

Tuesday 18 November 2008

Application of the principle of equal pay for men and women

P6_TA(2008)0544

European Parliament resolution of 18 November 2008 with recommendations to the Commission on the application of the principle of equal pay for men and women (2008/2012(INI))

(2010/C 16 E/04)

The European Parliament,

- having regard to Article 192, second paragraph, of the EC Treaty,
- having regard to Articles 2 and 141, third paragraph of the EC Treaty,
- having regard to the Commission's Communication of 18 July 2007 entitled Tackling the pay gap between women and men (COM(2007)0424),
- having regard to the Report by the Commission's network of legal experts in the fields of employment, social affairs and equality between men and women of February 2007 entitled Legal Aspects of the Gender Pay Gap,
- having regard to the European Pact for Gender Equality, adopted by the Brussels European Council of 23 and 24 March 2006,
- having regard to the case law of the Court of Justice of the European Communities based on Article 141 of the EC Treaty,
- having regard to the provisions of the International Labour Organisation's (ILO) 1994 Part-Time Work Convention, which requires countries to incorporate into their public procurement contracts a labour clause, including the issue of equal pay,
- having regard to Article 11(1)(d) of the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the UN General Assembly by Resolution 34/180 of 18 December 1979,
- having regard to the European Social Partners' Framework of Actions on Gender Equality of 1 March 2005 and its follow-up reports,
- having regard to its resolutions of 13 March 2007 on a roadmap for equality between women and men (2006-2010) ⁽¹⁾ and 3 September 2008 on equality between women and men — 2008 ⁽²⁾,
- having regard to Rules 39 and 45 of its Rules of Procedure,
- having regard to the report of the Committee on Women's Rights and Gender Equality and the opinion of the Committee on Employment and Social Affairs (A6-0389/2008),

⁽¹⁾ OJ C 301 E, 13.12.2007, p. 56.

⁽²⁾ Texts Adopted, P6_TA(2008)0399.

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- A. whereas women earn on average 15 % less than men in the European Union and up to 25 % less in the private sector; whereas the gender pay gap varies between 4 % and more than 25 % in Member States and this gap does not show any sign of significantly narrowing,
- B. whereas women need to work until 22 February (i.e. 418 calendar days) in order to earn as much as men do in a year,
- C. whereas the implementation of the principle of equal pay for the same work and for work of equal value is crucial to achieving gender equality,
- D. whereas the gender pay gap still persists, as evidenced by data pointing to extremely slow progress (from 17 % in 1995 to 15 % in 2005), in spite of the significant body of legislation in force for more than 30 years and the actions taken and resources spent on trying to reduce it; whereas the causes of this discrepancy need to be analysed and approaches to tackling the pay gap and the segregation of the female employment market of which it is an adjunct need to be put forward,
- E. whereas women achieve a higher pass rate at school than men in all Member States and account for the majority of graduates, without a comparable pay gap reduction,
- F. whereas the pay gap results from direct and indirect discrimination, as well as from social and economic factors, labour market segregation and the overall wage structure and is, moreover, linked to a number of legal, social and economic factors, which go beyond the single issue of equal pay for the same work,
- G. whereas the pay gap is not based solely on disparities in gross hourly earnings and account should also be taken of factors such as individual pay supplements, job classification, work organisation patterns, professional experience and productivity, which should be measured not only in quantitative terms (hours when the worker is physically present at the workplace) but also in qualitative terms and in terms of the impact on earnings of shorter working hours, leave and health-related absences,
- H. whereas reducing the pay gap was one of the objectives of the Lisbon Strategy for Growth and Jobs, but it has not been sufficiently addressed by most Member States,
- I. whereas an improvement in the EU legal framework should enable Member States and social partners to identify better the underlying causes of the persistence of the gender pay gap,
- J. whereas professions and jobs in which women predominate have a tendency to be undervalued in comparison with those in which men predominate, without necessarily being justified by any objective criteria,
- K. whereas the gender-based digital divide that exists clearly impacts on pay,
- L. whereas the pay system, whereby length of service is taken into account in setting the level of pay, is unfavourable to women who have (repeatedly) to interrupt their career because of external factors, such as child-related employment breaks, differing occupational choices or short working times, and places these women at a permanent and structural disadvantage,
- M. whereas data indicate that qualifications and experience acquired by women result in financially lower rewards than those acquired by men; whereas, in addition to the concept of 'equal pay for work of equal value', which must not be biased by a gender-stereotyped approach, societal roles that have hitherto significantly influenced education and employment paths must be broken away from; furthermore maternity and parental leave must not give rise to discrimination against women in the labour market,

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- N. whereas the pay gap has a serious impact on the economic and social status of women throughout their working life and beyond, whereas as a result of contributing to society by means other than employment, such as by looking after children and elderly relatives, many women are at greater risk of poverty, and are less economically independent,
- O. whereas the pay gap is even more pronounced among immigrant women, women with disabilities, women belonging to minorities and unqualified women,
- P. whereas gender-specific data and a new gender-aware legal framework, enabling the causes of pay discrimination to be tackled, are essential,
- Q. whereas education can and must contribute to eradicating gender stereotypes from society,
- R. whereas Parliament has repeatedly called on the Commission to take initiatives, including the revision of existing legislation, in order to help to tackle the pay gap, to eliminate the risk of poverty among pensioners and to secure for them a decent standard of living,
- S. whereas 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) ⁽¹⁾ states that the principle of equal pay for equal work or work of equal value is an essential and indispensable part of the *aquis communautaire*, including the case law of the Court of Justice concerning discrimination and gender, and it is necessary to make further provision for the implementation of that principle,
- T. whereas the implementation by the Member States, social partners and equal opportunity organisations of measures such as those set out in the above-mentioned Framework of actions on gender equality of 1 March 2005, would help to close the pay gap through effective social dialogue,
- U. whereas a strategy to remedy the pay gap, horizontal and vertical segregation of the labour market and stereotyping of the jobs and sectors where women typically predominate will require a framework for legislative and other measures at various levels which distinguishes between pay discrimination and pay differences based on factors other than direct or indirect discrimination, since while the former falls directly within the scope of legislation, the latter has to be tackled by means of targeted policies and specific measures,
- V. whereas the Commission, as announced in its abovementioned communication of 18 July 2007, is, during the course of 2008 carrying out an analysis of the EU legal framework on equal pay that must involve all stakeholders concerned; whereas the results of this analysis should be given due publicity,
- W. whereas equality in male and female pensions, *inter alia* regarding the retirement age, has been set as a goal,
- X. whereas the European Gender Institute can play a fundamental role in monitoring the development of the gender pay gap and analysing the causes of this gap, as well as in assessing the impact of legislation,

(¹) OJ L 204, 26.7.2006, p. 23.

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1. Requests the Commission to submit to Parliament by 31 December 2009, on the basis of Article 141 of the EC Treaty, a legislative proposal on the revision of the existing legislation relating to the application of the principle of equal pay for men and women ⁽¹⁾, following the detailed recommendations annexed;
2. Confirms that the recommendations respect the principle of subsidiarity and the fundamental rights of citizens;
3. Considers that the requested proposal will not have any financial implications;
4. Is convinced that it is essential to ensure better and earlier implementation of the provisions of Directive 2006/54/EC, relating to equality organisations and social dialogue with a view to redressing differences in pay by ensuring that the Member States, social partners and equal opportunity organisations apply measures such as those set out in the above mentioned Framework of actions on gender equality of 1 March 2005, by providing for the distribution of information and guidelines on practical means (particularly for SMEs) of redressing the pay gap, including national or sectoral collective agreements;
5. Points out that collective negotiation and bargaining have an important role to play in combating discrimination against women, not least as regards access to employment, pay, working conditions, career advancement, and vocational training;
6. Calls on the European institutions to organise a European Equal Pay Day — the day on which women in Europe have earned (on average) the pay which men earn (on average) in a year — which must contribute to raising awareness about the existing wage gap and encourage all those involved to take additional initiatives to eliminate this gap;
7. Calls on workers' and employers' organisations to jointly develop objective job evaluation instruments, in order to reduce the pay gap between men and women;
8. Instructs its President to forward this resolution and the accompanying detailed recommendations to the Commission, the Council and the governments and parliaments of the Member States.

⁽¹⁾ Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women (OJ L 45, 19.2.1975, p. 19) has been incorporated in Directive 2006/54/EC. According to the provisions of Directive 2006/54/EC, Directive 75/117/EEC is repealed as from 15 August 2009, which is also the last limit set to implement this Directive.

ANNEX

DETAILED RECOMMENDATIONS ON THE CONTENT OF THE PROPOSAL REQUESTED

Recommendation 1: DEFINITIONS

Directive 2006/54/EC contains a definition of equal pay, by copying the provisions of Directive 75/117/EEC. 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;
- Direct pay discrimination;
- Indirect pay discrimination;