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# Equal Pay: A Utopian Scheme?

## Workshop Session: Equal Pay

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**Legal Seminar 'Equality Law: What Kind of Equality?**  
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# Legal background

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- The Lisbon Treaty articles 2 & 3.3 TEU 8, 10, 19 & 157 TFEU
- The 2000 EU Charter of Fundamental Rights articles 21 & 23
- The Recast Directive 2006/54/EC article 4
- The Ethnicity Directive 2000/43/EC article 3.1.c
- The Employment Equality Directive 2000/78/EC article 3.1.c
- The Flexible Work Directives
- Europe 2020 Strategy
- Strategy for equality between women and men 2010-2015



## **The GPG is a continuing source of sorrow:**

Despite the principle of equal pay, in principle, being fully reflected in legislation throughout the MSs,

- the part of the GPG that remains unexplained continues to be significant.
- case law is scarce,
- collective negotiation structures tend to reproduce the GPG as do individual wage-setting.

## **The pension gap is a continuation of the GPG.**

Future focus should lie on **indirect instances of discrimination and the relationship between the GPG and other parts of law**

*Petra Foubert 2010*



# The pay gap

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'... the gender pay gap is a cost Europe cannot afford. We need to use all the tools we have to close the gender pay gap. Together with MS we will seek to significantly reduce the gender pay gap in the EU by the end of this Commission's mandate' – Viviane Reding 2010

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... Smart growth, sustainable growth, inclusive growth: stimulating an economy with high employment and economic, social and territorial cohesion – the Europe 2020 Strategy



# The pay gap

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- GPG - 'average difference in gross hourly earnings between women and men across the economy as a whole'
- Equal 'Pay' – all aspects and conditions of remuneration -
- for equal work, or
- work of equal value



# Its causes

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# Its causes

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- Direct discrimination - Hennigs C-297/10, del Cerro Alonso C-307/05, Odar C-151/11
- Indirect discrimination – Elbal Moreno C-385/11, Cadman C-17/05
- One source - Allonby C-256/01
- Labour market segregation and the social partners – Kenny et al C-427/11
- Inequalities at home
- Fiscal disincentives
- (Economic crisis)





# How to tackle it

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# How to tackle it

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- Statistics
- Gender neutral job classifications and pay scales
- Wage monitoring
- Supervisory bodies
- Sanctions/incentives



# Final remarks

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- The GPG is systematic in character...
- ... but so are age, ethnicity and disability differentials
- The GPG goes to the heart of individual life – un-paid work at home
- The social actors – an unreliable partnership as equality for all concerns?



# Thank you for your attention!

