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From: Permanent Representatives Committee (Part 1)
To: Council

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Subject: Closing the Gender Pay Gap: Key Policies and Measures
- Draft Council Conclusions

With a view to Council EPSCO on 13 June 2019, delegations will find attached the draft Council conclusions on the above subject as approved by the Permanent Representative Committee (Part I), on 29 May 2019.

Closing the Gender Pay Gap: Key Policies and Measures

Draft Council Conclusions

RECOGNISING THAT:

1. Equality between men and women is a fundamental principle of the European Union enshrined in the Treaties and recognised in Article 23 of the Charter of Fundamental Rights of the European Union. Article 8 of the Treaty on the Functioning of the European Union (TFEU) requires the Union, in all its activities, to aim to eliminate inequalities, and to promote equality, between women and men.
2. Article 157 TFEU requires the Member States to ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied and, with a view to ensuring full equality in practice between men and women in working life, also allows the Member States to maintain or adopt measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.
3. Gender equality and work-life balance are recognised in Principles 2 and 9 of the European Pillar of Social Rights proclaimed by the European Parliament, the Council and the Commission on 17 November 2017.
4. Gender equality policies are drivers of smart, sustainable and inclusive growth and a precondition to promoting prosperity, competitiveness and employment, as well as inclusiveness and social cohesion.

5. According to Sustainable Development Goal (SDG) 5.4 of the United Nations 2030 Agenda for Sustainable Development, unpaid care and domestic work should be recognized and valued through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate. Also, SDG 8.5 of the United Nations 2030 Agenda for Sustainable Development includes a reference to the principle of equal pay for work of equal value.
6. "Reducing the gender pay, earnings and pension gaps and thus fighting poverty among women" is also one of the priority areas identified by the European Commission in its Strategic Engagement for Gender Equality 2016-2019.
7. Deeply ingrained social norms, societal structures, cultural patterns and gender stereotypes affect the choices made at the household level regarding the sharing of paid and unpaid work and care activities between women and men.

RECALLING THAT:

8. Article 11 of the United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) identifies the right to work as "an unalienable right of all human beings." It requires States Parties to "take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of women and men, the same rights," including the right to equal remuneration, the right to social security and the right to paid leave. This Article also requires States Parties "to introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances."

9. According to Article 1 of the International Labour Organisation Discrimination Convention (Employment and Occupation) of 1958, discrimination includes any distinction, exclusion or preference made, namely, on the basis of sex "which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation".
10. Article 2 of the International Labour Organisation Equal Remuneration Convention of 1951 provides that each Member shall promote and ensure "the application to all workers of the principle of equal remuneration for men and women workers for work of equal value", so referring to the establishment of rates of remuneration without discrimination based on sex.
11. The European Social Charter (revised) of the Council of Europe of 1996 requires the Parties to undertake certain actions to ensure the effective exercise of, inter alia, the right to work and the right to a fair remuneration. In this context, the recognition of "the right of men and women workers to equal pay for work of equal value" is stated in Article 4(3).

NOTING THAT:

12. According to Eurostat, women's average gross hourly pay is lower than men's and the gender pay gap in the EU is still approximately 16% and is only very slowly decreasing or is even increasing in some Member States. Also, the gender overall earnings gap indicator shows that the gender gap is around 40% in the EU-28.

13. The gender pay gap is the result of a whole range of gender imbalances on the labour market. It is not caused by differences in education levels, as women in fact outperform men in terms of educational attainment in the EU. Instead, it is caused by factors such as gender segregation in education, training and employment, occupational segregation, gender imbalance in managerial and decision-making positions, women's more frequent engagement in part-time work and their more frequent and longer career breaks due to the unequal sharing of household, family and care responsibilities, between women and men, and the undervaluation of work performed by women. Organisational factors may also play a part, including long working hours and the expectation of physical presence and availability outside regular hours. All these mentioned factors are consequences of the persisting unconscious gender bias and discrimination, including pay discrimination, which reflect the lack of proper application of the equal pay for equal work or work of equal value principle.
14. The EU Action Plan 2017-2019 on tackling the gender pay gap, adopted by the European Commission, lists specific measures to combat the root causes such as occupational gender segregation, both horizontal and vertical; the lack of pay transparency and the unequal sharing of care responsibilities between women and men. The Action Plan also sets out awareness-raising measures and measures to unveil inequalities and to fight stereotypes.

15. The research note entitled "Tackling the gender pay gap: not without a better work-life balance", prepared by the European Institute for Gender Equality (EIGE), shows that women across the EU are four times more likely than men to work part time or on temporary contracts. Moreover, the economic inactivity rate of working-age women is almost twice as high as that of men. A fifth of women living in poverty are not active in the labour market due to caring and domestic responsibilities. According to the research note, this may, in particular, reflect the lack of affordable and quality childcare facilities and care services for other dependants, and the absence of make-work-pay policies and of other measures such as flexible working arrangements for both women and men. These measures can help to facilitate the reconciliation of work, family and private life, including the allocation of sufficient time to each of these areas. In addition, woman who work full time while at the same time performing unpaid care and domestic work, end-up working more hours per day than men.
16. This set of Conclusions builds on previous work and political commitments voiced by the Council, the European Parliament, the Commission and relevant stakeholders in this area, including in the documents listed in Annex I.

THE COUNCIL OF THE EUROPEAN UNION

CALLS ON THE MEMBER STATES, in accordance with their competences and taking into account national circumstances and respecting the role and autonomy of the social partners, to:

17. Take stock of all available measures with a view to ensuring the effective enforcement of the legal principle of equal pay for equal work or work of equal value at the national level.

18. Where relevant, improve existing measures or introduce new ones to ensure the effective implementation of the principle of equal pay for equal work or work of equal value, including measures to improve pay transparency, drawing on the Commission Recommendation of 7 March 2014 on strengthening the principle of equal pay¹.
19. Take measures to strengthen the ability of equality bodies to act, assist and represent the victims of pay discrimination, and to consider taking the measures mentioned in the Commission Recommendation of 22 June 2018 on standards for equality bodies ². These measures should also take into account the specific needs of women and men facing discrimination on multiple grounds.
20. Take effective measures to promote equality in education and employment in order to address labour market segregation and close the gender pay gap, including the following:
 - a) measures to combat pay discrimination, including by promoting pay transparency,
 - b) measures to ensure unbiased education and training at all levels, including higher education, vocational education and training (VET), lifelong learning and career guidance and equal access to them for everyone;
 - c) measures to empower all girls, women, boys and men to choose educational fields and occupations freely, not based on gender stereotypes, but in accordance with their preferences, abilities and skills;

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014H0124>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1548772937602&uri=CELEX:32018H0951>

- d) measures to promote equal access to all educational fields and occupations, and facilitate women's and girls' access to science, technology, engineering and mathematics ("STEM") and information and communications technology (ICT), as well as measures to encourage boys and men to train and work in the education, health and welfare (EHW) sector;
 - e) measures to address disincentives for both parents (and single parents) to participate fully in paid work, including active labour market policies, and measures to analyse and, where necessary, address the impacts of tax and benefits systems and entitlements on the incomes of women and men;
 - f) measures to promote education and training, including non-formal education and training, as well as awareness raising activities on gender equality and unconscious gender bias for all age groups in order to combat occupational segregation; and
 - g) specific measures for gender-neutral job evaluation, highlighting the benefits of such evaluation for employers.
 - h) measures to promote a gender-balanced representation in managerial positions.
21. Take measures in order to facilitate the reconciliation of work, family and private life for both women and men, thereby encouraging the equal sharing of care and household responsibilities between women and men, including the following:
- a) measures to improve the provision of accessible, quality and affordable care services, including for young children, elderly persons, and persons with long-term care needs;
 - b) measures to promote work-life balance in the workplace, establish voluntary certification systems, provide vocational training, raise awareness, and carry out information campaigns;

- c) measures to improve the rights and support provided to employees to better reconcile their caring and professional responsibilities and to improve the take-up of such rights by men;
- d) measures to promote the equal sharing of caring responsibilities between women and men;
- e) measures to encourage relevant stakeholders, including the social partners, and businesses, to adopt practices conducive to the reconciliation of work, family and private life, including in men-dominated sectors, and measures to ensure equal opportunities between women and men in terms of access to the relevant rights and arrangements;
- f) measures to raise awareness about the rights and arrangements related to work-life balance for parents and carers in order to facilitate the use of these rights and arrangements, in particular by men.

22. Take into account and include specific measures for women and girls in their national sustainable development strategies in accordance with SDG 5³ of the United Nations 2030 Agenda for Sustainable Development and to monitor the implementation of all relevant provisions, including by using data based on the indicators established within the framework of the implementation of the Beijing Platform for Action.

CALLS ON THE MEMBER STATES AND THE EUROPEAN COMMISSION, in accordance with their respective competences, and taking into account national circumstances and respecting the role and autonomy of the social partners, to:

23. Take an integrated approach in all efforts to close the gender pay gap and to promote gender equality, including by fostering synergies between employment strategies and other economic and social policies concerning youth, education, taxation, family benefits, social protection and health care.

³ Sustainable Development Goal 5.

24. Take measures to eliminate gender stereotypes and to challenge stereotypical assumptions about gender roles with a view to closing the gender pay gap, to reducing horizontal and vertical gender segregation on the labour market and to promoting a more equal sharing of care responsibilities by men and women.
25. Increase the efforts to close the gender pay gap and to ensure equal employment opportunities in the context of all relevant initiatives, policies and measures, including employment and social policies and strategies, for example by reinforcing the role of public bodies and institutions responsible for gender equality, and by including a gender equality perspective (gender mainstreaming) in the preparation, implementation, monitoring and evaluation of the impacts of these policies on women and men.
26. Take effective measures to close the gender pay gap, where relevant drawing on the Commission's Action Plan, including the following:
 - a) measures to improve pay transparency and the enforcement of the principle of equal pay for equal work or work of equal value,
 - b) measures to ensure that the selection of candidates, in particular for management positions in the private and public sectors is based on unambiguous, objective and gender-neutral assessment and on the merits and qualifications of the candidates;
 - c) measures to facilitate more women to apply for management positions;
 - d) measures to address the need to professionalize and regularize family care and domestic work, which mainly remains an unpaid women's task; and
 - e) measures to encourage the exchange of best practice – at the local, regional, national, EU and international levels.

27. Take specific measures to facilitate the reconciliation of work, family and private life. Work-life balance should be supported through a range of mutually reinforcing measures, including a mix of both legislative and policy measures, such as family-related leaves, in particular maternity, paternity, parental and carers' leaves, the provision of accessible and affordable quality care services, and flexible working arrangements for women and men.
28. Encourage employers to support men in taking up parental leave and other family-related leaves and to use flexible work arrangements.
29. Encourage employers to make it easier for their employees to make use of family related leaves, in particular maternity, paternity, parental and carers' leaves, as well as flexible working arrangements to care for children and other dependants, thus facilitating a more equal sharing of care responsibilities.
30. Promote organisational and workplace cultures conducive to meeting the work-life balance needs of women and men, for example, where necessary, through gender equality plans.
31. Engage actively with businesses, for example through ad hoc campaigns or by awards for exemplary businesses, as well as with business and employees' organisations and with third sector and civil society organisations, with a view to supporting their efforts to address the root causes of the gender pay gap, including by facilitating work life balance for both women and men.
32. Take steps to ensure that both women and men can advance in their careers without discrimination in relation to family-related leaves.

33. Facilitate workers' return to work following a period of leave, as well as their return to their previous working pattern after a period of part-time work. In the first case, workers and employers should be encouraged to maintain contact during the period of leave and to make arrangements for any appropriate reintegration measures.
34. Take all relevant measures needed to achieve the Barcelona objectives on the provision of quality and affordable childcare⁴ as well as to facilitate access to childcare, and consider introducing new targets focusing on other care needs throughout the life cycle, especially care for the elderly.
35. Channel resources to the development and implementation of specific measures aiming to tackle the root causes of the gender pay gap, including in the context of European Structural and Investment Funds, particularly the European Social Fund.
36. Encourage all relevant stakeholders and actors, including the social partners, businesses and public employment services, to step up efforts to reduce horizontal gender segregation, including by better valorising work in women dominated sectors, by improving the transparency and fairness of job evaluation systems, by encouraging and enabling women and men to access job opportunities in all sectors on an equal basis, and by highlighting the economic benefits of desegregation and its importance in the context of the future of work.
37. In accordance with the European Pillar of Social Rights, address the issue of the gender pay gap within the current Europe 2020 Strategy governance framework, including the Annual Growth Survey and the draft Joint Employment Report, as well as taking it into consideration in future strategic frameworks.

⁴ In 2002, the European Council set the targets of providing childcare by 2010 to at least 90% of children between 3 years old and the mandatory school age and to at least 33% of children under 3 years of age.

38. Raise awareness among European citizens about the gender pay gap and about its causes and its consequences, including the gender gap in pensions and the higher risk of poverty among women in old age.
39. Encourage dialogue with relevant stakeholders, including the social partners, businesses, national equality bodies and organisations working for gender equality, on the fight against pay discrimination, gender bias and stereotypes in education and the labour market, thus promoting mutual learning.
40. Take further the joint work by the Commission and Eurostat on decomposition of the unadjusted gender pay gap and regularly publish relevant data about the pay gap, its determinants, and consequences on earnings and pensions.

CALLS ON THE EUROPEAN COMMISSION to:

41. Adopt a Commission Communication setting out a stand-alone gender equality strategy for the period post-2019, including policies to close the gender pay gap.
42. Analyse the impact of digitalisation on gender equality and work-life balance in the context of the labour market and take it into account in future policy-making.
43. Actively follow up on the ongoing evaluation⁵ of the provisions in the Directive 2006/54/EC implementing the Treaty principle on 'equal pay', including by considering the need for amendments to the Directive.
44. Promote the exchange of good practice between Member States regarding measures for tackling the root causes of the gender pay gap.
45. Strengthen the gender equality perspective (gender mainstreaming) in all policy areas, including in youth, education and employment policies and future programmes.

⁵ https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-3415794_en

References

1. EU Interinstitutional:

European Pillar of Social Rights.

https://ec.europa.eu/commission/sites/beta-political/files/social-summit-european-pillar-social-rights-booklet_en.pdf

2. EU Legislation:

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). (OJ L 204, 26.7.2006, p. 23–36.)

Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC (OJ L 180, 15.7.2010, p. 1–6.)

Proposal for a Directive of the European Parliament and of the Council on work-life balance for parents and carers and repealing Council Directive 2010/18/EU [*To be replaced with a reference to the adopted Directive.*]

3. Council:

All Council Conclusions adopted on the review of the Beijing Platform for Action⁶ and other Council Conclusions on gender equality, including especially those cited below:

- Council Conclusions on Strengthening the commitment and stepping up action to close the gender pay gap, and the review of the implementation of the Beijing Platform for Action (18121/10).
- Council Conclusions of 7 March 2011 on the European Pact for Gender Equality (2011-2020) (OJ C 155, 25.5.2011, p. 10-13).
- Council Conclusions on Women and the Economy: Reconciliation of work and family life as a precondition for equal participation in the labour market (17816/11).
- Council Conclusions on Moving towards more inclusive labour markets adopted on 9 March 2015 (7017/15).

⁶ http://ec.europa.eu/justice/gender-equality/tools/statistics-indicators/platform-action/index_en.htm

- Council Conclusions of 18 June 2018 on Equal income opportunities for women and men: Closing the gender gap in pensions. 10081/15.
- Council Conclusions of 26 October 2015 on the Gender Action Plan 2016-2020 (13201/15).
- Council Conclusions on Enhancing the Skills of Women and Men in the EU Labour Market (6889/17).
- Council Conclusions of 7 December 2017 on Enhanced measures to reduce horizontal gender segregation in education and employment (15468/17).
- Council recommendation 92/241/EEC of 31 March 1992 on child care, OJ L 123, 8 May 1992, p. 16-18.
- Resolution of the Council and of the Ministers for Employment and Social Policy, meeting within the Council of 29 June 2000, on the balanced participation of women and men in family and working life, OJ C 218, 31 July 2000, p. 5-7.

4. Trio Presidency:

- [Trio Presidency Declaration on Gender Equality signed by Romania, Finland and Croatia (15 March 2019).]
- Joint Declaration on "Gender Equality as a Priority of the European Union today and in the future". Proposed by the Austrian, Estonian and Bulgarian Trio Presidency, Informal Meeting of EU Gender Equality Ministers, 12 October 2018, Vienna.

5. European Commission:

- Communication from the Commission of 3 March 2010: "Europe 2020: A Strategy for smart, sustainable and inclusive growth" (COM(2010) 2020 final).
- Commission Recommendation 2014/124/EU 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).
- Commission Staff Working Document "Strategic engagement for gender equality 2016-2019" (SWD(2015) 278 final).
- Communication from the Commission of 26 April 2017: "An initiative to support work-life balance for working parents and carers" (COM(2017)252 final).
- EU Action Plan 2017-2019: Tackling the gender pay gap. COM(2017) 678 final.

- Report on the development of childcare facilities for young children with a view to increase female labour participation, strike a work-life balance for working parents and bring about sustainable and inclusive growth in Europe (the "Barcelona objectives") (COM(2018)273).
- Commission Recommendation (EU) 2018/951 of 22 June 2018 on standards for equality bodies, OJ L 167/28 of 4 July 2018 pp. 28-35.
- Opinion of the Advisory Committee on Equal Opportunities for Women and Men on the future gender equality policy after 2019, old and new challenges and priorities
- Opinion of the Advisory Committee on Equal Opportunities for Women and Men on new challenges for gender equality in the changing world of work
- 2019 Annual report on equality between women and men in the European Union https://ec.europa.eu/info/sites/info/files/aid_development_cooperation_fundamental_rights/annual_report_ge_2019_en.pdf

6. European Parliament:

- Resolution of 14 March 2017 on Equality between women and men in the European Union in 2014-2015
<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2017-0073&language=EN>
- Resolution of 14 June 2017 on An EU strategy to end and prevent the gender pension gap
<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2017-0260>

7. EIGE:

- Research note entitled "Tackling the gender pay gap: not without a better work-life balance" 6656/19 ADD 1
- Gender Equality Index <https://eige.europa.eu/gender-equality-index>

8. European Economic and Social Committee. Opinion on "the EU Action Plan 2017-2019-- Tackling the gender pay gap". SOC/571.

9. Other:

- The UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).
 - The United Nations 2030 Agenda for Sustainable Development.
 - The European Social Charter (revised) of the Council of Europe of 1996
 - The United Nations' agenda for gender equality and women's empowerment (The Beijing Platform for Action)
-