

Pay Gap: What to Change?

Workshop session: Pay Gap

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What Kind of Equality?
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1. Equal Pay versus Pay Gap

❖ WHY?

- ❖ Progressive case law protecting equal pay at EU level, while little change in the persistent pay gap between male and female wages.

❖ WHY?

- ❖ What has been done besides transposing directives?

❖ Overview of measures:

- ❖ Gathering and spreading information, analysing data, searching causes, calling attention, setting goals – necessary but insufficient

2. What could be done differently?

- ❖ Addressing so far untouched blocking stones such as
 - ❖ Pay secrecy
 - ❖ Freedom of contract and collective bargaining versus responsibility of the state and the „single source” escape
 - ❖ Distortions on the labour market: (informal market, public services)
- ❖ More consistent monitoring of complying with the set goals

3. Lack of transparency of wage systems

- ❖ The slow compliance with the establishment of accurate and objective job-evaluation requirements
- ❖ Difficulties of the measurement of performance
- ❖ Pressures confronted by employers as a result of the global competition - flexible wage systems
- ❖ Possible ways to progress towards achieving objective and unbiased evaluation and remuneration systems

4. Pay secrecy – a strong barrier to closing the pay-gap

- ❖ Reasons behind: embedded traditional privacy approach both on the side of employers and employees.
- ❖ A Hungarian case: 70 per cent difference in starting salary with the same employer of female and male lawyer graduating in the same year – revealed after breaking secrecy.
- ❖ Legal opportunities to act – existing regulations as “best practices” to follow

5. The “single source” approach – rather an obstacle than a support in tackling the gender pay gap

- ❖ The impact of Lawrence and Others C-320/00 to national case-law raising the hurdle for achieving fair comparison
- ❖ Collective bargaining systems – encouraged rather than discouraged by the “single source” approach to maintain occupational pay-gap
- ❖ Growth of outsourcing and atypical employment – increasing discrimination with the help of the “single source” test

6. Who should be the „responsible body”?

❖ Need for reconciliation between

❖ the separation of male and female workers along the „single source” divide while they are performing work of equal value

❖ the EU goal of combatting gender segregation in the labour market set by the „Gender Pact 2011-2020”

❖ the concept of „responsible body” and the responsibility of the Member State for accomplishing these goals

7. Public service – decisive impact on the labour market status of women

- ❖ Indicators of the status of women on the labour market
 - ❖ Low wages in traditionally female occupations (lower education, childcare, health care and social assistance staff)
 - ❖ Also: migration of women to previously male-dominated positions with decreasing wages and deteriorating working conditions (higher education, medical profession, public administration, in Hungary some areas of the judicial profession) – filling up the posts left behind by men having better options.
- ❖ The vicious circle: en

8. The vicious circle

- ❖ the deterioration of working conditions in public services
- ❖ impacts on the pay and status of workers (predominantly female) in that sector, that,
- ❖ Impacts on the quality of services, that
- ❖ Impacts on the private status of women by increasing the existing family burden, that, again
- ❖ Impacts on the labour market status of women as a class, by increasing the employers' presumed “risk” in hiring women

9. The role of the informal market

- ❖ Pay-gap data – e.g. Hungary 16%, Sweden 19% → the real assessment needs the information on the informal (non-reported, “grey zone”) segment of the labour market
- ❖ The impact of informal wage-setting to wages, and to gender differentials
- ❖ Increased contractual freedom and flexibility – impacting female wages and hindering individual or public pay gap control

10. Summary: Are there „hard law” instruments available?

❖ What might be considered – in the „harder” way of progress:

❖ Revisiting legal issues may bring changes in routine reactions,

❖ In areas of contractual freedom, pay secrecy, collective bargaining, concept of “single source”, addressing them in their complexity may impact on the pay gap

❖ Checking regulatory opportunities in the wording of the relevant provisions of the Lisbon Treaty (esp. Articles 8 and 10) – their „imperative tone” seen notable (Evelyn Ellis-Philippa Watson: European Equality law, p. 13, fn. 57)

11. Can be more progress made through soft law?

- ❖ **Converting soft law and OMC into obligations with accountability**
- ❖ More attention paid to putting into effect adopted policy measures – the possibility of relying on international experience in checking the compliance of Member States with the established goals:
 - ❖ checking the adoption of the necessary and adequate legal and practical measures,
 - ❖ making resources available
 - ❖ making measurable progress, consistent with the available resources

Thank you for your attention!