

Application of the principle of equal pay for male and female workers for equal work or work of equal value

2011/2285(INL) - 10/05/2012 - Committee report tabled for plenary, single reading

The Committee on Women's Rights and Gender Equality adopted the own-initiative report drafted by Edit BAUER (EPP, SK) with recommendations to the Commission on application of the principle of equal pay for male and female workers for equal work or work of equal value.

Rule 42 of the European Parliament's Rules of Procedure: this motion for a resolution is presented in accordance with Rule 42 of the Rules of Procedure which provides that the Parliament may request the **Commission to submit to it any appropriate proposal for the adoption of a new act or the amendment of an existing act**, by adopting a resolution on the basis of an own-initiative report drawn up by the committee responsible.

Review of Directive 2006/54/EC: Members call on the Commission to review Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), by **15 February 2013** at the latest. In this regard, they suggest a series of amendments in the form of recommendations which are annexed to the motion for a resolution.

Gender pay gap: Members recall that according to the latest provisional and incomplete figures, **women across the European Union earn on average 16.4% less than men in the EU** and the gender pay gap varies between 4.4% and 27.6% in the Member States. Despite the significant body of legislation in force for almost 40 years and the actions taken and resources spent on trying to reduce the gap – progress is extremely slow and in some Member States the gap has even widened. It is for this reason that Members call for a Europe-wide strategy to address the gender pay gap with the support of the Member States and the social partners.

Member States and the Commission are called upon to:

- foster closer coordination among Member States in relation to research, analysis and taking full advantage of best-practice sharing;
- exchange best practices and increase the cooperation in developing new ideas in tackling the gender pay gap;
- oppose inequality in pay between the sexes in all relevant EU policies and national programmes, in particular in those geared towards the fight against poverty;
- revise the Council directive concerning the Framework Agreement on part-time work, with the aim of closing the gender pay gap;
- encourages the social partners to shoulder their responsibility in terms of creating a more gender-equal wage structure;
- provide for the possibility of **collective redress against violations of the equal pay principle**, as a means enabling individuals and/or representative bodies to bring a case on behalf of consenting complainants in court proceedings;
- continue with awareness-raising campaigns, including providing adequate information on the burden of proof, given that it plays a significant role in ensuring the principle of equal treatment;
- determine objectives, strategies and time limits for reducing the gender pay gap and equalising equal pay for the same work and work of the same value;

- promote further research on flexicurity strategies in order to assess their impact on the gender pay gap and determine how these strategies can help tackle gender discrimination.

Lastly, Members propose that Parliament should offer a **‘Women and Business in Europe’ prize**, which could be awarded to employers (undertakings, institutions and authorities) who lead the way in promoting women, supporting female managers and practising equal pay.

Detailed recommendations as to the content of the proposal requested:

Recommendation 1: Definitions: 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;
- work treated as ‘equal’ (in individual categories of occupations).

Recommendation 2: Analysis of the situation and transparency of results: given that 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, Members consider it 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). 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. When wage statistics show group or individual differences in pay on grounds of sex, employers are obliged to analyze these differences further and react to eliminate them.

Recommendation 3: Work evaluation and job classification: 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. In this context, 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.

Recommendation 4: Equality 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: (i) supporting and advising victims of pay discrimination; (ii) providing independent surveys concerning the pay gap; (iii) publishing independent reports and making recommendations on any issue relating to pay discrimination; (iv) legal powers to initiate their own investigation; (v) 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.

Recommendation 5: Social dialogue: Members call on the Member States, while respecting national law, collective agreements or practice, to 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. The Commission should work out an operative, practical and user-friendly guidebook for social dialogue in companies and Member States.

Recommendation 6: Prevention of discrimination: the report states that 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, as well as maternity, paternity, parental and family leave;
- concrete actions to redress the pay gap and gender segregation;
- a clause in public contracts requiring respect for gender equality and equal pay for equal work.

Recommendation 7: Gender mainstreaming: the Commission is called upon to gear itself to providing assistance to the Member States and to stakeholders as regards practical measures to bridge the gender pay gap by, inter alia: 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 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.

Recommendation 8: Sanctions: Members call on the the Commission and Member States should reinforce the existing legislation with appropriate types of effective, proportionate and dissuasive sanctions. 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. 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, Members propose 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 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; the identification of offenders, which should be made public.

Recommendation 9: Streamlining of EU regulation and EU policy: Members call for : (i) the evaluation and possible revision of Council Directive 97/81/EC concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC, which prescribes equal treatment between full-time and part-time workers as well as more targeted and effective actions in collective agreements; (ii) the urgent introduction in the Employment Guidelines, inter alia regarding access to vocational training and recognition of women's qualifications and skills.