



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 28.5.2002
COM(2002) 258 final

**REPORT FROM THE COMMISSION
TO THE COUNCIL, THE EUROPEAN PARLIAMENT,
THE ECONOMIC AND SOCIAL COMMITTEE AND
THE COMMITTEE OF THE REGIONS**

**Annual Report on Equal Opportunities for Women and Men in the European Union
2001**

Executive summary

This Annual Report, the sixth on Equal Opportunities for Women and Men in the European Union, presents an overview of the main developments and achievements at European and national level in 2001 and outlines perspectives for the year 2002.

The Community Framework Strategy to Gender equality (2001-2005)

2001 was the first year of the implementation of the Framework Strategy on Gender Equality. There was some noticeable progress in the year 2001 both with regard to substance and methodology for the integration of gender issues in policies and also with regard to the gender balance in the Commissions committees and expert groups. This progress confirms the efficiency of the structured approach chosen in the Framework Strategy which is based on forward planning, setting specific objectives and monitoring the activities and results at the end of each year.

In 2001 interesting new activities were selected for an integration of a gender equality perspective, for instance:

- World trade and globalisation (Directorate General for Trade),
- The integrated product policy, in particular waste management (Directorate General Environment),
- Asylum and refugee policy (Directorate General Justice and Home Affairs) and
- An interpretative communication on the incorporation of social aspects in public procurement, including equality of treatment and opportunity between men and women, was adopted (DG Internal Market in co-operation with DG Employment).

In order to give more details of progress, a Gender Scoreboard has been prepared.

Despite such a good start, more needs to be done. Gender mainstreaming is complex and therefore training, at all levels, needs to be continued. Further, progress within policy areas must be tracked by the intrinsic use of gender indicators.

The Action Programme

A new Action Programme for which a priority theme is selected each year accompanies the Framework Strategy. The priority theme in 2001 was the gender pay gap. Equal pay for women and men in the European Union is now part of the process launched at the Lisbon Summit in 2000 to make the European Union the most knowledge-based economy in the world by 2010 with more and better jobs and social cohesion. Each year, the Commission assesses progress towards the Lisbon objectives on the base of *structural* indicators, which now includes an indicator on gender pay differentials.

In practice, the majority of the 27 projects selected in 2001 under the Action Programme, deal with equal pay issues. The total funding for them is approximately 8 million Euro. The results are expected for 2003.

Equality in the enlargement process

A basic condition of membership of the European Union is acceptance and transposition of the "acquis communautaire". In the field of equal opportunities, candidate countries are required to have transposed the nine Directives at the time of entry. The work of transposition is on going with some of the candidate countries achieving good success in 2001. However, legislation of itself is not enough. Experience has shown that supporting mechanisms are essential for effective equality. In this context, structures such as equality bodies, ombudspersons for equality and independent advice are key.

Gender Equality outlook

In 2002 the spotlight will be on reconciling work and family life. Several initiatives will be taken at European level, such as improving the visibility of the issue in the main political processes, funding of transnational projects, improving statistics and indicators and producing a report on the implementation of the Directive on parental leave.

The year 2002 will be a year of reinforcing gender equality legislation as well. The Commission will bring forward a proposal for a Directive on sex discrimination. The new Directive will intervene in areas beyond employment and social security, which is the present extent of Community equality law.

The issues of combating trafficking in women and violence as well as of improving the gender dimension in the external policies of the European Union and in the Structural Funds will continue to be high on the political agenda in 2002.

Moreover, following the on going assessment of women's participation at the decision-making level, and in advance of the elections to the European Parliament in 2004, the Commission envisages concentrating its 2003 activities on the promotion of gender balance in decision-making.

Stop press

On 18 April 2002 the Council and the Parliament reached political agreement on the amendment to Directive 76/207/EC on equal treatment in employment. For the first time at EU level, binding legislation will now define sexual harassment and will establish that it constitutes a form of sex discrimination. The new Directive will include provision for enforcement, compensation without an upper limit and sanctions. The Directive also means that employers will need to introduce preventive measures against sexual harassment and to give a regular 'equality' report to every employee in the enterprise.

I. The Framework Strategy

The Framework Strategy¹ for gender equality brings together, in a coherent way, the diverse gender equality initiatives and programmes of all services of the Commission. This comprehensive, integrated approach combines specific measures targeted at the underprivileged or underrepresented sex in a policy area, with an across-the-board mainstreaming approach, the purpose of which is to ensure that all Commission policies take gender issues into account and analyse the different impact of their activities on women and men.

1. ANNUAL WORK PROGRAMME

In March 2001, the Framework Strategy was substantially advanced by the adoption of the first ever Commission Annual Work Programme on gender equality². The work programme is divided into two parts - horizontal priorities aimed at all the Directorates General (DGs) and services, and specific objectives and actions for each DG in its respective policy area. Detailed information on the implementation and achievements of the work programme of the Framework Strategy is available on the Equops web page³.

The work programme identified three areas of horizontal priority for all services -

- **gender impact assessment of selected policy areas.** The first gender equality work programme was successful in deepening efforts towards gender equality by involving policies from several DGs and services which have up to now not been gender mainstreamed. Since there are still many EU policy areas, which have not been scrutinised regarding their impact on gender equality, this priority will be retained for the 2002 work programme.
- **the breakdown of statistics by sex.** A vital tool for policy planning, the break down of statistics by sex increased in 2001 with several DGs desegregating all or parts of their data collection and analysis. However, efforts need to continue and be applied in an even and more systematic way in the work programme for 2002. An essential aspect is the involvement of the national statistics offices – the Community's main source of statistical data – in the collection of their data with a gender breakdown.
- **encourage more women to apply or participate in applications.** The practice of DG Research and DG Information Society of highlighting the Commission's commitment to gender equality in all calls for proposals and expressions of interest was retained as a best practice in the work programme for 2001. Unfortunately this was not as widely taken up as it was hoped. In order to achieve wider adoption of this practice, discussions with financial and legal services will be pursued in 2002.

¹ COM(2000) 335 final Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions entitled "Towards a Community Framework Strategy on Gender Equality (2001-05)" (COM(2000)335 final of 7 June 2000)

² COM(2001) 119 final and SEC(2001) 382

³ http://europa.eu.int/comm/employment_social/equ_opp/index_en.htm

In a number of policy areas there has been notable progress within the work programme of the Framework Strategy, some of which were :

Asylum and Refugees

The Commission's proposal for a Directive on the reception of applicants for asylum provides an entitlement for any adult family member of the applicant to be informed in private of their right to make a separate application; specifies greater control by women in the running of accommodation centres; ensures basic training for authorities and other organisations implementing the Directive with respect to the needs of both female and male applicants; and insists upon sex desegregated data in relation to persons who apply for or are granted asylum. Moreover, the specific needs of women in relation to both healthcare and accommodation should be taken into account.

For refugees, where the application for international protection is made by a woman, account should be taken of the fact that persecution, within the meaning of the Geneva Convention, may have taken place by sexual violence or other gender-specific means.

Environment

In the EU environment policy, gender impact assessment began in 2001 in the field of integrated product policy and waste management, DG Environment has expressly sought input from non-governmental organisations (NGOs) of women in order to build up a network and receive views and ideas from women and to familiarise women with the funding possibilities of the LIFE programme.

Fisheries

An in-depth study on the role of women in the fisheries sector was carried out. The study concludes that the widest opportunities for enhancing the women's role in fisheries remain in the fields of aquaculture and fisheries administration.

Enterprise

A study for the identification and evaluation of good practices in relation to the promotion of female entrepreneurship has been launched and a study to assess the gender impact of the "Innovation and SME" specific programme within the Fifth Programme has been finalised and published recently.

Public procurement

An interpretative communication on the Community law applicable to public procurement and the possibilities for integrating social considerations into public procurement was adopted by the Commission in autumn 2001. This communication aims to identify the possibilities for taking social considerations, such as equality of treatment between men and women, into account in the best way in public procurement.

Broad Economic Policy Guidelines

The Belgian Presidency launched the initiative to strengthen gender mainstreaming in the Broad Economic Policy Guidelines (BEPGs). A technical seminar gathering independent experts, representatives of the Commission and of the Belgian Presidency was held in October 2001. Following the Seminar, a document was drafted and presented at both the Social Affairs Council on 3 December 2001 and the ECOFIN Council on 4 December 2001. In its

conclusions the ECOFIN Council invites to examine gender mainstreaming in the preparation of the 2002 BEPGs.

The Barcelona process

Under the MEDA Programme for co-operation with southern Mediterranean countries, a Regional Forum was organised on “The Role of Women in Economic Development : the equality dimension between men and women in the Euro-Mediterranean partnership” which was held in Brussels in July 2001.

Education and vocational training

An Action Plan for Gender Equality (2001-2002) was adopted by the Socrates Committee in February 2001. It foresees the evaluation of the gender dimension in the first phase of the programme and research of indicators to improve implementation of gender equality in the second phase of the programme. A self-regulating code of practice to avoid gender stereotypes in educational material at all levels of education was drawn up by the Italian association of editors in a project and disseminated at European level. The WEEST network (Women Education and Employment in Science and Technology) created a web-site presenting an interactive exhibition, projects with European relevance and chats with women scientists all over Europe.

A booklet "Women and Technique" containing best practices in the first phase of the Leonardo da Vinci programme on vocational training was published at the end of 2001.

Development co-operation

Communication on a Programme of Action for Mainstreaming of Gender Equality in Community Development Co-operation was adopted for the forthcoming five years (2001-2006).⁴ It points out that gender equality is crucial for development in general and the link between gender and poverty has made the relevance of gender mainstreaming in development co-operation more critical than ever before.

The Communication identified three main areas of action in order to ensure that gender dimensions are mainstreamed in all EC development co-operation initiatives, namely analysing and integrating gender into the six priority areas for EC development co-operation activities, mainstreaming gender within projects or programmes designed at country or regional level and building the EC's internal gender capacity.

Humanitarian Aid

The European Humanitarian Assistance Office, ECHO has, throughout 2001, continued the integration at policy level of gender perspective in humanitarian assistance. A case study on humanitarian aid projects which included gender mainstreaming elements was funded in 2001 to analyse how to incorporate gender perspective in the design and implementation of humanitarian projects.

On the operational level, ECHO has in 2001 funded targeted projects that address the special needs of women, including, for example, projects in **Iraq, Serbia and Afghanistan.**

⁴ COM(2001) 295 final

Women and Science

The Women and Science initiative, which was launched in 1999 was marked in 2001 by a major conference to analyse the results of research on women in science and further develop the benchmarking to monitor the involvement of women researchers. A series of gender impact assessment studies were carried out as preparation for the conference. Furthermore, a Commission staff working paper "Women and Science: the gender dimension as a leverage for reforming science" reports on progress in integrating gender dimension in research since 1999.

The Employment Strategy

On 12 September 2001 the Commission adopted the three-part annual employment package consisting of a report on the Member States' employment performance, a set of recommendations addressed to each individual Member State and policy guidelines for the future. 11 Member States received a recommendation on the need to reinforce equality between women and men (Germany, Greece, Spain, Ireland, Italy, Luxembourg, Austria Portugal, Finland, Sweden and the UK). The Commission proposed a reinforced guideline on the gender pay gap, owing to the lack of progress in this area, which was, however, rejected by the Council.

The Gender and Employment Group of European experts provided an independent assessment of the 2001 National Action Plans for employment and of the current indicators used to monitor gender equality in the European Employment Strategy.⁵

Fight against violence and trafficking

The Commission dedicated its celebration of the international women's day on 8 March 2001 to the issue of trafficking of women and held a joint meeting with the EP. The implementation of the DAPHNE and STOP programmes continued in 2001 and the Commission adopted a new STOP II programme (until 2003). In the implementation of the STOP II Programme in 2001, specific attention was given to assistance to and protection of victims. Furthermore, the Council reach political agreement on a Framework Decision on combating trafficking in human beings. The Framework Decision essentially concerns approximation of criminal law and sanctions. The main objective is to enhance law enforcement and judicial co-operation in criminal matters.

The social inclusion process

Member States established in June 2001 their first biannual National Action Plans on the basis of common objectives to combat poverty and social exclusion⁶.

In their National Action Plans, most Member States identified higher risks of poverty and social exclusion among elderly women, single parents and victims of domestic violence. For men, higher vulnerability is found among homeless people, (ex-) offenders and early school leavers. Although some Plans show positive examples of tackling gender issues, there is still a long way to go towards a consistent approach of gender needs and characteristics across all the fields of the Plans and several Member States committed themselves to enhance gender mainstreaming during the next two years.

⁵ <http://www.umist.ac.uk/management/ewerc/>

⁶ Objectives in the fight against poverty and social exclusion – OJ C 82 of 13.3.2001
Draft Joint Report on Social Inclusion – COM(2001) 565 final of 10.10.2001

2. GENDER BALANCE IN COMMITTEES

The Commission is committed to achieving gender balance, in particular in committees and expert groups, as set out in its Decision 2000/407/EC of 19 June 2000⁷. The Commission Decision sets the target of 40% minimum participation of women and men respectively.

Following a first survey in 2000 of certain expert groups of the Commission in which an average of only 13.5% of the members were women, a second much more complete survey was conducted in 2001.

This survey covered all Commission committees and expert groups, distinguishing between the members of committees and groups who were appointed by the Commission and those members who were appointed by the member states, social partners, interest groups, NGOs and other bodies which have the right to appoint representatives to Commission committees and groups.

In 2001, the average percentage of women in committees and expert groups of the Commission covered by the survey was 28.8%. Among the members of those committees and expert groups for whom the Commission has the right to appoint them, 30.5% were women whilst among the committees and groups on whose membership the Commission has no influence 28,4% were women.

The results of the survey tend to reflect general participation rates of women and men in the respective sectors, e.g. relatively high female representation in the education and social sectors and higher representation of men in sectors such as agriculture, fisheries and research.

Whilst this survey shows a clear improvement as compared to previous data, efforts must continue and indeed be enhanced in those sectors where female participation has been lower. Progress will continue to be monitored as part of the work programmes of the Framework Strategy on Gender Equality.

3. REINFORCED CO-OPERATION WITH GENDER EQUALITY AUTHORITIES

The Framework Strategy actively encourages the exchange of good practice among the EU and the EEA Member States, social partners and the civil society. To this end, a number of activities took place during 2001.

The Advisory Committee for Equal Opportunities for Women and Men⁸ continued its work in 2001 and adopted opinions on the 2002 Employment Guidelines, gender statistics and indicators and the gender dimension to social inclusion.

⁷ OJ L 154 of 27.6.2000, p 34

⁸ http://europa.eu.int/comm/employment_social/equ_opp/strategy/advcom.html

The Commission, in liaison with the Swedish Presidency, organised a high-level meeting in Sigtuna, Sweden with senior officials from the Member States with responsibility for gender mainstreaming. An important debate on the mechanisms for follow-up of the indicators selected in response to the Beijing Platform was launched, and was continued during a further meeting organised in November in Brussels in liaison with the Belgian Presidency.

Co-operation with other international organisations such as the United Nations (follow-up to the Beijing Platform for Action), the Council of Europe (Steering Committee for Equal Opportunities) and the OSCE (new action plan on gender equality) was continued in order to build on the expertise of these organisations and to further gender mainstreaming in relevant policies.

4. NATIONAL INITIATIVES

The EU Member States and EEA/EFTA countries continued to develop a range of activities to foster gender equality and apply the gender mainstreaming method, of which only some examples are mentioned below.⁹

Austria

Measures taken at the Federal Government level were awarding a service contract within the scope of a negotiation procedure for an "Austrian Women's Technology Project". The main objective of the project is the elaboration and implementation of nation-wide measures for the increase of the share of women employed in the technical area, especially IT. Another was the founding of the inter-ministerial Gender Mainstreaming working group (IMAG GM), and the subsequent forming of three working groups. In 2001, two meetings of IMAG-GM were held and a third one was planned for the autumn.

Denmark

In March 2001, the first national report and plan of action was launched, entitled "Gender Equality – a Prerequisite for Welfare, Sustainability and Democracy" for Parliament, emanating from the Gender Equality Act a year earlier. On 1st July, shared burden of proof was introduced in the Equal Treatment Act, the Gender Equality Act, the Childminding Act, the Equal Pay Act and the Act of occupational pensions Schemes. At the same time a definition of indirect discrimination was introduced, in line with the EU. In the understanding of equal treatment and discrimination, sexual harassment is included.

Norway

The Government presented in April 2001 to its national Parliament a proposal for revising the Gender Equality Act, which includes strengthening of the existing provision obliging all public authorities to promote gender equality in all social walks of life, by inclusion in the annual budget. It also extends the same obligation to both sides of business, including a requirement that enterprises report on activities to promote gender equality in their own annual report.

⁹ for a complete overview, see Internet links to national gender equality bodies: http://europa.eu.int/comm/employment_social/equ_opp/links_en.html#ms

Sweden

The Act on equality between men and women was strengthened on 1st January 2001. According to a new section 11, the employer must each year prepare a plan of action for equal pay and therein report the results of the survey and analysis, in accordance with the results with section 10. In section 12, the employer is obliged to supply the employee's organisation (to whom they are bound to with a collective bargaining agreement) with information that is necessary to enable the organisation to collaborate in the survey, analysis and preparation of a plan of action for equal pay.

United Kingdom

In January 2001, a new Government telephone service was launched 'Equality direct' with a supporting web-site¹⁰. It offers free, confidential, comprehensive and coherent information and advice to businesses with a question or issue relating to equality. In February, the Government held a national conference entitled "Women Mean Business" which provided information and advice on the opportunities available in industry. In June, a new Equality Challenge Unit was created as part of the ATHENA project, to tackle women's representation in Science Engineering and Technology/Higher Education Institutions. In July the Government laid Regulations to implement the Directive on the Burden of Proof in sex discrimination. The Regulations amend the Sex Discrimination Act to enhance the definition of indirect discrimination, and to make clear that in a Tribunal claim the burden of proof shifts when the applicant presents a prima facie case, to the employer.

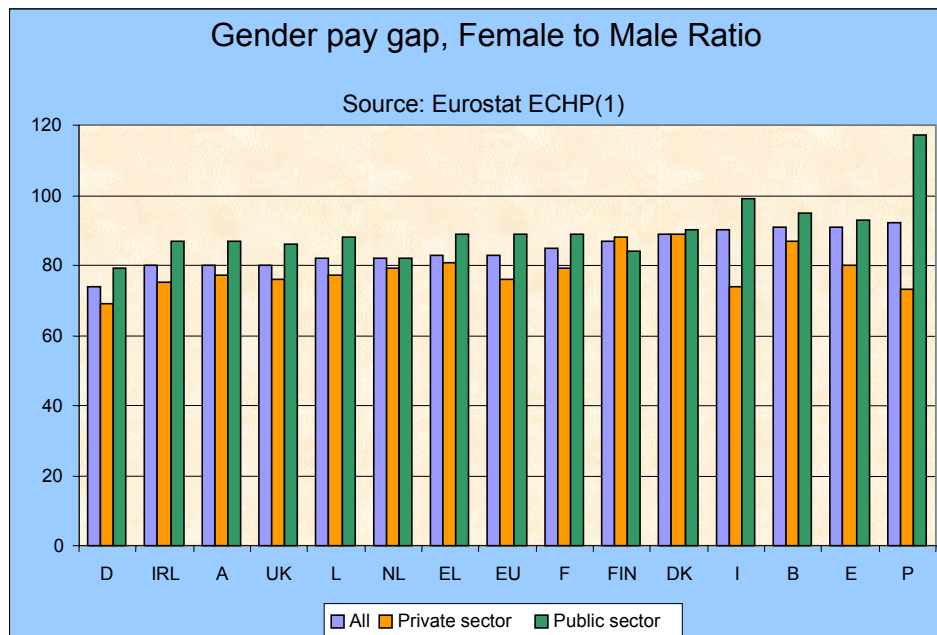
¹⁰ <http://www.equalitydirect.org.uk>

II. Equal pay: priority in 2001

1. THE PAY GAP

Equal pay for women and men for work of equal value is a fundamental principle of the EC Treaty. Indeed the Equal Pay Directive of 1975 was the first Community Directive adopted in the area of equal treatment for women and men.

Yet, despite the existence of these legal provisions, women still earn nearly 14% less than men (the gap in 1997 was more pronounced in the private than in the public sector, 19% and 10% respectively).



2. PRIORITY THEME

In the framework of the Community Framework Strategy on gender equality and the funding programme relating to the Strategy, Equal Pay was the chosen priority theme for 2001.

Equal pay was chosen as the first theme because it is the most visible inequality in the European workplace. Unless policies address this inequality, the goals of the Lisbon European Council of increasing the rate of women's employment to at least, 60% by 2010 and improving quality of work will not be achievable.

EU Presidency Support

Under the Swedish Presidency, in January 2001, Ministers responsible for social security and gender equality discussed the interlinked issues of the gender pay gap and social security as an engine for economic growth. The high profile given to the issue of equal pay was reflected in the conclusions of the Stockholm European Council (March 2001), which invited the Council and the Commission to develop indicators.

This prepared the ground for the Belgian Presidency who developed a set of indicators on gender pay differentials. The Employment and Social Affairs Council (3 December 2001) adopted a set of 9 indicators and invited the Commission and Member States to improve existing statistics and research on the issue.

European Parliament and Economic and Social Committee

The European Parliament adopted a report¹¹ in September 2001 on the issue of equal pay including support for the Commission's proposal for national targets. The report confirmed that a multi-faceted approach must be adopted by all players in this field and at all different levels – the European Commission, Member States and the social partners - if real and lasting results are to be achieved.

Equal Pay was also a key theme for the Economic and Social Committee. The Florio Report on wage discrimination between women and men (March 2001), urged that existing data and research be supplemented, and called on the Member States and social partners to step up their efforts.

Lisbon Strategy

An indicator on gender pay gap has been added to the list of structural indicators established by the European Commission in 2001 to monitor progress towards the economic and social strategic goals agreed at the Lisbon Summit. Progress towards equal pay in Europe will be on the agenda of the next Spring European Councils which, each year, will assess progress and failures to fulfil "Lisbon's objectives".

European Employment Strategy

The European Employment Strategy gives an important impetus to the objective of equal pay. Following the evaluation of the 2001 National Action Plans, some Member States acknowledged the gender pay gap and announced initiatives to reduce this gap. However, these tend to be rather vague and lack concrete actions, and although the social partners have a crucial role to play in this issue, their commitment is weak. Following this assessment, the Commission proposed a reinforced Employment Guideline on the gender pay gap in line with the opinion of the Advisory Committee on Equal Opportunities, including national targets for reducing this gap. Unfortunately the Council did not take this proposal on board in 2001 – but will review the issue in 2002.

3. THE LAUNCH OF THE NEW GENDER EQUALITY PROGRAMME

The Programme¹² is one of the instruments necessary for the implementation of the overall Community strategy on Gender Equality. It co-ordinates, supports and finances horizontal activities under the fields of intervention of the Community strategy, which cannot be funded by the other EU funding instruments, such as the Structural Funds and their initiatives like EQUAL.

¹¹ Report on Equal Pay for Work of Equal Value, Rapporteur: Miet Smet, July 2001, final A5-0275/2001

¹² Council Decision(EC) N° 51/2001 of 20 December 2000 establishing a programme relating to the Community Framework Strategy on Gender Equality (2001-05), OJ L 17, 19.1.2001, pp.22-29

Equal Pay was the priority topic for the first round of transnational projects funded under the 2001-2005 gender equality Programme. The Programme was launched, under the Belgian Presidency, at a conference on Equal Pay in Brussels on 13 September 2001, which was co-funded by the Programme.

The projects funded under the Community Action Programme on Gender Equality (2001-2005) have a number of innovations vis à vis earlier programmes:

- Each year, a priority theme is selected for funding activities. This theme is also taken up in the policy actions of the Commission, in collaboration with other institutions (as was the case for 'equal pay', where the Council, the European Parliament, the Economic and Social Committee, as well as the various tools of the Commission was all focussed on the theme during 2001).
- By concentrating efforts to a priority theme, maximum impact can be achieved - activities across all Member States occur within the same timeframe, dealing with a co-ordinated range of sub-themes around the priority theme, involving all actors to the theme in question.
- Projects are larger in scale - between 250.000 and 500.000 € each. This range was chosen in order to ensure sufficient funding for activities, with each project being of a scale to allow transnational coverage and management, and consistency of results.

The aim of these projects run by Member States, National Equality bodies, NGOs, social partners, regional and/or local authorities, etc., is to acquire a better understanding of the gender pay gap and to develop and disseminate strategies designed to close it. This policy-oriented co-operation increases the effectiveness of promoting equal pay and diminishing income differentials between women and men.

The transnational activities for the priority theme of equal pay were centred on :

- Exchange of the results of existing analyses and research and exchange of good practices,
- Reviewing job classification and pay systems to examine whether they cause gender pay inequalities,
- Ensuring Rights (legislation and mechanisms that ensure better and more effective protection.)
- Equal pay in the collective bargaining process and the role of the social partners
- Prevention: the role of education, information, training and media

Of the 27 projects, which were selected in 2001, the majority deal with equal pay questions. The total funding for them is approximately eight million euros. More information on these projects can be found on the Equality for Women and Men web page¹³.

¹³ http://europa.eu.int/comm/employment_social/equ_opp/index_en.htm

4. PRIORITY THEMES FOR THE FUTURE YEARS IN THE GENDER EQUALITY PROGRAMME

In order to cover all strands of the Framework Strategy on Gender Equality (2001-2005), for which the Programme gives a financial backing, the Programme Committee and the Commission have defined the following priorities:

2001-2002: Equal Pay

2002-2003: Reconciliation of work and family life

2003-2004: Women in Decision-making

2004-2005: Gender stereotyping

III. Legal developments

1. EQUAL TREATMENT DIRECTIVE

Substantial progress was made in 2001 on the proposal to amend the 1976 Directive on equal treatment in employment.

The proposal¹⁴ updated the Directive, bringing it into line with current thinking on equality and with the many judgements of the Court of Justice over the last 25 years. It also maintains consistency with the Directives adopted in 2000 pursuant to Article 13 of the EC Treaty, which cover discrimination on grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation, particularly in respect to definitions used.

It is expected that the amended Directive will break new ground in a number of important areas:

- Sexual harassment has been largely ignored to date by legislators at both national and Community level. However, the amended Directive will confirm that harassment and sexual harassment constitute discrimination on grounds of sex and will provide definitions of harassment and sexual harassment. A definition of direct and a new definition of indirect sex discrimination are to be introduced in Community legislation.
- Member States will be required to establish 'Equality' bodies with a range of competencies for the bodies being specified.
- Employers are to be encouraged to prepare annual 'equality plans' i.e. a planned and systematic approach to equality in the workplace.

Other amendments of the European Parliament seek to strengthen existing provisions of the 1976 Directive:

- There are new provisions concerning the judicial protection and compensation available to an individual in the event of discrimination.
- The rights of persons on maternity and paternity leave (and, in particular, the right to return to work after exercising entitlement to leave) are strengthened.

Finally, the social partners are encouraged to contribute to the implementation of the principle of equality of treatment by adopting collective agreements laying down anti-discrimination provisions.

The proposal is based on Article 141(3) of the EC Treaty and therefore requires the approval of both the Council of Ministers and the European Parliament. The Council reached unanimous political agreement on a Common Position on 11 June 2001. At its second reading in October, the European Parliament proposed a number of amendments to the Common Position.

¹⁴ COM(2000) 334 final and amended proposal COM(2001) 321 final

The formal procedure of conciliation was launched in January 2002 and discussions are currently at an advanced stage (March 2002).

2. BURDEN OF PROOF DIRECTIVE

The deadline for transposing Directive 97/80/EC on the burden of proof in cases of discrimination based on sex, expired on 1 January 2001.

The Directive provides for a *shift* in the burden of proof in judicial proceedings, thereby strengthening the hand of the complainant. An individual must put forward facts or statistics which show a *prima facie* case of discrimination, but it will then be for the employer to *prove* that there has been no breach of the principle of equal treatment.

All Member State authorities have communicated their implementing legislation to the Commission during the course of 2001 and its compatibility with EC law, is under consideration.

3. CASE LAW OF THE COURT OF JUSTICE

There have been three significant rulings (covering five cases) delivered by the European Court of Justice in 2001 concerning equal pay and equal treatment between men and women in response to questions referred to it by national courts.¹⁵

- The Court has long established that dismissal, refusal to employ and non-renewal of a contract of employment by reason of pregnancy is direct sex discrimination, which cannot be justified. However, what had remained unclear until this year was whether this principle would apply in the case of a dismissal and non-renewal of a fixed-term contract of employment. In its judgements in the *Melgar* and *Tele Danmark* cases, the Court confirmed that it would.
- In the *Menauer* case the Court held that German pension funds entrusted with administering occupational pension schemes are bound by the principle of equal pay laid down in Article 141 of the EC Treaty in the same way as an employer. Neither the legal independence that the funds enjoy nor their status as insuring bodies are relevant.
- In the *Griesmar* and *Moufflin* cases, the Court was asked to consider two provisions of the French Civil and Military Pensions Code that discriminate against men. Under the first provision, a female civil servant receives a service credit (for the purpose of calculating retirement pension) for each child she has brought up. A male civil servant does not. Under the second provision, a female public servant is entitled to claim her pension before retirement age where her husband suffers from a disability or incurable illness, which makes it impossible for him to undertake any form of employment. A male civil servant does not have the same right. The Court held first that contrary to the view of the French authorities, French retirement pensions for civil servants must be considered as "pay" within the meaning of Article 141 of the

¹⁵ Case C-438/99, Judgement of 4 October 2001; Case C-109/00, Judgement of 4 October 2001; Case C-379/99, Judgement of 9 October 2001; Case C-366/99, Judgement of 29 November 2001; Case C-206/00, Judgement of 13 December 2001

EC Treaty and not as a social security benefit. It follows that the disputed provisions of the French Code are incompatible with EC law. The French authorities can no longer attempt to rely on the derogation contained in the Directive on equal treatment in social security to justify discrimination.

4. SIGNIFICANT DEVELOPMENTS IN THE MEMBER STATES

Equal Pay

A Finnish collective agreement provides that each sector can create a *special equality allowance*. The allowance is designed to raise the remuneration of women who are not paid sufficiently well despite the difficulty of their work and their education in traditionally low paid industrial sectors. In Denmark the Equal Pay Act has been amended so that is now more transparent. It imposes a duty upon employers with over 10 employees to provide gender specific wage statistics.

As far as national *case law* is concerned, the UK Employment Appeals Tribunal has broadened the definition of "comparator" so as to allow an employee of a local authority to compare him or herself with an employee of another local authority even where the two salary scales had been agreed independently. In Sweden there has been a breakthrough in the comparison of non-similar jobs since nurses can now be compared to technicians. However, it appears that the Swedish Labour Court repeatedly accepts the concept of "market forces" as a justification for unequal pay in cases of work of equal value.

Reconciliation of family and working life

Paternity leave (paid leave for fathers after birth of child) has been introduced in Greece by a national collective agreement. In France, Finland and the UK, legislation has been proposed.

Greece, Ireland and the Netherlands have introduced legislation on the *extension of maternity leave*.

IV. Enlargement and External Relations and Development Co-operation

1. ENLARGEMENT

Negotiations with 10 of the candidate countries on the Employment and Social Affairs Chapter were provisionally closed early in 2001. However, their progress will continue to be closely monitored by the Commission. Negotiations are yet to commence with Bulgaria, Romania and Turkey.

At Göteborg, in June 2001, the European Council confirmed that those candidate countries deemed ready should be able to join the European Union from 2004.

Implementing Community law

A basic condition of membership of the European Union is acceptance and transposition of the "acquis communautaire". In the field of equal opportunities, candidate countries are required to transpose nine Directives.

Lithuania had already transposed practically the whole acquis in this field before 2001 and substantial transposition took place in the Czech Republic on 1 January 2001 with the coming into force of the amendments to the Labour Code, the Acts on Wages and Salary and the Act on Civil Procedure.

However, 2001 was something of a breakthrough year with significant progress in a number of other countries. Hungary achieved significant alignment with the acquis as projected, by the end of the year. The most important development was the amendment to the Labour Code, which came into force on 1 July 2001. In Latvia, the acquis in this field was transposed by the new Labour Code and the new Law on Labour Protection, both of which were adopted in the summer. The Code is scheduled to come into force in June 2002. In Slovakia, the transposition of the Directives on equal pay and equal treatment, the burden of proof, pregnant workers and parental leave were achieved this year with the adoption of the new Labour Code in July. Only the Directives on equal treatment in social security remain to be transposed. In Poland, amendments to the Labour Code transposing the acquis were adopted in the second part of the year. However, the legislation is not scheduled to come into force until accession. The Estonian government approved a draft Gender Equality Act in November.

In other candidate countries, progress remains worryingly slow.

Romania's slow progress in the adoption of the acquis is a cause for concern. A draft Law on Equal Opportunities has been stalled in the Parliament since 1998. The draft was withdrawn early in 2001 for amendment following the change of government and the legislative timetable is now unclear.

Bulgaria has drafted a Bill on Equal Opportunities. However, much of the necessary implementing legislation is scheduled only for the "medium" term.

In Cyprus, Malta and Slovenia, much of the acquis has yet to be transposed. Draft legislation is under consideration, but there was limited evidence of progress in 2001.

There has been no legislative progress in Turkey.

In summary, there was excellent progress in 2001 in the Czech Republic, Estonia, Hungary, Latvia, Poland and Slovakia. However, a number of other countries have substantial work to do if they are to be ready for accession in 2004.

2. INSTITUTIONAL CAPACITY IN CANDIDATE COUNTRIES

Adoption and transposition of the acquis, of itself, is not enough. It is vital to develop institutional and administrative structures that will facilitate the implementation and enforcement of equality rights.

Again, there are a number of countries that are well ahead of the pack.

As with adoption of the acquis, Lithuania had already made substantial progress before 2001.

Romania has established a consultative inter-ministerial commission on equality of treatment for men and women to promote mainstreaming. The commission has developed a National Action Plan for Equal Opportunities, but it remains to be seen whether it will receive any state finance.

In both Slovakia and Latvia, the government adopted a concept paper on equal opportunities in 2001, which sets out proposals for institutional development, monitoring, assessment and awareness raising, with the focus on the labour market, public and political life and the family. As with the Romanian National Action Plan, the effective implementation of the concept papers will depend on adequate finance.

The pace of change is less encouraging in other countries.

Whilst excellent progress has been made on transposition of the acquis in the Czech Republic, the development of effective implementation and enforcement measures has been slow. Nevertheless, the government has prepared an evaluation paper this year on issues such as institution building and women in decision-making.

Institutional structures exist in Malta and Cyprus, but no progress was made in 2001 in strengthening them.

Bulgaria and Poland, institutions are inadequate. Bulgaria has drawn up a draft Bill on Equal Opportunities, which covers implementation and enforcement. However, the timetable for the introduction of new institutions is too vague. The Polish authorities have put forward no proposals for tackling this matter.

In general, limited or no progress has been made in developing effective institutions for the application of the acquis in candidate countries and a greater amount of work needs to be undertaken between now and accession. Developing Concept Papers and National Action Plans are a welcome step in the right direction, but achieve little unless converted into concrete, effectively financed, measures.

3. EXTERNAL RELATIONS AND DEVELOPMENT COOPERATION

Co-operation with regard to the fight against trafficking in human beings

Trafficking in human beings is one of the most burning human rights issues for the European Union and its future enlargement. Women and children are particularly exploited. Although it is very difficult to know the real scale of trafficking, recent estimates indicate that around **500,000** women are trafficked annually into Western Europe.

The main trend for some years is the rise in victims from Central (30 %) and Eastern Europe (40 %, CIS included). However, many victims are still trafficked from Africa, Asia and Latin America and a large number of victims of sexual exploitation are citizens of EU Member States.

Organised crime is increasingly involved as trafficking is one of the most lucrative criminal activities and has been combined with relatively low sanctions up to now. The Commission presented proposals in 2001 to make trafficking punishable under criminal law in all Member States, with penalties harsh enough to have a real deterrent effect. Equally, to enhance co-operation on law enforcement is needed. Europol's mandate has been extended to combat trafficking.

In addition, it is essential to help the women affected.

- Firstly, by warning women in countries of origin of the dangers, *before* they become involved with traffickers. Also by raising awareness of the problem in the EU.
- Secondly, by providing better support to the victims. The European Social Fund has successfully supported a specific measure to raise awareness in the local communities, create a data bank and develop networking between the various actors involved in the fight against trafficking in women and children "Sicurezza per lo sviluppo 2000-2006" for the region Mezzogiorno. Italy also runs rehabilitation projects for the victims.

International women's Day on 8th March 2001 provided a platform for the Commission and the European Parliament to raise awareness of the current Community activities in the area of trafficking - arising from which a programmed approach to the assistance of victims is being developed.

MEDA Regional Indicative Programme

The MEDA programme is the principal financial instrument of the European Union for the implementation of the Euro-Mediterranean Partnership. Aid provided under MEDA goes beyond traditional development aid as it makes economic transition and free trade the central issue of EU financial co-operation with the Mediterranean region.

The conclusions of the Euromed Forum on the role of women in economic life , which was held in Brussels in July 2001 at the initiative of the Belgian presidency, were fed into the Regional Indicative Programme 2002-2004. Under the priority "promoting the sustainability of the euro-mediterranean integration ", a part of this resource (6 million €) will be allocated to measures concerning "equal opportunities for women".

The two main areas of action will be :

- access and participation of women in the labour market, in particular supporting reforms of the legislative framework and development of policies for an active training and labour market;
- promotion of the role of women in business, in particular by developing networks for business and professional women and facilitating access of women to financial instruments.

Afghanistan

The organisation in Brussels on 4-6 December 2001 of the **Afghan Women's Summit** for Democracy was a unique event and can be considered a great success both in terms of the appreciation expressed by the Afghan women themselves and as regards the achievements made.

The **Brussels Proclamation**, adopted at the closing of the Summit by the women from Afghanistan, outlined the participants' comprehensive vision for the future and specified their immediate reconstruction needs as regards education, healthcare, women's rights, refugees and culture.

The **Declaration of Solidarity** agreed at the parallel meeting of the women's rights activists is a strong and clear indication of the ongoing support and commitment of the women's organisations and the civil society to restoring women's human rights in Afghanistan.

The main points raised in the declaration are the following:

- ensure that the **funds** allocated by the international Community for the reconstruction of Afghanistan are **conditional** on the participation of women in decision-making over the granting of the funds;
- the inclusion of women's groups among recipients of the funds;
- the use of the funds for implementing the priorities set out in the Brussels Proclamation.

The summit called for **International Women's Day on 8 March 2002** to be used to mobilise a world-wide demand for the implementation of the Brussels Proclamation and to declare that for women "Afghanistan is everywhere" as the women throughout the world are joined in solidarity with the women in Afghanistan.

Thematic instruments : European Initiative for Democracy and Human Rights (EIDHR) and Aid for population and reproductive health care, including HIV/AIDS.

Following 2001 Commission Communications on "The role of the EU in promoting Human Rights and Democratisation" and on " Programme of action for gender equality in community development co-operation", the calls for proposals launched under the various thematic instruments of external relations and development co-operation include the gender dimension for the assessment of proposals for the implementation of actions to be financed by the Community.

This dimension is particularly important in the case of actions financed in the field of aid for population and reproductive health care, including HIV/AIDS where the 17 actions selected in 2001 integrate the gender perspective and address a special attention to the role and rights of women regarding access and participation in social services.

4. TRADE

As part of the considerations relating to the social dimension of globalisation, and in recognition of the impact of economic reform on gender equality, the relationship between trade and gender has become an integrated part of EU policy towards sustainable trade and of its efforts to promote core labour standards. This has led to a first meeting with civil society on trade and gender in the context of the regular DG Trade/civil society dialogue. The meeting was well attended and provided the opportunity to gain an overview of ongoing activities and of the issues that merit further work.

V. Perspectives for 2002

The Framework Strategy

The Commission work programme for 2002 will include the following horizontal priorities for all DGs and services:

- Conduct gender impact assessment of selected policy areas, which have not up to now been gender mainstreamed.
- Each service will enhance its efforts to collect gender desegregated data and systematically break down by gender all related statistics and the development of gender equality indicators will be pursued.
- Each DG and service will insert gender mainstreaming modules in its training plans for staff members of all levels, in particular management level.

Legal Initiatives

In 2002, the Commission intends to produce a report on the implementation of the Directive on parental leave including considerations on why so many fathers have not exercised this right.

The Commission will also bring forward a proposal for a Directive on sex discrimination based on Article 13 of the EC Treaty during the course of 2002. This new legal base will allow measures to be adopted on sex discrimination in areas beyond employment and social security, which is the present, rather limited, extent of EC equality law.

The Programme

The Programme relating to the Community Framework Strategy on Gender Equality (2001-2005) will have 'reconciliation between work and family life' as the priority theme - with the sub-theme of 'giving fathers back to the family'. Two calls for proposals will be issued in January 2002: one with the aim of supporting and improving the synergy among national policies and to develop a Community added value; the other in order to promote transnational exchange actions consisting of the transfer of information, lessons learned and good practice.

Reinforcement of the Lisbon Strategy

In March 2000 the Lisbon European Council set the ambitious ten-year goal of making the Union the most dynamic, competitive, sustainable knowledge-based economy, enjoying full employment and strengthened economic and social cohesion.

The Barcelona Summit in March 2002 reviewed the progress towards this goal and sharpens the focus in particular to stimulate employment and improve social cohesion. In that context, it is essential to eliminate inequalities and promote equality between men and women. Member States should remove disincentives for female labour force, in particular by providing childcare by 2010 to at least 90% of children between 3 years old and the mandatory school age and at least 33% of children under years of age.

Spanish Presidency's initiatives on violence

The Spanish Presidency has announced that in the first half of 2002 'Violence' - particularly domestic violence - will be a priority theme for their Presidency and intends to develop with the Commission indicators on violence and compile good practice to reduce violence. These activities will be pursued under the Danish Presidency in the second half of 2002.

Structural Funds

Over the last years several initiatives have been undertaken to improve the impact of Structural Funds on gender equality. The work done in 2001 paved the way for two main events in 2002. The 3rd Conference on Gender Mainstreaming in the Structural Funds (June 14th and 15th 2002, Santander, Spain) and the Commission Communication on the implementation of gender mainstreaming in the Structural Funds programming documents which aim at reviewing and fine-tuning gender mainstreaming in the Structural Funds in the wake of a general reform of the Structural Funds.

Justice and Home Affairs

The planned approach to support victims of trafficking will be developed, namely by proposing a Council Directive on residence permits for victims of illegal immigration or trafficking in human beings who co-operate with the competent authorities and by laying down arrangements for victims who lodge complaints or provide information to the police or the courts.

External Relations and Human Rights

In the course of 2002, a study to review the existing policies in the field of external relations will be launched. An expert seminar will be organised on the basis of the findings of this study. Moreover, an evaluation of the integration of gender in EC co-operation with the third countries has been commissioned by EuropeAid and will be carried out by an independent team of experts. Building on these initiatives, a major ministerial level event is then planned under the Greek Presidency, early in 2003. This event will bring together representatives from all the policies concerned - development, political relations, trade, EU enlargement and aid to look at how the role and visibility of women in the Union's external relations can be strengthened and reinforced.

In the field of human rights, the programming document (2002-2004) for the European Initiative for Democracy and Human Rights (EIDHR) adopted on 20 December 2001 considers the inclusion of a gender perspective "a crucial factor to ensure that EIDHR funded projects comply with the wider policy of the Commission". Every effort will be made to integrate gender in the selection of projects under the EIDHR.