

EUROPEAN PARLIAMENT

Working Documents

1979 - 1980

2 May 1979

DOCUMENT 98/79

Report

drawn up on behalf of the Committee on Social Affairs, Employment and Education

on/equal pay for men and women in the Member States of the Community

Rapporteur: Mrs G. DUNWOODY

1.2.1

On 11 February 1976 the European Parliament, pursuant to Rule 25 of the Rules of Procedure, referred the motion for a resolution tabled by Mr YEATS, on behalf of the Group of European Progressive Democrats, and Mr DURIEUX, on behalf of the Liberal and Allies Group, on equal pay for men and women in the Member States of the European Community (Doc. 526/75) to the Committee on Social Affairs, Employment and Education.

On 26 April 1976 the Committee on Social Affairs, Employment and Education appointed Mrs Dunwoody rapporteur.

On 1 March 1978 the committee adopted an interim report on the application of the principle of equal pay for men and women in the Member States of the European Communities, which was considered by the House on 11 April 1978 (Doc. 6/78).

The committee considered the matter again at its meeting of 19 December 1978. In the light of the Commission's report on the application of the principle of equal pay for men and women of 16 January 1979, the rapporteur submitted the final version of her report, which was considered by the committee at its meetings of 19 February and 4 April 1979. It was adopted unanimously at the latter meeting.

Present: Mr van der Gun, chairman; Mrs Dunwoody, vice-chairman and rapporteur; Mr Pistillo, vice-chairman; Mr Albers, Mr Bertrand, Mrs Cassanmagnago Cerretti, Mr Dinesen, Mr Geurtsen, Mr Granelli, Mr Lezzi, Mr Pisoni, Mr Power, Mr Schyns (deputizing for Mr Caro), Mrs Squarcialupi and Mr Wawrzik.

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The Committee on Social Affairs, Employment and Education hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

on equal pay for men and women in the Member States of the Community

The European Parliament,

- having regard to its resolution of 11 April 1978¹,
 - having regard to the report of the Commission to the Council on the application as at 12 February 1978 of the principle of equal pay for men and women (COM(78) 711 final),
 - having regard to the communication from the Commission to the Council on the education action programme at Community level: equal opportunities in education and training for girls (COM(78) 499 final),
 - having regard to the report of the Committee on Social Affairs, Employment and Education (Doc. 98/79),
1. Welcomes the Commission's report on the application of the principle of equal pay for men and women;
 2. Calls upon the Commission to extend its investigation into the anomalies of the laws passed by the Member States on equal pay, and asks that greater publicity be given to the directive;
 3. Welcomes the decision to initiate proceedings for infringement, pursuant to Article 169 of the EEC Treaty, against Member States that have still not applied Council Directive 75/117/EEC;
 4. Welcomes the intention to invite employers' and employees' organizations to meet at European level and form a special working party, and considers it essential that the terms of reference of this joint working party should be sufficiently broad to enable the discussion to cover job evaluation as well as job classification;
 5. Although welcoming the activities of the Commission in the field of employment, wishes Council Directive 76/207/EEC on equal treatment for men and women to be applied in respect of access to employment, vocational training, etc., and would like to see greater emphasis placed on the whole field of education, in which connection the Council's attention is drawn in particular to the document on equal opportunities in education and training for girls²;

¹ OJ No. C 108 of 8.5.1978, p. 15

² COM (78) 499 final

6. Calls upon the Council urgently to consider the setting up of a system of legal advice to enable women or groups of women who have been discriminated against to take full advantage of their legal rights of redress through the courts;
7. Suggests, therefore, that the Commission draw up as a matter of urgency a plan to provide for a number of conferences for education and employment authorities;
8. Insists that statistics be made available showing clearly the special structural problems relating to women's employment; regrets that the statistics produced to date too often give superficial and misleading information and further requests that statistical surveys should not record absence for maternity reasons as 'absenteeism';
9. Finds it intolerable that in some Member States the public sector is excluded from Community legislation on equal pay; a high percentage of women are employed in the public sector, which is the largest employer in all Member States;
10. Urges, therefore, that the necessary measures be taken without delay to ensure that women can avail themselves fully of their statutory rights:
 - (i) equal educational facilities both in school and vocational training¹, access to all forms of education which will give girls the opportunity to develop their full potential;
 - (ii) access to full information on their legal rights in all Member States, as Parliament has demanded on several occasions² and as is laid down in Article 7 of Directive 75/117/EEC and Article 8 of Directive 76/207/EEC;
 - (iii) assistance with legal aid where necessary, and the right of appeal to the courts of justice in cases of direct and indirect discrimination;
 - (iv) protection from victimization arising from actions taken on the grounds of discrimination, and the maintenance of employment on existing conditions, which, although a legal right, has in practice not been guaranteed;
11. Welcomes the Commission's suggestion that bodies should be set up in all Member States to promote the employment of, and equal opportunities for, women but emphasizes that any such bodies should be statutory in nature; calls on the Commission to undertake a study of the committees or commissions set up at national level on women's employment or on equality of treatment with a view to giving these bodies a greater role in the elimination of discrimination;

¹ COM(78) 499 final, Education action programme at community level

² Härzschel report, 21/74 rev., Lady Elles' report, 24/75

12. Is of the opinion that such regulatory bodies should be created as urgently as possible, because these particular problems are no longer capable of solution by voluntary methods, although a higher degree of participation by women in trade unions could be useful in achieving their aims;
13. Rejects the principle whereby the concept of 'head of the household' in statutory legislation can be used to discriminate against women workers and therefore takes the view that all forms of remuneration must relate only to the job specification and allow of no sexual discrimination;
14. Requests the Commission to submit proposals as soon as possible for the approximation of legislation on maternity, partly as a means of prompting a wide-ranging debate in political, social and cultural circles on the social role of motherhood;
15. Urges that the systems of taxation, not directly linked to a work contract, which are now in existence in all Member States and which discriminate against women, should be reformed;
16. Notes also with considerable concern that, although there should be no restrictions on work conditions based on differentiation between the sexes, and job evaluation must allow for no indirect barriers to work, in fact there are a substantial number of indirect restrictions still existing in all Member States, such as narrow interpretations of the concepts of 'equal work' and 'work to which equal value is attributed'¹;
17. Recalls that Convention No. 100 of the ILO was ratified by all the nine Member States and that the Court of Justice of the European Communities also recognized in its judgments - especially that of 8 April 1976 - the principles outlined above; demands, therefore, a strict and full recognition of Convention No. 100 and the removal of discrimination in the terms of reference of work or job evaluation in all Member States;
18. Calls on the Commission to initiate forthwith a comprehensive examination of the situation relating to equality for women in countries applying for membership of the Community, and to propose the measures necessary to ensure that they will be capable of attaining the standards required under Community legislation;

¹ Directive 75/117/EEC, Article 1

19. Draws attention particularly to the miserable working conditions of women in the third world and reminds the European Community of its responsibilities to ensure equal pay and binding minimum working standards in these countries as laid down in the Lomé Convention;
20. Requests the Commission to continue to submit reports at regular intervals on the progress and development of equal pay legislation.
21. Instructs its President to forward this resolution and the report of its committee to the Council and Commission of the European Communities.

Explanatory Statement

I. BACKGROUND

1. The principle of equal pay for men and women has long been a subject of discussion throughout the Community. The Commission's report on the application of the directive on the principle makes it clear that the basic laws ensuring equality of payment between the sexes is now a legal reality.

In order to ensure that the Council Directive No. 75/117/EEC was in fact being carried out, the Commission circularised the Member States with a detailed questionnaire, asking that full information be supplied on the progress towards equal pay. The Commission's findings, based on the requirement in the Directive that a full report should be submitted within three years, make it clear that a legal framework for equal pay now exists in all the Member States. Indeed Ireland, which had at one point asked for a derogation on the grounds of economic difficulty, later withdrew its application, and has since sought to comply with the terms of the directive.

2. Section A1 of the report therefore sets out the decrees and laws establishing the principle of equal pay, and the necessary modification to the existing laws that would remove any legal barriers.

Section A2 examines the specific laws of the Member States and includes the field of collective agreements where they modify or expand existing legal provisions. This makes it clear that there are still multiple definitions in the Community's legal systems both of the "work of equal value" and of "job classification" and "job evaluation".

3. It is also plain that although the legal right to demand equal pay exists in each of the Member States, the ease with which such a course may be pursued differs from Member State to Member State and other disincentives, such as the cost of recourse to the law, are not examined here. There are, however, clear indications that some Member States have traditionally regarded the payment of bonuses and salary supplements in the public sector as being a legitimate field of discrimination - a practice that can only lead to inequality.

II. OUTLINE OF THE COMMISSION'S REPORT

4. The report therefore highlights the existing anomalies and the steps taken by the individual governments to deal with them. It also underlines the differences in the sanctions available to each Member State for dealing with transgressions of the directive. These vary from the payment of fines and the necessity of reinstating an employee who has successfully proved a case of discrimination, to the payment of compensation. It also makes it

clear that some states provide industrial tribunals or courts where cases can be examined as an alternative (though not a substitute) to a full legal process.

5. There are also considerable differences in the methods used by individual Member States to "police" the application of equal pay. Italy, for example, relies on its Works Inspectorate, as does Luxembourg, whilst other States have either a Council for Equality, as in Denmark, or an Equal Opportunities Commission, as in the United Kingdom, with sufficient power to instigate proceedings on behalf of a complainant.

This last power would seem to be a very important provision, for the report details the instances in which cases have been brought in Member States, starting with the famous case of the Belgian air hostess, and examining the number of cases (or the lack of them) in the other countries of the Nine. From this it becomes clear that full use is still not being made of the existing legal machinery although a number of judgements have expanded the legislation on equal pay in a generally positive way. It does seem, however, that there is still not enough publicity being given to the directive to make citizens of the Community fully aware of their rights and to encourage them to take action where those rights are being restricted.

6. The equally important field of collective agreements, and the possible discrimination against whole groups of workers in particular industries in relation to low pay, constitute an important part of the questionnaire. It is plain that unless a proper system of job classification exists, and unless job evaluation is based on the same criteria in every country, there will still be too many loopholes available to employers who wish to evade their legal commitment to equal pay. The section dealing with the administration of the equal pay legislation is therefore doubly welcome, offering as it does some possible examples of improved administration which could be widely copied.

7. On the question of statistics, the report spells out one of the worries that has concerned the Social Affairs Committee for some time, namely the absence of a proper statistical basis for the collection of information from the Member States. No matter what the problem is, it is vital that information should be evaluated on a proper basis, and the use of harmonized statistics is a welcome move towards a better information service. It is, however, manifest that women are still amongst the lowest paid workers, (Section D) and even with the welcome improvement in their circumstances there is still a great gap to be bridged.

Meanwhile the Court of Justice has considered a number of cases which have a direct bearing on equal pay, and these are set out in Section E.

8. Finally, the report, concerned as it is with the existing laws, and the areas in which improvements are still needed, does not in the view of the European Parliament explore the future rôle of the Community sufficiently to highlight the remaining problems.

It is important that the European Parliament should now be seen to be giving a lead in extending the scope of equal pay and equal opportunity to all the men and women in the Community. It is not enough to provide the legal basis for an application to the Courts: the means, financial or otherwise, for providing such an application must be available.

9. It is not enough to consider only the rôle of the Community citizen - the position of women workers in the applicant countries and in the countries associated with the Community in the Third World must be recognised, and a helping hand extended to them to improve their working conditions. The responsibility of the Community is a world-wide one of example as well as precept.

Finally, the psychology that allows artificial discrimination to extend to the interpretation of family units only as dominated by "head of household" legislation must cease.

III. CONCLUSION

10. The Commission report does not extend into the field of true equal opportunity. It ignores the very real problem of discrimination in education, both at junior and senior level. It does not discuss the career structure that does not allow for the rôle of child-bearing and the return to work after some years, with all the re-training that is implied.

It is unable to encompass the need for extended vocational training schemes and specialised tuition for mature students. It is, in fact, a welcome interim report of considerable importance. We shall look forward to the continuing examination of the rôle of women in an industrial society that must follow from this first successful report.

