



**EQUAL PAY**  
BETWEEN MEN & WOMEN

# Eliminating the gender pay gap: best practices around four perspectives



Considerations,  
Conclusions &  
Best Practices  
arising out of the  
Conference held  
in Limassol on  
29-30 October 2012

[www.tripartiteconference-equalpay.com](http://www.tripartiteconference-equalpay.com)



**Department of Labour Relations**

Ministry of Labour and Social Insurance of the Republic of Cyprus

Manuscript completed by Dr Haris Kountouros in December 2012



It is with particular pleasure that I present this publication which attempts a synopsis of the main presentations, conclusions and best practices stemming from the tripartite conference organised in Limassol at the end of October 2012, on the subject of tackling the gender pay gap. I firmly believe that in spite of the worst economic crisis in its history, the European Union and its Member States must accelerate efforts towards achieving full and effective equality between men and women. Rather than hampering economic recovery, investing in equality is a necessary tool in the fight for employment growth, economic growth and improvement of European competitiveness. At the same time, policies and measures aiming at gender equality are necessary to achieve fairness and the effective enjoyment of basic human rights for half of our population.

In this spirit, combating the gender pay gap is a priority. Despite years of efforts and despite the existence of a considerable body of legislation, the gender pay gap forms a persistent problem across the European Union. This shows that legislation in itself is not enough. Rather, it must be combined with appropriate policies and practices and must be implemented in an effective manner. In this regard, there is an evident need for effective synergies. What is more, the continuous transformation of our economies and of our employment relations models generates new phenomena which impact on the struggle for equality. Policies must be able to address old and new factors giving rise to the gender pay gap and to reap the benefits of any opportunities which this transformation may present us with. In all these respects there is a lot of work that still needs to be done.

The Cyprus Presidency of the Council of the European Union during the second half of 2012 sought to give emphasis to the effort to reduce unemployment, to enhance quality in work and to promote social dialogue. Eliminating the gender pay gap is relevant to all three objectives. The Cyprus Presidency also remains committed to the aims of the Europe 2020 strategy, where equality between men and women and equal pay are overarching objectives. It is for this reason that the Cyprus Presidency placed this tripartite conference under its auspices. I am pleased that the enthusiastic participation of so many delegates from across the Member States made the event a successful one. It is clear that the acknowledgement of the need for a more robust approach to tackling the gender pay gap was shared by all stakeholders, be it government representatives or representatives of employers and trade unions. The challenge now is to transform this acknowledgement into action. I very much hope that this publication will add its own contribution to this effort.

*Sotiroula Charalambous, Minister of Labour and Social Insurance*

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## SUMMARIES OF SESSIONS, SPEECHES AND KEY PRESENTATIONS

Opening the conference the Director of the Department of Labour Relations, Mr **Andreas Mylonas**, stressed the need for interventions in the area of equal pay that contribute actively to a better utilisation of all human resources, improving the competitiveness of businesses, the economy of the Member States and the welfare of society. Moreover, he argued that just as it is important to emphasise the economic dimension of the gender pay gap and to make the business case for pay equality, it is equally important to acknowledge gender equality as a major achievement of modern European societies and as such it should be preserved independently from any economic considerations.

In her welcoming address, the Minister of Labour and Social Insurance, Mrs **Sotiroulla Charalambous**, highlighted the resolve of the Republic of Cyprus to accelerate efforts to eliminate the gender pay gap. The Minister referred to the complex factors giving rise to the GPG and emphasised that legislation is important but not enough. The Minister noted that one of the biggest challenges the European Union is called to face is to advance equality issues within the adverse economic environment brought about by the continuing economic and monetary crisis. As Mrs Charalambous remarked, the Cyprus Presidency, determined to move the matter, included this conference under its auspices.

Mrs **Edit Bauer MEP** presented a Report adopted by the European Parliament in May 2012 which contains a series of recommendations to the European Commission as to how to tackle the gender pay gap. Mrs Bauer was the Rapporteur of that report. Amongst the recommendations is the need for clearer definitions of important notions, such as that of “employer”, transparency in pay structures and stricter enforcement of sanctions. As Mrs Bauer noted, one of the main considerations for the Parliamentarians is how to utilise the large body of existing legislation in a manner which can produce better results. In the Parliament’s view, implementation of the recommendations proposed in the report is fundamental to that effort.

Mr **Aurel Ciobanu Dordea**, Director of the Equality Directorate in DG Justice of the European Commission acknowledged that, in spite of the fact that the Treaty and secondary law provide for the principle of equal pay, there is a persisting problem. As Mr Ciobanu Dordea noted, differences exist amongst Member States but the gender pay gap affects all economies and socio-economic models. For this reason, its elimination forms one of the priorities of the European Commission. The Commission agrees that one of the key challenges is to apply and enforce existing rules more effectively. To this end, Commission action focuses on three aspects: first, upholding better implementation and compliance with EU legislation; second, raising awareness and, third, on actions to be undertaken by employers, including making the business case for equal pay.

Mrs **Isabella Biletta**, research manager at the European Foundation for the Improvement of Living and Working Conditions, presented a series of findings by the Foundation on the issue of occupational segregation. According to Mrs Biletta, three key features of occupational segregation are very important for comprehending and addressing this major contributing factor to the gender pay gap: first, its persistency; second, its important cultural path-dependency and, finally, that it poses a challenge for collective bargaining and policy makers.

Mr **Philippos Soseilos**, partner and Head of Human Capital, at PwC Cyprus, presented the actions taken by PwC Cyprus in order to increase the participation of women in the more senior positions of the organisation. A combination of measures, such as mentoring, training, developing women’s committees, targets and others are employed by PwC to this end. As Mr Soseilos emphasised, we need to confront the bias in our systems to unleash each person’s talent and personal qualities as well as to enhance accountability.

Dr **Jane Pillinger**, researcher and policy advisor, introduced the thematic session on job evaluation and job classification, elaborating on the two concepts and on the principles which are pertinent to them. Dr Pillinger remarked that job evaluation gives us transparency and the opportunity to look in an objective and analytical way how we value jobs in terms of their content. In this respect she expanded on the key factors used in a job evaluation exercise – skill, effort, responsibility and working conditions – and provided a number of guidelines for social partners, governments and collective agreements.

Ms **Sue Hastings**, pay and employment advisor, presented the “Agenda for Change”, that is the job evaluation exercise undertaken in the national health service in the United Kingdom, which probably forms the largest exercise of its kind in the world. Ms Hastings focused on the aims and the methodology of the exercise, which was characterised by a partnership approach and a will for consensus, as well as commented on the results and the lessons arising out of it. As Ms Hastings noted, the key lesson is to take all available opportunities in relation to equal pay, not just to identify pay discrimination issues, but to take action on them through whatever appears the most suitable tool in the circumstances.

Mr **Jean-François Neven**, Judge at the Labour Court of Brussels and visiting lecturer in the Catholique Université de Leuven-la-Neuve, elaborated on the principles governing sanctions and restoration of justice that have been developed by the European Court of Justice. In this regard Mr Neven commented on a number of cases decided by the Court as well as made reference to the Recast Directive that was adopted in 2006. Mr Neven emphasised the importance of transparency and access to information in respect of claims concerning pay discrimination and noted that there is room for improvement as regards judges’ handling of sex discrimination cases.

A panel debate chaired by Mrs **Monica de Coninck**, Minister of Employment of Belgium with the participation of Mr **Josef de Witte**, President of the European Network of Equality Bodies, Mrs **Zetta M. Makri**, Secretary General of the General Secretariat for Gender Equality of Greece, Dr **Charlotte Camilleri**, Executive in EU and legal affairs of the Malta Employers Association, and Mr **Jean-François Neven** concentrated on the issue of enforcement and sanctions. The importance of implementing the EP recommendations on pay equality and the added risks for pay equality that are created by some changes in the employment relations, such as the increasing individualisation of employment relationships, were some of the issues that were highlighted during the debate.

In her address to the Conference, Ms Virginija Langbakk, **Director of the European Institute for Gender Equality**, remarked on the significance of appreciating the broader socio-economic framework in order to be able to truly advance the discussion on the four perspectives to tackling the gender pay gap. In this regard, Ms Langbakk considered some of the stereotypes which sustain the gender pay gap, noting the need to adapt the organisation of society to a fairer distribution of women’s and men’s roles. Additionally, she referred to the role of education and the importance of tackling segregation both in education and in work in order to promote gender equality which is not only a fundamental right, but an indispensable factor for solidarity and the development of our societies.

Talking on behalf of the International Labour Organisation, Ms **Adrienne Cruz**, Gender specialist of the ILO Bureau for Gender Equality elaborated on a number of considerations on the role of social dialogue in tackling the gender pay gap in the European context, stating that Europe provides an example of good practice in this respect. Referring to some of the weaknesses of social dialogue, Ms Cruz stressed the need for more data and more analysis of the various aspects which pertain to the GPG including the effects of the austerity measures which are imposed by many governments.

Dr **Christine Aumayr-Pintar**, Research Officer for Working Conditions and Industrial Relations at the European Foundation for the Improvement of Living and Working Conditions, referred to the role of social dialogue changing the culture of secrecy over pay in Austria through income transparency reports. Introduced as one of a series of measures aimed at reducing pay inequalities income transparency reports are foreseen for employers with more than 500 employees and from 2014 for employers with 150 employees and more, and involve a range of data that must be made available to works councillors in order to monitor compliance with the principle of pay equality.

Dr **Maria Hemström Hemmingsson**, Head of the Delegation for Gender Equality in Working Life at the Ministry of Employment of Sweden gave a presentation on the role of social dialogue in promoting equal pay at the workplace focusing on some of the weaknesses of social dialogue. In particular, she concentrated on the methodology of collective bargaining concerning pay increases and noted that this has the effect of sustaining and in some cases increasing the gender pay gap. According to Dr Hemström Hemmingsson, reversing this situation requires the consideration of larger pay rises for the female-dominated lower-paid professions and/or a greater share of GDP for the public sector.

A debate on the loi Genisson and subsequent legislative and other developments in France was held between Ms **Jacqueline Buysse**, Member of the Women-Men Equality Committee of Medef and Head of the WE Network of Areva ; Ms **Laurence Laigo**, National Secretary of the Confédération française démocratique du travail (CFDT) and Ms **Nathalie Tournyol du Clos**, Head of Service of the rights of women and of equality between men and women. The debate highlighted a number of actions currently taken in France, including the use of gender mainstreaming in the public sector and efforts to enable smaller businesses to implement good practices which are found in bigger companies.

A concluding panel discussion was held on the theme "Pay equality in times of crisis: the way forward or chimera?". The debate was moderated by Mr **Andreas Mylonas**, Director of the Department of Labour Relations and included Ms **Adrienne Cruz**, Gender Specialist of the ILO Bureau for Gender Equality, Ms **Anu Sajavaara**, Chair of the Equal Opportunities Network of BusinessEurope, Ms Claudia Menne, Confederal Secretary of ETUC, Ms **Helen Hoffmann**, Adviser for Social Affairs, UEAPME, and Mr **Mahtab Khan**, Associate of the CEEP UK. The debate considered such issues as the role of gender equality in the current environment; the role of EU institutions and of the European social partners; whether more legislation is necessary; the role of quotas and the representativity of the social partners.

## HIGHLIGHTS FROM THE OPENING ADDRESSES TO THE CONFERENCE

In her welcoming address, **Mrs Sotiroula Charalambous, Minister of Labour and Social Insurance of the Republic of Cyprus**, noted that Cyprus undertook the Presidency of the Council of the European Union at a particularly difficult time for Europe. **One of the biggest challenges of the period we are experiencing, the Minister said, is the path that will be followed as regards equality issues and especially gender equality.** Mrs Charalambous emphasised that it is necessary to place at the heart of our policies one of the basic principles of the EU Treaty, which is the principle of full and effective equality between men and women.

“Investing in equality is necessary to achieve fairness and to enable the effective enjoyment of basic human rights by women, as well as to make employment attractive for women for the purposes of employment growth, economic growth and competitiveness”

Mrs Charalambous noted that the legislative framework on gender equality has contributed to the goal of equality; however, it does not seem to be sufficient in itself but rather needs to be combined with other policies and practices.

Legislation needs to be put into practice. **Each Member State should ensure the full implementation of the law in all its aspects**, including equal pay, and put in place policies and effective mechanisms for monitoring implementation with the ultimate aim of changing perceptions and stereotypes, establishing right foundations from childhood and incorporating the principle of equality in all social and economic structures.

Referring specifically to Cyprus, the Minister noted that the country has one of the highest gender pay gaps in the European Union, pointing to occupational segregation as one of the basic reasons for this situation, in particular the fact that **a very large number of women work in unskilled occupations and low paid sectors of economic activity.** Stating that the origins of the current multi-layered process for combating the GPG go back to 2006, she referred to the co-financed project “Actions to reduce the gender pay gap between men and women” which runs to 2015. The Conference forms part of this project.

Concluding her address, Mrs Charalambous remarked that, due to the economic crisis, **it is tempting to consider policies and measures aiming at equal pay as an additional cost to be avoided.** This, however, misses the point and ignores the important costs of the continuing gender pay gap that may not necessarily appear in account or financial reporting. In contrast, **the benefits of pay equality for the economy and society as a whole can be significant** and, with this in mind, the Cyprus Presidency placed the Conference under its auspices.

**Ms Edit Bauer MEP, Member of the European Parliament’s Committee on Women’s Rights and Gender Equality** and Rapporteur of Parliament’s “Report with recommendations to the European Commission on the application of the principle of equal pay for male and female workers for equal work or work of equal value” presented the report that was adopted by the Plenary on 24 May 2012. Opening her presentation Ms Bauer noted that the question for the Committee was what to do with all the existing EU legislation on equality and how to make it work better and produce better results.

“As parliamentarians we have no other tools and must insist on better legislation”

Ms Bauer then presented the EP report which contains a list of recommendations, concentrating on

- (1) the need for clearer and more precise definitions, including of “employer” for the issue of work of equal value;
- (2) the need to increase transparency, which is a particularly serious problem especially for the new Member States;
- (3) job evaluation and job classification structures;



- (4) equality bodies and legal remedies, seeking to reverse the fact that despite the rather voluminous legislation very few cases make it to courts, while in some Member States there is a trend towards limiting the powers of equality bodies;
- (5) social dialogue, including the need for guidelines in this respect;
- (6) prevention of discrimination, noting that a lot of work is still required in this regard;
- (7) gender mainstreaming, particularly in the face of the demographic challenges;
- (8) sanctions; and
- (9) streamlining EU legislation and policy.

Concluding her address, Ms Bauer also referred to the fact that there is evidence that pay discrimination is even more prevalent amongst part time workers and her disapproval of the fact that many Member States consider that they have already fulfilled their obligations under the Recast Directive even without adopting specific implementing legislation.

Parliament's recommendations are reproduced as an Annex. Visit also the website of the EP FEMM Committee at: <http://www.europarl.europa.eu/committees/en/femm/home.html>

**Mr Aurel Ciobanu Dordea, Director of the Equality Directorate in the European Commission**, addressed the conference elaborating on the current actions of the European Commission in tackling the gender pay gap (these are highlighted in the box that follows this section). Opening his address Mr Ciobanu Dordea stated that **tackling the gender pay gap is one of the priorities of the European Commission**. He acknowledged the fact that despite a plethora of EU legislation - in the Treaty and secondary law - providing for the principle of equal pay, there is a persisting problem. Large differences exist amongst Member States but **the gender pay gap is found in all economies and socio-economic models**. Mr Ciobanu Dordea noted that the slight decrease in the rate of GPG



in the past couple of years is probably attributed to the decrease in the pay of men as a result of the crisis and not because of levelling up. What is more, research confirms that women have worse terms and conditions when entering the labour market and that **labour market imbalances are always to the detriment of women**. Statistically, while the employment rate for men in 2011 was 75%, for women it was only 62.3%. It is to be noted too that while only 7.5% of working men are part-time workers, the rate for women reaches 32.1%. All this is despite the fact that six out of 10 graduates are women.

## “ Gender equality is good for business, the economy and the society ”

Mr Ciobanu Dordea remarked that there are fewer cases of direct sex discrimination today, but the GPG remains high. This entails significant costs and prevents the attainment of various objectives which have been set by the European Union. Mr Ciobanu Dordea highlighted some of the main reasons creating and sustaining the gender pay gap, such as the undervaluation of women's work and skills compared to men; the concentration of women in undervalued and underpaid sectors and occupations; obstacles in career advancement; gender imbalances in decision-making positions; and the unequal burden of responsibilities at home. For the European Commission, **the effective tackling of the gender pay gap requires the involvement of all stakeholders and more effective application and enforcement of existing rules**. Concluding his address, Mr Ciobanu Dordea emphasised

that equal pay is good in times of crisis as it can further both economic and social objectives, for instance it facilitates the entry of women into the market, thus contributing to achieving the 75% rate of employment for women by 2020.

A great deal of useful information can be found on the website of the Directorate for Gender Equality at: [http://ec.europa.eu/justice/gender-equality/index\\_en.htm](http://ec.europa.eu/justice/gender-equality/index_en.htm)

Ms Virginia Langbakk, Director of the European Institute for Gender Equality, addressed the conference noting that the four perspectives to tackling the gender pay gap cannot be truly discussed if the broader framework is not appreciated. In this respect she referred to the social norms which “accept and justify a man-focused breadwinner model” and to “**attitudes and stereotypes which reinforce occupational segregation**”. Expanding on that she also referred to the fact that **84% of working fathers have neither considered nor taken parental leave**. Women still account for the vast majority of takers of parental leave and risk obstacles to career advancement because of child bearing. Focusing on time and participation, Ms Langbakk referred to the policy framework for balancing work and life and highlighted the **need to adapt the organisation of society to a fairer distribution of women’s and men’s roles**. In particular, she noted that, despite recent trends especially in some Member States, such as Sweden and Denmark, **there is still unequal value attached to jobs performed by women**, coupled with the fact that because of the predominance of women in household roles, a considerable number of women do not have an income.



## “The goal of equality between women and men cannot be achieved by women only”

Referring to the role of education, Ms Langbakk noted that even though there are more women graduates in general, there is a **big gender gap in certain fields like science, mathematics and engineering**. The Europe2020 strategy sets targets in relation to knowledge and education which are very pertinent to the effort to improve the situation in this context. Ms Langbakk also noted that the experience of men and women in the domain of work varies significantly as **women generally experience a lower quality of work, lower participation rates and occupational segregation**. In this respect, narrowing the level of segregation could positively impact on both women and men in that it could contribute to a reduced gap in participation and quality.

Concluding her address, Ms Langbakk emphasised that for EIGE, **equality is not only a fundamental right, but indispensable for solidarity and the development of our societies especially in the context of demographic challenges**. To this end, some of the current actions of EIGE concentrate on the development and collection of data to support studies and research, on promoting and disseminating good practice and on contributing to awareness-raising.

Visit EIGE’s website at: <http://www.eige.europa.eu/>

## OCCUPATIONAL SEGREGATION

Occupational segregation forms the single most important factor explaining the gender pay gap<sup>1</sup>. Despite a plethora of studies pointing this out, occupational segregation remains one of the most difficult and elusive aspects of the effort to tackle the gender pay gap.

Isabella Billea from the European Foundation for the Improvement of Living and Working Conditions presented a number of findings of the Foundation, introducing this thematic session of the conference. Some of the highlights of her presentation include the following:

- Gender is socially constructed and is not a homogenous category. This construction combines elements from institutional, economic and cultural environments.
- Three key features of occupational segregation are very significant:
  - > it is persistent;
  - > it follows an important cultural path-dependency; and
  - > it poses a great challenge for collective bargaining and policy makers
- Regulation - from national to European level - is evidently not sufficient. Only Sweden has already achieved the 75% target of employment rate for both sexes.
- Gender segregation exists at all levels: three fifths of the working population work in gender segregated occupations/ workplaces.

### “ Women entering the labour market have already ‘adapted their choice.’ ”

- Not only are the two sexes clustered in different occupations, but they are not even in comparable positions. Women are confined to lower posts.
- There is still a lot of work to be done in relation to increasing the number of women in supervisory positions. In 1991 only 26% of these positions were occupied by women (EC-12). By 2010 this rate increased very modestly to 33% (EU-27, or 32% for EC-12)<sup>2</sup>.
- Even in these - supervisory - positions women seem to suffer from a biased view as to their capabilities. Thus, women supervisors are responsible on average for only 8 workers, while men are responsible for 24 workers. What is more, the bosses of supervisors are almost always men.
- Whatever the job configuration, men always do better in terms of pay.
- Yet, men in the 35-44 years of age cohort are generally not happy with their working hours and report that they suffer from unbalanced repartition between working hours and personnel/family time; this could be one element preventing them from taking more responsibilities at home.
- Part-time work for men is often a transitional phase, but for women is a more typical characteristic.
- This plays into a stereotype often used presenting women, because they officially work fewer hours, as less committed than men to paid work. This disregards completely the responsibilities of women at home. If these are included both part time and full time women workers generally work more hours than men.

<sup>1</sup>Eurofound, *Addressing the gender pay gap: Government and social partner actions*, 2010, p. 2.

<sup>2</sup>EC12 = 12 countries in the European Communities in the 80's: the 6 founding countries IT/FR/BE/NL/LU/DE plus joining countries along the way from the 70's UK/DK/IE (73) and the 80's EL(81) PT and ES (86).

- In few countries some gender gaps (employment/pay) seem to narrow; but this happens as a consequence of worsened working conditions all around and especially for men. So pay is not levelling up.
- Cultural attitudes are very difficult to change. These favour men, while a culture of “old men club” persists. Thus, men are more likely to socialise after work, while women need to attend to household needs. Often, within an organisation, men even come from the same schools.
- However, when men and women work in segregated occupations they express lower degrees of job satisfaction. Results of the European Working Conditions Survey 2010 (EWCS).
- Employers and trade unions are not built on equality premises and they lack behind in equality issues. Need for equality to get higher on the agenda of collective bargaining.
- The crisis can form an opportunity for raising the profile of equality as working women become key figures in the household.

Visit the Eurofound’s website at: <http://www.eurofound.europa.eu/>

## PwC Cyprus: Promoting more women in senior positions

### Highlights from the presentation of Philippos Soseilos, Partner PwC Cyprus

PwC Cyprus has been concentrating its efforts to raising the number of women in the top positions within the organisation which employs around 1000 employees, of which 52 per cent are women and 48 per cent are men.

This has proved a major challenge. During the last 10 years **notable progress has been achieved in increasing the number of women in the middle and senior management** positions (up 22 and 24 percentage points, respectively), **but the situation remains virtually static as regards the number of women who are partners or directors**. This is despite the making of 21 new partners in the last decade. Currently, only 7 per cent of partners and 14 per cent of directors in the organisation are women.

PwC Cyprus acknowledging the **insufficiency of provisions and structures that cater for the needs of diverse parts of the organisation and especially women**, has introduced more flexibility in working time. In addition, the generational challenge brings in an additional dimension and the need for even more flexibility in working patterns.

“**The challenge is to confront the bias in the system and to enable greater accountability as well as to enhance each person’s personal attributes and talent irrespective of gender**”

**Actions are focused on aspirational targets**, rather than quotas and form part of a wider diversity plan. This also includes “**succession schemes**”, so that when three persons are groomed to succeed a partner one must be from a diverse background.

A “Women development programme” is being implemented which involves trainers to provide **mentoring and advice to women** as to how to build networks, to progress in one’s career and to raise a number of relevant issues. Trainers also speak to the management about some of the concerns which are raised by women during the programme.

There is also a women’s committee. Members of the committee – predominately women – are trained in mentoring, issues of equality and relevant matters.

Promotion panels go through **bias awareness training** to understand the issues in relation to diversity and discrimination. There is also specific planning and use of **structured career development plans** to force the global leadership of the organisation to broaden the base of new recruits in the top positions.

PwC Cyprus understands that **each level of the organisation needs to do their part**. This refers primarily to the organisation’s leadership, human capital as a whole and women in particular.

## Highlights of the workshop discussions ... on occupational segregation

### Leader: Andreas Matsas, Cyprus Workers' Confederation (SEK)

- Despite its importance, occupational segregation as a subject is not very highly ranked on the agenda of social partners
- There is a lack of sufficient vocational training and a related defect in the system for guiding people choose their career
- Occupational segregation builds on stereotypes and forms part of the wider sex equality/discrimination issue
- There is lack of awareness and of cooperation/collaboration between the social partners themselves and between the social partners and other relevant authorities/stakeholders
- We need to involve more men in the issues of equality
- Different approaches as to solutions were evident in the workshop, partly as a result of differences in cultures. An example of this is the subject of quotas, for which views differed amongst delegates.

“ Inequalities at the workplace result in social inequalities ”

*Mary Koutselini-Ioannidou*

### Leader: Dr Eleni Stavrou Costea, Department of Public and Business Administration, University of Cyprus

- Everyone should take up their responsibility
- Segregation begins from a very early age
- Advertisements and publicity campaigns help!
- Businesses need to actively look for competent women
- In Belgium evidence suggests that, once quota systems are implemented, results are positive
- In Finland efforts concentrate on promoting a less macho culture and on encouraging more participation by men in household activities. This also applies to the office, for instance as to who makes the coffee or cleans up.
- It is very important to change the perceptions of clients too. A very relevant question in this regard is who does the client expect to see. All too often clients expect to be counselled by men. This needs to change.

### Leader: Anastasia Kynighou, Department of Public and Business Administration, University of Cyprus

- Stereotypes begin from a very early age; thus, education aiming to break stereotypes from a young age is crucial
- Stereotypes about the role of woman in society have not sufficiently changed
- Raising awareness is very important
- During a relevant campaign in Austria the slogan: "real men take parental leave!" was used to encourage men to take parental leave and more responsibilities at home
- Legislation should give incentives to employers
- Participants in the workshop seemed less keen on sanctions in relation to occupational segregation
- Transparency is important: we need to know who are the decision makers and policy makers

- Childcare facilities are the key to promoting equality
- In Denmark there is general acknowledgement that we cannot afford not to have childcare facilities; otherwise women cannot enter and remain in the labour market, to sustain the country's GDP and the employment rate
- The cost of equality policies and measures is evidently an important factor; however, the matter should be looked at from all perspectives, including the cost of no policies towards equality and of continuing discrimination
- There is a time lag in respect of return on investment in equality policies
- There were divergent views on the subject of compulsory quotas
- In Finland where quotas in public or state owned organisations have been introduced, they are backed by data indicating positive outcomes

## Closing remarks ...

At the end of the presentations of the workshops, Professor Dr Mary Koutselini Ioannidou, Holder of the UNESCO Chair in Gender Equality and Women's Empowerment, at the University of Cyprus made a number of final remarks on the issue. These included the following:

- Occupational segregation continues to exist at all levels and occupations. Vertical segregation mirrors society's prejudices. Similarly, horizontal segregation is based on outdated attitudes about the role of women.
- Yet, the traditional identification of the two kinds does not represent the whole picture; a third type is evident which has to do with occupational segregation as regards part-time work.
- There is a serious need for a multidimensional approach to the issue of gender inequality.
- The introduction of quotas is obviously a controversial issue. However, it is important to introduce them, while their introduction does not mean that women are favoured.

**“we cannot speak about progress, productivity and development without eliminating the danger of women's marginalisation”**

- A man's thought during the selection or assessment process (as members of panels) can be characterised as "homosexual"; whereas women's attitude as "heterosexual". This means that male candidates are favoured by both men and women members of selection panels.
- It is essential to integrate the economic context of the financial crisis into the discussion on occupational segregation.
- From a European perspective a large proportion of the EU employment deficit can partly be explained by both the low female employment rate and the associated issue of occupational segregation.
- Unfortunately, the Europe 2020 strategy, despite its proclamations to the opposite, in practice excludes women from participation in its implementation.

## CYPRUS: Training the educators

Within the framework of the project "Actions for reducing the gender pay gap", the Department of Labour Relations has commissioned an action plan to provide specialised training to 10,000 primary and secondary education teachers, as well as education and career counsellors. This ambitious action plan also includes information activities for parents, regarding their children's education and occupation choices.

### GENERAL OBJECTIVE

The overall objective of the action plan is to break stereotypes and combat occupational segregation which accounts for the greatest part of the pay gap that exists in the country where women are often confined to specific, mainly low-paid, occupations (horizontal segregation) as well as lower levels of hierarchy (vertical segregation). The aim should be done by training professional education and career counsellors, teachers of primary and secondary education and finally informing parents about breaking stereotypes.

### SPECIFIC OBJECTIVES

The specific objectives of the action plan comprise the following:

- Preparing a diagnostic study for the professional and/or educational choices of students in relation to gender;
- Preparing a manual for education and career counsellors;
- Training education and career counsellors and improving the efficiency of the services offered by them to school children;
- Preparing a guide for teachers at all levels of education for raising awareness and eliminating gender stereotypes in the educational process;
- Training and raising awareness of teachers of primary and secondary schools for encouraging students to seek employment according to their abilities and aspirations and to end the division between "female" and "male" occupations;
- Preparing a guide for informing and raising awareness of parents in eliminating gender stereotypes;
- Holding information seminars for parents in relation to eliminating stereotypes and occupational segregation and promoting equality and equal pay.

Implementation of the project will commence with the start of the academic year in 2013 and will last for two years.

## EU: Proposed directive on quotas for board members

On 14 November 2012 the European Commission proposed a Directive with the **aim of attaining a 40% objective of the under-represented sex in non-executive board-member positions in publicly listed companies, with the exception of small and medium enterprises**. Currently, boards are dominated by one gender: 85% of non-executive board members and 91.1% of executive board members are men, while women make up 15% and 8.9% respectively.

The **proposal is expected to apply to around 5 000 listed companies in the European Union**. It does not apply to small and medium-sized enterprises (companies with less than 250 employees and an annual worldwide turnover not exceeding 50 million EUR) or non-listed companies.

“This measure is there to swiftly bring about gender equality in Europe's corporate boardrooms. It will no longer be needed once progress in this area has been achieved”

*European Commission Vice-President Viviane Reding*

## MAIN ELEMENTS OF THE PROPOSAL

The proposed Directive sets a **minimum objective of 40% by 2020** for members of the under-represented sex **for non-executive members of the boards of publicly listed companies** in Europe, **or by 2018 for listed public undertakings**. The proposal also includes, as a complementary measure, a **“flexi quota”**: an obligation for listed companies to set themselves individual, self-regulatory targets regarding the representation of both sexes among executive directors to be met by 2020 (or 2018 in case of public undertakings). Companies will have to report annually on the progress made.

**Qualification and merit will remain the key criteria for a job on the board.** The directive establishes a minimum harmonisation of corporate governance requirements, **as appointment decisions will have to be based on objective, gender-neutral qualifications criteria**. Inbuilt safeguards will make sure that there is no unconditional, automatic promotion of the under-represented sex. In line with the European Court of Justice's case law on positive action, **preference shall be given to the equally qualified under-represented sex, unless an objective assessment taking into account all criteria specific to the individual candidates tilts the balance in favour of the candidate of the other sex.**

Member States that already have an effective system in place will be able to keep it provided it is equally efficient as the proposed system in attaining the objective of a presence of 40% of the under-represented sex among non-executive directors by 2020. **And Member States remain free to introduce measures that go beyond the proposed system.**

Member States will have to lay down **appropriate and dissuasive sanctions** for companies in breach of the Directive. **The Directive is a temporary measure and is set to expire in 2028.**

[From the European Commission press release IP/12/1205, 14 November 2012](#)

## JOB EVALUATION / JOB CLASSIFICATION

The undervaluation of women's work accounts for a great part of the gender pay gap. The fact that occupational segregation means that the two sexes engage in different occupations or activities prevents an automatic direct comparison of these jobs with the result that all too often women's work is valued less than that of men.

The terms 'job evaluation' and 'job classification' mean different things.

**Job, or work, evaluation** refers to a gender-neutral approach to job evaluation that compares the relative value of two jobs.

A **job classification system** refers to the structure of pay systems.

**Dr Jane Pillinger**, researcher and policy advisor, introduced this thematic session and also made some final remarks at the end of the presentations of the workshop discussions. Some of the highlights of Dr Pillinger's talks include the following:

- Increasingly, there is recognition of the need for more proactive approaches to equality to deal with the fundamental and underlying causes of the gender pay gap.

“ We have been classifying jobs for a long time; the challenge is how to perform job evaluation and arrive at job classification structures free of gender bias ”

- We are often dealing with very historically loaded assumptions about where people fit into the job classification scheme and how we value the work which is carried out. In particular, there is a historic gender bias in assessing women's work. Similarly, gender stereotypes impact on how we value women's work and skills.
- Women's skills are often regarded as "natural" female characteristics rather than acquired skills - e.g. the undervaluing of care work.
- It is very unlikely that we will see a general public duty or legislation across countries on job evaluation.
- Job evaluation gives us transparency and the opportunity to look in an objective and analytical way how we value jobs in terms of their content rather than in terms of the individual characteristics of the worker because the latter leads to subjective ideas.
- As in a lot of big organisations and in the public sector job evaluations have been carried out, trade unions can help take those examples and implement them on smaller scales and companies.
- Trade unions can also take up the results from job evaluation exercises and incorporate them into their pay bargaining to help mitigate the problem of low pay / low pensions.
- Evidence shows that where job evaluation schemes have been carried out, there is no doubt that collective bargaining has then helped to reduce pay inequalities.
- Making the business case to the employers is important: retaining the best talent and helping to regenerate the economy are two factors that must be constantly reminded to employers.

### Carrying out job evaluation free from gender bias

- **Pay** is determined by:
  - > scoring points for factor or sub-factors, or
  - > ranking jobs

- Job analysis enables the relative value of jobs to be established in an objective and analytical way, using four **key factors**:
  - > Skill
  - > Effort
  - > Responsibility
  - > Working conditions
- The analysis can take account of a wider range of factors or sub-factors
- Comparing factors is more likely to address gender bias, but it is important not to overlook women's "taken for granted" skills
- Job evaluation can be complex in large and diverse organisations
- It is important to have a clear job description/job content setting out the tasks, duties and responsibilities for each job being evaluated

Extract from Dr Jane Pillinger's presentation

## Checklist for social partners

- Have employers and trade unions jointly developed gender neutral criteria for job evaluation?
- Does the job evaluation tool minimise gender bias and take account of the breath of women's skills and factors that are overlooked?
- Has gender biased language been used to describe job descriptions and job factors?
- Is the full range of work carried out in the organisation captured?
- Are trade unions/employees involved in agreeing job descriptions and factors to be used in the job evaluation?
- Has a system been put in place to implement the outcomes of job evaluation?
- Do existing grades/pay scales in job classification systems properly reflect the value of women's work?
- Does the job classification system need to be reviewed so that grades/pay scales are gender neutral

Extract from Dr Jane Pillinger's presentation

“Evidence shows that where job evaluation exercises have been carried out, there is no doubt that collective bargaining has then helped to reduce pay inequalities”  
*Jane Pillinger*

## Checklist for collective agreements

- Is job evaluation included in workplace or sector wide pay agreements?
- Have collective agreements been 'equality proofed', e.g. identifying discriminatory clauses that make assumptions about the value of women's work?
- Have all aspects of pay been taken into account. E.g. bonuses, additional payments, non-monetary payments, criteria for performance related pay?
- Are there particular groups of workers e.g. part-time or temporary workers that experience pay discrimination?
- Do collective agreements include equality clauses to improve the pay of low paid workers in female dominated sectors or occupations?

- Are negotiators trained in gender equality?
- Are women represented in negotiating teams?

Extract from Dr Jane Pillinger's presentation

## The UK national health service job evaluation scheme

### Highlights from the presentation of Sue Hastings

#### INTRODUCTION

The NHS job evaluation scheme began in 1999 with the publication of a Green Paper titled “**Agenda for Change**” and forms what is believed to be **the world's largest job evaluation exercise**. After five and a half years of developing the scheme, it was implemented during 2004-2006, covering more than one million employees across the United Kingdom.

Prior to the “Agenda for Change” the UK had one of the largest rates of GPG across the EU – 14.6%. Even after the implementation of the scheme, the GPG continues to stand relatively high at 13%. One of the features which makes the exercise unique is its size and scale. Another feature is the diversity of the UK health service. There were about 700 different pay scales before the exercise.

#### AIMS

The main stated aim was **to modernise NHS pay structures in order to provide more efficient and effective services to patients**. An important subsidiary aim was to **avoid more equal pay claims by moving towards harmonised structures delivering equal pay for equal work**.

#### METHODOLOGY

A **partnership approach** was used to carry out the exercise. This was **fundamental to the success of the project**. All issues were resolved through problem solving techniques and eventual consensus.

A job evaluation sub-group (known as **Job Evaluation Working Party II or JEWP**) was set up to develop a job evaluation scheme to provide the foundations for the new pay structures. JEWP began its work with some examples of factors from other job evaluation schemes applied to health service jobs, a list of 200 commonly occurring NHS jobs culled from the different collective agreements to form a benchmark sample and a previously-developed equality checklist. Apart from that **the group started literally with a blank sheet of paper**. There was no predetermined outcome.

The **equality checklist** covered the design of the scheme, for example, ensuring that the factors were appropriate to all health service jobs; implementation issues, such as jobholder involvement, composition and training of evaluation panels; and various statistical checks to be undertaken to ensure the scheme was moving towards equal pay for work of equal value.

The **key feature of the development of the scheme was the amount of testing** (at each stage of its development), which was funded by the Department of Health and had inputs from all over the UK. **This reflects the commitment of stakeholders**. The scheme was piloted at a number of what were called EI (Early Implementer sites), health service organisations which volunteered for the purpose.

**The resulting Agenda for Change Job Evaluation Scheme has 16 factors**; this is large by comparison with many other schemes, but in practice it was easier to evaluate small rather than composite aspects of jobs. Also more factors allow for the system to demonstrate that it covers all health service jobs. **The scheme is very prescriptive**, with detailed guidance notes on interpretation. This is because it was **intended to achieve the same results across the UK health service**.

Full details of the scheme can be found at:

<http://www.nhsemployers.org/PayAndContracts/AgendaForChange/JobEvaluation/Pages/JobEvaluationHOMEPAGE.aspx>

#### IMPLEMENTATION

It was apparent at an early stage of the project that it was impossible to evaluate all NHS jobs. Two steps were taken to facilitate the process: first, to set up a **computerised administration system**. Job assessments were and are carried out by joint panels, but all the records are computerised.

The second step was to **start developing benchmark profiles** against which most jobs could be matched on the basis of job descriptions rather than requiring completion of an exhaustive Job Analysis Questionnaire. After some initial degree of reluctance, **NHS employees came to want their jobs to be matched to a profile rather than be evaluated from scratch**, perhaps because the former provide a higher degree of certainty.

**An additional benefit of matching to centrally evaluated profiles was an increase in consistency of outcome compared to evaluating all jobs at local level.** This advantage would apply in much smaller organisations than the UK NHS, especially those with similar jobs in multiple locations, for example, banks and retail chains. An organisation does not need more than say 250 employees for a central profiling system to be a worthwhile investment.

#### OUTCOMES - EQUALITY

The "Agenda for Change" might not have delivered 'equal pay for work of equal value' but it represented a significant step towards this goal.

“Gender pay gaps are primarily the product of the distribution of men and women across the organisational hierarchy, and only secondarily the result of pay discrimination which is what an exercise like Agenda for Change sought to address”

There were also significant pay increases for predominantly female job groups in the health service, which must have contributed to the decrease in the gender pay gap during 2004 to 2007. Also we know that there was some **impact on healthcare salaries in other parts of the public sector**, for example, further and higher education, the prison service and in the private healthcare sector.

#### OUTCOMES - THE LESSONS

The role of partnership and the importance of testing all aspects of any job evaluation system before applying across an organisation are two key lessons that the exercise brought to light. Another lesson is that even though the "Agenda for Change" was unique in terms of its size and scale, the principles and practices adopted, especially in relation to equality, can apply to a job evaluation exercise of any size.

**Yet the key lesson is to take all available opportunities in relation to equal pay, not just to identify pay discrimination issues, but to take action on them through whatever appears the most suitable tool in the circumstances.** The tool in the case of the UK NHS was a massive job evaluation scheme.

Sue's presentation and useful documents at [www.tripartiteconference-equalpay.com/presentations.htm](http://www.tripartiteconference-equalpay.com/presentations.htm)

## Highlights of the workshop discussions ... on job evaluation / job classification

### Leader: Barbara Collins, Government Equalities Office, United Kingdom

- The diversity of the group helped the debate
- There were calls for some degree of legislation; however views on the intensity of it
- Working in partnership is critical for the success of any project on job evaluation
- The undervaluing of female jobs is a main problem which requires more sophisticated responses
- Even in trade unions men can be territorial and prevent women from getting to some positions

### Leader: Dr Maria Michailidi, Dean of Faculty of Economics, University of Nicosia

- Counselling in private industry is important
- Honesty (about what is going on in the job) is crucial

- There is a need for logical, well-structured systems
- However, even within honest, well-structured systems there is a problem in that women occupy the lowest scales : occupational segregation is thus a persistent factor in the GPG
- In Malta they are trying to introduce systems of job evaluation in the private sector

### Leader: Jette Lykke Jensen, Danish Confederation of Trade Unions

- When embarking on discussing equal pay for work of equal value you very often end up talking about equal pay for equal work
- Statistics - and, relatedly, the lack of them – as well as secrecy are very important factors that can inhibit the effort to conduct proper job evaluations and provide transparent job classification structures
- Cyprus is starting on a big project to teach labour inspectors to make job evaluations
- That would never happen in a country like Denmark, because the social partners would consider this as an encroachment of their prerogatives at work

## BELGIUM: Reporting on the rates of pay

A new law passed by the Belgian Parliament in March 2012 obliges businesses employing more than 50 persons to report on the rates of pay of their male and female employees. The purpose of the law is to detect, monitor and ultimately reduce the gender pay gap in the country which already has one of the lowest rates of GPG in the European Union.

The new legislation introduces measures to monitor and address pay gaps at company, sectoral and inter-sectoral level as follows:

### AT COMPANY LEVEL

Employers must:

- Report the wages of male and female employees in the 'social balance sheet' that all Belgian companies are required to include in their annual accounts. This section gives details of the social impact of a business, such as employee movements and training programmes.
- Provide a biennial analysis of their pay structure, whose conclusions must be submitted to the company's works council and have to include the wages, social benefits, supplementary insurances and other fringe benefits, measured as full-time equivalents, and broken down by gender, blue/white-collar status, job level, seniority and level of qualification.

Employers may also appoint a mediator, who may be a union representative, within the company. The mediator, who will act independently, will be able to hear complaints from employees who consider themselves victims of pay discrimination and seek to find a solution without the need for recourse to the courts (whose jurisdiction remains of course unaffected).

### AT SECTORAL LEVEL

Sectoral Joint Committees, comprised of both union and employers' representatives, will have to develop specific measures, such as gender-neutral job function classifications.

These measures must then be submitted to the Federal Public Service for Employment, Labour and Social Dialogue, which will assess them against the "checklist for gender neutrality in job evaluation and classification" that has been developed by a federal public body, the Institute for Equality between Women and Men. These obligations seek to further the principle of equal pay to companies which employ fewer than 50 persons.

### AT INTER-SECTORAL LEVEL

- Obligation to include a section "wage gap" in the joint reports of the National Work Council (CNT, a tripartite inter-sectoral organisation that negotiates inter-sectoral agreements) and the Central Economic Council (CCE, is a tripartite inter-sectoral advice council) on the evolution of employment and labour costs. These reports are submitted twice a year.
- During the biennial bargaining on the Inter-sectoral Agreement (IPA) which includes measures on employment and the determining of the maximum margin for labour costs, social partners must now also negotiate on measures to make job classification systems gender neutral.

With thanks to Salimata Sissoko at the Ministry of Employment of Belgium

## SWEDEN: Pay survey and action plan for equal pay

Legislation in Sweden obliges employers to assess on a three-yearly basis the terms and conditions of employment relating to pay and the pay differences between male and female employees for work which is considered to be equal or of equal value, in order to determine whether these are directly or indirectly related to the sex of the worker. A pay equality plan follows this assessment with the objective of remedying any pay differentials which are attributable to gender.

The assessment must, in particular, refer to differences between:

- Men and women performing work considered as equal;
- Groups of employees in occupations in which the majority of employees are women;
- Groups of employees performing work regarded as of equal value in occupations in which women do not generally form the majority of employees.

**Employers must analyse the pay criteria used in their businesses as well as other terms and conditions of employment** in order to determine whether these are gender-neutral.

**Employers must also analyse any pay differentials between male and female employees who perform equal work** in order to determine whether these are objectively justified and have no connection with gender. **The analysis must explain the pay gap in its entirety;** possible justifications are not sufficient.

In like terms, **employers must analyse pay differentials between work mainly performed by women and work of equal value not performed by mainly women,** in order to determine whether these differentials are objectively justified and have no connection with gender. Work is regarded as of equal value if on an overall assessment of its nature and requirements (including skills, responsibility, effort and working conditions) it is deemed to be equal in value to the work it is compared to.

Every three years employers must draw up an **action plan for equal pay** in which they report the results of their survey and analysis. This plan must indicate any pay adjustments as well as further measures that have to be taken in order to achieve equal pay for work considered equal or of equal value. The plan must also contain a cost estimate and a time framework of no more than three years to achieve pay equality.

**Cooperation with workers' representatives is fundamental to the whole scheme.** Workers' representatives with whose organisations the employer has a collective agreement must be provided with the necessary information so that these organisations can cooperate in the survey and analysis of working conditions and pay differentials and in drawing up and implementing the action plan for equal pay.

## CYPRUS: Examining job classification structures

Cyprus legislation on equal pay adopted in 2002 gives officials of the Ministry of Labour and Social Insurance the power to conduct examinations on the job classification structures of every employer.

The purpose of the law is to detect and remedy unjustified pay differentials and to reduce the gender pay gap in the country which continues to have a high pay gap, despite a notable reduction over the past five years.

### CRITERIA FOR COMPARISON AND EVALUATION

The legislation is rather unique in the sense that it lays down specific criteria for comparison and evaluation, relevant to the specific occupational category or field of economic activity, examined. These include the following:

- the nature of duties
- the degree of responsibility
- the qualifications, skills and seniority
- the requirements relating to physical or mental qualifications
- the conditions of work
- the importance or frequency of differences in the workplace in relation to the total of work.

### COMPLAINTS

The above criteria are also used by labour inspectors when examining specific complaints by individuals who consider themselves victims of sex discrimination. Following such an examination, where a case is not settled by the inspector, it may be referred to a Committee for Investigation and Assessment of Work, which is appointed by the Minister of Labour and Social Insurance in consultation with employers' and workers' organisations. The Committee has the responsibility to investigate the case, taking into account the above criteria, and to prepare a report within three months to be submitted to the inspector. The labour inspector should attempt once more to settle the dispute and if they prove successful they should prepare the minutes of compromise. If the endeavour does not yield results, the dossier with all the relevant documents is kept for eventual use by a court of law if needed.

### CERTIFICATIONS

Implementing the project "Actions to reduce the gender pay gap between men and women" the Ministry of Labour and Social Insurance is introducing an equality certification scheme, whereby upon request, employers' practices will be evaluated using a set of criteria and, if found to be promoting gender equality, including the principle of equal pay, an equality certificate will be issued.

## ENFORCEMENT AND SANCTIONS

One of the most important issues concerning equal pay is the enforcement of legislation and, relatedly, the sanctions which are foreseen for instances of non-compliance with it. A pertinent issue concerns access to justice for the victims of pay discrimination.

Mr **Jean-François Neven**, Judge at the Labour Court of Brussels and visiting lecturer in the Catholique Université de Leuven-la-Neuve, gave an opening lecture elaborating on the principles governing sanctions and restoration of justice that have been developed by the European Court of Justice in its long jurisprudence in the area of sex equality.

Following this a panel debate took place. The debate was chaired by Mrs **Monica de Coninck**, Minister of Employment of Belgium with the participation of Mr **Josef de Witte**, President of the European Network of Equality Bodies, Mrs **Zetta M. Makri**, Secretary General of the General Secretariat for Gender Equality of Greece, Dr **Charlotte Camilleri**, Executive in EU and legal affairs of the Malta Employers Association, and Mr **Jean-François Neven**. Participants to the conference also had the opportunity to ask questions and make comments.

The discussion touched on a number of issues relevant to the main theme. Some of the points that were made include the following:

- The EP recommendations, in particular as regard definitions, equality bodies, transparency and sanctions are very important and must be implemented.

“The traditional model of enforcement has been to rely on an individual complaint/action, but new approaches are developing with an institutional character to claims regarding gender inequality”

*Monica de Coninck, Minister of Employment of Belgium*

- We need to address the lack of knowledge that affects the judiciary, trade unionists and other relevant players.
- Multiple discrimination is increasingly relevant to enforcement of legislation. In this respect clarification of this concept is needed.

“Trade unions have an important role to play, since in practice it is often rather difficult for an individual to instigate a lawsuit against their employer. Thus, trade unions can be the primary means for enforcing legislation”

*Josef de Witte, President of EQUINET*

- Many sanctions are rather simplistic, based as they are, on a simple “yes or no” rationale. The labour market is much more complex than that.
- In some Member States what is more important today in the effort to combat discrimination is the non-legal aspects.
- Remuneration is composed by different elements and in collective bargaining over pay the salary of executives does not form part of negotiated agreements. Also, many extra benefits are also not included in collective agreements. All this creates a problem for transparency.
- Individual contracts make transparency more difficult. Transparency is enhanced when terms and conditions are regulated through collective agreements.

“The limitation of the role of collective agreements through the measures imposed by the Troika entails the risk of creating more problems for transparency”

*Zetta M. Makri, General Secretariat for Gender Equality of Greece*

- Social dialogue should be a source of information. Anonymous information and statistical data are also important.

“Employers should not be against sanctions since these are enforced against bad employers and can ensure fair competition and a level-playing field”

*Danuta Barbara Wojdat, NSZZ “Solidarnosc”*

- We should not be afraid to “name and shame” employers who are found to discriminate against some of their employees.
- What should be considered as “dissuasive” is a rather difficult point. Often sanctions are limited to financial reparation proportional to the damage so that the employer is paying what they should have paid from the beginning. But is this dissuasive?

## Access to justice: Why such a limited number of court cases and why despite generally good legislation is there still such a high rate of gender pay gap?

- The ECJ generally gives judgements and good justifications for its decisions but the notions it advances make it sometimes very difficult to follow and understand.
- (National) judges themselves do not always have the right reflexes when it comes to discrimination, sometimes due to lack of experience with this area. Thus when faced with a case, a judge may sometimes err in applying basic principles - for instance on the burden of proof - to the detriment of the complainant.
- The fact that the State, rather than the EU, has the main competence as regards the definitions, determination of sanctions and procedural rules may, despite the guidelines, result in obstacles for accessing justice.
- Access to relevant information and transparency are crucial to accessing justice. These matters, however, are often problematic.

*This section is taken from the lecture of Judge Jean-François Neven*

## Sanctions and restoration of justice - governing principles

Three principles govern the matter of **sanctions**. These are also expressed in various legislative measures adopted by the European Union and concern the following:

1. Sanctions must be effective;
2. they must be proportional; and
3. they must be dissuasive

In like terms, **restoration of justice** for victims of pay discrimination should adhere to the following guidelines:

1. Reparation should adhere to the principle of levelling up, so that the discriminated party is aligned to the position of the favoured party (Case 286/85, Mac Dermott and Cotter);
2. There should be no upper limit on damages; rather, complete and comprehensive reparation of the perpetrated damage is required (case C-271/91, Marshall);
3. Where a Member State opts for a sanction forming part of the rules on civil liability, any infringement of the prohibition of discrimination suffices in itself to make the person guilty of it fully liable, and no regard may be had to the grounds of exemption envisaged by national law (case C-177/88, Dekker);
4. Procedural rules and remedies must be equivalent to those applicable to infringements of domestic law of a similar nature and importance and must not make the exercise of an equal pay/treatment claim excessively difficult (Case C-326/96, Levez);
5. Once a prima facie of discrimination is established, the burden of proof shifts to the employer who must justify the contested measure (Case C-109/88, Danfoss);
6. Member States should take measures to protect complainants from retaliatory treatment (Case C-185/97, Coote).

Directive 2006/54, the so-called **Recast Directive**, codifies most of those principles and also:

1. Extends the principle of protection from retaliation;
2. Grants organisations and associations with a legitimate interest in the compliance of the principle of equal treatment *locus standi* to engage either on behalf or in support of the complainant with his/her approval in judicial or administrative proceedings;
3. Provides for the designation of equality bodies to promote, analyse, monitor and support equal treatment; and
4. Obliges Member States to initiate dialogue with social partners and civil society on equality.
5. Provides that there must be judicial procedures that are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment, even after the relationship in which the discrimination is alleged to have occurred has ended.

This section is taken from the lecture of Judge Jean-François Neven

## The crucial importance of information and transparency

The reversal of the burden of proof, important as it might be, does not solve the entire problem. Let's take the example of indirect sex discrimination: even if there is a reversal of the burden of proof, you first need to establish that a worker of another sex is paid more. Hence, information on this matter is of fundamental importance and the same goes for transparency.

We are faced with a question of values: on the one hand, the complainant needs to have this vital information; on the other, the employer is entitled to keep this type of information confidential.

In 1988 the Commission adopted a proposal for a directive on the issue, proposing that the concerned party be entitled to all relevant information if that information is necessary for the party to defend its rights. The Economic and Social Council accepted the idea but never adopted the proposal.

Two decisions of the European Court of Justice show the limits to the right to information that the complainant has. Kelly and Meister decision (C 415/10): discrimination on professional training (refusal) and recruitment respectively.

### Case C-104/10, *Case Kelly v National University of Ireland*

Mr Kelly was a qualified teacher who applied for a vocational programme in the form of a Master's degree that was offered by the defendant educational institution. When he was informed that he was not selected for the course, he appealed the decision claiming that he was better qualified than the least-qualified female candidate to be offered a place. During the ensuing judicial proceedings he sought to obtain the scoring sheets of the candidates whose applications were successful.

### Case C 415/10, *Meister v Speech Design Carrier Systems GmbH*

Ms Meister was a Russian national who applied for the position of an "experienced software developer" with the defendant employer. She brought a claim for discrimination on the basis of sex; age and ethnic origin, requesting that the employer produce the file of the person who was ultimately employed as she was convinced she was more qualified.

In both cases the Court ruled that the Equal Treatment Directive does not give such a right (of disclosure) to persons who consider themselves victims of discrimination. However, and rather confusingly, it added that the fact that the employer refused to reveal such information could give right to a presumption of discrimination.

### Comment by Judge Neven:

“ In such cases it appears that there is no other solution but to ask for an investigation to be carried out, either by a judge or an equality body. This is a point which should be reflected upon ”

This section is based on the lecture of Judge Jean-Francois Neven

## MALTA: Enforcing legislation on equal pay

Malta has one of the lowest rates of gender pay gap, but it also has the lowest employment participation rate for women in the European Union, and the two may be correlated. 97% of the companies are small and micro businesses, employing 50% of the workforce. Collective agreements do not generally cover sectors; individual contracts prevail.

In 1994 the principle of equal pay for work of equal value was inserted into the Constitution. In 2002 the Employment and Industrial Relations Act extended this principle across the board to include same-sex comparisons.

Whoever breaches the provisions of the Act may be liable to criminal prosecution, though to-date no cases involving criminal proceedings for breach of the principle of equal pay have been reported.

A person who considers themselves victimised on the basis of pay discrimination can go directly to the Industrial Tribunal, or they can apply to the Department of Industrial and Employment Relations which, following an initial investigation, can refer the matter to the police which can then prosecute the employer.

In cooperation with the European Social Fund, the Maltese government has also been implementing a co-financed project called "Unlocking the female potential". Employers may submit an application to the National Commission for the Promotion for Equality which will then examine the procedures that exist in the company and issue a certification in the form of an "equality mark". The number of applications has been overwhelming indicating perhaps that in Malta this method is preferable than a system based on sanctions to convince employers to have equality plans in their companies.

With thanks to Dr Charlotte Camilleri at the Malta Employers Association

## UK: Employment tribunals to impose equal pay audits

Recently proposed legislation seeks to give employment tribunals the power to impose a mandatory equal pay audit for the employers who are found to have breached legislation on equal pay. The proposal is part of a wider attempt by the current Government to combat the gender pay gap and promote equal pay in the country which, despite a long tradition of anti-discriminatory measures and a rich body of case law, still has a rate of GPG which is above the EU average.

The proposal was set out in the **Modern Workplaces Consultation** in May 2011 - <http://www.bis.gov.uk/Consultations/modern-workplaces>. The Government response to the consultation was published in June 2012. It set out the commitment to proceed with the proposal, subject to further consultation on the details of equal pay audit orders.

The government response and related documents are available at:

<http://www.homeoffice.gov.uk/publications/equalities/womens-equality/modern-workplaces-consultation/>.

To proceed with the proposal, the Government has recently taken a power in the Enterprise and Regulatory Reform (ERR) Bill that would enable Ministers to make future Regulations which will give **employment tribunals the power to impose an equal pay audit in any case where there has been a breach of equal pay law**. The ERR Bill has been debated in the House of Commons and is now before the House of Lords.

Work is currently underway to develop a consultation paper to seek views on the specific details of equal pay audit requirements. Issues to be considered will include:

- the content of future equal pay audit orders;
- the powers and duties of a tribunal for deciding whether an order has been complied with;
- the publication and disclosure requirements to be adhered to by employers;
- the particular circumstances in which an equal pay audit will not be ordered; and
- the penalties for non-compliance.

The consultation is likely to be published in late spring 2013.

With thanks to Barbara Collins and Evelyne Doh at the Government Equalities Office, UK

## SOCIAL DIALOGUE AND EQUAL PAY

The importance of social dialogue for the promotion of equal pay cannot be emphasised enough. Research consistently makes a link between social dialogue and better results in terms of equality. Nevertheless, some weaknesses should not be brushed aside. In particular, one should note the insufficient participation of women in the decision making bodies of trade unions and employers' associations. Moreover, it is a fact that pay equality does not feature as prominently as it should be on the agenda of pay negotiations. Enhancement of social dialogue with more emphasis on the issues of representativity and bargaining equality appear fundamental to the effort to eliminate the gender pay gap.<sup>3</sup>

Introducing the thematic session on social dialogue and equal pay, **Adrienne Cruz**, Gender Specialist in the ILO Bureau for Gender Equality, elaborated on a number of considerations on the role of social dialogue in tackling the gender pay gap in the European context, referring as well to some of its weaknesses and finally to some thoughts for the way forward in these times of crisis. Some of the highlights of her presentation include the following points:

- Social dialogue refers to all types of negotiation, consultations and information-sharing among representatives of government, employers and workers on issues of common interest relating to economic and social policy. It can be bipartite or tripartite.
- Collective bargaining leads to stable wage-setting and lower wage inequalities. In turn, this leads to lower gender pay gap and greater income equality.
- Europe is often sided as proof that social dialogue leads to lower pay gaps and an example of good practice. Compared to 2000, by 2007 the GPG was reduced in all but four of the EU-27 economies.

“Estimates suggest that a 1% increase in “coverage” of collective agreements reduces the GPG by 0.16%, which is a significant change. This can happen even in the absence of centralised collective bargaining”

- Social dialogue matters as a promoter of collective bargaining agreements, yet what is more important is the percentage coverage of these agreements. For instance, Belgium with 96% rate of coverage has a rate of GPG which is 7% below the average for the EU.
- Contrast this to legislation which does not necessarily work. Examples of this relate to France and Italy, with lower rates of coverage, which have been struggling to reduce the GPG despite the existence of a significant body of legislation.
- Women are underrepresented in social dialogue at all levels.
- We need a better understanding of the cost of the gender pay gap.

“Somebody somewhere is making rents from women”

- Rents are only possible in a monopsonistic structure. A monopsony implies suboptimal labour market outcomes.
- A big recent study by the ILO on the effects of austerity measures shows a negative impact on care services for the elderly and child care and on fertility rates. European countries in general are not replacing their populations and this entails a huge cost on businesses.
- We need more data and tracking on sex desegregated data, the cost of GPG and to evaluate the austerity measures on the GPG.
- There is a need for more effective sanctions in cases of non-compliance with legislation.

<sup>3</sup>Cf. L. Briskin and A. Miller, Promoting gender equality through social dialogue: Global trends and persistent obstacles, Working Paper 34, Industrial and Employment Relations Department (DIALOGUE) ILO, December 2011.

- Employers need information based on sound empirical analysis on their firms and incentives.
- We need to upgrade women's skills and to reduce the gap before entering the labour market.

TIP: A wealth of information can be found on the ILO's website, in particular its TRAVAIL (Conditions of Work and Employment Branch: <http://www.ilo.org/travail/lang-en/index.htm>) and GENDER (Bureau for Gender Equality: <http://www.ilo.org/gender/lang-en/index.htm>) sites.



## Highlights of the workshop discussions ... on social dialogue and equal pay

### Leader: Michalis Antoniou, Cyprus Industrialists and Employers Federation

- Short term targets can be useful in advancing the long term aim of eliminating the GPG
- There is a room for legislation, particularly because of differences in cultures and traditions; yet, social dialogue remains the preferred means of furthering equality objectives
- Bargaining on pay should be confined to the social partners. On the other hand, formulating policies on pay - to include equality objectives - should extend to civil society

### Leader: Marina Koukou, Pancyprian Federation of Workers

- The conference is taking place at a time where social dialogue is questioned across many Member States
- Social dialogue is very important in the effort to address pay discrimination but it is not enough; there is a need for support from the government
- It is important to look at the level of participation and the role of women in trade union decision-making bodies
- Representatives from the countries which have resorted to the rescue mechanism have grave concerns about the prominence of equality at the age of austerity

## Leader: Dr Savvas Katsikides, Professor of Sociology, University of Cyprus

- There is an increased understanding of the link between participation of women in trade union decision-making organs and gender equality
- Participants in the workshop expressed divided views on the matter of quotas
- It is, unfortunately, a fact that not all stakeholders have a genuine interest in promoting social dialogue, even though they participate in the process
- Better reporting is important

### Social dialogue can work ... but some weaknesses cannot be ignored

In her presentation, entitled "A road to gender equality in working life?", **Dr Maria Hemström Hemmingsson** talked about the characteristics of the Swedish labour market, concentrating on the gender pay gap which currently stands at 15 per cent, and rises to 25 per cent if part time workers are taken into account. According to Dr Hemström Hemmingsson, some of the positive factors which contribute to the comparatively very high employment rate of women in Sweden are not attributable to social dialogue per se. Rather, they originate in **labour market reforms in the 1970s** which resulted in a **generous parental leave system, inexpensive child care** and a system of **separate taxation**. These three factors form a strong basis for the good achievements in terms of **participation of women in employment**, which is an **indicator of gender equality**. At the same time, however, **the Swedish labour market is very segregated**. In particular, men dominate the industry and construction, whereas women occupy mainly jobs in the public sector, such as in education, health and care - all of which are typically less well paid than occupations which are dominated by men.

The system of wage negotiation - which falls under the remit of the social partners - has as an unintended consequence the perpetuation of the gender pay gap. The system, which is the result of a consensus between the social partners formalised in a Treaty in 1997, provides that **wage increases should not exceed productivity increases**. The **benchmark for the entire economy is set by the export-oriented (and male dominated) industry** and related occupations, in order to enable the country to remain competitive in the international scene. This method may have had a beneficial impact on the country's ability to remain competitive; but it has adverse consequences for the effort to reduce the gender pay gap. This is because **every rate increase of wages across the board naturally results to a widening of the income disparities in absolute numbers between the highest and lowest paid workers, in other words between men and women**.

For instance, on the basis of a 2.5% increase in wages across the board, a construction worker - typically male - who previously earned the equivalent of 3000 euro a month will now earn 3075 euro, that is, a monthly net difference of 75 euros. A care worker, typically female, previously earning the equivalent of 2000 euro a month, will see her salary increase by only 50 euro. There is consequently a resulting widening of income disparity of 25 euro each month, making up an annual increase in income disparity of 300 euro.

According to Dr Hemström Hemmingsson social dialogue is not to be blamed for this situation; however, the issue must be reflected upon with a view to finding solutions which can move the effort to reduce the gender pay gap forward. Two possible solutions were suggested. First, that **trade unions in male-dominated export oriented occupations accept higher increases for female-dominated occupations**. However, this has proved very hard and it was pointed out that social dialogue is not only a "game" between employers and employees, but also between different trade unions and that in this respect there is much to be improved. A second way to address the issue is for the public to agree to a larger share of country's GDP for the public sector which is female dominated. Evidently, however, in these difficult times such a prospect is met with difficulties. Consequently, in Sweden at least, in the road to gender equality other things currently matter more.

## Income transparency reports in AUSTRIA

### Highlights from the presentation of Dr Christine Aumayr-Pintar

#### THE BACKGROUND

Austria has one of the largest rates of GPG across Europe with high intersectoral wage differentials and high occupational and sectoral gender segregation.

The country has a very high level of coverage of collective agreements but still the GPG is high. This is because the actual rate of pay above the minimum rates agreed collectively is negotiated at the individual level.

People do not like to talk in public about their wages. Thus there is a problem of secrecy and lack of transparency which impacts negatively on the effort to reduce the gender pay gap.

#### NATIONAL ACTION PLAN "GENDER EQUALITY IN THE LABOUR MARKET"

This plan was presented by the Minister of Women and Civil Service for the period 2008-2013 and aims to improve the position of women in the labour market, to reduce gender-specific differences in employment and to make progress on the path to true equality.

Extensive consultation was carried out with the social partners in 2009; other stakeholders were also involved. At the end of this process, the Government suggested 55 measures to reduce pay inequalities and indicated who would be responsible for each action.

In May 2010 the social partners agreed on supporting 16 selected measures which directly or indirectly influence the GPG.

#### IMPROVING TRANSPARENCY IN PAY

Three of the 16 agreed measures relate to the objective of improving transparency in pay. More specifically these concern the following:

1. On-line pay calculator: The introduction of this calculator enables men and women to compare their own earnings with the sectoral or regional average.
2. Pay transparency in job announcements: A law has made it compulsory for employers in the private sector to state how much they would pay for an advertised vacancy. Employers have to refer at least to the level of pay as per collective agreement applicable and potentially, if and ideally also how much they'd be willing to pay on top. A first survey conducted by the Chamber of Labour has shown that a large degree of compliance - 90% and above – even with only moderate fines being in place.
3. Income transparency reports: These have been introduced since 2011 for companies with more than 1000 employees and since 2012 for companies with at least 500 employees. From 2014 they will also apply to companies with 150 employees and more.

#### INCOME TRANSPARENCY REPORTS

Every employer coming under the scope of the regulation must prepare an income transparency report every two years. These reports must state for men and women separately the average or the median pay by occupational category (as per collective agreement) and potentially also by years of service. The reports should be made available to the works council representative or, if a works council does not exist, to all employees. Reports should be broken down by gender and ideally by years of service too. They cannot be communicated to the media in order to ensure confidentiality, but they may be used in a court of law during legal proceedings over a pay discrimination claim.

#### ACTIONS BY THE SOCIAL PARTNERS

The main employers' organisations (Federal Chamber of Commerce and the Federal Council of Industry, WKO and IV) have issued guidelines for companies on how to make the reports. They have also taken some other initiatives focusing on occupational choice.

Employee organisations have also issued guidelines for employee representatives and held training seminars (some of them jointly with the Ministry), as well as prepared a checklist for analysis of the reports, and guidelines for negotiators of collective agreements.

### EXPERIENCES WITH FIRST REPORTS - PRELIMINARY FINDINGS

Employers' organisations have reported that they did not observe any major instances of pay discrimination. Observed wage differences are reportedly mainly due to the use of shift work, night-work and field work; differences in occupations, the greater use of part-time work by women and compensation of overtime use. Regarding the latter, employers state that while men usually opt for overtime payments, women opt for extra time-off.

Employers do report some additional administrative burden as a result of the introduction of the reporting obligations, but not to a large extent. However, they do warn that the obligations may have a disproportional burden on smaller employers who will soon be covered by the process.

Employee organisations state that no extensive feedback has been received as yet from employee representatives at company level, though discrimination has been noted in studying some reports. Employees' representatives appear to intend to use the reports mainly as instruments for sensitising on the issue of pay gaps and for further negotiations. At the same time, as wage differences are observed between different groups of employees there is a fear of eventual unrest amongst employees. Some evidence suggest also that employees' representatives may not be too inclined to focus too much on the topic of pay discrimination for fear of losing negotiating power elsewhere.

The process appears to be working fairly well because it has been agreed upon by the social partners in a bargaining process. Yet, as it tries to break with a long-held culture of secrecy its eventual results in combating the gender pay gap are as yet difficult to predict.

## Decentralised wage formation in Sweden - A positive impact on pay equality?

Developments over wage-setting in Sweden over the last two decades have meant that the country has moved from a strongly egalitarian, centralised system to one in which **wages are set locally**. Industry-level agreements continue to be negotiated but, increasingly, these merely set **general guidelines** to be followed by the parties at their negotiations at the local level. In certain cases they act as a **fall-back mechanism** in case of failure to reach agreement at the local level. Having said this, **trade union density remains very high, at about 70% and collective agreement coverage approaches 90%**.

The **pay review model** is increasingly used in wage formation. The model provides that the individual and the manager should meet regularly to discuss wages and employers must speak with workers **before** they set wages. The use of the pay review model is explicitly provided in some industry-level agreements. **Unions thus have a role in developing the framework as well as in its implementation, through training and advice to their members before the pay review talks**. At the same time, managers are given greater powers to determine wages which are used as incentives for increased productivity and performance. **The system can be characterised as an institutionalised form of decentralised wage formation** (1). It should be clarified that a pay review does not necessarily mean pay negotiation. Direct individual bargaining between an employee and the manager on wages can take place outside the framework of a pay review model; in such cases unions' control is very limited.

Research into the operation of the pay review model and of individual bargaining over wages between employees in the private, state and municipality sectors who are affiliates to SACO, the **Swedish Confederation of Professional Associations** (covering 22 unions with 630,000 members who are academics or graduate professionals with university or college degrees), on the one hand, and managers who may or may not have the power to set wages, on the other, suggests that there may be a premium for the worker from this decentralised form of wage setting particularly when the manager has the power to set wages (2). In the case of women employed by the State in particular, the difference can be quite substantial. A further interesting finding is the fact that, **while in the case of pay review it appears that the main beneficiaries are employees in lower-wage categories**, especially in the private and state sectors, in the case of individual wage bargaining the main beneficiaries are employees in the higher-wage categories, in particular in the municipality sector (3). **A tentative conclusion is that this institutionalised form of decentralised wage formation can be beneficial for lower-wage earners, in their majority women**, who are employed by the state or in low-paid private occupations, and thus it can be useful to the effort to reduce the gender pay gap.

(1), (2), (3) L. Granqvist and H. Regné, 'Decentralized Wage Formation in Sweden' 46 (2008) *British Journal of Industrial Relations* 500-520

## FRANCE: Recent developments

France is a country with a gender pay gap of about 16 per cent, just below the EU average. For a number of years it has been attempting to reduce the gender pay gap through a mix of actions, some of which are legislative. In 2001 a law, termed *loi Génisson*, was adopted (named after Catherine Génisson who was the rapporteur of a report on equality between men and women in professional life that led to the adoption of the law). It provided for the obligatory inclusion of equality considerations as regards remuneration, training and the organisation of work in the annual negotiations between the social partners in each enterprise, on the basis of a report that must be prepared by the employer to this effect. In like terms, sectoral level bargaining must also take into account equality matters on a three-yearly basis.

“Some of the weaknesses of the *loi Génisson* related to the enforcement of sanctions since these were not well defined in the law. Mere intention is not enough...”

*Lawrence Laigo, Confédération Général Démocratique du Travail*

Since 2001 four new laws have rendered the original act rather complicated as well as somewhat obsolete. In 2006 a new law was adopted inserting an obligation on employers and workers' representatives to negotiate how to reduce the gender pay gap with a view to achieving a substantial reduction by 2010. The targets were not met however. In 2011 a new law was enacted which provides as a sanction the equivalent of one per cent of the total amount given as salaries for all of the employees working in an organisation if this organisation does not have an equality plan.

Currently a range of actions are being implemented or planned. Some of these include the following:

- Use of gender mainstreaming across the board in the public sector and more broadly; this includes the current negotiations on the future of employment relations.
- Involvement of several government departments and ministries in the effort to break stereotypes and to reduce the GPG in the public sector, for example the Ministry of Defence.
- Addressing the gender pay gap at regional level.
- Targeting specific professions, such as that of the real estate.
- Bigger companies to provide support to smaller companies to help them address the gender pay gap and break stereotypes. There is currently discussion of an agreement on identifying best practices in big companies and then disseminate these to subcontractors and networks of associated smaller companies across France.
- Addressing the issue of representativity within the social partners operating in companies.
- Debates on the development of businesses to make a link with the issue of work-life balance.

This section is based on the discussion between Ms Jacqueline Buysse, Member of the Women-Men Equality Committee of Medef and Head of the WE Network of Areva ; Ms Laurence Laigo, National Secretary of the Confédération française démocratique du travail (CFDT) and Ms Nathalie Tournyol du Clos, Head of Service of the rights of women and of equality between men and women.

## PAY EQUALITY IN TIMES OF CRISIS: THE WAY FORWARD OR CHIMERA?

"Is pay equality in times of crisis the way forward or a chimera?". This was the theme of the final panel discussion that was moderated by Mr **Andreas Mylonas**, Director of the Department of Labour Relations and included Ms **Adrienne Cruz**, Gender Specialist of the ILO Bureau for Gender Equality, Ms **Anu Sajavaara**, Chair of the Equal Opportunities Network of BusinessEurope, Ms **Claudia Menne**, Confederal Secretary of ETUC, Ms **Helen Hoffmann**, Adviser for Social Affairs, UEAPME, and Mr **Mahtab Khan**, Associate of the CEEP UK.

The debate considered such issues as the role of gender equality in the current environment; the role of EU institutions and of the European social partners; whether more legislation is necessary; the role of quotas and the representativity of the social partners.

The discussion showed a consensus on the fact that pay equality should not be seen as a luxury but rather as an essential element to advancing competitiveness and employment growth. Adrienne Cruz remarked that **wherever there is a crisis there is also an opportunity** and Mahtab Khan added that because something is challenging it does not mean it should not be addressed. Rather, he said, it is exactly in these difficult times that our energy should be focused on achieving the targets set in relation to gender equality. Anu Sajavaara emphasised that **we must not look at gender equality as an isolated issue but should embed it in all our policies**.

At the same time there was acknowledgement of the big differences that exist across Member States both as regards provisions in relation to such things as child care, and on the operation of social dialogue at national level. It was noted that, when considering agreements at the EU level, the **European social partners need to determine common denominators and do a balancing act**. Yet, there was common agreement on the need to keep equality issues high on the agenda of social dialogue and for work on this matter to continue. As Claudia Menne noted, "**European social partners have the right and the responsibility to do more regarding equality issues**".

There was a lesser degree of consensus on the controversial issue of quotas. While the need to promote more women in senior position was shared by all, not all participants thought that quotas are the right way to go about it. Mahtab Khan commented that quotas might be necessary if it would take another 100 years for the situation to change, but if there are alternative ways to progress with this subject then they should be given preference. Anu Sajavaara remarked that **we have to make leadership roles more attractive for women and to provide the essential supporting structures** - by improving services for child care, adapting working times etc - to enable women to rise to the top positions, rather than approaching the matter on the basis of quotas. Adrienne Cruz expressed the view that such measures are not the goal but a means to address historical imbalances and are of a temporary nature. She noted that regardless of the view one takes on them, quotas do force certain conversations which can further the objective of equality.

Participants agreed that legislation at the EU level seems quite adequate and that the big challenge is to implement it correctly. Helen Hoffmann added that **we now need to look beyond legislation, into practical measures which can promote equality at the workplace**. Claudia Menne agreed with the need to ensure compliance and remarked that some Member States have not yet transposed the provisions of the new Parental Leave Directive. Referring to the situation across the globe, Adrienne Cruz said that 173 countries have basic provisions on such things as maternity leave, **but effective implementation in general remains a challenge**.

On the representativity of the social partners it was stated that at the European level a lot of work has been done in recent years. Claudia Menne referred to the developments that have taken pace in ETUC, while Helen Hoffman referred to the fact that UEAPME now has a female president. There was agreement that it is difficult to impose any particular changes at national and local levels. The fact that in many Member States involvement with trade unions is done on a purely voluntary basis was mentioned as a factor which, in practice, results in more men being able to participate than women.

Closing the discussion, Andreas Mylonas noted that each one of us is asked to contribute to the effort to promote equality, adding that **Europe must remain faithful to its values and principles**, in particular of solidarity and equality. He ended by stating that reducing the gender pay gap will be the key to the course of the European economy in the coming years.

## SOME CONCLUSIONS

The compilation of the following conclusions builds on the workings of the conference seeking to distil some of the main issues that stemmed from the discussions and presentations.

### 1. The factors giving rise to the gender pay gap are many and multifaceted.

The first and perhaps most evident conclusion relates to the multiplicity of factors which create and sustain the gender pay gap. From the stereotypes about the role of the two genders in society and at work, to working time, the availability of child care facilities, educational qualifications, to the existence of sanctions and of effective monitoring mechanisms, it is obvious that no single factor can be pointed out as the predominant one. It follows that policies and measures targeting the gender pay gap should also be varied and combine a mix of responses but that does not mean that a coordinated synergistic policy framework is not possible. On the contrary, this is both possible and necessary. It may be said that today we have a more sophisticated understanding of the causes of the gender pay gap. In this regard, our responses can also be more sophisticated and efficient.

### 2. Current developments in the labour market and elsewhere add new risks for an increase of the gender pay gap.

There can be no doubt that the on-going economic crisis, together with the accompanying austerity measures that are imposed, has a negative impact on the effort to eliminate the gender pay gap and promote equality. It might be the case that the reduction of the general level of wages, and its disproportional effect on men's wages in certain cases, has brought about a slight decrease of the gender pay gap in some instances, but this is obviously not the right way of reducing the gender pay gap but an unintended incidental consequence of a particularly negative development. Rather, cuts in public spending in a range of matters including child care, care for the elderly, lifelong education programmes, and related downward pressures on minimum wages, are bound to have adverse repercussions on the effort to reduce the gender pay gap. At the same time, wider developments, like the individualisation of employment relations, may pose new risks by making comparisons harder to make and by reducing transparency.

### 3. At the same time new measures and processes for tackling the gender pay gap are conceived and adopted across Member States and enterprises both in the public and private domains.

An array of new measures is being conceived both by governments, social partners and enterprises with a view to tackling the causes of pay inequality in particular and gender inequality more generally. Equal pay audits, equality mediators in private companies, ombudsmen for equality, accreditation bodies for equality, adaptation of wage bargaining systems, career counselling, advertisements and campaigning are just some of the measures which are being adopted across Europe and were referred to in the conference. It is also nowadays the case that the private sector, in particular bigger companies, can be a leader in the adoption of policies and practices which can make a difference in eliminating the gender pay gap. This is a very welcome development as, traditionally, equality initiatives were concentrated on the public sector, excluding a great number of workers from their scope.

### 4. All stakeholders must work together to eliminate the gender pay gap.

It follows from the above that everyone must contribute to the effort to eliminate the gender pay gap. Governments at all levels, social partners, educators, activists, jurists - everyone has a role to play. It was rightly noted in the conference that equality will not be brought about by women only. Men must take up their responsibilities - particularly when it comes to home responsibilities - and in this regard a lot of work still needs to be done. In a similar vein, more focus should be placed on actors-factors who can influence the area of gender equality. For instance, it was pointed out that *clients* are an important factor in this regard. A client can be a human being who needs to change their perception as to who they want to see and do business with; it can also be a big company which can influence its trading partners to adopt equality plans if it is itself a leader in this respect.

## **5. Examples of best practices can be found in a large number of cases and their dissemination is particularly useful for tackling the gender pay gap.**

The conference pointed to a number of best practices and no doubt many more are found across the private and public sectors throughout Europe. A first thing to note in this regard is the importance of funding of projects setting out best practices, particularly for smaller companies. This does not mean that equality should be seen as a cost; on the contrary it should be seen as an investment - towards securing the best talent, towards achieving fairness in the enterprise and thus a constructive climate of industrial relations, towards avoiding costly litigation, to name but a few benefits that equality yields for employers. A second important aspect concerns the need to disseminate best practices. This conference and similar events form a means of achieving this objective and the present publication seeks to add to the growing body of publications by numerous sources, including organisations such as the European Union and the ILO, joint publications by social partners at the EU level and others. Developments across Member States whereby bigger companies seek to disseminate their good practices to smaller companies with which they trade are particularly encouraging.

## **6. Occupational segregation remains one of the hardest aspects to tackle.**

This is despite the fact that occupational segregation accounts for the greater part of the pay gap. It seems to be the case that, as decisions on selecting a career path appear formally an individual's own choice, legislative and other measures influencing this choice have a limited role to play. Yet, it is precisely the case that "women entering the labour market have already adapted their choice". It follows that the root factors influencing these decisions must be targeted to a more adequate degree than has been so far. Incidentally, occupational segregation depicts, perhaps more than any other theme that was discussed in the conference, the limitations of legislation as an instrument for changing attitudes. In this respect the role of education in changing stereotypes cannot be overemphasised. Initiatives regarding the imposition of quotas, controversial as they might be, do hold the potential to accelerate the effort to promote more women in senior positions, but they cannot address the problem of horizontal occupational segregation.

## **7. Transparency is crucial to the effort to reduce the gender pay gap.**

Whether in the context of identifying proper comparators in the course of legal proceedings; or in the context of a pay audit or reporting on job classification structures, transparency is fundamental to the effort to advance pay equality. At the same time, it remains one of the most difficult aspects to tackle, clouded as it is in legal obstacles or cultural traditions. What is more, the reported weakening of the role of collective agreements by the measures which are imposed by the Troika in the countries which have acceded to the rescue mechanism bears new risks for transparency due to the individualisation of contractual arrangements. All these factors hold back progress and diminish accountability too. On a more positive note, new initiatives across Member States on compulsory reporting hold the potential to address this problem, at least to some extent. Voluntary schemes such as the accreditation of employers who submit their pay structures - and company practices - to examination by relevant bodies also contribute to greater transparency. The matter of course does not solely pertain to employers, but touches on the willingness of workers too to be transparent about their pay. In this regard, a cultural shift is required but progress is slow.

## **8. Compliance with, and enforcement of, relevant legislation remains a challenge.**

While the need for new legislation on equality may be a mood point, consensus exists across all sides that compliance with existing legislation remains a challenge. In this respect everybody must take up their responsibilities. Instances of wrongful or no implementation of EU norms are still observed. At national level employers' degree of compliance must be substantially improved. Obstacles with accessing justice add to this unsatisfactory situation. Principles such as the reversal of the burden of proof go some way towards addressing some of the problems. Provisions in the Recast Directive on the powers of equality bodies and on granting *locus standi* to trade unions and other interested parties must be applauded. All in all, a lot of more effort must be put towards ensuring proper compliance with the legislation and towards enabling better access to justice and adequate compensation for victims of discrimination as well as dissuasive sanctions for those who breach the principle of equal pay.

## **9. The lack of adequate participation of women in trade union and employers' bodies hampers the effort to tackle the gender pay gap.**

One of the more disappointing issues that came up during the debate on pay equality is the fact that the issue could feature more prominently on the agenda of the social partners if more women participated at the decision making bodies of the respective organisations. It is not, it appears, that men do not want to promote pay equality; it is rather that in male dominated trade union and employer bodies the issue of pay equality is not considered a priority, perhaps as a result of an insufficient appreciation of the degree of the problem and the reasons which sustain the gender pay gap. Developments occurring at the level of the European social partners give room for optimism, with changes in the working rules of some organisations and the election of women as presidents or secretaries general. Admittedly progress at national level remains a challenge. It was pointed out that the fact that in many Member States involvement with trade unions is completely on a voluntary basis has as an unintended consequence the imbalanced representation of men and women, for reasons which should be obvious.

## **10. Social dialogue is vital to the effort to eliminate the gender pay gap but its role in this respect can and should be strengthened.**

There can be no doubt that social dialogue ultimately remains the most appropriate means to regulate the employment relationship in general and pay in particular. Social partners as the actors most intimately involved with the world of work have the primary responsibility to ensure that workers are paid according to their skills and abilities and not according to their gender. Empirical research consistently shows that negotiated solutions continue to provide the best guarantee for effective implementation and improve the sense of ownership which is crucial to the willingness to engage with the process. Yet, as some of the discussions in the conference have shown, social dialogue has not always worked towards the realisation of the principle of equal pay. Whether as a result of the insufficient degree of representation of women in decision making bodies, or as unintended consequence of wage setting structures, pay equality has not always advanced sufficiently through social dialogue. This can and should change. The participation of so many trade union, employer and government delegates to the conference is surely a measure of the degree of commitment to overcoming weaknesses in the social dialogue process and to gearing it towards achieving true equality for all.

**ANNEX:****European Parliament resolution of 24 May 2012 with recommendations to the Commission on the application of the principle of equal pay for male and female workers for equal work or work of equal value (2011/2285(INI)) - Annex: Detailed recommendations as to the content of the proposal requested.****Recommendation 1: DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

**3.1.** The concept of the value of work must be based on qualifications, interpersonal skills and responsibility emphasising quality of work, with the aim of promoting equal opportunities between women and men. This concept should not be marked by a stereotyped approach unfavourable to women, for example putting the emphasis on physical strength rather than on

interpersonal skills and has to ensure that work involving responsibility for human beings is not considered of lower value than those with responsibility for material or financial resources. Women must therefore be provided with information, assistance and/or training in wage negotiations, job classification and pay-scaling. It must be possible for sectors and companies to be asked to examine whether their job classification systems reflect the gender dimension in the required manner, and to make the necessary corrections.

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

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

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

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

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

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

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

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

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

The social partners should be empowered to put equal pay issues on the agenda, not only within their own sectors, but also to opt for an intersectoral balance.<sup>4</sup>

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

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

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

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

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

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

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

<sup>4</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.

## Recommendation 8: SANCTIONS

**8.1.** The legislation in this field is for different reasons evidently less effective and, bearing in mind that the whole problem cannot be solved by legislation alone, the Commission and Member States should reinforce the existing legislation with appropriate types of effective, proportionate and dissuasive sanctions.

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

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

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

- penalties, which must include the payment of compensation to the victim;
- administrative fines (for example in the event of failure of notification or of compulsory communication or unavailability of analysis and evaluation of wage statistics disaggregated by gender (according to Recommendation 2)) requested by labour inspectorates or the competent equality bodies;
- disqualification from public benefits, subsidies (including EU funding managed by Member States) and public procurement procedures, as already provided for by Directives 2004/17/EC<sup>5</sup> and 2004/18/EC<sup>6</sup> concerning the procurement procedure;
- identification of offenders, which should be made public

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

**9.1.** One area for urgent action concerns the fact that a wage penalty appears to be linked to working part-time. This requires an evaluation and possible revision of Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC - Annex: Framework agreement on part-time work,<sup>7</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.

<sup>5</sup> OJ L 134, 30.4.2004, p. 1.

<sup>6</sup> OJ L 134, 30.4.2004, p. 114.

<sup>7</sup> OJ L 14, 20.1.1998, p. 9.







## TRIPARTITE CONFERENCE DELEGATES

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