



Council of the
European Union

012719/EU XXVI. GP
Eingelangt am 26/02/18

Brussels, 26 February 2018
(OR. en)

6423/18

SOC 92
EMPL 71
GENDER 6
ANTIDISCRIM 4

NOTE

From: Presidency

To: Permanent Representatives Committee/Council

No. Cion doc.: 14733/17 - COM(2017) 678 final

Subject: Closing the gender pay gap: contributing to the achievement of the goals of the European Pillar of Social Rights

Policy debate

Delegations will find attached a discussion paper prepared by the Presidency, in preparation of the policy debate at the EPSCO Council on 15 March.

Closing the gender pay gap: contributing to the achievement of the goals of the European Pillar of Social Rights

Introduction

The equal pay principle has been enshrined in European law since the signing of the Treaty of Rome in 1957, which paved the way for the adoption of the first equality directives in the 1970s. Gender equality legislation in Europe now encompasses not just equal pay and equal treatment at work but also equal treatment in social security and the access to goods and services. The Lisbon Treaty reaffirms the principle of gender equality as one of the fundamental values of the Union. Yet equality has not been fully realised in practice: even after all these years, the legal guarantee of equal opportunities and equal treatment has not been given full effect.

The gender pay gap in the EU still averages around 16%. This is socially unfair as well economically inefficient, equal pay being an obvious prerequisite for equal participation in the labour market. The Council, the Commission and the European Parliament all acknowledge the need to address the problem. For example, in December last year, the Council called on the Member States to address the gender-segregation-related causes of the gender pay and pension gap, including by increasing pay transparency.¹ It also called on the Commission to implement the measures announced in its recent Action Plan on Tackling the Gender Pay Gap.² Adopted in November 2017, the Plan identified eight areas for action and was accompanied by a report evaluating the implementation of the Commission's Pay Transparency Recommendation (2014).³ In addition, the Commission has undertaken to review the legal provisions on equal pay contained in Directive 2006/54/EC.⁴

¹ Council Conclusions on enhanced measures to reduce horizontal gender segregation in education and employment (doc. 15468/17).

² Doc. 14733/17 + ADD 1 and 14.

³ 14735/17.

⁴ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

Measures to close the gender pay gap are necessary for the successful implementation of the European Pillar of Social Rights, as proclaimed by the European Parliament, the Council and the Commission on 17 November 2017.⁵ In particular, Chapter I on Equal Opportunities and Access to the Labour Market emphasises that women and men have the right to equal pay for work of equal value. Eradicating the gender pay gap is one of the key factors for ensuring gender equality on the labour market.

With this in mind, "the gender pay gap" is one of the three indicators for gender equality included in the social scoreboard that the Commission uses to monitor the implementation of the Pillar, including in the context of the European Semester.

Determined action to close the gender pay gap is needed in order to fulfil the Union's commitment, longstanding and newly proclaimed, to equality between women and men.

Root causes of the gender pay gap

The causes of the gender pay gap are complex but well known. *Gender stereotypes* can consign women and men to pre-determined roles, restricting their freedom to choose the educational and occupational paths they want. Another cause is the *lack of sufficient work-life balance policies*: in the absence of a suitable mix of well-designed leaves, flexible working arrangements and care facilities for children and other dependants, women will not be able to participate in the labour market on an equal footing with men. The insufficient *enforcement of the equal pay principle* also contributes to the gender pay gap. In addition, the lack of *pay transparency* has the effect of hiding pay inequality and gender bias, preventing women from demanding their rights.

However, perhaps the most significant root cause of the gender pay gap, and one to which several of the above-mentioned factors also contribute, is the problem of *gender segregation*.

⁵ OJ C 428, 13.12.2017, p. 10.

Gender segregation in the labour market

In all Member States, women tend to be overrepresented in education, health and welfare jobs (the "EHW" sector) while men dominate in the fields of science, technology, engineering and mathematics (the so-called "STEM" subjects). This horizontal segregation is financially disadvantageous to women because pay tends to be much lower in the EHW sector. Meanwhile, vertical segregation, or the so-called glass ceiling, means that women are often under-represented at the higher levels in organisations and companies—even in areas and occupations where they otherwise predominate.

Pay transparency

Measures to increase pay transparency have been identified by the Commission as an effective way of strengthening the application of the equal pay principle.⁶ Making the gender pay gap visible is a necessary first step allowing workers, employers and the social partners to take action to remedy the situation. In the report evaluating the implementation of its Pay Transparency Recommendation (2014),⁷ the Commission noted that two thirds of Member States had put in place measures to increase pay transparency. The Commission saw a need for more determined action, including in the context of reviewing national legal systems with a view to strengthening the application of the equal pay principle.

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⁶ 2014/124/EU: Commission recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency, OJ L 69, 8.3.2014, p. 112–116

⁷ http://ec.europa.eu/newsroom/just/document.cfm?action=display&doc_id=48361

Closing the gender pay gap is a moral, a social and an economic imperative. On the one hand, the persistence of the gender pay gap is a symptom of the continuing undervaluation of women's work and an unacceptable manifestation of inequality in twenty-first century society. On the other hand, closing the gender pay gap is an opportunity for the EU Member States to improve the functioning of their labour markets and to boost the economy. This is particularly important in the context of the future of work. Europe faces an ageing population, a shrinking workforce and rapid technological change, against the backdrop of intensifying global competition. It is vital to ensure that both women and men can seize the emerging opportunities, including in the digital sphere, and that they can contribute economically. The under-utilisation of women's skills is a waste of resources. By closing the gender pay gap, we can remove a key obstacle to equal labour market participation, which will benefit European citizens and the EU economy.

Against this background, Ministers are invited to address the following two questions:

- 1) *What national measures have been most effective for reducing horizontal and vertical gender segregation in the labour market?*
- 2) *What is the best approach for improving pay transparency across the EU?*