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ADDRESSING THE GENDER PAY GAP

KEY MESSAGES

- 1** The gender pay gap is wrongly understood as meaning a lack of equal pay for work of equal value, while it is a more complex issue. By and large the gap reflects the persistent gender segregation of our labour markets.
- 2** The 2014 European Commission's recommendation¹ will increase administrative burdens without addressing the real causes of the gender pay gap. Therefore, BUSINESSEUROPE is highly critical of it. We call for a fresh approach to really address the causes of the pay gap.
- 3** To reduce differences between average earnings of men and women, we instead need to tackle gender segregation in education and in our labour markets. Societies should do more to address the long established cultural reasons leading to a persisting gap. This means promoting gender neutral choices of individuals at all stages and in all aspects of their lives.
- 4** Employers consider professional equality and the closing of the gender pay gap as important areas. They already address these issues in the design of modern pay systems, thereby aiming to ensure gender neutral pay systems in line with the diversity of national industrial relations systems.

WHAT DOES BUSINESSEUROPE AIM FOR?

- *Contribute to the gender pay gap discussion and explain its real causes, ensure a more consistent and fact-based debate, and clarify possible misconceptions.*
- *Express concerns about the potential negative consequences of applying the European Commission recommendation and its detailed measures.*
- *Support European level policy responses in order for them to reflect the true causes of the gender pay gap and focus on effective ways to address them.*

¹ European Commission recommendation on “strengthening the principle of equal pay between men and women through transparency” of 7 March 2014 http://ec.europa.eu/justice/newsroom/gender-equality/news/140307_en.htm



POSITION PAPER: ADDRESSING THE GENDER PAY GAP

Introduction

1. The unadjusted gender pay gap stands at 16.4% on average² in the EU, with important differences between the 28 Member States from below 10% in Slovenia, Malta, Poland, Italy, Belgium, Luxembourg and Romania, and above 20% in Hungary, Slovakia, Czech Republic, Germany, Austria and Estonia.
2. In the past decade the gap has narrowed in the EU as a whole, it stood at 17.6 % on average for the 27 Member States in 2007 and 2008 and at around 25% in 2002³.
3. On 7 March 2014 the European Commission published a non-binding recommendation on “strengthening the principle of equal pay between men and women through transparency”.
4. This position paper is BUSINESSEUROPE’s contribution to the ongoing debate on the way to address the gender dimension of wage differentials.

General comments

A more equal participation of men and women in the labour market is crucial to growth in Europe

5. Increasing labour market participation of women and men in Europe is a widely supported objective. It is key in the context of unprecedented demographic developments, ageing and the shrinking share of working-age population.
6. Today women’s participation rate stands at only 63% in the EU compared to that of men of about 75%. The gender employment gap has narrowed over the last two decades. Pre-crisis, it narrowed by 7.8 percentage points thanks to increasing levels of women’s participation in the labour markets during the 90s. Post-crisis this gap continued to narrow but mostly due to men being more impacted by job losses.
7. Although women’s employment level is still far from the EU 2020 target, there has been clearly positive developments that started before the crisis. There are several reasons for this. One is the creation of more jobs during the last decades, the other is development of a variety of ways to reconcile work and family lives, like flexible contractual arrangements and flexible working time arrangements. Other reasons are the increasing number of women with higher education and related jobs, the number of women now staying in the labour market and also the number of those looking for economic independence.

² http://ec.europa.eu/justice/gender-equality/gender-pay-gap/situation-europe/index_en.htm

³ Data for EU 15. The methodology to calculate the unadjusted gender pay gap may have varied over time.



8. Europe must do everything to bring back growth and competitiveness and making the most of the existing workforce is crucial to this, especially in the context of an ageing EU workforce. This is a precondition for companies to create more jobs and to increase women's employment rates and hours of employment overall.
9. Job opportunities should be open to all talented individuals no matter what their gender. This means supporting diverse ways of working because our job markets, companies and individuals alike need flexible and adaptable family and labour market policies. This, together with a common aim to seek a balanced participation of women and men in sectors where one of either sex is underrepresented, will contribute to reducing the gender pay gap.

Defining the gender pay gap and understanding what it means

10. The gender pay gap refers to the difference between the average pay of men and women, based on average gross hourly earnings of all paid employees aged 15-64. It compares the pay received by all working women and by all working men, and not the pay of women and men in same or similar jobs, with a same working pattern, working for the same employer and with similar competencies, qualifications or experience.
11. In the EU, the gender pay gap generally referred to is "unadjusted". It is the most commonly used indicator and relatively standardized. The "adjusted" gap⁴ uses a large amount of personal factors, but there is no straightforward way to calculate it. Therefore, BUSINESSEUROPE believes that the only common indicator that can be used at EU level is the "unadjusted" indicator.
12. Many believe that the statistical gender pay gap is linked to the principle of equal pay for work of equal value. Some also assume that it exists due to discrimination or men not supporting enough women's career advancement. However, the gender pay gap we observe is the result of much wider issues such as occupational segregation between different occupations or different historical working patterns between women and men. It does not indicate or mean discrimination, or an absence of equal pay for equal value work.
13. This has led to confusion in the political debate, and the term "gender pay gap" is sometimes abused, leaving room for uninformed speculation and extreme or controversial views. The European Parliament has repeatedly asked for a comprehensive review of EU legislation based on the lack of progress in bridging the gap. Even when equal pay for equal value work is the norm, a significant gender pay gap can exist. The political debate also misses that significant progress has been occurring in the last years.
14. Instead, the gender pay gap reflects the persistent gender segregation of our labour markets. A number of sectors and jobs continue to be dominated by men or women, which is first and foremost due to traditional gender roles in society and the different educational and career choices of men and women. The gender

⁴ The adjusted gap takes into consideration individual characteristics (e.g. age, education, occupation, job tenure, career breaks and take up of family leaves, labour market experience) and workplace characteristics (e.g. the economic sector or branch of industry, occupation, place of employment or the existence of a collective agreement)



pay gap is also the result of women taking time-outs due to family commitments, working part-time more than men and being underrepresented in highly-paid positions. Addressing these issues, which go beyond working life, will impact the gender pay gap.

Legislation on equal pay is sufficient and clear

15. Equal pay for work of equal value must be the norm across Europe and is one of the European Union's founding principles, it is embedded in the Treaties since 1957 and the principle of equal pay is enshrined in Article 157 (TFEU), stipulating that "each Member State must ensure the principle of equal pay for male and female workers for work of equal value is applied".
16. The Equal pay directive 75/117/EEC also provides that for the same work or for work to which equal value is attributed, direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration shall be eliminated. The provision stipulates that job classification system [...] shall be based on the same criteria for both men and women and drawn up so as to exclude any discrimination on grounds of sex. The provision is reiterated in the "gender recast" directive 2006/54/EC.
17. The European Commission published in December 2013 a report on the application of directive 2006/54/EC assessing the application of the provisions on equal pay in practice. The report includes an overview of landmark EU case-law on equal pay and a section on job classification schemes. More recently, the European Commission recommendation indicates that, in line with the jurisprudence of the European Court of Justice, the value of work should be assessed and compared on the basis of objective criteria (educational, professional and training requirements, skills efforts and responsibility, work undertaken and the nature of tasks involved).
18. This report on the directive 2006/54/EC also indicates that in most Member States legislation explicitly prohibits pay discrimination and that in others a general prohibition of sex discrimination covers pay discrimination. This is in line with BUSINESSEUROPE members assessment indicating that legislation in place at national and European level provides an adequate legal framework to prevent deter and condemn possible pay discrimination and to promote gender equality.

Recent EU policy approach goes in the wrong direction

19. With the right framework in place on equal pay, the focus shifts towards how we make further progress on tackling the underlying causes of the gender pay gap. Unfortunately, recent policy responses at European level are not adequate and go in the wrong direction. They are not targeted at the real causes of the gap and at the same time they increase red tape for companies, which would contradict the overall objective of this new European Commission to focus on the real issues that matter across the continent to achieve more growth and jobs – for both men and women.



20. In particular, the 2014 European Commission's recommendation is an important source of concern for employers. The detailed actions it suggests to achieve greater wage transparency ignore the impact of such measures on companies. It also underestimates employees' right to a confidential use of their pay-related data, especially in small structures.
21. Wage negotiations, including on gender aspects, are embedded in a diversity of national industrial relations systems across Europe. In many countries where collective bargaining on wages addresses the issues relating to the gender wage gap, the type of measures proposed by the commission would interfere with long established national practices. This would also ignore the fact that social dialogue is in its nature an effective way to ensure balanced and non-discriminatory outcomes.

Specific comments

Pay transparency and data collection should remain voluntary and company-based

22. According to the European Commission, pay transparency is “central for effectively applying the principle of equal pay”. With this in mind, the European Commission recommendation presents a tool box of measures designed to assist Member States in improving pay transparency. This includes entitlement of employees to request information on pay levels (including variable components), reporting of average remuneration by category of employee or position, conducting pay audits in large companies and making them available to workers' representatives and social partners upon request (the provision does not apply to SMEs), the inclusion of equal pay issues and pay audits in collective bargaining.
23. The pay transparency process recommended is an important source of concern for employers. The gathering of further disaggregated pay data would be an additional administrative burden for companies that would only confirm what we already know: that the gender pay gap is linked to traditional role models, which influence study choices of women and men and thus their career choices as well as choices made to find the right work life balance for each individual. Pay transparency may also have important risk factors linked to personal data disclosure.
24. A range of voluntary tools can be useful such as the use of software such as the German Logib-D⁵ software to explore data available at company level and promote transparency and greater awareness of company's remuneration policy. Another example is the project Igual€s⁶ (Equ€l) put in place by CEPYME, the Spanish Confederation of SMEs, with the aim of identifying the factors determining wage remuneration so as to achieve a better diagnosis of the gender pay gap.

⁵ <http://www.logib-d.de/startseite/>

⁶ <http://www.proyectoiguales.com/>



Classification systems in the public and private sectors cannot be compared

25. According to Eurostat, a majority of EU countries recorded a higher gender pay gap in the private sector in comparison with the public sector. In a sample survey of 20 EU Member States the gap was 13% in the public sector in 2011 compared with 18.6% in the private sector, with significant differences between countries.
26. There are a number of factors explaining these differences. For instance, the public sector may outsource lower paid jobs to the private sector. Rigid classification systems and pay-scales in the public sector, often linked only to educational attainment or seniority are also more widespread and there tend to be less performance pay. In contrast, classification and remuneration systems in the private sector are more flexible and able to better take into account elements of performance. Moreover, the high paid occupations in male dominated subjects such as science, technology, engineering, and maths tend to be based in the private sectors, while traditionally female sectors such as social services are based in the public sector.

Capacity to pay and performance should remain key elements in defining pay

27. The principle of equal pay refers to same work or work to which equal value is attributed. It is, however, not feasible to determine what constitutes same or similar jobs at different employers and what would be the jobs requiring the same skills and knowledge, same experience, same seniority, same productivity rate, same working hours. Attempts at this have been unsuccessfully made. Companies should also be able to use wages as a way to reward people who perform well, which would then also make the possible comparison futile.
28. The private sector, including SMEs, is result-driven and adapts its pay-scales to this objective in order to be operationally, commercially, and financially sustainable. Branches and companies have also different wage capacities.

The gender pension gap

29. The gender pension gap is receiving increased attention recently and is a phenomenon that resonates with the general public because of the link with old age poverty. Whether it is lower paid occupations, poor family friendly policies in place or no return to work support after career breaks, women's careers are highly correlated to labour market segregation and have an impact on their pension level. Studies show that women pensioners are at a higher risk of poverty (21.7%) than men (16.3%).
30. One should note that the current pension situation is linked to the past. Many women did not work outside the home or worked only part-time in years 1950-1970. Women's participation in the workforce has and continues to change in a number of Member States and this will also affect pensions and diminish related gender differences in the future.



The way forward

31. The European Commission's objective should be to increase the overall participation of women in EU labour markets especially in sectors where women are underrepresented, and to expand their working hours. When it comes to tackling the true causes of the gender pay gap, BUSINESSEUROPE would welcome a more focused approach on the following inter-related factors:
- a. Better understanding individual differences in educational and training choices: traditional role models continue to influence the study choices of men and women. For instance, many women choose to study social sciences, education, etc., and fewer choose fields like science, technology, engineering and maths. Also, according to the OECD, the low proportion of women in STEM fields of study and occupations makes a significant impact because graduates of these fields are in high demand and related jobs tend to be highly paid⁷;
 - b. Supporting informed educational, training and career choices, related e.g. to career advancement, combining family and career, taking up leadership positions, negotiating pay, etc. In this respect, account must be taken of the fact that some demanding jobs which give access to higher wages and better career opportunities can hardly be performed on a part-time basis;
 - c. Understanding the effects of time out of the workforce and promoting returning to the workplace faster: career interruptions such as family leaves can have a negative impact on long-term earnings. Longer absences also have an impact on the work experience gained and on seniority. Men and women should participate more equally in family responsibilities and more effort should be made towards providing strengthened childcare facilities;
 - d. Acknowledge that so-called comparable jobs do not mean a similar pay and also the pay structure can be very different. E.g. a salesman/woman will generally get a performance-related pay calculated on the turnover he/she realises, and the use of a car, fuel card, laptop, mobile phone and internet connection, while logistic worker may receive a fixed pay. Individual target agreements can also have an impact on wages for employees in so-called comparable positions.

Conclusions

32. Equal pay for equal value work across Europe is the law and anything else is unacceptable. But more needs to be done to reduce the gender pay gap.
33. To reduce the gender pay gap, the EU institutions should focus the debate on the real issues set out in this paper. They should be focused on supporting Member States and respecting subsidiarity instead of wrongly using the gender pay gap figures, imposing new obligations on companies which are ineffective, and over-regulating company practices across Europe.

⁷ <http://www.oecd.org/pisa/keyfindings/pisa-2012-results-gender.htm>



34. Businesses are committed to defending the principle of equal pay and must continue to take responsibility in promoting modern pay systems that are gender neutral. Transparency to promote awareness of remuneration policies at company level can play a role but should be handled on a voluntary basis.
35. The role of governments and public authorities in providing high-quality and tailor-made childcare facilities, all-day schools and other public services should be strengthened in many countries; this is needed to encourage reconciliation of private and professional life. In this context, more data and information should be available at EU level on how governments and regions use the European Social Fund to improve the availability, accessibility and efficiency of childcare facilities.
36. National equality bodies, as indicated in the European Commission recommendation are given a role in tackling the gender pay gap. However, these bodies are not the best placed to understand the realities of companies and of the workplace.
37. The European social partners are committed to tackle the gender pay gap. In 2014, they designed an online toolkit⁸ aiming to provide knowledge and understanding of successful initiatives throughout Europe based on the four priorities of their 2005 framework of actions on gender equality, including one on the gender pay gap. The practical solutions presented in the toolkit were selected notably with a view to helping company practitioners and social partners at all appropriate levels planning and putting into place effective measures which promote gender equality, improve the functioning of the labour markets and increase the participation rate for both men and women.
38. Collective bargaining is best done at local level according to the specificities of sectors and/or companies and according to the specificities of each country and respecting each country's industrial relations system. Studies prove that collective agreements foster equal pay⁹. BUSINESSEUROPE is concerned about the possible negative impact of the recommendation on social dialogue and recalls that in most cases choosing the pay scales at national level is the responsibility of social partners.

⁸ <http://erc-online.eu/gendertoolkit> or <http://resourcecentre.etuc.org/gendertoolkit>

⁹ Klenner/Lillemeier, Gender News: Große Unterschiede in den Arbeitszeiten von Frauen und Männern, WSI-Report 22, 2015