem w życie 1 stycznia 2011 r. *ustawy z dnia 3 grudnia 2010 r.* Pełnomocnik Rządu do spraw Równego Traktowania powołany na mocy ww. rozporządzenia stał się Pełnomocnikiem w rozumieniu ustawy.

Zgodnie z ustawą do kompetencji Pełnomocnika należy realizowanie polityki rządu w zakresie zasady równego traktowania, w tym przeciwdziałania dyskryminacji, w szczególności ze względu na płeć, rasę, pochodzenie etniczne, narodowość, religię, wyznanie, światopogląd, wiek, niepełnosprawność oraz orientację seksualną.

Do zadań Pełnomocnika należy w szczególności:

- 1) opracowywanie i opiniowanie projektów aktów prawnych w zakresie zasady równego traktowania;
- 2) przeprowadzanie analiz i ocen rozwiązań prawnych pod kątem respektowania zasady równego traktowania, a także występowanie do właściwych organów z wnioskami o wydanie lub zmianę aktów prawnych w zakresie spraw należących do Pełnomocnika;
- 3) podejmowanie działań zmierzających do eliminacji lub ograniczenia skutków powstałych w wyniku naruszenia zasady równego traktowania;

- 4) dokonywanie analiz i ocen sytuacji prawnej i społecznej oraz inicjowanie, realizowanie, koordynowanie lub monitorowanie działań zmierzających do zapewnienia równego traktowania, a także do ochrony przed dyskryminacją;
- 5) monitorowanie sytuacji w zakresie przestrzegania zasady równego traktowania;
- 6) promowanie, upowszechnianie i propagowanie problematyki równego traktowania;
- 7) współpraca z krajowymi organizacjami społecznymi, w tym ze związkami zawodowymi i organizacjami pracodawców;
- 8) współpraca w sprawach związanych z równym traktowaniem oraz przeciwdziałaniem dyskryminacji z innymi państwami, organizacjami oraz instytucjami międzynarodowymi.

Zadania związane z przeciwdziałaniem dyskryminacji ze względu na niepełnosprawność Pełnomocnik wykonuje we współpracy z Pełnomocnikiem Rządu do Spraw Osób Niepełnosprawnych.

Należy zaznaczyć, że Pełnomocnik nie posiada kompetencji do wydawania wiążących opinii ani rozstrzygnięć w sprawach indywidualnych. Organem uprawnionym do rozstrzygnięcia, czy została naruszona zasada równego traktowania jest w Polsce sąd.

### **Rzecznik Praw Obywatelskich**

*Ustawa z dnia 3 grudnia 2010 roku* określa również Rzecznika Praw Obywatelskich jako organ wykonujący zadania w zakresie równego traktowania. Zgodnie z ww. ustawą do *ustawy z dnia 15 lipca 1987 r. o Rzeczniku Praw Obywatelskich* (Dz. U. z 2001 r. Nr 14, poz. 147, z późn. zm.) wprowadzono zmiany rozszerzające jego kompetencje, zgodnie z którymi Rzecznik Praw Obywatelskich stoi na straży wolności i praw człowieka i obywatela określonych w Konstytucji Rzeczypospolitej Polskiej oraz w innych aktach normatywnych, w tym również na straży realizacji zasady równego traktowania.

Rzecznik Praw Obywatelskich wykonuje zadania dotyczące realizacji zasady równego traktowania jako organ niezależny. Może on m.in. żądać wszczęcia postępowania w sprawach cywilnych, jak również wziąć udział w każdym toczącym się już postępowaniu – na prawach przysługujących prokuratorowi, żądać wszczęcia przez uprawnionego oskarżyciela postępowania przygotowawczego w sprawach o przestępstwa ścigane z urzędu, zwrócić się o wszczęcie postępowania administracyjnego, wносить skargi do sądu administracyjnego, a także uczestniczyć w tych postępowaniach – na prawach przysługujących prokuratorowi, wystąpić z wnioskiem o ukaranie a także o uchylenie prawomocnego rozstrzygnięcia w postępowaniu w sprawach o wykroczenia, wnieść kasację lub rewizję nadzwyczajną od prawomocnego orzeczenia sądu.

Ponadto do kompetencji Rzecznika Praw Obywatelskich należy:

- świadczenie niezależnej pomocy ofiarom dyskryminacji we wnoszeniu skarg w sprawach o dyskryminację;
- prowadzenie niezależnych badań dotyczących dyskryminacji;
- publikowanie niezależnych sprawozdań i wydawanie zaleceń na temat wszystkich problemów związanych z dyskryminacją;
- wymiana dostępnych informacji z właściwymi organami europejskimi.

- Czy Państwa parlament przewiduje zmiany obecnego prawodawstwa dotyczącego równej płacy w Państwa kraju w celu poprawy sytuacji w tym zakresie?

POLSKA (Poland) - Polish Senate

## **“EQUAL PAY FOR WORK OF EQUAL VALUE”**

### **Replies from the Polish Senate to the questionnaire**

#### **Answer to the Question 1**

- **Has your Parliament in recent years addressed the issue of the gender pay gap in any of its decisions/resolutions?**
- **Have specific reasons for the existing gender pay gap in your country been identified in those decisions/resolutions or in the broader political debate?**

The Polish Parliament did not address the issue of the gender pay gap in its decisions or resolutions in recent years.

The problem of gender pay gap is not an issue of public discussions or political debates in Poland at the time. The rate of the gender pay gap in Poland equals around 10%<sup>36</sup> and belongs to the five lowest rates among EU-countries (data for the year 2010).

#### **Answer to the Question 2**

##### **Legislative policy:**

- **What changes did Directive 2006/54/EC<sup>37</sup> impose on the legislation on equal pay in your country?**
- **Does the existing legislation on equal pay in your country contain any of the following provisions?**
  - **Definitions (remuneration, gender pay gap, direct or indirect pay discrimination, pension gap);**
  - **Transparency of remuneration; gender disaggregated wage statistics;**
  - **Work evaluation and job classification;**
  - **Role of equality bodies;**
  - **Social dialogue; inclusion of equal pay in collective agreements;**
  - **Sanctions applicable in case of breaches of the equal pay rule.**
- **Since its introduction of the current legislation in your country, has there been an improvement as regards gender pay gap?**
- **Does your Parliament envisage any revision of the current legislation on equal pay in your country in order to improve the situation?**

Fundamental for the equal rights of men and women in Poland is equality before the law set in the Polish Constitution:

##### *Article 33*

1. *Men and women shall have equal rights in family, political, social and economic life in the Republic of Poland.*
2. *Men and women shall have equal rights, in particular, regarding education, employment and promotion, and shall have the right to equal compensation*

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<sup>36</sup> EUROSTAT data show that Poland had in 2010 the gender pay gap rate of 1,9% although in 2008 and 2009 it was 9,8%. OECD data for Poland in 2010 presents for gender pay gap value of around 10%. The difference is due to change of counting method.

<sup>37</sup> [Directive 2006/54/EC of the European Parliament and of the Council 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 \(recast\)](#)

*for work of similar value, to social security, to hold offices, and to receive public honours and decorations.*

Appropriate provisions contain also the Polish Labour Code and some other laws dealing with social issues. The principle of equal pay is enshrined in Article 18<sup>3c</sup> of the Labour Code which provides:

*§ 1. All employees shall be entitled to equal pay for equal work or work of equal value.*

*§ 2. The pay referred to in §1 above shall include all components of pay, regardless of their title or nature, and all other work-related benefits, awarded to employees in pecuniary or any other form.*

*§ 3. 'Work of equal value' shall be understood to mean work for which employees require comparable professional skills, as confirmed by appropriate qualifications or work experience, and similar degrees of responsibility and effort.*

The Directive 2006/54/CE was implemented in Poland by the *Law on implementation of some regulations of the European Union concerning equal treatment* which came into force on the 3<sup>rd</sup> of December 2010 (together with four other directives). There are no provisions concerning equal pay for men and women in this Law.

In Poland there is no special legislation on equal pay.

Some experts hold a view that the gender pay gap existing in Poland is a result of shorter working time of women in Poland.

According to the newest governmental data (from March 2012) wages of Polish women are around 15% lower than men's working on similar position.

### **Answer to the Question 3**

#### **Non-legislative policy:**

- **What kind of specific activities which address the issue of gender pay gap have recently been organised in your country (information campaigns, equal pay day initiative, promotion of best practices, etc.)?**
- **What kind of positive effect(s) did result from such activities as regards the situation of gender pay gap in your country?**

In the past years in Poland were organised:

Campaign "Equal Pay for Equal Work" (since 2010);

"European Day of Equal Pay" (in 2012 – 2<sup>nd</sup> of March);

In 2009 Poland was among the first five EU member states which took part in the first European campaign "Equal Pay for Equal Work" organised by the European Commission.

Special poster, booklet and leaflet were used in Poland during the campaign "European Day of Equal Pay" in 2010.

The Polish Ministry of Labour and Social Policy supported several initiatives connected with equal rights for women and men, including equal pay. Among those initiatives there were such projects as:

"Gender Mainstreaming as the Tool for Introducing Changes at Labour Market" (2008-2009);

"Social and Economic Activation of Women on the Local and Regional Level" (2008-2012);

"Reconciliation of Professional and Family Roles of Women and Men" (2008-2012).

In all of them the issue of equal pay played an important role.

### **Question 1**

- **Has your Parliament in recent years addressed the issue of the gender pay gap in any of its decisions/resolutions?**

The issue of the gender pay gap has not been specifically addressed in any Parliament's decision or resolution in recent years, apart from Law 3/2011, of 15 February 2011, which regulates and punishes gender pay gap and promotes equal working conditions for independent workers. Nevertheless, the issue of equality at work, namely gender balance set at senior management or middle management posts and of women's participation in elections have been the object of legislation debated or even approved by the Parliament.

There was a specific Parliament Resolution on the subject, which was approved by all political parties, and dealt with the gender gap on prize money in sports competitions – Parliament Resolution 80/2010, of 30 July 2010 – *Recommendation to the Government to adopt measures in order to fight the discrimination between women and men on sports competitions.*

Two specific situations have been addressed by Unions and are periodically discussed in the Parliamentary Committee on Social Security and Labour and at the Subcommittee on Equality: the gender pay gap in cork collecting by men and women; and the gender pay gap in a well known portuguese supermarket company that allegedly only recruits men for specific tasks which are coincidentally better paid than the others.

The law which, every 4 years, determine the Major Options of the Plan (*Grandes Opções do Plano*), approved by the Parliament under Government's proposal, also acknowledge the need to ensure equality at work and to fight discrimination – the previous Law 3-A/2010, of 28 April 2010 (which was meant to rule for 5 years), especially refers to this subject on the chapter about the labour pact.

- **Have specific reasons for the existing gender pay gap in your country been identified in those decisions/resolutions or in the broader political debate?**

Not formally.

### **Question 2**

**Legislative policy:**

- **What changes did Directive 2006/54/EC<sup>38</sup> impose on the legislation on equal pay in your country?**

The Directive 2006/54/EC was implemented in Portugal by the Labour Code – approved by Law 7/2009, of 12 February 2009 – and by Law 3/2011, of 15 February 2011. These instruments, by prohibiting any form of discrimination and defining appropriate solutions for the promotion of the principles of equality for women and men, have materialized the principle of equal treatment in employment and professional activities and the principle of equal opportunities. According to these

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<sup>38</sup> [Directive 2006/54/EC of the European Parliament and of the Council 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 \(recast\)](#)

principles *no one may be privileged, favored, prejudiced, deprived of any right or exempted from any duty for reasons of ancestry, sex, race, language, territory of origin, religion, political or ideological beliefs, education, economic situation, social circumstances or sexual orientation*, as stated in Article 13 of the Constitution of the Portuguese Republic.

- **Does the existing legislation on equal pay in your country contain any of the following provisions?**
  - **Definitions (remuneration, gender pay gap, direct or indirect pay discrimination, pension gap);**
  - **Transparency of remuneration; gender disaggregated wage statistics;**
  - **Work evaluation and job classification;**
  - **Role of equality bodies;**
  - **Social dialogue; inclusion of equal pay in collective agreements;**
  - **Sanctions applicable in case of breaches of the equal pay rule.**

In addition to the provisions of the Portuguese Constitution, the Labour Code contains some provisions on direct or indirect pay discrimination, equal work, work of equal value, the right to equal access to employment and labour, the prohibition of discrimination. On the other hand, through CITE (Commission for Equality in Labour and Employment), the Portuguese Government is obliged to send annually to the Parliament a report on the progress of equal opportunities for women and men at work, employment and vocational training. The 2010 report can be found at:

[http://www.cite.gov.pt/asstscite/downloads/Relat\\_Lei10\\_10.pdf](http://www.cite.gov.pt/asstscite/downloads/Relat_Lei10_10.pdf)

- **Since its introduction of the current legislation in your country, has there been an improvement as regards gender pay gap?**

Yes, there has been an improvement as regards gender pay gap. This can be verified by the indicators contained in CITE annual reports (Commission for Equality in Labour and Employment).

- **Does your Parliament envisage any revision of the current legislation on equal pay in your country in order to improve the situation?**

At the present moment, no, it does not.

### **Question 3**

**Non-legislative policy:**

- **What kind of specific activities which address the issue of gender pay gap have recently been organised in your country (information campaigns, equal pay day initiative, promotion of best practices, etc.)?**

The issue of the gender pay gap has not been specifically addressed in any Parliament's specific activities.

Oversighted by Minister of Economy and Employment, the Commission for Equality in Labour and Employment (CITE) was created in order to fight discrimination and promote equal opportunities for women and men at work, in employment and in vocational training. This Commission frequently has campaigns in the website and

publishes flyers promoting equality in labour, employment and vocational training and of reconciliation of professional, personal and family life.

- **What kind of positive effect(s) did result from such activities as regards the situation of gender pay gap in your country?**

The principal purpose of those activities is to inform.

The Portuguese Parliament has no formal information about the campaigns promoted by CITE nor about eventual positive effects of those campaigns.

**Question no.1**

- **Has your Parliament in recent years addressed the issue of the gender pay gap in any of its decisions/resolutions?**
- **Have specific reasons for the existing gender pay gap in your country been identified in those decisions/resolutions or in the broader political debate?**

The principle of equal pay for work of equal value is part of the Romanian legislation since 2002 (Law no. 202/2002, republished in 2007) a gender policy.

Romanian Parliament has adopted the National Strategy for Equal Opportunities between Women and Men for 2010-2012 and the General Plan of Action for implementing the National Strategy for equal opportunities between women and men for 2010-2012.

According to the European Commission Report on Equal Opportunities between Men and Women of 2009 women are concentrated in jobs and jobs are less valued and therefore lower paid than men. Women are more likely to accept a job part time and to interrupt their careers for family reasons, so they are more likely to have lower incomes than men, leading to an advancing difficult career to get a smaller pension and ultimately increase the risk of poverty among women. The professional labor market segregation by gender persists, there are sectors where women are mainly involved (health, education, public administration) while men occupy other sectors (construction, heavy industry, military). The most important consequence of this is the pay gap between women and men against women. The wage differences between men and women are recognized as important issues facing the Romanian society today. These issues are presented in the parliamentary debates and the round tables, conferences organized by NGO's which are connected with this issue.

**Question no.2**

**Legislative policy:**

- **What changes did Directive 2006/54/EC<sup>39</sup> impose on the legislation on equal pay in your country?**
- **Does the existing legislation on equal pay in your country contain any of the following provisions?**
  - **Definitions (remuneration, gender pay gap, direct or indirect pay discrimination, pension gap);**
  - **Transparency of remuneration; gender disaggregated wage statistics;**
  - **Work evaluation and job classification;**
  - **Role of equality bodies;**
  - **Social dialogue; inclusion of equal pay in collective agreements;**
  - **Sanctions applicable in case of breaches of the equal pay rule.**

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<sup>39</sup> [Directive 2006/54/EC of the European Parliament and of the Council 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 \(recast\)](#)

- **Since its introduction of the current legislation in your country, has there been an improvement as regards gender pay gap?**
- **Does your Parliament envisage any revision of the current legislation on equal pay in your country in order to improve the situation?**

The Directive 2006/54/EC was transposed into law in Romania nr.202/2007 law on equality between women and men in GEO. 55/2006. In Romania, the principle of equal pay between women and men is now the Romanian Constitution, Labour Code, Law no. 202/2002, OG 137/2000, Law no. 330/2009.

The Constitution of Romania, the Romanian state guarantees equal rights, "citizens are equal before the law and public authorities, without any privilege or discrimination."

The principle of equal pay for work of equal value was introduced by the Labour Code Ordinance no. 55/2006, "for equal work or equal value any discrimination based on gender based on all aspects and conditions of remuneration."

The principle of equal pay for work of equal value was introduced by the Labour Code Ordinance no. 55/2006, "for equal work or equal value any discrimination based on gender based on all aspects and conditions of remuneration."

Law no. 202/2002 on equal opportunities between women and men, republished in 2007 "The work of equal value means gainful activity which, after comparison, based on the same indicators and same units, with another activity, reflecting the use of knowledge and professional skills and submitting a similar or equal or similar amounts of intellectual effort and / or physically. " "The equality of opportunity and treatment between women and men in labor relations means non-discriminatory access to equal pay for work of equal value." This regulation was also adopted in Law. 53/2003, by amending the bill to the Government Emergency Ordinance no. 55/2006.

GO. 137/2000 on preventing and sanctioning all forms of discrimination, republished: "The principle of equality between citizens, exclusion and discrimination are guaranteed privileges especially in exercise of the following rights: (...) ... right to equal pay for equal work".

Law no. 330/2009 on wages paid staff unit provides public funds "to create equal opportunities and equal pay for work of equal value based on uniform principles and rules on the establishment and payment of salaries and other salary rights of the public sector employees.

In Romania, the level of pay - the difference between male wages than those of females decreased from 21% in 1994, 14% in 2004 to about 12% in 2009, while the European average was 2009 by 15% -17%. We see such an improvement in the payment difference in our country.

To increase awareness about the pay gap between women and men, the Romanian Parliament will propose a national day for equal pay for awareness wage differences between men and women.

### **Question no.3**

#### **Non-legislative policy:**

- **What kind of specific activities which address the issue of gender pay gap have recently been organised in your country (information campaigns, equal pay day initiative, promotion of best practices, etc.)?**

**- What kind of positive effect(s) did result from such activities as regards the situation of gender pay gap in your country?**

In Romania there were organized a lot of awareness campaigns for the representatives of local and central administration, NGO's , syndicates, unions, academics, civil society, higher education with the goal to raise the awareness with regard to the salary difference between man and woman. There were drafted a lot of promotional and informative documents and the local and national events were largely promoted in media.

ANES was one of the institutions which organized national conferences with the role to promote the aim of the policies meant to cut down salary differences between man and women.

During the campaign „The European Year of equal chances for all – 2007”, organized by ANES, there were a lot of activities with the role to raise the awareness with regard to the difference in remuneration between man and woman, cutting down the salary difference, raising the awareness of syndicates and unions members with regard to the importance of promotion and implementation of the equal chances treatment principle between man and women on the employment market.

In the framework of the Project financed by the Social European Fund trough Human Resources Development Operational Programme 2001-2013 Invest in people! a lot of projects were initiated by public institutions in local. administration, NGO's, and education institute with the aim to raise the awareness.

On the 8th of March 2010 FILIA Center and A.R.T Fusion Centre organized an awareness campaign with regard to unequal payment for equal work.

## **Introduction to replies**

Due to the specifics of the topic concerned, replies to the questionnaire on equal pay for work of equal value, which was referred to the Commission for Petitions, Human Rights and Equal Opportunities, are given in a form of a detailed overview of equal treatment for men and women in the field of employment relationships and work rights in the Republic of Slovenia. We have used information from the Office for Equal Opportunities, data from the websites of the Ministry of Labour, Family and Social Affairs, and of the Statistical Office of the Republic of Slovenia.

## **Gender pay gap**

In terms of equal treatment and equal opportunities for men and women, the legislation in the field of labour market and employment is well regulated. Moreover, our legislation includes all the principles contained in the ratified international conventions, related to women's rights. The pay issue is generally regulated by the Employment Relationship Act; in more detail, however, it is regulated by collective agreements, individual acts of employers and individual employment contracts. However, there exists gender gap, i.e. in employment, unemployment and self-employment rates, in remuneration for equal work and for work of equal value etc., which should be eliminated through various programmes and projects.

According to the data from the Statistical Office of the Republic of Slovenia on structure of earnings statistics (29 September 2011), the average monthly gross earnings of women in 2010 were 96.5% of the average monthly gross earnings of men, meaning they were on average EUR 55 lower.

The **Resolution on the National Programme for Equal Opportunities for Women and Men (2005 - 2013)**, adopted by the National Assembly of the Republic of Slovenia, represents a strategic document that determines cornerstone policies on the gender equality in the Republic of Slovenia for the definite period. The basic aim of the Resolution is to improve the status of women and to ensure sustainable development as regards the enforcement of gender equality.

## **Normative regulation – selection of some of the relevant documents**

Pursuant to Article 14 of the Constitution of the Republic of Slovenia, in Slovenia everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political, or other conviction, material standing, birth, education, social status, disability, or any other personal circumstance.

Pursuant to Article 2 of the Implementation of the Principle of Equal Treatment Act, equal treatment shall be ensured irrespective of sex, nationality, racial or ethnic origin, religious or other belief, disability, age, sexual orientation or other personal circumstance, also in relation to conditions for access to employment, working conditions / employment provisions etc.

To implement the principle of equal treatment, the Council for the Implementation of the Principle of Equal Treatment monitors the position as regards the implementation of the principle of equal treatment. The Advocate of the Principle of Equality

discusses cases of alleged violations of the prohibition of discrimination in accordance with this Act.

The Employment Relationship Act prohibits discrimination on the basis of sex, provides actions for employers as regards prohibition of discrimination, and ensures equal opportunities and equal treatment of women and men in access to employment as well as in the employment relationship. The Act introduced a comprehensive regulation of the system of individual employment relationships, established bilateral relations between workers and employers, and included in national regulation the requirements of Directives referring to labour law and ensuring gender equality in employment relationship.

Article 6 of the Act contains a general provision on the prohibition of discrimination in employment and work which also refers to payment. Article 133 specifies the principle of equal remuneration for women and men. The prohibition of discrimination on the basis of sex shall refer to all components of the remuneration. Article 133(1) of the Act provides that the employer must pay equal remuneration for equal work and for work of equal value to workers regardless of their sex. The second paragraph of the same Article further stipulates that the provisions of an employment contract, collective agreement or employer's general act which are contrary to this rule shall be regarded as invalid.

Pursuant to Article 3(2) of the Collective Agreements Act, collective agreements may in their procedural sections contain provisions which regulate the rights and commitments of employees and employers in concluding employment contracts during employment relationships, and in respect of the termination of employment contracts, pay for work and other personal remunerations and reimbursements regarding work, occupational safety and health, or other rights and obligations arising from relationships between employers and employees, and which also regulate the provision of conditions for the activities of trade unions.

## **Ways of exercising rights in case of discrimination**

### Judicial Protection

A person who believes to have been subject to discrimination (a candidate in gaining employment or a worker during the employment relationship and in connection with the termination of employment contract) shall have the right to judicial protection which he can exercise with an action before the labour court.

Should a worker think that the employer does not fulfil his obligations or that he violates any of his rights arising from employment relationship, he shall have, in accordance with the Employment Relationship Act, the right to request in writing that the employer abolish the violation and/or fulfils his obligations. Should the employer not abolish the violation within a certain period, the worker may request judicial protection before the competent labour court.

### Inspection supervision

In case of discrimination, a person may turn to the Labour Inspectorate of the Republic of Slovenia, which, among others, carries out the supervision of implementation of regulations pertaining to the field of employment relationships. If a labour inspector establishes, on the basis of a report to the Inspectorate or an inspection, a violation of the prohibition of discrimination, it may impose on the employer the appropriate sanction for a misdemeanour.

The Human Rights Ombudsman, the Office for Equal Opportunities, trade unions etc.

The person may file a motion to the Human Rights Ombudsman, who shall act in accordance with the Human Rights Ombudsman Act. Legal help and support is also provided by trade unions (for their members) and various non-governmental organisations. Under the Government of the Republic of Slovenia, the Office for Equal Opportunities was established, within which the Advocate of the Principle of Equality is active. The Advocate discusses motions or complaints regarding cases of alleged discrimination. The Office for Equal Opportunities strives to implement the principle of equality between women and men. It shapes policies and prepares regulations in the field of preventing and eliminating discrimination, and monitors the status of women. Furthermore, the Office also performs various actions with the aim to achieve equal treatment of men and women in the labour market.

Moreover, there are also non-governmental organisations which play an active role in the field of equal opportunities for women and men and of improving the status of women.

In accordance with the ordinance on the establishment, the Commission for Petitions, Human Rights and Equal Opportunities of the National Assembly of the Republic of Slovenia monitors and studies issues pertaining to the implementation of policies regarding equal opportunities and equal rights for men and women in all areas of society and work.

## OBSERVERS FROM PARLIAMENTS OF CANDIDATE COUNTRIES HRVATSKA (Croatia) - HRVATSKI SABOR

### Question 1

- **Has your Parliament in recent years addressed the issue of the gender pay gap in any of its decisions/resolutions?**
- **Have specific reasons for the existing gender pay gap in your country been identified in those decisions/resolutions or in the broader political debate?**

Our Parliament didn't address the issue of the gender pay gap in its decisions or resolutions.

### Question 2

#### Legislative policy:

- **What changes did Directive 2006/54/EC<sup>40</sup> impose on the legislation on equal pay in your country?**
- **Does the existing legislation on equal pay in your country contain any of the following provisions?**
  - **Definitions (remuneration, gender pay gap, direct or indirect pay discrimination, pension gap);**
  - **Transparency of remuneration; gender disaggregated wage statistics;**
  - **Work evaluation and job classification;**
  - **Role of equality bodies;**
  - **Social dialogue; inclusion of equal pay in collective agreements;**
  - **Sanctions applicable in case of breaches of the equal pay rule.**
- **Since its introduction of the current legislation in your country, has there been an improvement as regards gender pay gap?**
- **Does your Parliament envisage any revision of the current legislation on equal pay in your country in order to improve the situation?**

#### *Changes on the legislation imposed by Directive 2006/54/EC*

- ***Gender Equality Act (Official Gazette, No. 82/08)* sets out the general grounds for the protection and promotion of gender equality as a fundamental value of the constitutional order of the Republic of Croatia. It includes implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation. It also prohibits discrimination in relation to (among other areas) employment and working conditions, all occupational benefits and benefits resulting from occupation, **including equal pay for equal work and work of equal value.****
- In addition to the Gender Equality Act, the ***Labour Act (Official Gazette, No. 149/09)*** is the most important act to contain provisions for the prevention of gender discrimination in the field of work and employment

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<sup>40</sup> [Directive 2006/54/EC of the European Parliament and of the Council 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 \(recast\)](#)

- In 2008 the Central Bureau of Statistics adopted a new **National Occupational Classification** where, for the first time, all occupations are listed in both the male and female grammatical gender.
- **National policy for Gender Equality for the period 2011 – 2015 (Official Gazette, No. 88/11)** One of the strategic areas of the National Policy is *equal opportunities on the labour market*. Among others, key activities will be conducted with a view to reducing the pay gap. Specific measures include improved collection, processing, analysis and dissemination of statistical indicators of the pay gap between men and women.
- **Basic collective agreement for officials and employees in public services (Official Gazette, No. 84/07)**

### Question 3

#### Non-legislative policy:

- **What kind of specific activities which address the issue of gender pay gap have recently been organised in your country (information campaigns, equal pay day initiative, promotion of best practices, etc.)?**
- **What kind of positive effect(s) did result from such activities as regards the situation of gender pay gap in your country?**

#### *Non legislative policy:*

The Central Bureau of Statistics, in addition to its regular, gender-disaggregated reports in various areas, has been publishing since 2006 an annual publication entitled “Women and Men in Croatia” (including gender-disaggregated data on employment and salaries)

Gender Equality Committee of Croatian Parliament organised thematic session regarding women’s labour rights during the celebration of the 100<sup>th</sup> anniversary of International Women’s Day.

Representatives of women’s NGOs and women’s trade union groups drew attention to the difficult position of women in the labour market by requesting faster changes in suppressing gender discrimination and in protecting women’s rights in this area.

In the period from 2006 to 2011, a large number of surveys were conducted on the status of women in the labour market.

Gender Equality Ombudsperson conducted survey concerning causes of gender pay gap between man and women in the Croatian labour market. Research results indicate that gender pay gap is strongly connected with horizontal segregation in the labour market.

#### **Gender pay gap in Croatia**

The data of the State Bureau of Statistics show that women’s work is underpaid in the Republic of Croatia. According to the official data of the Central Bureau of Statistics in 2009, the difference in gross salaries between men and women amounted to 10.6%.

Another unfavourable indicator is also the widespread use of fixed-term employment contracts for the female part of the economically active population, and the sectoral segregation of the female labour force.

Women are the majority in activities such as the textile industry, catering and trade services, education, public administration, social activities, social and personal services, etc., while being very underpaid in particular branches.

Significant improvement has been recorded in the field of aligning published employment announcements with the provisions of the Gender Equality Act.

The process of balancing family and private and professional life does not keep up with the demands to eliminate inequalities in the social status of men and women.

However, a slight rise has been recorded in the number of men who take care of their children, from 1.14% who used supplemental parental leave in 2008 to 1.86% of men in 2010 who also used other rights pursuant to the Act on Maternity and Parental Benefits.

Unadjusted wage gap in Croatia was around 10 percent on average in 2008, down from 13.5 percent in 1998. But adjusted wage gap is almost two times higher than the unadjusted, and it even increased between 199