

# Equal Opportunities and Collective Bargaining in Europe



## *4. Illuminating the Process*



EUROPEAN FOUNDATION  
*for the Improvement of Living and Working Conditions*

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Linda Dickens



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## Foreword

The European Foundation for the Improvement of Living and Working Conditions, in close cooperation with the European Commission (DG V), took the initiative in 1994 to start a substantial project on Equal Opportunities and Collective Bargaining. The project has provided a framework report (*1. Defining the Issues*) and a consolidated report on the overall situation and bargaining structure in the Member States (*2. Exploring the Situation*).

The second consolidated report (*3. Innovative Agreements: An Analysis*) provides an overview of the most innovative agreements from each of the 15 EU Member States regarding equal opportunities and collective bargaining. It is based on national reports drawn up by the network of national correspondents and follows the guidelines set up in the framework report *Defining the Issues*.

This third consolidated report (*4. Illuminating the Process*) provides a more in-depth analysis of the whole bargaining process. An agreement in each of the Member States is analysed, aiming at the identification of crucial factors which may lead to good agreements. Special attention is paid to internal characteristics of the social partner organizations, such as women's participation in decision-making, as possible factors in the realization of successful agreements.

There are also national reports available from the three stages of the project.

We expect that this report will enhance knowledge and understanding of the complex area of equal opportunities and collective bargaining.

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## Summary

## Introduction

The research project is concerned with making a positive link between equal opportunities and collective bargaining. This report, drawing on case studies undertaken in each Member State, illuminates the process by which collective agreements with good potential for equality are reached. Factors which may affect the pursuit of equal opportunities via collective bargaining are identified. It is the combined and cumulative effect of various factors which triggers and sustains the process of collective bargaining for equality; the appropriateness of particular factors falls to be assessed in specific contexts.

Case studies were undertaken across public and private sector organizations in a range of sectors and at different bargaining levels. The diverse scope of the research indicates that *a priori* there are no areas where collective bargaining cannot be used to pursue equality.

## The Collective Bargaining Process

The nature and quality of the bargaining relationship appears important for making the positive link, with well-established bargaining relationships and an industrial relations style characterized by trust and notions of social partnership being associated with bringing equal opportunity into collective bargaining.

Both parties (employers and unions) act as initiators of equality issues in bargaining, although the initiator is more commonly the union. In the pre-agreement stage of bargaining, creating an awareness and understanding of the equality issue and the need for action by the social partners is aided by research or preparatory studies, often done by outside experts.

Although equal opportunities may appear as a consensual issue, and be tactically presented as such in bargaining, it can be highly conflictual, not only across the bargaining table but also within each side. The recognition and management of differences is part of shaping the agenda and arriving at agreement. Where all parties have a narrow conception of what constitutes EO, consensus may be more likely, but the resultant agreement will be less rich in terms of its potential for promoting equality.

It is possible for non-equality agendas (eg flexibility of working hours to meet operational needs) to be ‘captured’ for equality, or injected with an equality dimension, to produce ‘win-win’ outcomes, serving the needs of both employers and employees. This requires the equality dimension of all issues in bargaining to be recognized.

Agreement was variously facilitated by entrusting the working up of detail to a sub-group of the negotiating body; by the relative low cost or cost-effectiveness of equality proposals from the employer’s viewpoint, or the availability of external financial support for initiatives; by the perceived cost of not reaching agreement in terms of the continuing bargaining relationship or risk to the overall package. Compromise is inherent in bargaining but provisions which fall far short of original intention can establish a principle and provide a basis for later improvement.

The parties to agreements often were less concerned with their implementation and monitoring, and external requirements for monitoring are rare, even where there is legislative intervention for equality. Some agreements studied were weak in that they did not provide for monitoring, or failed to institutionalize the equality measures they contained. Thus the full potential of the agreement was not always realized.

Good implementation requires a package of measures including: binding targets/goals; timescales for implementation; mobilization and allocation of responsibility for implementation and its systematic monitoring and review; training for those responsible for implementation; mobilization and active participation of women in implementation; provision of criteria and information for transparent evaluation of progress, and effective sanctions to ensure compliance. Additionally, informing/educating those affected by the agreement can enlist employees in its implementation.

Establishing a properly resourced and supported joint equality body with responsibility for some of these implementation issues avoids the success of equality measures being left to the willingness to act of those who may be resistant to it, although the problem of resistance may remain.

### **Environmental Factors Favourable to Collective Bargaining for Equality**

A number of external or environmental factors are identified which acted as sources of pressure on the social partners, stimulating and helping shape action; affecting the ‘climate’ within which collective bargaining occurs and the context within which collective agreements have to be



implemented. These are the economic context; the labour market; the legislative framework and other political intervention/state action.

The research provides examples of equal opportunities as ‘fair weather’ policies. But it also indicates that some EO measures may be more likely to be taken up when bargaining occurs in adverse economic circumstances. Further, if there is sufficient underpinning for the equality measures in agreements they can survive adverse changes in economic context. More fundamentally, the ‘fair weather’ view of EO arises because EO is seen as separate from other (‘mainstream’) issues, rather than integral to all issues covered by collective bargaining.

Tight labour markets, concern about demographic change (feminization) and labour market change (eg shift to service sector employment) have stimulated action on equality, although these pressures become muted in time of economic recession. Equality cannot simply be left to the market; positive pressure needs to be harnessed and achievements attained in favourable conditions buttressed against negative pressure which may emerge as conditions alter.

The importance of the legislative equality framework for collective bargaining and equal opportunities is demonstrated in the research. In many cases a legal framework favourable to equality measures appears to have been necessary, if far from sufficient, to get the social partners to address equality issues in bargaining.

Legislation may actually require action on an equality issue from either or both parties (or empower or allow them to take such action) or, less directly, may give the issue a prominence, thereby creating awareness of it. Legislation can symbolize public policy concern for equality and play an agenda-setting role for collective bargaining.

The report discusses different interactions of the law and collective bargaining and suggests that the influence of law is stronger where the emphasis is on positive measures to promote equality rather than simply non-discrimination; where specific action by the social partners (whether procedural or substantive) is mandated and positive action promoted, rather than just encouraged; where provisions are enacted which provide for the monitoring of such action, and where there are sanctions in cases of non-action or rewards for action.

In a number of cases environmental pressures were directed or targeted at the social partners via positive intervention by a third party to stimulate and/or support equality action. State-funded equality agencies and bodies may play a positive role here.

Some state administrative measures which relate to collective bargaining mentioned by national correspondents appear to contain unrealized potential in terms of facilitating or encouraging equality issues being taken up in bargaining, not least by demonstrating an external interest in the area and providing a source of examples.

## **Organizational Factors Favourable to Collective Bargaining for Equality**

An internal or organizational factor encouraging EO action by employers is concern for the organization's actual or desired image or profile. This has various dimensions: image as a good employer; positioning in the labour and/or product market; customer orientation (or elector orientation in the public sector); corporate citizenship/social responsibility; reputation for innovative agreements.

Equality action is also likely where equality measures are seen as part of efficient management and the full utilization of human resources, and where taking equality action is linked to business interests. In a number of instances it was possible to construct business cases for equality action, that is to demonstrate an economic case for equality. Handling issues in collective bargaining can assist in injecting an equality dimension into non-EO business rationales and in generalizing and underpinning business interest-driven equality initiatives.

Unions may have similar concerns in respect of profile, and 'business cases' for union action can be constructed, resulting in pressure on negotiators from higher levels in the union to bargain for equality. More particularly, however, unions, as democratic organizations, are open to pressure 'from below'. The extent to which women have voice and can exercise power as members in unions to set agendas is important. There is a range of positive action measures which unions can take to facilitate this. Unions taking such measures appear more likely to be active participants in seeking collective agreements with good potential for equality.

A number of facilitating internal contexts or triggers for action are identified. Changes in personnel; technological change or work/organizational restructuring and changes in bargaining structures were found to provide opportunities for those factors likely to predispose the parties to bring equality into collective bargaining to gain purchase. Key individuals (men as well as women) in the decision-making process played important roles in many case studies as champions of equality, mediating positive environmental and organizational factors.

### **The Significance of Gender in Collective Bargaining**

Women's presence in negotiation is important for two reasons. The proportional presence of women and proper representation of women's concerns in collective bargaining is important as a democratic principle. Secondly, women's presence is important because there is a link between women's presence (internal equality) and collective bargaining outcomes (external equality).

The presence of women among negotiators can be positive for equality bargaining in terms of the issues brought to the negotiating table, the determination of bargaining priorities, and in the contribution of expertise and knowledge of women's concerns and working conditions to achieve better, more effective, agreements.

Women's access to the collective bargaining process is a necessary but not sufficient condition for making the link with equal opportunities. It is not enough for women simply to hold key posts in the organization or be at the negotiating table; they need to be aware of women's concerns, have sufficient training in how to forward claims effectively and be supported in so doing.

Support may come through having a critical mass of such women in negotiation; securing the support of gender-aware male negotiators, and through internal links to women within the organization and via external networks. Currently, however, the relationship between external women's groups and unions is often tenuous and, within unions, structures facilitating the mobilization of women and the articulation of their concerns do not necessarily have institutionalized links with bargaining.

Given the current male dominance among negotiations and the under-representation of women in senior positions in the social partners and in the institutions of the social dialogue at national and European levels, the factors which might encourage men to bargain for equality are considered. Having only men in negotiations may not be an obstacle to EO finding a place in collective bargaining, where there is commitment and access to expertise, and where women are involved in the broader bargaining process.

The research suggests that men may bargain for equality when mandated to do so by their organization; where they have personal commitment to equality; where such commitment is engendered through constructing shared interests in equality; where training has helped overcome ignorance of women's concerns and equality issues, and where male negotiators are in unions or companies with internal equality structures which feed into the collective bargaining process.

### **Modernizing Collective Bargaining**

Making a positive link between collective bargaining and equal opportunities is part of the modernization of collective bargaining. Modernization in terms of its coverage; representativeness and scope will facilitate the move from having collective agreements which underpin and perpetuate inequality to achieving agreements which promote equality.

Making the positive link between equal opportunities and collective bargaining provides potential benefits, both for equality progress and for the social partners.

Collective bargaining can provide a complementary instrument to legal regulation in the promotion of equality. It offers advantages relating to mainstreaming, flexibility acceptability of outcomes, legitimacy of process, enforcement and participation (voice).

It is argued that making the positive link provides a lever for modernizing collective bargaining to reflect changing realities; can facilitate union revitalization; serve managerial strategies for competitiveness; provide a new relevance for joint regulation and enhance the legitimacy of the social partners.





Chapter 1

Introduction

### **The Research Project**

Equal opportunities between women and men has been in the forefront of the social policy of the European Community since its beginnings. Recently the importance of collective bargaining in equal opportunities policy has been emphasized, coinciding with developments at EC level which recognize and promote the role of social dialogue in EC social policy (Bercusson and Dickens, 1996). The current policy of mainstreaming equality also reinforces the importance of understanding how equality might be promoted by such commonplace employment relations activity as collective bargaining.

The extent to which employment conditions are determined by joint regulation varies from country to country, as does the composition and structure of the social partners, the nature of the interactions and negotiating processes between them, and the character and status of the various outcomes which emerge. However, collective bargaining (joint regulation broadly defined) plays an important role in the determination of terms and conditions of work for large numbers of citizens in Europe and as such it is a potential mechanism for progress towards the achievement of gender equality.

But collective bargaining is itself a gendered process and collective agreements, whether intentionally or not, may reflect, embody or perpetuate discriminatory practices. Where collective bargaining lacks a gender dimension or perspective then it is likely that agreements will institutionalize discriminatory practices, serve to entrench rather than challenge gender segregation at work, and operate on a male norm of employment, to the disadvantage of women.

Given the desirability of developing a positive role for collective bargaining in promoting equality between women and men we need to ask what constitutes good practice in this area and how it might be facilitated. These questions form the heart of the large scale research project on Equal Opportunities and Collective Bargaining in Europe, of which this report is a part.

The project, in dealing with equal opportunities and collective bargaining in combination, is making a link which appears novel in a number of national contexts, both practically, and in academic discourse (Kravaritou, 1997). This underlines the importance of this research. By providing information and expert commentary on what is happening in different Member States, including examples of collectively agreed provisions which are potentially positive for equal opportunities, and identifying the factors influencing such agreements, the project aims to facilitate learning from the experience of others, and to stimulate and inform the thinking of social partners (and others) at European and national level by indicating what might be possible, what measures are likely to be effective and which factors will facilitate or constrain their achievement.

### Objective of This Report

The previous stage of the research (Bercusson, 1998) provided examples of ‘good’ provisions in collective agreements in respect of equal opportunities (a focus on content); this stage seeks to illuminate the process by which such provisions/agreements are reached. This involves identifying those factors which affect the pursuit of equal opportunities via collective bargaining.

This report draws on case studies undertaken in each Member State which sought to explore how a ‘good’ collective agreement (in terms of its content) emerged and was implemented<sup>1</sup>. The nature of case studies is that they are generalizable, not to populations but to ideas. The cases studied in this project vary considerably; they are not representative, but rather are indicative of what can be done and how, and instructive as to the factors which facilitate or hinder progress in this area.

The report identifies and discusses the external (or environmental) factors and internal (organizational) factors which emerge as important in getting collective agreements which are potentially positive for equality. In so doing it provides data of assistance to those who wish to harness collective bargaining in the promotion of equal opportunities, indicating potential levers for equality bargaining. The appropriateness and applicability of factors discussed in this report, however, will have to be assessed within the particular reality of a specific context.

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<sup>1</sup> The authors of the national reports for this stage of the project were: Austria, Birgit Buchinger, Ulrike Gschwandter and Erika Pircher; Belgium, Nathalie Wiuame; Denmark, Lotte Valbjørn; Finland, Riitta Martikainen; France, Annie Junter-Loiseau; Germany, Eva Brumlop\*; Greece, Maria Karamessini; Ireland, Josephine Browne; Italy, Myriam Bergamaschi; Luxembourg, Monique Laroche-Reeff; Netherlands, Inge Bleijenbergh; Portugal, Maria Antonia Lince; Spain, Maria Carme Alemany; Sweden, Anita Dahlberg; UK, Trevor Colling. I am grateful to Myriam Bergamaschi also for her comments on the first draft of this report.

\*Eva Brumlop was also a member of the coordinating Research Group and made a considerable contribution to the development of the project before her untimely death in 1997.

The attempt is not to construct a prescriptive checklist of ‘what you have to do’ nor to construct a hierarchy of conditions which have to be in place. Such a decontextualized approach would have little purchase in reality. Ingredients which are likely to be found where collective bargaining is used to promote equal opportunities can be listed, and indications provided of their importance in the cases studied, but no recipe is provided. It is the combined and cumulative effect of various factors which can be seen to trigger and sustain the process of collective bargaining for equality. The necessary quantity and particular combination of the ingredients will vary, as might be expected given the diversity both between and within the national contexts revealed in the national reports for the first stage of this project (Kravaritou, 1997).

The case studies are inevitably qualitatively different from each other and need to be located in their specific contexts for a full appreciation of what can be learnt from them. It is not possible within the confines of this single report to provide detailed contextual settings for the case studies. This is however available in the national reports. The first national report from each country provides a description of the national industrial relations and equality context. The second report for each country gives detailed analysis of ‘good’ agreements, and the third provides the detailed case studies which form the basis of this general report (see Appendix).

## Research Sites and Method

Each national reporter was asked to identify a ‘good’ collective agreement to form the starting point for a case study and to select a research site where the necessary access and information could be obtained for investigation of process. This selection would be made on the basis of their own specialist knowledge, aided by the national reports for their country in the previous stages of the project, which provided contextual information and analysis of good collective agreements.

The bargaining level at which case studies were selected (national agreement, industry or sector agreements, regional, company or plant agreements) was left to the national correspondent in order to reflect the diversity of collective bargaining systems. A spread of levels was covered overall. Similarly we attempted to get a good spread of sectors across the project as a whole; this determined the final choice of case in some cases, eg the Netherlands. As Table 1 indicates this sectoral spread was achieved.

The research embraces both public and private sectors (and quasi-public organizations), both manufacturing and services, and thus includes sectors and organizations with varying levels of female participation. For example, women constituted 13% of the workforce in the organization studied in Germany; 32% of the workforce in the sector studied in Belgium; 70% of the organization studied in France. The diverse scope of the research suggests that *a priori* there are no areas where collective bargaining cannot be used to pursue equality.

Table 1 also shows that the collective agreements selected for the case studies were of various kinds and covered a range of topics and issues pertinent to promoting equality between women and men. Some agreements were in the category of collective agreements (or provisions therein)

Table 1. *Outline of national case studies*

<b>Country</b>	<b>Nature of agreement where process studied</b>
Austria	Plan for advancement of women in Austrian Labour Market Service. Included family/work life; training; career advancement and returners; women's presence on decision making bodies; binding targets for increasing numbers of women. Provision for EO officers.
Belgium	Positive action for women in food manufacturing industry. Sector level framework for positive action in 200 enterprises (mainly SMEs).
Denmark	Development project/training in private sector plastics production company prepared in works council within context of framework collective agreements.
Finland	Equality supplement in national incomes policy agreement and application within a municipality.
France	Finistère Farmers' Mutual Social Insurance Society. Equality Agreement with quantified and timetabled commitments: improve women's qualifications, provide access to executive posts and wider range of employment opportunities.
Germany	Volkswagen Corporate Level Framework Agreement for advancement of women. Included organizational structures; active personnel policy; verifiable measures for qualitative, quantitative and structural increase in the proportion of women in workforce, in skilled jobs and at all levels of management.
Greece	National General Collective Agreement. Range of provisions including pregnancy/maternity; family/work reconciliation for women and men; part-time work; promotion of equal treatment; sexual harassment; creation of joint Equality Committee.
Ireland	Company level agreements and policies relating to EO within Electricity Supply Board. Issues include creche, jobsharing, career breaks, sexual harassment, recruitment, equality proofing. Establishment of EO Manager and Joint Equality Council.
Italy	Positive action plan in Provincial Authority of Milan tackling gender segregation and reconciliation of work and family responsibilities.
Luxembourg	No case study of collective agreement. Report provides account of current relevant developments.
Netherlands	Contract cleaning sector agreements providing fund to finance childcare for male and female employees; sexual harassment; undertakings regarding position of women, especially women returners.
Portugal	Company agreement in posts and telecommunications sector containing equal opportunity clauses.
Spain	Agreement with provision on sexual harassment in metal printing industry in Catalonia.
Sweden	Local government municipality equal opportunity measures. Various provisions including equal pay and breaking down sex segregation.
UK	Gas staffs and senior officers' agreement in British Gas. Career Support Scheme including range of family work reconciliation measures for men and women.

which of themselves appeared to be good practice agreements, and others were in the category of those which appeared 'good' once they were considered in context<sup>2</sup>. The attribution of 'good' should not be taken to imply an absolute judgement about the quality of the agreement studied; rather the label is indicative that the agreement selected for study was better than the general run of agreements which were available to the researcher in terms of its potential for promoting gender equality.

Constraints on time and resources meant the case studies could not be based on longitudinal research which observes and explores the process of collective bargaining in real time and follows through the implementation of agreements. Rather, they constitute 'investigations of a case' in which information was obtained largely via reconstruction, through the accounts of key informants (including those involved in the bargaining) via in-depth, semi-structured interview. The attempt was not to arrive at an 'accurate' or 'true' account of what took place – different parties may have different recollections of a single event – but rather to illuminate the area by obtaining different accounts, perceptions, interpretations and assessments. Each case study also included analysis of contemporary documentation, such as notices and reports produced by the social partners and minutes of negotiations where available; study of relevant secondary materials, and collection and analysis of data as appropriate.

The reconstruction approach and chosen methodology obviously have implications for the nature and richness of data which could be obtained, and particular issues and problems are discussed in some national reports. However, most national correspondents were able to address, to a greater or lesser extent, the research issues set out in the guidelines for the case study prepared by this author. The case studies for Germany and the UK were undertaken ahead of the others and acted as pilot studies. These were completed in 1995. The case studies in the other countries were undertaken in 1996-1997. Some problems which were experienced in data collection by some national correspondents (eg Belgium) testify to the lack of EO awareness in some contexts, or to the lack of priority accorded to this issue.

The national researchers are to be congratulated in successfully undertaking case studies in an area where the topic of equal opportunities is often viewed as marginal by those parties to industrial relations who are the normal sources of information on collective bargaining and collective agreements; where the source material was often difficult to identify and obtain, and where the project required them to explore issues which for the most part previously had never been investigated.

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<sup>2</sup> These distinctions are discussed in Bercusson and Dickens, 1996, and were operationalized in the Stage 2 reports. The first category relates to self-declared EO agreements and to agreements which explicitly attempt to address discriminatory practice, including tackling 'invisible' discrimination which can occur in the implementation of apparently neutral provisions. The second category - agreements or provisions which are good when viewed in their context - acknowledges that 'good' is a relative rather than absolute concept. An agreement or provision in an agreement may be good in a relational or comparative sense, taking account of particular macro and micro contextual factors - for example, historical, sectoral/industrial, legal-regulatory and the particular bargaining and operational context.

## Structure of Report

This report is not attempting to summarize the many case studies, but rather to synthesize what can be learnt from them about the factors which may be influential in reaching and implementing collective agreements or provisions which are potentially positive for equality between women and men. Reference is made to the national reports to indicate the basis for, and to provide examples of, the points being made. In many cases these examples are indicative rather than exhaustive. As well as pulling out general points from the case studies, I develop a number of arguments and conclusions in this report, particularly in the latter sections. Although these are informed by the national researches, they remain my responsibility and are not necessarily shared by each of the national correspondents.

The case study reports provide rich and interesting accounts and should be referred to by those requiring greater specific detail or fuller individual pictures. All are available in the national language of the country studied and in English.

The next chapter discusses aspects of the collective bargaining process with which factors which may influence the securing of good agreements have to interact. It highlights issues to do with the nature and quality of the bargaining relationship and considers points of relevance to the various stages of the collective bargaining process, namely pre-agreement, agreement and post-agreement.

Chapter 3 considers external/environmental factors favourable to collective bargaining for equality under four headings: economic context, the labour market, legislative framework and other political intervention/state intervention.

Chapter 4 considers internal or organizational factors firstly as they relate to employers, then as they relate to trade unions. Finally in this section, facilitating internal contexts which provide triggers for action are discussed.

Chapter 5 discusses the significance of gender in collective bargaining, exploring the importance of women's presence, the link between internal equality and external equality, and the factors which might encourage men to bargain for equality.

In the concluding chapter I argue that making the positive link between collective bargaining and equal opportunities is an essential aspect of the modernization of collective bargaining.

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## Chapter 2

## The Collective Bargaining Process

### **Nature and Quality of the Bargaining Relationship**

A number of the case studies noted the importance of the bargaining relationship which existed between the parties to the ‘good’ agreement being studied. Generally bargaining relationships were well established. The level of union density was not always high (for example it was only 20% in the Netherlands case), but the unions were firmly based and there was sufficient confidence in collective bargaining as a mechanism for resolving and achieving diverse objectives.

Often the security and quality of the bargaining relationship was noted as being stronger in the case study organization than in comparable organizations (eg France). In the German study, the works council and union workplace representatives had more extensive co-determination rights and more extensive rights to participate in basic corporate decisions, particularly on issues of personnel policy, than in comparable companies. This clearly affects the potential scope of bargaining for equality.

Bringing equal opportunity into collective bargaining also seems to be associated in the case studies with a particular style of industrial relations, namely one imbued with notions of social partnership and trust, rather than one based on adversarial, antagonistic relations.

In Spain the agreement being studied emerged in a climate of dialogue, collaboration and understanding between the parties in the Catalonian metal printing industry. In Sweden and the Netherlands, bargaining was imbued with consensus, as was the case in Volkswagen (Germany) where there was highly developed trade union and works council influence and a consensual and

collaborative relationship between the social partners. In Portugal the antagonistic relations between the bargaining parties (in the posts and telecommunications industry) was seen as restricting the opportunity for EO to feature in negotiations. In the UK mature, relatively high-trust bargaining relationships were a legacy which the privatized organization in that study (British Gas) inherited from its public sector history.

The positive relationship between social partnership and a preparedness to bargain over equality may not be uni-directional. Bargaining over equality issues can be a means for promoting a greater emphasis on partnership as opposed to adversarial relations between the parties. In Greece, for example, the 1993 agreement being studied took place in a context where the parties had been moving from adversarial dealings to social partnership since the end of the 1980s. The Irish case also provides an example here. There are different views over the extent to which partnership is now a reality in the Irish case study company, but a review of relationships within the organization recommended addressing EO as a priority for unions and management as a contribution towards creating a climate of partnership.

### **The Pre-Agreement Stage**

This stage of bargaining encompasses the emergence and identification of issues positive for gender equality to be taken up via collective bargaining; raising and prioritizing the issue within the bargaining parties; drawing up the bargaining agenda; and preparation for negotiation, including the nature of the demand/offer to be tabled.

### **Initiators of Equality Issues in Bargaining**

Some agreements involved single unions (eg Germany, the UK) or a main union (eg Netherlands) or a union confederation (eg Greece). In other cases there were two (eg France, Spain) or multiple unions or confederations (eg Portugal, Ireland, Sweden, Finland). In a few cases the works council was a key player (eg Denmark, Germany).

The employers' side (depending on bargaining level) was either a single company (eg UK, Germany, France, Ireland, Portugal) or a sectoral association (eg contract cleaning in Netherlands; food production in Belgium) or a national employer federation (eg Greece, Finland). In the public service sector cases the employer body was an agency (in Austria) or a local government unit (eg Sweden, Italy).

Where one side or the other could be identified as the initiator of the equality issue in bargaining then this was most commonly the trade union side (eg France, Finland, Greece, Spain). To some extent one would expect this, given that bargaining often takes place in response to a claim from the unions, and since employers are normally able to take some degree of unilateral action on equality if they wish. In a number of cases the union, in initiating the claim, was reacting to demands from the rank and file membership (as in Belgium and Ireland, for example) or from women's structures within the union (for example, women's secretariats in the union federations in Greece and Spain).



In the public sector case studied in Italy, however, the main initiative came from the employer side (a provincial authority) and the role of the unions was secondary. In others it appeared to be more of a joint initiative or one where the union claim was not opposed, although the employers did not think the issues particularly important (eg Belgium). In the Irish case the unions initiated bargaining over equality issues in the first phase (claims relating to family/work reconciliation in the 1970s-1980s), but the employer became proactive in the 1990s, initiating a number of equality policies. In the Netherlands the unions initiated most of the EO policies in the period studied (from 1988) but the employer federation also made proposals in the earlier period. (The union proposals were more radical, however). In the UK case the issue (flexibility) originated from the employer side but it was the union which injected an equality dimension into negotiation over it.

### **Preparing the Ground/Calling on Expertise**

Creating an awareness and understanding of the equality issue and the need for action by the social partners was aided in some of the cases studied by research or preparatory studies. Such research can be valuable in mapping the existing situation and revealing problems to be addressed. It can also help ascertain what employees themselves, especially women, feel is required. This improves the likelihood of measures being effective, and can assist in the process of educating people in equality. Good preparation and explication of issues prior to negotiation appears to aid the achievement of good outcomes.

Sometimes the preparatory work was done by outside experts. In Austria, for example, an expert from a project set up to advise companies on measures for the advancement of women was used. A questionnaire was sent to female staff in the organization to identify their main concerns. In Ireland an Equality Review Group was set up in the case study organization, chaired by an external expert, and a report on the equality situation in the organization was commissioned from academics. Their findings and the recommendations they made were influential. The office of the Equal Opportunities Ombudsman (EOO) worked together with the municipality studied in Sweden, with representatives participating in meetings to develop an EO plan.

In Germany the union had engaged in discussion with legal experts on plans and initiatives which could be introduced by companies, and had commissioned a report. This stimulated internal debate in the union and influenced the development and the final format of the company level agreement studied. The German case also illustrates the role which can be played by the wider union beyond the organization in providing support and guidance on equality issues for local representatives engaged in bargaining. In other cases (eg Ireland, Germany, Spain, Netherlands), union confederations, and particularly women's secretariats within them, played this role.

In the Netherlands the parties themselves undertook research to inform their negotiation, seeking to ascertain the need for and awareness of childcare options. In Italy research was undertaken by the equal opportunity committee (a joint union-management body) which provided evidence on

indirect discrimination in the then current recruitment policy and the importance of tackling this to facilitate women's access to all jobs.

In the French case study preparatory research provided analysis of the existing situation and recommendations which helped enrich the substance of the agreement and ensure that women would actually be able to take advantage of measures proposed. Additionally, the preparatory study was seen to have an educational effect and to play a role in allaying the fears of male executives in the organization.

Of course the results of a study alone, even where it demonstrates a need for and proposes action, cannot guarantee that action will be taken, as demonstrated in the Belgian case where the undertaking of a study was the main content of the agreement. The point made at various places in this report is that equality action in collective bargaining arises when a number of factors pushing in the same direction combine together at a favourable juncture; the informational input of preparatory studies is one of a number of positive factors.

## **The Agreement Stage**

This stage concerns the nature, form and content of the negotiation process and the final formulation of the collective agreement or provision. The bargaining process is one marked by the need for consensus and compromise.

Although, as noted earlier, more consensual bargaining relationships may facilitate reaching agreements which are good for EO, this is not to say that EO is necessarily of itself a consensual issue, although it may appear as such and may tactically be presented in this way. In fact it can be highly conflictual, and differences can occur not only across the bargaining table but also within each side, including between different groups of women. This can take place at the pre-agreement stage as well as during bargaining.

In Greece, for example, differences arose at the pre-bargaining stage among those involved in the women's secretariat of the union federation over part-time work and night working. There were different views on whether to argue for protection for part-timers or restriction on part-time working which could not be compromised and this issue was excluded from the agenda, while the majority view prevailed on night work (pp. 16-19). The package of claims relating to part-time work which came to the bargaining table was formulated by union factions at central level. The case study from Finland provides an example of the negotiation of differences between the various union federations involved in the national pay negotiations. Differences reflected the varied membership bases of the unions. Common interests in an equality supplement were discovered but its pursuit required compromise. This was facilitated by the desire to bring about an incomes policy agreement of which the equality supplement was a part.

The recognition and management of differences is part of shaping the agenda and arriving at agreement. The equality claims forwarded by the union side, for example, will reflect both

internal negotiation within the union and an assessment of the likely opposition or support from the other side.

Differences can arise from different understandings of what 'equal opportunities' is about<sup>3</sup>. As discussed in *Defining the Issues* (Bercusson and Dickens, 1996), equal opportunities can be perceived and conceptualized in different ways, eg liberal, radical, transformative; equality of treatment versus equality of outcome; adapting women to existing structures or calling for a transformation in those structures. The definition and focus of EO in turn affects how challenging EO appears to be to existing norms and practices, and the extent of likely resistance.

In a number of countries the EO agenda currently appears restricted and narrow, with a predominant focus on women's reproductive role, or, more broadly, work-family reconciliation (see reports for all stages, Kravaritou, 1997). Even where it extends beyond this, for example in Germany, skills training for women rather than tackling gendered wage discrimination is more likely to get on, or stay on, the bargaining agenda. Many current EO measures focus more on adapting women (the deficit woman model) than on changing organizations. Where all parties have a narrow conception of what constitutes EO, consensus may be more likely, but the resultant agreement will be less rich in terms of its potential for promoting equality.

For bargaining to occur some common ground needs to exist or be established between the parties. This could be compliance-based, in that both parties might be responding to an externally imposed requirement to engage in bargaining over an issue, or it may be internally generated. I examine this in considering the external and internal factors which encouraged the parties in the cases studied to engage in collective bargaining for equal opportunity.

In some cases the issue between the parties was not whether to address an issue, but rather how. This was the case, for example, in an agreement over childcare provision in the Netherlands case study, where the detail rather than the principle was at issue; and also over sexual harassment provisions in some other agreements.

In some cases the issue was an agreed item for bargaining, but the objectives of the parties in having it on the table differed. An example of this is where employer interest in flexibility of working hours was driven mainly or initially by a concern to reduce costs, whereas the union interest was in time flexibility as a way of assisting men and women in the reconciliation of work and family responsibilities (as in the UK case; see also Ireland and similarly, Denmark). This suggests that it may be possible for non-equality agendas to be 'captured' for equality, or injected with an equality dimension to produce 'win-win' outcomes, serving the needs of both employers and employees.

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<sup>3</sup> The German case study spells out different perceptions of what was understood in detail by 'the advancement of women' (which women and how advancement might best be secured) as promoted by the company agreement. This led to difficulties in practical implementation, including over the appointment of the first women's officer (p. 22).

For this to occur one or both parties needs to be able to recognize and articulate the equality dimension in issues which do not bear an 'equality label'. All issues subject to collective bargaining have an equality dimension; all negotiations provide an opportunity to inject an equality perspective, but this is rarely recognized. Provision for expertise in equality to inform negotiations is one route whereby such recognition can be fostered.

It is also important to recognize that provisions which appear to be 'EO provisions' in practice may be double-edged for women's equality, with negative potential in terms of promoting equality as well as positive. Measures which, in form or in practice, reinforce the premise that women have, and should continue to have, primary responsibility for childcare and other dependant care are examples of this (Bercusson and Dickens, 1996:21). Similarly, flexibility arrangements may be a problematic indicator of EO. Numerical flexibility (flexibility of working time) may be valuable as an aid to combining domestic responsibilities and paid work, thereby facilitating labour market participation, but whether flexible working in fact contributes towards EO and the reconciliation of work and family life depends very much on the specific terms and conditions of employment and also on the meaning of 'family life' (Perrons, 1998). Gender equality is unlikely to be served where, for example, part-time work is ghettoized into low-graded 'women's jobs' or detached from an organization's internal labour market and remuneration system, or where it is developed within a concern to reduce staffing levels through effecting a withdrawal of women from full-time employment.

In terms of handling the negotiation, entrusting the working up of detail to a small subgroup of the negotiation body was an effective mechanism for progress in some of the case studies. This could give a key role to those with particular expertise or interest. In Greece, for example, negotiation over the equality claims was not handled in general plenary session but by someone from each side (both women) – an approach thought to be important in the achievement of a good agreement. A rather different approach was adopted in Sweden. Here the group which developed the equality plan for the municipality studied was composed of senior political decision-makers, senior officials and leading representatives from the trade unions. These included people not seen to be particularly in favour of equality measures as well as those who were. It was thought important that the plan should not be seen as a document drawn up by 'feminist activists', and the approach was designed less to give a voice to the female majority or to women's groups than to accord the work the highest possible legitimacy and status, ensuring that it would have a major impact. In the Netherlands case, joint working parties were set up to work up the detail of agreed provisions. This approach was in keeping with the overall aim of achieving compromise and consensus, and one which fed through to better implementation of the agreement.

The process of bargaining and its outcomes – the terms of the agreement – obviously reflect a number of factors, among them the relative bargaining strength of the parties (which can be enhanced by actual or threatened internal mobilization and/or by utilising external resources, expertise or power) and the relative costs of agreement/non-agreement.



A number of national studies noted that in the cases explored, the EO issue (or the final provision in the agreement) was seen by the employers as a relatively low-cost or no-cost one to concede. This was the case, for example, in Spain, where an agreement was reached on sexual harassment which was seen as requiring no financial outlay (it did not include provisions which would have involved a cost, such as training). In Greece, 'institutional' EO claims rather than financial claims fared better in the general agreement studied. In the Belgian case, agreement was facilitated by the cost incurred being a one-off expenditure rather than a commitment to structural measures involving annual expenditure. In other cases, however, the measures agreed did involve financial cost. Here the issue was whether the expenditure could be defended in terms of business or other interests.

In some of the cases the availability of financial resources from outside (normally the state) to meet at least some costs of EO measures facilitated agreement between the parties. This was the case for example with the availability of a child care subsidy in the Netherlands and financial incentives available in France and Belgium. The fact that additional costs relating to maternity provisions in the Greek general agreement would be borne by social insurance organizations rather than employers facilitated agreement there.

The costs of agreement/non-agreement are not only financial. In Finland, because of the stance of a key union, the cost of not agreeing the equality supplement to wages as part of the national incomes policy agreement was that no incomes policy agreement would be made. This would have been a high cost to pay and, as noted earlier, encouraged negotiation and compromise in that case study.

Also at stake in considering agreement/non agreement is the continuing relationship between the parties. In some cases a non-pay EO issue provided an opportunity for employers who were opposing wage increases in the context of tight budgetary constraints to nonetheless 'give' the union something in the bargaining process, and similarly for the union to deliver something to its members.

Compromise inevitably means getting less than is considered ideal. But even a provision which falls far short of original intention can establish the principle of including EO in collective bargaining and thus provide the foundation for pursuing a more ambitious agenda in the future. In case studies where information was available on bargaining subsequent to the agreement studied it could be seen that equality retained a place on the bargaining table. Thus the original equality supplement in Finland was not large (because of opposition to it, its size was reduced in negotiations to such an extent that employers did not object) but this helped establish the principle. Similarly in Greece, the general agreements negotiated since the pioneering one studied, which included equal opportunities in collective bargaining for the first time, also contained equality provisions. The Netherlands study shows how the range of equality issues

addressed in the collective agreements studied, extended, as time passed, from anti-discrimination to positive action measures<sup>4</sup>.

## Post Agreement

This stage includes mechanisms for achieving and monitoring implementation of the agreement, and the outcomes and impact of the agreement in practice.

A number of the case studies were able to provide less information on the implementation and impact of the agreements, and the factors relating to this, than they did on the two other stages of the bargaining process, pre-agreement and agreement. In some cases it was too soon after the concluding of the agreement to assess implementation and impact. But this lack of information also resulted from the fact that the parties themselves often were less concerned with implementation. It should also be noted that it is rare to find any regulation of implementation or requirements for monitoring even where there is legislative intervention for equality.

Collective bargaining as a process can be seen to extend beyond signing an agreement to embrace its implementation and policing, yet in a number of cases, it appeared that the parties failed to 'sell' the agreement they had negotiated to their constituents. This involves disseminating accessible information about the agreement, but also calls for actions designed to secure commitment to the agreement and shape attitudes so the measures can succeed in practice.

The Austrian report provides an example of an intensive information campaign being undertaken to publicize the agreed measures to male and female employees. In Ireland the union held seminars to raise equality awareness and devised 'negative attitudes training' which was then adopted by the company for its supervisory staff. In the Italian local authority a number of information initiatives were undertaken, but here the relatively minor role played by the unions was a factor preventing a number of policies gaining a foothold. In Spain, International Women's Day 1997 was taken as an opportunity to publicize the agreement reached on sexual harassment. This initiative was taken by women trade union leaders but the report notes that generally the workers' representatives in the unions involved in the negotiation are not very aware of its importance and have done little to disseminate the ideas underlying the agreement or to encourage discussion of it.

Some agreements studied were often weak in that they did not provide for monitoring, or failed to institutionalize the equality measures they contained. Such weaknesses, which in some cases may have been part of the price of securing agreement, help explain why, where information on implementation and impact was available, it appears that the full potential of the agreement was

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<sup>4</sup> This is not to imply that continued attention to equality does not need to be fought for. One problem identified in the case studies is that equality action may be viewed as a temporary corrective measure rather than ongoing (see French case, for example).

not realized. There were also, however, specific factors hindering effective implementation of the particular agreements or individual provisions which are discussed in the individual national reports (see, for example, Greece). These relate to the provisions themselves or the particular context for implementation.

Where an issue reappears on a subsequent bargaining agenda, then some review of its operation can be expected even in the absence of specific monitoring proposals in the agreement. This is demonstrated in the Finnish case study of the equality wage supplement. By 1996 the partners established a joint equality supplement statistics group to survey the utilization of the supplement.

What the case studies suggest is necessary in general terms for good implementation (either because it was included, or because its absence was seen to be important in terms of what was actually achieved) is a package of measures including:

- binding targets/goals;
- timescales for implementation;
- allocation of responsibility for implementation and its systematic monitoring and review;
- training for those responsible for implementation as appropriate (including lower level management);
- mobilization and active participation of women in implementation;
- provision of criteria and information for transparent evaluation of progress, and effective control mechanisms and sanctions to ensure compliance<sup>5</sup>.

Additionally, informing/educating those affected by the agreement can enlist employees in its implementation.

Establishing a properly resourced and supported joint equality body with responsibility for some of these implementation issues was seen to be a positive move in various cases studied. This avoids the implementation of an agreement with good potential for equality being left resting on the willingness to act of those who may be resistant to it.

In France, for example, a joint committee was entrusted with annual assessment of the application of the agreement and charged with making proposals for subsequent years, which helped achieve generally good implementation of the agreement. In Austria, the agreed plan for the advancement of women led to wide-ranging institutionalization of women's representatives (equality officers) with an express right of access to information which created the basis for effective intervention and a voice in policy-making.

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<sup>5</sup> The Swedish case provides an example where incentives rather than sanctions were included to encourage compliance by departments. The EO plan provides for the Municipal Executive Board to award an EO prize. One year, no department submitted a proposal, however, and no prize was awarded, which led to a positive result in that it stimulated a discussion of equality measures in the media.

Such measures may aid implementation although, as illustrated in various reports, the question of resistance to equality measures remains an important one. For example, the Swedish report discusses ‘non-decision’ and ‘diversionary decisions’ as strategies of opposition (pp. 48-49) affecting the implementation of equality plans. The Austrian report discusses patriarchal and cultural resistance, eg concerning management and part-time work. The UK report highlights resistance to the centrally negotiated provisions from line managers in decentralized business units. The Italian case notes that the marginalization of the equal opportunities committee reflected union resistance to the representation of women’s demands moving out of traditional union bodies.

As the German report (p. 56) argues, implementation will be jeopardized if key decision makers in the company responsible for personnel policy perceive no disadvantage for themselves if they do not implement EO policies and agreements, or even block them. This indicates that organizations’ normal instruments of control and accountability need to be harnessed for the implementation of equality measures (see Swedish report, p. 29, for an example of this in terms of report and evaluation).

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## Chapter 3

## Environmental Factors Favourable to Collective Bargaining for Equality

The importance of particular factors was indicated in the national research by their being identified as positive in the cases studied by the parties or the researcher, or by their absence being perceived as negative for the promotion of equality through collective bargaining.

The factors will be discussed separately but, as noted earlier, there is no hierarchy of factors and it was the cumulative effect of various factors in combination which was seen to promote collective bargaining for equality.

This chapter discusses external/environmental factors; the next deals with internal/organizational factors.

The environment for collective bargaining on equality in the broadest sense has to do with the extent to which and way in which equality between men and women is recognized as an issue and promoted as a goal in the national societal context. This varies between different Member States, as does the perception of whether joint regulation in the employment sphere (as opposed to social policy, for example) has a role to play, and, if so, what that role might be. Differences can be found also in the regulatory space occupied by collective bargaining – compared with legal regulation or unilateral employer action – in general and in respect to equality issues.

These general points were discussed in the second report of the project, (Kravaritou, 1997). Here the focus is on particular aspects of the environment within which collective bargaining takes place which can be identified as influential in the case studies: the state of the economy; the labour market; the legislative framework, and other political intervention/state action.

Such external or environmental factors can be sources of pressure on the social partners, and can stimulate and help shape action. They affect the ‘climate’ within which collective bargaining occurs and the context within which collective agreements have to be implemented. The environment can be more, or less, supportive of equality.

Environmental or external factors, however, should not be seen as determining action. They may act to constrain or facilitate the exercise of choice by the actors in the collective bargaining process, and may encourage certain courses of action or make them less likely, but they do not have independent effect. External factors can be mediated by the social partners, for example, in ways which are more or less positive for equality.

### **Economic Context**

The report from the Netherlands noted that EO was seen to get more attention when the economic situation is good. In that study, as the economic climate deteriorated the union prioritized higher wages and job retention above increased expenditure on childcare or payment during parental leave, adjusting its demands to the economic developments in the sector. The Belgian study noted a lack of interest in the results of the equality study commissioned previously by the social partners who, at the time of its completion, were not seeing EO as a priority when economic crisis, enterprise competitiveness and the reduction in unemployment were the focus of attention. The report from Italy notes that it is a widely-held view among the social partners there that equal opportunities are policies for times of prosperity which have to be shelved during periods of recession.

However, as indicated in earlier discussion of bargaining relationships, ‘non-pay’ EO issues may be more likely to be taken up in bargaining in circumstances where adverse economic conditions make wage increases less likely. Also, as discussed later in looking at employers’ business interests, EO measures can be seen as integral to a competitiveness strategy. More fundamentally, the ‘fair weather’ view of EO arises because EO is seen as separate from other (‘mainstream’) issues which are addressed in bargaining, rather than integral to all issues covered by collective bargaining.

In some cases studied (eg the UK, Germany), economic recession, changed product market circumstances and associated restructuring proved very detrimental to the implementation of good agreements (in terms of content) which had been reached in different economic circumstances. This indicates a need for the underpinning of measures developed in favourable conditions to prevent EO being simply a transient concern.

In the Finnish case study, although the first equality supplement (1989) was included in an incomes policy agreement reached in a good economic climate, the agreement of autumn 1995 was achieved when the economic situation was poor and unemployment high. There was sufficient acceptance and underpinning (including the strong position of women in the labour movement) for the equality supplement not to be merely a solution for periods of economic success.



## The Labour Market

Particular labour market conditions (feminization, demographic change, actual or anticipated skills shortage) have stimulated action on equality. Some labour market developments, however, such as the increase in ‘atypical’ workers who often fall outside the scope of collective agreements, may limit the impact of bargaining for equality where it does occur.

An appreciation of changing labour market patterns, including increased feminization of the workforce, may foster an awareness of the need for equality action to help serve organizational interests in recruitment, retention and labour utilization. This was found to be the case in some of the case studies (France, the UK and Germany).

There is a large presence of women in the labour market of every Member State, and female participation has been increasing in every country over the past few decades (see Kravaritou, 1997:5). In the 1980s, in the context of the forecast shortage of youth labour and potential of increased female activity rates, the UK Employment Department argued:

Employers must recognize that women can no longer be treated as second-class workers. They will need women employees, and must recognize both their career ambitions and domestic responsibilities. This will involve broadening company training policies, much more flexibility of work and hours and job-sharing, to facilitate the employment of women with families and help adapt to their needs. (DE 1988)

Taking action to promote equality of opportunity can benefit an organization through enabling it to secure and retain scarce resources in competitive labour markets. In tight labour markets there is also an added incentive for employers to identify and tap into unexploited skills and potential of the existing workforce. Research indicates that women are often in jobs below their skill level and so both they and their employers stand to benefit from such action.

Labour market change, coupled with a sectoral shift towards the services sector in many countries, also means that the potential trade union recruits are increasingly women, which, as discussed later, may encourage unions to pay greater attention to equality issues.

Long-term labour market trends suggest continuing pressure from this aspect of the environment although it can be muted in times of economic recession.

Market pressures (product/labour markets) can be positive for equality, but they can also be negative. It has been long recognized that equality cannot simply be left to the market; positive pressure needs to be harnessed, and achievements attained in favourable conditions must be buttressed against negative pressure which may emerge as conditions alter.

## Legislative Framework

### Relating to Collective Bargaining

There are two aspects for consideration here. Firstly, the legislative framework may affect the extent, nature and scope of collective bargaining in general, which has implications for bargaining for equality. Secondly, there is the way in which the legislative equality framework interacts with collective bargaining.

The first can be dealt with briefly by noting that the existence and security of collective bargaining is a *sine qua non* for equality bargaining. The absence of collective organization and collective bargaining by definition means that it is not available as an instrument for promoting equality. Where the legal framework effectively promotes and supports union organization and collective bargaining and permits it suitable scope, it helps provide the basic conditions for equality bargaining.

In this connection, for example, the exemption of small firms from the duty to bargain in France can be seen as negative, not least given the disproportionate presence of women in such employment; as can the limited range of mandated subjects for bargaining in Spain (see Stage 1 national reports). Developments in the 1980s in the UK, where legal supports for collective bargaining were removed, and the extent and scope of bargaining effectively narrowed, can be seen as detrimental for equality bargaining. In the UK study the dismantling of the centralized bargaining structures which had produced the good agreement in the context of major restructuring, and the reassertion of managerial prerogative rather than joint regulation (which was not legally supported) severely undermined the prospects for effective implementation of the agreement.

The pursuit of equal opportunities through collective bargaining is likely to be aided if legislative measures designed to stimulate and support joint regulation or social dialogue themselves have an equality dimension. Here the failure of the European Works Council Directive to provide for gender balance in membership of negotiating bodies, or to specify EO as a required subject for consultation by European Works Councils, can be seen as an example of a missed opportunity.

Law may provide for or permit positive action within the social partners (eg UK law permits reserved seats for women on union governing bodies) which may affect the identity of negotiators and decision makers, an organizational factor discussed later.

### Relating to Equality

The case studies clearly demonstrate the importance of the legislative equality framework for collective bargaining and equal opportunities. In many cases a legal framework favourable to equality measures appears to have been necessary, if far from sufficient, to get the social partners to address equality issues in bargaining. The interaction of the legislative equality framework and collective bargaining can take various forms. It may require non-discrimination in agreements; it may substitute for, stimulate or even require bargaining over equality issues, directly or indirectly.

European law (Equal Treatment Directive) requires collective agreements to be free from discrimination, yet some collective agreements can be found which do still discriminate. This is the case for example in Portugal. But discriminatory agreements ('remnants from the past') occur even in what are seen as 'advanced' systems in this context, such as Sweden (Stage 2 report, page ix). More generally, however, the discrimination only becomes visible once the agreements are examined in context. Therefore a mechanism for the effective examination of the content of collective agreements in context is necessary to give effect to the formal legal position. This is not the current position in many Member States.

Where there is detailed regulation of substantive equality issues by legislation this may remove the need or incentive for such matters to be subject to negotiation. The fact that the law intervenes to promote equality may be taken as an excuse for inaction on the part of social partners not pre-disposed to address equality issues (see Kravaritou, 1997:17 for examples).

In Portugal an excessive dependence on legislation in general as a means of regulating employment is argued to lead to inertia in the bargaining process. In the rare cases where collective agreements in that country had anything to say on equality issues the focus was on maternity, and many agreements often simply reproduced verbatim the legal texts. This formal response to law by the social partners is unlikely to produce any practical action.

In countries where the preference of the social partners is to avoid legal regulation of employment conditions, political interest in equality issues may stimulate bargaining to avoid external legal imposition. This was noted as a factor in Denmark where political interest being taken in the American affirmative action legislation helped stimulate the 1991 supplementary agreement on equal treatment.

Where legislation sets minimum standards or requirements in a substantive area it provides not only a safety net but also a floor upon which collective bargaining can build. The existence of legal standards or minima may constitute a lever or resource to be used in bargaining, as can the availability of legal redress for those who have suffered employment discrimination (eg the reports from Sweden and Denmark). An incentive to act in areas where there has been legislative intervention is provided by the fact that the social partners can use negotiation to tailor action on issues identified in legislation to better fit their particular sector or organization.

Legislative action on an equality issue is an important environmental factor in stimulating collective bargaining in that area in a number of countries. The Swedish correspondent feels, for example, that in the last two decades legislation has been the driving force behind equal opportunity measures in Swedish workplaces. Legislation may actually require action on the issue from either or both parties, or empower or allow them to take such action. Less directly, it may give the issue a prominence, thereby creating awareness of it. Legislation can symbolize public policy concern for equality and play an agenda-setting role for collective bargaining.

The agenda-setting role of law can be seen in respect of national and European legislative initiatives (both Directives and 'soft' law). This is clearly demonstrated in the case studies

concerning bargaining over sexual harassment and parental leave (eg Ireland, Greece and Spain). Other supra-national standards (eg ILO Conventions and Recommendations) may also be relevant. These may assist in formulating a particular clause in an agreement, as in the Spanish case, or, more indirectly, can help create a climate favourable to equality action.

Some reports indicate the positive influence of general legislation on equal treatment where national legislation is often giving effect to European Directives, although some national statutes pre-date European legislation. A number of national reports identify a particular piece of national legislation as an important environmental factor in the concluding of the agreement studied (eg Italy, Belgium, Austria, Spain, Sweden).

The Austrian experience, among others, shows the tangible effect of legislation. In the Austrian public sector, but not in the private sector, there is legislation requiring measures for the advancement of women. Equality plans exist in the public sector but not in the private sector.

Legislation requiring particular measures can mean that the cost of taking such equality action is common to all employers, or even met by the state, which facilitates action being taken. Generalization of costs is also obtainable via multi-employer bargaining.

Whilst legislative provision may be insufficient to guarantee that bargaining action will be taken, in the absence of legislative encouragement such action appears less likely, although of course possible.

The impact of legal regulation on collective bargaining may be expected to vary with the tradition and culture of the particular country<sup>6</sup>. In the Italian report, for example, it was noted that legislation has a fundamental direct and indirect impact on the action of public organizations, and that regulation tends to be more important than economic efficiency considerations as a motivator of action in that sector.

Legislation may simply declare an aspiration or offer encouragement in respect of equality action by the social partners. This may, at best, facilitate action by those already pre-disposed to take it. Legal provisions can be a source of positive pressure on the parties to incorporate equality concerns in their collective bargaining. The influence of law is stronger, I suggest, where the emphasis is on positive measures to promote equality rather than simply non-discrimination; where specific action by the social partners, whether procedural or substantive, is mandated, and positive action promoted rather than just encouraged; where provisions are enacted which provide for the monitoring of such action and where there are sanctions in cases of non-action, or rewards for action<sup>7</sup>.

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<sup>6</sup> It needs to be noted that the collective bargaining system in Denmark plays a role in regulating employment which elsewhere may be performed by legislation.

<sup>7</sup> A similar statement can be made about the influence of national, regional or sector level collective agreements which require lower level bodies to take action.



## Other Political Intervention/State Intervention

Legislation may provide an external stimulus to equality action in collective bargaining but a more direct form of state encouragement and support was noted in several reports. In a number of cases environmental pressures were directed or targeted at the social partners via positive intervention by a third party to stimulate and/or support equality action. Examples are provided by the Brittany regional office of the Ministry of Women's Rights in France, the Minister for Women's Affairs in Germany and the Minister for Employment and Labour in Belgium. A key resource for the parties in the Belgian study was the Positive Action Unit in the Ministry of Employment and Labour, serviced by female experts in the field of EO. Among other things, the Unit developed a model collective agreement on positive action schemes.

In the Netherlands the government had a Positive Action Incentive scheme (1989-1995) which offered employers and umbrella organizations one-off payments for concrete positive action measures or for the appointment of a positive action officer. In the case study, the Horecabond FNV union official obtained such a payment to employ a women equality officer from 1990 to 1993.

In countries with more corporatist industrial relations the state is to some extent a partner in collective bargaining and there is an intertwining of industrial relations and political processes. Thus in Austria the social partners are a powerful component of Austria's political system. In Finland, government representatives may join the social partners in agreeing incomes policy.

State-funded equality agencies and bodies (some established by legislation) may also play a positive role. The Equality Ombud (EEO) in Sweden has a duty to monitor equal opportunity plans and active EO measures even when covered by collective agreements<sup>8</sup>. As noted in *Exploring the Situation* (Kravaritou, 1997:19, 20), such bodies may have only advisory functions which limits the scope of their intervention. The British Equal Opportunities Commission funded research on how collective agreements can discriminate against women (Dickens *et al*, 1988; Colling and Dickens, 1989), and on the basis of this provided guidance on negotiating for equality which was taken up by the Trades Union Congress in seminars for negotiators.

Some administrative measures which relate to collective bargaining mentioned by national correspondents appear to contain unrealized potential in terms of facilitating or encouraging equality issues being taken up in bargaining, not least by demonstrating an external interest in the area and providing a source of examples. As the Luxembourg correspondent (p. 55) notes, there is a demonstration effect of good agreements, and employers and unions find proposals for improvement easier to contemplate if examples are given of existing good practice elsewhere. This project is making a contribution here (see especially Stage 2 reports, analysing agreements) but in a number of countries an administrative structure for the collection and/or review of

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<sup>8</sup> The intervention of the EEO in response to an individual complaint was seen to give rise to equality action in the municipality which was the subject of the Swedish case study, which explores in detail the interaction between this external authority and the development of equal opportunities plans.

collective agreements is already in place which could be used more effectively to this end (eg France, Netherlands, Austria).

The environmental factors discussed in this section are not exhaustive but are those most commonly referred to by national reporters<sup>9</sup>. Such environmental factors operate indirectly on the collective bargaining process. The extent of their influence can vary. At times, or in particular contexts, the collective bargaining arena may seem to be pretty well impenetrable as far as other actors (eg government bodies; the women's movement) are concerned. The support of the women's movement and pressure of public opinion as an environmental factor encouraging a link between collective bargaining and equal opportunities is notable by its absence from most case studies, although the public sector case study from Sweden provides an example where the pressure of public opinion was influential.

The impenetrability of the bargaining arena was noted by the researchers in the Netherlands who argued that 'what really matters is what those who are directly involved are prepared to put into it'. This view was echoed in the Belgian report (p. 20). The importance of binding legislation for collective agreement on equal opportunity was noted but it was argued that 'without real motivation and mobilization of the social partners on EO issues the progress achieved will remain limited'.

We now turn to consider the factors which were found to influence what the bargaining partners are prepared to put into equality; what internal, organizational factors might stimulate their motivation and mobilization for the promotion of EO through collective bargaining.

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<sup>9</sup> In the Netherlands and Ireland, developments in national central bargaining were seen to also influence the climate within which the sectoral and corporate level negotiations took place.

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**Chapter 4****Organizational Factors Favourable to  
Collective Bargaining for Equality**

Organizational factors are those which can be seen as internal to the organization, in contrast to external or environmental factors; they are the factors which encourage the employer or union side to initiate or enter into collective bargaining over equality or which facilitate the reaching of agreement on equality issues in bargaining.

**Employers' Pressures/Rationales****Profile of Organization**

One pressure to EO action is concern for the organization's actual or desired image or profile. This can operate at the level of the individual employer, but also at sectoral or national association level.

Clearly a company's image can be harmed by its being found to have unlawfully discriminated, and in the public sector in particular there is pressure to be seen to act in conformity with any regulatory requirements on equality (see the Swedish report, for example). But being seen to promote EO can also be perceived as a selling point for an organization or in keeping with its current or desired profile.

The concern may be with the image presented to potential applicants and existing staff and/or customers, with equality measures adopted as part of displaying a 'good employer' image, 'putting people first', presenting as a quality organization to attract and retain quality people. This was one of a number of factors influencing Volkswagen in the German case study and was also a factor influencing the employers' association in the Netherlands case.

Alternatively or additionally, the audience or ‘customers’ in question might be electors. In local authority employment, for example, political pressure from elected representatives, and/or an awareness of the diversity among recipients of council services may facilitate bargaining over EO. Public accountability and press scrutiny provide levers for equality action and opportunities to mobilize, as shown in the Swedish case.

In the public sector the tradition which exists in many countries of the national or local state setting an example as a good employer can be a lever to equality action. Further, there may be a particular political commitment to equality. The Italian case study provides an example where the public sector ‘good employer’ image, together with political commitment from the Socialist-led coalition in the particular province, were important factors in triggering collective bargaining over equality<sup>10</sup>.

Whilst an acceptance of social responsibility is perhaps more common among employers in the public sector, private sector employers may also desire to be seen to contribute as ‘corporate citizens’ in this way. In the German case study VW (state-owned) is an important employer in a particular region and accepts the social responsibility this entails. In Greece, the national level case study shows that collective bargaining on EO was facilitated by the Greek employers’ wish to develop a positive social image. Their perception of EO issues was strongly social in character and inclusion of them in the general agreement would provide a social dimension to it and give employers a modern profile in keeping with changing social perceptions and attitudes to gender equality (p. 27).

In the private sector EO action may form part of an organization’s positioning in the market and can lead to a knock-on effect on competitors via benchmarking (comparison of best practice). In the UK case study, for example, the newly privatized British Gas organization benchmarked against leading market-based competitors in respect of the terms and conditions packages for staff, which often included family/work reconciliation measures. Volkswagen, in the German case study, was also aware that other companies had concluded initial agreements with positive aspects for women workers (in the context of predicted skilled labour shortages) and this factor had a positive influence.

In some retail and other service sector companies a need to have a workforce which is representative of a female or diverse customer base can be an incentive to act. This may arise where organizations are developing a greater customer orientation. Equality measures may help in attempting to ‘get close to the customer’ that is, understanding customer needs in order to deliver the required quality service to the client and so increase market share. The Irish case study indicates how the Electricity Supply Board in the 1990s saw customer appeal as one of the positive factors influencing collective bargaining over equality.

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<sup>10</sup> The Irish case provides an example of an employer in the public sector being reluctant to act on equality issues for fear of setting a precedent in an area where the state had not decided on matters of principle.

In some of the cases studied, the organizations where good agreements had been concluded were those with a reputation for innovative or leading-edge collective agreements more generally. This was the case for example in the Spanish study where metal printing was seen as an innovative sector, and in Germany where VW has a pace-setting tradition. The desire of the Electricity Supply Board in Ireland to foster a progressive pro-active corporate image in the 1990s facilitated progress there.

Where there was third party encouragement to the social partners to pursue equality in bargaining, it was often organizations with innovative profiles which were targeted, eg the Minister for Women's Affairs in Germany encouraged action at VW. In France the regional office of the Ministry of Women's Rights identified the Finistere Mutual Insurance Company as a likely prospect for negotiating an agreement, in part because there were demonstrable inequalities despite an organizational culture which emphasized mutuality and parity.

### **Equality Measures as Part of Efficient Management and the Full Utilization of Human Resources**

Discriminatory practices can be attacked as part of a web of poor personnel procedures and inefficient management policies, while an acceptance of EO can be seen as good, professional management encouraging the efficient use of all human resources, often focusing on the development of female employees.

The professionalization of the management of people and a concern for the effective utilization of human resources to serve organizational interests provided a lever in some of the cases studied. In Italy a link was made between concerns for EO/social justice and HR development. The appointment of a new councillor responsible for personnel whose approach was to optimize the use of human resources was seen as significant. In Portugal the lack of training in human resource management in the many small companies in that economy was seen by the national correspondent as an obstacle to bringing EO into collective bargaining. In the French case study the creation of a HR department increased the importance attached to the human factor. This turning point in the organization was a positive factor in reaching the agreement studied. Similarly in Ireland, a new Director of Personnel wanted to promote the company studied as being progressive and pro-active in the management of human resources, and equality fitted within this.

However, not all organizations see human resources as an asset rather than a cost. It was noted in the Austrian report (p. 36) that 'any realization by employers that women should be seen not just as cheap workers but also as a valuable human resource, which means creating non-hierarchical and non-discriminatory structures at company level, is very much in its infancy and remains the exception'.

### **Linking Equality to Business Interests: Constructing Business Cases for Equality Action**

Recognizing that equality measures can provide a means of making full use of the human resource is one of a number of ways in which equality action can be linked to employers' business interests and be seen to serve their broader policy objectives.

Many of the case studies indicate how the appreciation of a business case for equality was part of the framework within which employer action was forthcoming. Such an appreciation in a number of cases was the result of trade unions being able to influence employer perceptions through the collective bargaining process.

In some case studies the employer's initial interest was not equality *per se* but some general business or industrial relations concern which then developed an equality dimension in the course of negotiations when combined with employee interests. This was so, for example, in Denmark where the plastics company studied was concerned to break down demarcation boundaries and maintain competitiveness through development of a workforce better able to meet increasing demands on quality and security of supply. It became clear that skill was a gender-specific issue which needed addressing to develop the expertise of women workers. This fostered a changed perception of equal treatment as serving flexibility by treating all individuals as people of equal value, rather than, as previously, seeing it as an external demand for 'politically correct' action. In this case study equal treatment came to constitute a necessary and supportive element in a process of development and change.

In the UK case also, the employer's starting point was not an equality issue but rather a business concern to obtain flexibility in labour utilization in the context of increasing competitive pressures and a need to reduce costs. This provided an opportunity for the union to raise equality issues connected with flexibility, which then found a receptiveness, in part through the employer's appreciation of how change in the labour market placed an increased emphasis on the need to recruit and retain women workers.

In the Belgian case, equality issues overlapped with the food production sector employers' interest in providing training and developing staff in order to meet new quality standards. Quality concerns were also influential in the case study in the Netherlands (where employers in the sector wanted to ensure that any sexual harassment issue was speedily resolved to ensure quality of service in contract cleaning). Also, relevant skills were seen to reside in women returners, thus family/work reconciliation measures were seen as serving business interests. In the Spanish case also, there was a demand for quality and 'industrial seriousness' from the major customers of the employers in the sector, which is a target for much multinational investment. This was seen as facilitating the agreement on sexual harassment there.

In France the equality concerns were able to mesh in with employer concerns for more versatile staff in the context of changing technology, and for wider career options for women to enable the company to assign staff to new functions.

What we see in these examples are employer non-EO rationales for potential EO action. For the potential to be realized the equality dimension has to be taken on board. The fact that the issue came within joint regulation provided the mechanism through which this occurred. Joint regulation can also help generalize and underpin business interest-driven initiatives which otherwise may prove selective and contingent (Dickens, 1994).

As this section indicates, it is possible to develop an economic case for equality action (see also Humphries and Rubery, ed. 1995). However, gains may be realized only in the long run, or at a level above that of the individual organization which has to bear the short-term cost, and which may in fact benefit from the existing gender order. It may be easier, therefore, to make economic arguments for equality action at aggregate sectoral or national level.

### Unions' Internal Pressures and Rationales

It is possible to indicate organizational factors in respect of trade unions similar to those just discussed relating to employers. Thus, for example (as discussed later) in terms of profile, trade union adoption of an equality profile may be seen as helpful in recruiting female employees, who make up an increasing proportion of the workforce and are generally found in the expanding sectors of the economy. This was noted for example in the case study from Greece (p. 36), but such factors will clearly vary from country to country given different levels of union density etc.

'Business cases' for equality action can be similarly constructed for unions as organizations, and this may result in pressure on union negotiators from 'above' (the union leadership) to address EO issues and develop equality awareness in bargaining. However, unions differ from employer organizations in that they are (aspire to be) democratic institutions in relation to employees. This places a particular importance on pressure generated and channelled within the union from 'below', ie from within the membership. Furthermore, unions' legitimacy rests on their status as representative organizations, and their strength on the ability to mobilize their members. As Cockburn (1995) has noted in discussing the enhanced role of the social partners at European level, this may be supposed to place upon them a greater obligation than in the past of internal democracy, including gender democracy.

This raises important questions concerning who is in the union; who has voice and wields power in the union and the extent to which those who would wish to promote equality action are able to influence the collective bargaining agenda, process and outcomes.

Such questions about the extent of women's voice and power are important as they affect the likelihood of equality bargaining. Internal factors relating to trade unions which affect engagement in collective bargaining for equality can be identified (Dickens 1993; Colling and Dickens, 1989) as likely to include:

- the extent to which women's voice is heard within the union, including women's proportion of the membership and their participation in the union;
- the extent to which women have power within the union and the extent to which those in power (men or women) have a commitment to equality;
- the importance attached to equality bargaining within the union, and the existence and nature of policies and structures to give this effect.

Women have often fallen outside the unions' historic scope and although female union density is increasing women are often not as well organized as men. The strong position of women in the

union movement in Finland, for example, was identified as a positive factor for bargaining over equality in that country. This may be contrasted with Portugal where a low level of activity of women in unions was identified as an obstacle.

Once organized, women can exert pressure on union negotiators from within as members making their demands known. The extent to which women have voice and can exercise power as members in unions to set agendas (which it may rest on men to negotiate) is important. Various case studies identified pressure emanating from the union rank and file as the starting point for predominantly male union negotiators' interest in equality issues, eg Ireland, Belgium.

The majority presence of women among the membership of certain unions in the case studies was seen as a key factor in their involvement in bargaining for equality. This was the case in Finland, for example, where the equality supplement was first initiated by a heavily female-dominated union. It was opposed by male-dominated unions. When the female-dominated union went bankrupt in 1992 and most of its members joined a previously male-dominated union, changing it to a female-dominated union, that union became an advocate of the supplement.

There is a range of positive action measures which unions can take to facilitate women's participation and activism (eg Trebilcock, 1991; Colgan and Ledwith, 1996; Cyba and Papouschek 1996; McBride, 1997), and some were found in some unions in the case studies. For example, creches were provided at union meetings in Ireland; a positive action project was carried out within the union in the Netherlands case study; various equality initiatives were in place in the union (NALGO) in the UK case study, and also in IGMetal in the German case study.

As well as taking unilateral action to improve and secure participation, unions can also seek to bargain over this with employers. An example of this is provided in the Irish report where the union negotiated an agreement for paid release of female union members for trade union meetings and training.

In situations where collective bargaining and equal opportunities are not yet intermeshed, internal pressure for equality appears more likely to emerge where union structures and arrangements empower women's voice and facilitate the mobilization of women's interests and where women's groups are recognized within the trade union. The case studies provide many examples of women's structures; equality structures; women's officers; women's conferences, etc. exerting a positive influence. Women's secretariats within unions and confederations were seen as important in a number of cases in raising awareness of equality issues among negotiators, in formulating demands, and in providing support<sup>11</sup>.

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<sup>11</sup> In Greece, in the agreement studied, the Women's Secretariat within the trade union federation for the first time had systematic involvement in the processing of claims and explication of the demands, and for the first time the demands were formulated by women and not men. The outcome was an agreement which addressed equality issues for the first time.



## Facilitating Internal Contexts/Triggers for Action

As well as organizational factors of the kind discussed, a number of case studies pointed to circumstances or events which helped trigger action, or which provided an internal context which facilitated progress. These might be seen as ‘change opportunities’, points in time where factors of the kind discussed above, which may predispose the parties to bring equality issues into collective bargaining, are able to gain a purchase.

One such change opportunity can be provided by change in personnel. This might involve, as in the case studies of France and Ireland, for example, the arrival of a particular senior manager with firm beliefs about equality. Changing managerial personnel can also provide an opportunity to move away from entrenched attitudes and acknowledge that there is a problem of discrimination/inequality within the organization, without the new managerial staff having to accept any blame for it. The same analysis can be applied to change in personnel in union leaderships or among negotiators.

Technological change or work/organizational restructuring may also provide a change opportunity. For example, in the case study from France, the departure of men through retirement from senior positions or in restructuring through technological change could be grasped as an opportunity for equality developments.

The case study from Italy illustrates how a change opportunity was provided in the provincial public sector with the move to more local level determination of employment conditions, and a shift towards private management criteria, along with a move away from the restrictive public sector bureaucratic rules and traditional procedures which had made innovation difficult. The shift offered an opportunity to apply EO principles, and managers were urged to use, among other things, the principles of EO as resources for improving on previous management practices, for example in recruitment and selection. This breakaway from traditional procedures was seen to offer ‘an extraordinarily positive opportunity for EO’ (p. 14).

In a number of reports stress was placed on the role played by key individuals in the decision-making process. People who acted as champions for EO included the deputy secretary of the union executive (female) and the negotiator for the employer side (female) in the case study in Greece; the deputy managing director (female) appointed to the organization studied in France; the Personnel Director (male) appointed to the organization studied in Ireland; the chair of the VW works council (male) in the German study; the key negotiator (male) for the union in the UK case study, and the officer responsible for EO (female) in the local authority studied in Italy.

These individuals had a personal commitment to social justice issues/women’s issues; held firm beliefs about sexual equality; were responsive to positive influences (eg internal discussions on equality within their union), and were in a position to act. As is clear, among these key players were men as well as women. In the next section the significance of gender in collective bargaining is explored.



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**Chapter 5****The Significance of Gender in Collective Bargaining****The Identity of Negotiators**

Rarely is information available concerning the gender of negotiators, but available data concerning the identity of decision makers and office holders in the social partner organizations clearly show that men predominate (see Kravaritou, 1997; Braithwaite and Byrne, 1993; Cockburn, 1995).

In the negotiations studied in this project there were cases where the bargainers were all men; others where they were mainly men but some women were present, and a few cases where women were present among the negotiators in sufficient numbers to form a critical mass, even though not necessarily the majority. In mixed negotiating teams it was often the women (as in Italy) who acted as spokespersons on equality issues both prior to negotiations and at the negotiating table.

If a wider definition is taken of those involved in bargaining, to extend beyond the actual negotiations to include the wider bargaining process, then women become more visible in many of the case studies. Moving beyond the actual negotiators to include those providing 'back room' research and assistance, those active within the personnel functions of the organizations, and those actively involved in formulating and checking bargaining proposals, reveals that even if women were absent from negotiations they exerted influence behind the scenes where good agreements were being concluded.

In some case studies, forging the positive link between EO and CB was helped by having committees with good female representation set up to inform and monitor negotiations, or by

setting up joint working parties with good female representation to work up the detail of agreements. This is a way of involving women where they are not found in traditional collective bargaining positions. In the Netherlands, for example, women were well represented (23 out of 53) on the collective bargaining committee charged with checking bargaining proposals and results, although the negotiations were conducted by men. In Germany, where it was mainly men in negotiations, draft proposals were discussed in a committee of women works council members.

## **The Importance of Women's Presence**

Women's presence in negotiation is important for two reasons: democratic principle, and because there is a link between women's presence (internal equality) and collective bargaining outcomes (external equality).

### **Democratic Principle**

The proportional presence of women and proper representation of women's concerns in collective bargaining is important as a democratic principle. The underrepresentation of women, and the suppression of women's concerns, can only be seen as in keeping with democracy if one assumes that individuals are gender neutral (McBride, 1997). The underrepresentation of women in industrial relations decision-making undermines the democratic principle and poses a problem of legitimacy of existing structures.

### **Internal Equality Links to External Equality**

The case studies contain many examples where it was felt that the equality initiative would not have been taken; the good agreement would not have been reached, or progress on a particular issue made, had it not been for the involvement of women in the collective bargaining process. They also provide examples of where the absence or underrepresentation of women was seen as hampering progress, with equality issues not being pushed (as in Ireland, for example, p. 44), and of equality proposals being watered down or marginalized in male-dominated bodies (eg in Greece, p. 22). In some cases the involvement of women was seen as the decisive factor in obtaining the good collective agreement studied; in others it was considered to be significant but not decisive (compare, for example, the reports from Greece and Spain).

This project serves to confirm the findings of other research (eg Martikainen, 1997; Colling and Dickens, 1989; Heery and Kelly, 1988; Cockburn, 1995) which finds the presence of women among negotiators can be positive for equality bargaining in terms of the issues brought to the negotiating table, the determination of bargaining priorities, and in the contribution of expertise and knowledge of women's concerns and working conditions to achieve better, more effective, agreements.

When empowered to do so, women develop different (longer) agendas than usually emerge from male-dominated structures (McBride, 1997; Cockburn, 1996) and women negotiators place higher priority on equality issues than do their male counterparts. As discussed above, male

negotiators may respond to pressure from women but they are not prone to initiate or take responsibility themselves for equality and women's issues.

Women are able to contribute expertise and particular experience of women's concerns and working conditions from 'lived experience' which inform negotiations and lead to more effective collective agreements. It is not surprising that negotiators may have a greater awareness of how things are experienced by their own sex. The Finnish study notes (p. 29) that 'not a single male negotiator talked about how unfair employees found the wage differentials between women and men. On the other hand the opposition of men to the increasing of women's wages was repeatedly anticipated'.

The findings and arguments here have parallels in empirical research of women in political decision-making which, *inter alia*, show differences between male and female politicians in role orientations, issue orientations and in parliamentary behaviour (see Leijenaar, 1996:14).

### **Making a Difference**

Women's access to the collective bargaining process is a necessary but not sufficient condition for making the link with equal opportunities. The presence of women among negotiators does not guarantee action to promote collective bargaining for equality. There is a distinction between 'being there' and 'making a difference' (McBride, 1997; Cunnison and Stageman, 1993).

Female union negotiators, as well as male negotiators, will be acting on behalf of their normally mixed constituencies. There is nothing in the logic of liberal democracy to say that women elected from mixed constituencies should espouse the cause of women (Cockburn, 1995; Phillips, 1991:149). The case studies indicate they are more likely to do this than are men, but the research also provides examples of women conforming to the traditional, male-centred agendas and priorities of bargaining.

The reports from Italy and Germany, for example, show there are various pressures which may lead women (for example on male-dominated works councils) to act with the grain (described as 'complicity in male power' by a respondent in the German report) rather than seek to challenge it. In part this may have to do with the presentation of 'women's interests' as separate from, and counter to, 'trade union interests'. Cyba and Papouschek (1996:67) observe that 'being a woman' is still not a social identity in the world of work in comparison with the traditional sense of belonging which comes from one's job. This 'permits women as a group in the world of work and women's interests to be interpreted as a special category of interests and presents a barrier to articulation and promotion of interests'.

It is not enough for women simply to hold key posts in the organization or be at the negotiating table; they need to be aware of women's concerns, have sufficient training in how to forward claims effectively and be supported in so doing. The research suggests that support may come through having a critical mass of such women in negotiation; through securing the support of gender-aware male negotiators, and through both internal links to women within the organization

and via external networks. Currently, however, the relationship between external women's groups and unions is often tenuous and, within unions, structures and groups facilitating the mobilization of women and the articulation of their concerns do not necessarily have institutionalized links with bargaining. Women's concerns articulated within women's structures are not necessarily taken up in 'mainstream' structures.

Women need to be able to wield power in negotiations and this links to their position within the wider organization. Some of the advantages of having women present (expertise, experience etc) can be obtained in male-dominated bargaining by making special arrangements, for example bringing in someone to speak on equality, but where the female negotiator is also a senior office-holder within the employing or union organization this provides a resource/power base which otherwise may be lacking.

The Italian case demonstrates the problem of having commitment to equality from those without power in bargaining while those with power were resistant. The Greek report noted that the senior trade union woman who was instrumental in achieving the agreement studied was able to locate her advocacy for equality within a broader range of responsibilities as deputy secretary of the union confederation, whereas having someone assigned especially to raise women's issues may lead to marginalization. The need for equality officers within employer bodies to have sufficient status and power was also highlighted in various case studies. Linking equal opportunities and collective bargaining is hampered, for example, where the equality officer is not of the required status to take part in negotiating meetings.

For the reasons outlined, it is very important to take steps to increase women's presence in senior positions within the social partners and in the process of collective bargaining. But it is also important to work with what we have. The task is both to increase the proportion of women in decision-making in collective bargaining and to shift the agendas and outcomes of bargaining conducted by men towards equality. These are obviously interlinked but can be pursued independently and simultaneously.

### **Men Bargaining for Equality**

Given the current male dominance among negotiators, and the underrepresentation of women in senior positions in the social partners and in the institutions of the social dialogue at national and European levels, we need to consider whether and when men might bargain for equality.

The case studies indicate that having only men in negotiations may not be an obstacle to EO finding a place in collective bargaining where there is commitment and access to expertise, and where women are involved in the broader bargaining process (for example, at the pre-bargaining and implementation stages). Collective agreements with good potential for equality did emerge

from male-dominated bargaining and, as noted earlier, some of the individuals identified as key actors in the case studies were men<sup>12</sup>.

Some men bargaining equality issues in the various case studies were 'doing their job'. That is to say, they were carrying out company or union policy. In the Netherlands, for example, bargaining proposals were developed in line with the union's annual policy statement on working conditions in which EO topics feature prominently. In Finland male negotiators reflected the binding policies of their equality-minded organizations. If negotiators are to act upon the expressed equality demands of their constituents, mechanisms are necessary to ensure these demands are clearly expressed and channelled through to them.

Clearly there are men who have a personal commitment to equality; in other cases such commitment (at least to pursue a particular equality issue) may be secured through constructing shared interests. This may involve internal negotiation and compromise in the pre-agreement and agreement stages of collective bargaining, as discussed earlier. Equality concerns men too, but many EO measures are perceived as only benefiting women. Making a link between low pay (affecting male members as well as female) and gender inequality in pay helped secure male commitment to the equality supplement in the Finnish case study.

In some cases the men engaged in making the positive link between collective bargaining and equality had benefited from education/training in the importance and substance of the issue. Overcoming ignorance of EO and women's concerns may help secure male commitment (although this is not to suggest male resistance is simply a problem of information and education). In the French study, for example, it was seen as significant that the union had provided training in equality issues for union officers. Training may be particularly pertinent where decentralization of bargaining means a move away from established equality expertise.

In a number of cases male negotiators who were bargaining for equality were in unions or companies with internal equality structures which fed into the collective bargaining process directly, or which more indirectly affected the culture of the organization and how its officials were evaluated. In the UK case, for example, the union (NALGO) had equality structures which at the time were among the most mature in the British trade union movement. They were being enhanced at the time of the negotiation, which intensified pressure on equality issues experienced by the (male) union negotiating officers. Also, the underachievement on women's equality within that particular section had begun to become an issue within the national union forums. In Germany the male chair of the works council had been involved in equality discussions within IGMetal and was subject to pressure exerted from local women's committees of the union. This, together with his personal views and the influence of his wife, were seen to underpin the key role he played in securing a good agreement.

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<sup>12</sup> It is difficult on the basis of this research to explore whether equality bargaining undertaken by male negotiators differs from that undertaken by women, although the earlier discussion concerning the role of 'lived experience' suggests this might be the case.

The commitment of men within unions which have a good equality record cannot be taken for granted however. The Irish study indicates how male negotiators at company level failed to pursue equality issues despite the excellent track record of their unions on equality outside that organization, because the male dominance of the unions at local level muted any pressure from below and there was a lack of pressure for equality bargaining from above.

There is a need to ensure that equality structures link to, or integrate with, mainstream structures, including collective bargaining structures, for them to work effectively in promoting collective bargaining for equality on the part of both male and female negotiators. The case studies provide examples where such integration was not achieved and problems of rivalry and tension emerged, as between, for example, equal opportunity officers and staff representatives, or between women in the women's secretariat of the union and women on works councils.

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## Chapter 6

## Modernizing Collective Bargaining

Making a positive link between collective bargaining and equal opportunities is part of the modernization of collective bargaining<sup>13</sup>. A concern to promote equality through collective bargaining inevitably leads towards modernization of collective bargaining. In turn, modernization in terms of collective bargaining coverage, representativeness and scope will facilitate the move from having collective agreements which underpin and perpetuate inequality to achieving agreements which promote equality, ie ‘good’ agreements.

### **Moving towards Good Agreements**

Our research has focused on identifying ‘good’ agreements but it is also possible to have ‘bad’ collective agreements. On a continuum collective bargaining and its outcomes may:

- generate inequalities;
- underpin, codify and perpetuate existing inequalities;
- be gender-neutral (in form; in practice);
- positively address inequalities; and
- promote gender equality.

In effect this is a continuum from ‘bad’ agreements to ‘good’ agreements. There are agreements which discriminate overtly in their provisions. But generally the negative link emerges only when the agreement is considered in the context of its implementation, and the context is generally one

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<sup>13</sup> The project adopted a broad and flexible definition of collective bargaining and highlighted the need for the concept to be sensitive to the possibility of fluidity between points on a continuum which includes informal arrangements, information, consultation, negotiation and agreement.

of sex segregation. Indirect discrimination, which is invisible on the face of the agreement, is revealed once one asks who are the workers covered in particular categories, who does the work that is particularly rewarded (eg by premium pay opportunities) and who in practice has access to the benefits negotiated?

Good agreements, on the other hand, are those agreements, or provisions in agreements, which potentially contribute to equal opportunities. It is necessary to stress ‘potentially’ as one needs to look beyond the content – which may be good – to consider the implementation and impact of the agreement in practice. The challenge is to move to the good end of the continuum, to make the link between collective bargaining and equal opportunities a positive one. Meeting this challenge requires an understanding of equal opportunities and a preparedness to act. This report has discussed factors which may affect that preparedness.

As discussed in *Defining the Issues* (Bercusson and Dickens, 1996:15-21), the concept of good practice in the area of equality is neither straightforward nor uncontested. What is seen as an EO issue, what is defined as good practice will reflect the way in which equal opportunity is defined and conceptualized. For example, the focus may be on formal equality treatment or substantive equality outcomes. The focus may be on protecting the interests of existing employees (job holders), or may also include those of future employees (job seekers). This affects the definition of the group for whom equality of treatment or outcomes might be sought.

There is also the issue of sameness or difference. If EO is seen as requiring women and men to be treated the same, this may lead to women being offered equality only on male terms – if they can conform to male norms, requirements, etc. This may reinforce the notion that women’s difference from men equals disadvantage. An alternative approach is to conceptualize equal treatment as requiring parity of treatment between men and women – a call for equivalence which recognizes differences, rather than simple equality (Cockburn, 1991).

Linked to this is the question of whether or not EO is perceived as addressing a ‘deficit’ in women or as requiring change in occupational and organizational structures, norms, etc, which, although taken as neutral, are in fact male gendered. Part of this is getting a view of EO which promotes measures aimed at equality – not just at women. This should include measures aimed also at men.

It is also important that EO is not seen as relating only to specific areas. Obviously there are topics – issues for negotiation – of clear relevance to women and to gender equality, eg sexual harassment, family/work reconciliation, training for women, etc. These are important areas but making the positive link between equal opportunities and collective bargaining calls for an equality dimension in all bargaining – a gender perspective on all issues. As well as bargaining on equality issues there needs to be equality-aware bargaining.

Some of the case studies noted that although a ‘good’ agreement had been negotiated, equality awareness had not become a feature of mainstream negotiations. A concern with equality in

collective bargaining should impact on the way in which existing commonplace issues are approached. In Belgium, for example, the adoption of a collective agreement on job classification ran alongside the positive action developments studied, but the issue of equality was not really addressed in job classification. In the organization studied in France equality was seen to surface when explicitly on the agenda, but it was not addressed in connection with matters such as revision of the grading system, deliberations on working hours and the problem of staff appraisal. As discussed earlier, apparently non-equality concerns of employers (flexibility, the pursuit of quality, teamworking) have an equality potential which equality-aware negotiators could harness.

Thus, making the positive link between EO and collective bargaining involves moving to a situation where issues which do not come brandishing the equality label nonetheless are seen as relevant to equality (flexibility, working time, restructuring, privatization, wage adjustment, etc). In this situation the parties ascertain how agreements will impact on men and women; consider how they might be gender-proofed and how their implementation and outcomes might be monitored. Equality bargaining is not simply about ticking off items on a shopping list of EO issues; it requires a more fundamental change in approach, one which is gender aware and ongoing.

### **Modernization Issues**

Collective bargaining needs to be modernized to reflect the changing labour market and nature of employment. Women have been excluded from the scope of collective bargaining. Often exclusion arises because women make up most of atypical or non-standard workers (a growing phenomenon in many Member States), or because they are segregated in sectors which have not been organized, or in occupations marginalized or overlooked in industry agreements. Women constitute 40% of union members in the EU. It is not the case that women are less inclined to organise than men. Explanations can be found rather in the traditional focus of union recruitment and organizing. This is shown by the success of those unions which have made efforts to recruit women; to take account of their concerns and integrate them in their structures. The modernization of collective bargaining requires greater inclusivity.

Biased coverage links to priorities in bargaining. Collective bargaining agendas and programmes, given real priority, reflect concerns of dominant groups – male, full-time, native-born workers. These characteristics are traditionally taken as those of the ‘universal worker’. Modernizing collective bargaining requires a more accurate picture: a recognition of diversity among workers (by gender, but also by ethnicity etc) and measures to improve the recruitment and active participation of these diverse groups.

As we have discussed, this raises issues to do with the identity and representativeness of decision-makers (including negotiators) and calls for measures to promote a better gender balance among decision-makers.

The modernization of collective bargaining requires attention to the issues of bargaining and the scope of the agenda. Linking to equality provides an impetus to improve on the relative poverty of collective agreement content. A full understanding of equal opportunities leads to tackling issues which may extend beyond the traditionally narrow focus of bargaining strategies. This could take bargaining into areas of personnel policy which in many countries have not been subject to joint regulation, and will involve making links between the domestic and employment spheres, between working life, community life and domestic life. Greater participation of women in collective bargaining will inject different perspectives and experiences and has the potential to help change the prevailing culture and structures. Women's different concerns and priorities provide a catalyst for challenging and enlarging existing definitions of collective bargaining and of union issues.

The modernization scenario just outlined clearly presents a variety of challenges to the social partners. It calls for radical change in the traditional bargaining platforms and approaches of much collective bargaining and poses a challenge to existing gender power relations. Equal opportunities may pose particular challenges for trade unions in that often hard won practices, seen to protect the general interests of members, may appear threatened. Thus, for example, such practices as seniority rules and closed internal selection procedures may defend the interests of existing employees, male and female, but be seen as indirectly discriminatory when viewed in a broader context including the rights of job seekers as well as job holders. This is well illustrated in the Italian case study (p. 20) where the unions had to face the issues of the relationship between EO and the defence of general, universalistic, consolidated interests of employees; and the relationship between the protection of existing employees in the local authority and the rights of potential employees.

Making the positive link between equal opportunities and collective bargaining poses a challenge but also offers advantages. There are benefits to be gained through using collective bargaining to promote equality and there are also benefits for the social partners in promoting equality through collective bargaining. A number of these have been indicated already in the report and are briefly discussed in the next section.

### **Benefits of Making the Positive Link between Equal Opportunities and Collective Bargaining**

Collective bargaining is to be seen as a complementary instrument to legal regulation, not as a substitute, and the balance between modes of regulation will reflect national traditions and preferences. Collective bargaining is an additional weapon in the armoury for equality, but it is one which offers a number of potential advantages relating to mainstreaming, flexibility, acceptability, legitimacy, enforcement and participation (voice).

The emphasis in the Commission's Fourth Action Programme and in the Amsterdam Treaty is on mainstreaming equality. This means building equality in rather than adding it on; making it an integral feature of all activity and not restricting efforts to promote equality to the implemen-

tation of specific measures to help women<sup>14</sup>. The importance of collective bargaining in determining terms and conditions of employment makes it a key mechanism for mainstreaming equality in industrial relations.

The social partners can obtain flexibility in approach to promoting equality through collective bargaining, as it offers a route to develop targeted, tailored approaches to suit local, organizational, sectoral, etc circumstances. Such tailored initiatives are likely to be more acceptable and workable than imposed universal approaches (although these may also be necessary) and where equality measures are the outcome of joint determination, resistance to them may be lessened because of the legitimacy of the process. .

Existing mechanisms of collective bargaining and joint regulation provide ready-made policing and enforcement mechanisms. Collective bargaining offers a way of dealing with polycentric issues such as equality which have clear collective or group dimension and where the legal route of individual rights' enforcement has been found wanting.

'Top down' legislative interventions have been criticized as 'men's rules for women's rights' and the same might be said of top down unilateral employer action. Collective bargaining permits the needs and interests of women – and men – as they perceive them, to be ascertained and acted on. Collective bargaining, resting on representative structures, provides a way of giving women a voice, an ability to define their own needs and concerns and to set their own priorities for action. It is a vehicle for 'bottom-up' action.

'Women' is a diverse category, and collective bargaining, when based on active participatory structures, potentially allows different voices to be heard. As Cockburn has noted (1995:68), women cannot be assumed to have a unified economic interest, because they differ on a number of characteristics (class, age, ethnic group, sector, occupational status). They can be seen, however, as having a unified set of concerns. By 'debating them in concrete situations can emerge a set of needs that can be the foundation of a bargaining and policy-making agenda' (Cockburn, 1996:119).

As well as the benefits which collective bargaining offers for promoting equality, taking on the EO remit is important for collective bargaining and the social partners. As discussed above, it provides a lever for modernizing the institution of collective bargaining to reflect changing realities. The new realities include the increased feminization of the European labour market.

The growth in women's participation and share of the labour market has implications for employment policies and union strategies. It forces a reconsideration of who constitutes the union, and what kind of agendas are appropriate and raises questions about the representation of different interests within union structures.

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<sup>14</sup> European Commission, DG V, *Fourth Medium-Term Community Action Programme on Equal Opportunities for Women and Men (1996-2000)* (95/593/EC).

Linking EO and collective bargaining will facilitate union recruitment of the new workforce, helping combat decline in union heartlands of male employment. In the debate about modernization of trade unions in Europe (eg *Transfer*, 1995), the need for unions to recruit such groups as women and young people is generally noted as necessary for their revitalization. But the transformation which this calls for on the part of unions in terms of internal equality, bargaining priorities and concerns, conceptions of work etc, is less frequently recognized. (For a move towards this, however, see Hege, 1997; Leisink, 1997.)

Employers, too, are affected by the feminization of the labour market. Those employers able to recruit and retain women, and fully utilize women's talents, may gain competitive edge. Also, as discussed earlier, the promotion of equal opportunities can serve managerial strategies for competitiveness based on quality and added value.

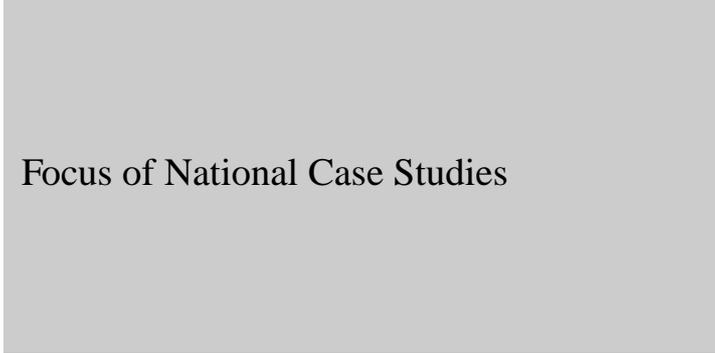
In some areas employers have questioned the continued relevance or utility of collective bargaining. Making the positive link between equal opportunities and collective bargaining could provide a new relevance for joint regulation. It is also a way of opening up new areas to social dialogue, a means of extending bargaining agendas. Modernizing collective bargaining in the ways indicated will also enhance the legitimacy of the social partners as participants in policy-making since such legitimacy rests on representativeness and inclusivity.

This project on *Equal Opportunities and Collective Bargaining in Europe* has argued the importance of harnessing collective bargaining as a mechanism for the promotion of equality. This involves making a positive link between collective bargaining and equal opportunities as outlined in the first general report of the project, *Defining the Issues* (Bercusson and Dickens, 1996). The second general report, *Exploring the Situation* (Kravaritou, 1997), made clear that the journey along the road to making this positive link has hardly started, although some signs of progress can be detected. The third general report, *Innovative Agreements: An Analysis* (Bercusson and Weiler, 1998), provides real examples (rather than ideal models) of agreements and provisions with good potential for equality. This fourth report has illuminated the process of collective bargaining, identifying factors which appear likely to lead to such collective agreements. Whilst not providing a blueprint for action, the consideration of these factors in specific contexts may provide a starting point for those who wish to act.

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Appendix



Focus of National Case Studies

## **Austria**

Policies on equal opportunity in the private sector in Austria are characterized by informality, minimal written provision and therefore an absence of binding regulations. The situation in the public sector is slightly more advanced in that the federal legislation on equal treatment for federal employees does provide a binding framework for the advancement of women which encourages the implementation of equal opportunity policies. An organization from the public sector was selected for the case study.

The Arbeitsmarktservice Österreich or AMS (Austrian Labour Market Service) is a service agency which was previously an integral part of the Federal Ministry of Employment and Social Affairs but became a separate agency in 1994. This seemed a suitable choice for various reasons. The percentage of male and female employees is relatively balanced (in fact there are more female than male employees) and it has a distinctive plan for the advancement of women designed to change the structural conditions which govern the equal treatment of men and women within the agency.

The current plan for the advancement of women agreed by the managing board of AMS is valid from 1 January 1996 to 31 December 2001. In addition to a general introductory chapter outlining fundamental positions on the advancement of women, its remaining six chapters describe various measures relating to key areas in the working environment for women at AMS. These measures are as follows: measures to improve compatibility between work and family life; initial and further training; career advancement and return to work; increasing the number of women on committees, advisory boards and other decision-making bodies, and targets for

increasing the number of women by the end of 1997. The annex to the plan for the advancement of women lists the names and addresses of the individual equal opportunity officers appointed by AMS throughout Austria, and the areas for which they are responsible.

## **Belgium**

The collective agreement of 16 February 1993 concerning positive action for female employees in the food industry, was selected for study. The food industry comprises enterprises manufacturing food products, but excludes distribution. Most of the 2000 enterprises which are members of the employers' federation have fewer than 10 employees. The food industry has concluded programme agreements with provision for positive action on two occasions, namely in 1991 (for years 1991-1992) and 1993 (for years 1993-1994).

The focus on positive action in the private sector has its origin in the Royal Decree of 14 July 1987 on measures to promote equal opportunities between men and women. Sectors and enterprises are encouraged to adopt positive action plans for women. This legislation was followed by the conclusion of central agreements under which the social partners also undertook to draw up positive action measures. From 1991 to 1994 resources were made available to fund these plans.

The agreement adopted by the Joint Committee of Food Industry Employers provided for the setting up of a working group to draw up the principles and recommendations which would facilitate positive action in enterprises. This agreement, like most sectoral agreements, was concluded for a period of two years and has been extended.

## **Denmark**

The case study describes a development project at the firm Coloplast A/S Thisted, a production unit of the Coloplast Group. The development project aims to develop production in autonomous groups comprising both unskilled operators and skilled metal workers. The equal treatment aspect is a feature of the project because the intention to alter the skill boundaries also poses the question of gender differences in cooperation, since the unskilled employees are women and the skilled employees are men.

The development project is prepared and discussed in the works council, where management and employees debate subjects of crucial significance to the development of the enterprise. The works council has set up a subcommittee for training, which provides the anchorage for the more detailed planning and monitoring of the project.

The firm has for many years had a training policy, facilitating a constant improvement in employee qualifications. The scope of training measures is covered by the local agreement, which has for several years improved on the provisions of the industry-wide collective agreement. The equal treatment approach stems from the obligation on the firm to pursue equal

opportunities in accordance with the supplementary agreement to the Cooperation Agreement (*Samarbejdsaftalen*) of 1991.

The equal treatment aspect is reported by all concerned to have been a crucial factor in the success of the team cooperation. The common experience of working with male and female cultures/modes of communication and socialization was used as a basis on which to build up and develop understanding between the two sexes and between the skilled and unskilled employees. At the same time a marked change has occurred in the women's sense of self-worth and in their approach to tackling leadership-based tasks in the teams. The group-based cooperation approach has strengthened the women's desire and capacity for self-fulfilment.

## **Finland**

The Finnish case study concerns the 'equality award' which is a part of the national incomes policy agreement; its objective is to level out wage differentials between the sexes. The equality award was included for the first time in the 1989 settlement and has been part of incomes policy settlements four times in all, most recently in 1995. These awards were preceded by settlements covering low pay made in the 1970s and 1980s, in which the very lowest wages were increased more than the others. With the equality award, gender arose openly for the first time as a basis for payment of wages. The award is determined for each sector on the basis of how predominant women and low pay are in the sector. On the first occasion, the basis was the proportion of women only. The size of the award and the form it takes are negotiated in each negotiation round at the national level. At sector level negotiations, it is decided to which groups it shall be allocated. Recommendations on the allocation of the award are written into the text of the agreement. The principle is that it should be allocated to those groups which are the reason for its existence, ie to women and the low paid.

The equality award is negotiated at the highest level, ie at the national level. Other matters which are clearly connected with equality are likewise dealt with at this level. When examining the equality award it must be remembered that it represents one agreement clause among many which aim at equality.

## **France**

The agreement selected for France is an equality agreement concluded on 3 December 1991 between the Mutualité Sociale Agricole du Finistère and two trade union organizations, the CFDT and CFTC.

The Mutualité Sociale Agricole (MSA) is a mutual-benefit society which provides social protection for the entire farming population. Its activities relate to farmers, farm workers (active or retired) and their families. The Farmers' Mutual Society Social Insurance Fund, or CMSA, is the second largest French social security scheme after the general system.

The CMSA for Finistère (a *département* in the west of France, in Brittany) is the principal Farmers' Mutual Social Insurance Fund in France by virtue of the large agricultural population of the *département*. The equality agreement was concluded at the Finistère MSA headquarters at a time when it was having to come to terms with changes resulting from the computerization of the benefits system. It had been urged to take action on equal opportunities by the unions, especially the CFDT, which is the majority union.

The originality of the MSA agreement compared to other French equality agreements that were concluded during the same period lies in the fact that it contains quantified and timetabled commitments to enact measures in favour of women; that it seeks to have a long-term impact on the underlying philosophy of the organization by imbuing it with a spirit of equality, and that it establishes monitoring mechanisms. The agreement defines three objectives: to improve women's qualifications, to give women access to executive posts and to create a wider range of employment opportunities.

### Germany

The framework agreement 'Principles for the Advancement of Women', drawn up in 1989 between the management board and the company works council of Volkswagen AG is the focus of this case study. The framework agreement is a company level agreement specifically intended to improve opportunities for women in the workplace. The agreement is designed to ensure that the proportion of women as a whole, in both skilled jobs and at all levels of management, is realized qualitatively, quantitatively and structurally. This aim is to be achieved by a personnel policy incorporating specific and verifiable measures for the advancement of women.

The innovative nature of the framework agreement, in comparison with other collective agreements intended to provide equality of opportunities in Germany, is expressed in two fundamental ways. Firstly, the principle of 'advancement of women in the workplace' is set out as an essential part of personnel policy and career development. Secondly, in order to achieve this objective, an office has been established under the title 'Advancement of Women' which responds to the management board and is exclusively concerned with matters relating to equal opportunities. At the same time, women's officers have been nominated in the individual plants of Volkswagen AG.

### Greece

The case study focus is the 1993 National General Collective Agreement. This was the first collective agreement in Greece to include the term 'equal opportunities'. It was signed by representatives of the employers' organizations – the Federation of Greek Industries; the General Confederation of Professions, Crafts and Commerce of Greece, and the Greek Union of Tradesmen's Association – and also by the representatives of the General Confederation of Greek Workers.



The articles dealing with equality between the sexes, together with those which provide for equal treatment of part-time workers and for the payment of a levy for combating unemployment, constitute the core of the institutional adjustments brought about by the 1993 agreement.

This collective agreement has particular significance and value because it provides a safety net for workers not covered by other collective agreements – its stipulations on institutional matters apply automatically to all employees in the economy; and it serves as a pilot for lower level bargaining. The central position occupied by the negotiation of the National General Collective Agreement in the Greek collective bargaining system confers both economic importance and political importance on this agreement.

## **Ireland**

The case study for Ireland selected the Irish Electricity Supply Board (ESB). The ESB is an Irish semi-state company established in the late 1920s with sole responsibility for the generation and distribution of electricity in the Republic of Ireland. The selection of the ESB as a case study site was primarily motivated by the fact that the company has an excellent record in the area of equal opportunities and is the recipient of several equality awards.

The case study attempts to document and evaluate the moves towards developing various aspects of the ESB's equal opportunity policy. This analysis shows that equality bargaining in the company consisted of two distinct phases, which were identified as: (1) 1970s to 1980s, and (2) late 1980s to date.

The first phase of equality bargaining in the ESB (1970-1980) was union driven. The following issues were part of the union equality agenda for most of that decade: crèche facilities, job sharing, paternity leave, parental leave and career breaks. During the second phase, equality issues were company driven. Some of the most interesting developments in equality during this period include the establishment of an Equality Council and the appointment of an Equal Opportunity Manager and Unit. Equality issues which emerged during this phase included job advertisements, crèche review, parental leave, sexual harassment, bullying, mainstreaming equality, equality proofing collective agreements and the disabled.

## **Italy**

This study looks at the problems raised by the origins, development and implementation of the 'Positive Actions Plan' agreement signed by the Provincial Authority of Milan and the trade unions. The agreement was formulated between the middle of 1994 and March 1995 when it was signed. This study also evaluates the agreement's implementation and its long period of incubation which dates back to the mid-1980s.

The agreement is complex and likely to have an impact at several levels ranging from the structure of the labour force to the socio-cultural level; it is not, however, a case that can be seen

as typical of the situation in Italy and cannot therefore be generalized. Another of its main features is the key role played by certain women.

The positive action agreement had two kinds of objective: on the one hand to tackle the problems raised by gender segregation and, on the other hand, to tackle the problem of compatibility between work and family responsibilities. The agreement sets out a range of procedural, organizational and communication actions intended to increase the number of women in employment and to integrate them into skilled and unskilled types of work in which they are underrepresented. The agreement also contains similar measures for men as regards those jobs in which only women are employed. In overall terms, these objectives are intended to pave the way for a personnel policy targeted on improving the 'acquisition of human resources'.

The agreement's value lies in the first instance in its measures to change the rules on entry: the integration of women into all types of work and their advancement are tackled systematically through personnel policies that are intended to change selection criteria, address problems of transparency in selection processes and overhaul the rules by which the organization operates in order to 'take account of the need to rebalance the numbers of men and women in employment positions'. Secondly, the agreement also has an innovative value as the rules on recruitment and selection cover both the internal and the external market, ie employees as well as people wishing to find jobs within the provincial authority.

### **Netherlands**

The case study concerns the Dutch collective agreement on contract catering. This agreement was chosen because it contains a progressive provision on childcare. This provides for a fund to pay childminders to look after children aged from 0 to 12 for both male and female employees. The employees pay a contribution into the fund, depending on income. The collective agreement also contains an extensive grievance procedure to prevent and combat sexual harassment, and a scheme for unpaid special leave and parental leave; there are also undertakings to promote the position of women.

Contract catering is a relatively new business sector which has undergone rapid expansion in recent years. Since the 1980s Dutch private companies and public institutions have been increasingly contracting out their canteens and other forms of catering to outside caterers. The sector has a workforce of 14,088, with women forming 75.3%. Contract catering has had its own collective agreement since 1988. This has been concluded between Veneca on behalf of the employers and Horecabond FNV and Industrie-en Voedingsbond CNV acting for the employees. Of the two unions Horecabond FNV has by far the greatest number of members in contract catering. The parties to the agreement conduct their negotiations within the Joint Committee for contract catering.

This report examines the process whereby provisions with equal opportunities implications have been arrived at in the five contract catering collective agreements that have been concluded since



1988. The provisions concerned are those regarding childcare, sexual harassment, unpaid parental leave and the promotion of the position of women.

## Portugal

The Portuguese case study concerns a national company agreement in the postal sector. The agreement was reached between the employer (Correios e Telecomunicações de Portugal SA) and 13 trade union associations and came into force in June 1996. The company has over 1,000 outlets and employs over 15,000 people.

The agreement was selected because it had a clause specifically covering equal opportunities, without merely reproducing the law. It also appeared that the agreement had had some practical consequences in terms of the position of women. These features distinguished it from most collective agreements in Portugal.

## Spain

In the case of Spain, the collective agreement selected was the one covering the metal-printing industry in Catalonia and, more specifically, the section covering sexual harassment. It was signed in 1996.

The metal-printing industry produces printed metal containers that are used to package products manufactured by the agri-foodstuffs, pharmaceuticals, cosmetics and perfume industries. In production terms, metal-printing is in the metal-processing sector; in marketing terms, it is in the packaging sector.

Metal-printing is a small sector. In Catalonia, it employs about 2,000 people in the low season, but because of considerable seasonal fluctuations in demand, this figure can rise to 2,500 in the peak period.

The collective agreement negotiated by the metal-printing sector in Catalonia for the period 1996-1997 is the most advanced and comprehensive in respect of sexual harassment. The unions have been endeavouring to introduce the issue of sexual harassment into collective bargaining since legislation was passed in 1989, although that is not to say that the matter has been given the highest priority.

The key factors in this agreement, given its Spanish context, are as follows: linking sexual harassment to the principle of equality and non-discrimination; establishing that the negotiating parties have a clear joint responsibility for combating sexual harassment; incorporating further development of the concept of sexual harassment in the framework of industrial relations; ensuring that sexual harassment includes not only what happens in a hierarchical relationship, but also what can take place in a relationship between equals; providing a clear definition of the kinds of misconduct that might come under the heading of this behaviour; and possibly being the strictest collective agreement with regard to disciplinary measures.

## Sweden

This study focuses on planned, active work to promote equal opportunities and its relationship to legislation and official supervision. It is concerned with equal opportunities measures in local government, in an average sized municipality. The case study is of unspectacular equal opportunities work involving successes and setbacks, rather than an idealized, 'successful' example accompanied by corroborative illustrations.

The first discussion on planned equal opportunities measures and setting up an equal opportunities committee was conducted in the municipality in the early 1980s, and in 1983 'Special Guidelines for Equal Opportunities Measures' were introduced. In early 1992 the municipality was reported to the Office of the Equal Opportunities Ombudsman (EOO) for alleged discrimination. The municipality then began to work together with the EOO in earnest to develop an equal opportunities plan which better conformed to the requirements of the new Equal Opportunities Act which entered into force that same year.

A new plan was adopted in 1993 designed with the aim of achieving changes for both women and men. The possibility of using positive discrimination in accordance with the plan is of particular interest. Other measures referred to sex-related wage discrepancies; part-time work; skills development for those in certain female-dominated jobs; measures enabling staff to combine parenthood and gainful employment, and information campaigns and initiatives to influence attitudes – all measures which are common in equal opportunities plans in Swedish workplaces. The departments were to report annually on their equal opportunities initiatives to the municipal executive board which was in turn responsible for annual evaluation and the production of a summarized report.

The new plan was reworked in its second year and reflected changed legal requirements of the Equal Opportunities Act. The revised overall municipal plan, Equal Opportunities Plan 1996, introduced measures against sexual harassment, and the requirement concerning departmental reports was made more specific, including a requirement in respect of quantifiable goals. The equal opportunities measures were to be described in the respective departmental plans/budgets and the results reported and evaluated in their reports, including annual reports. The equal opportunities measures and the result obtained would thereby become part of ordinary control and follow-up documents in the departments – a kind of 'mainstreaming'.

## UK

The study centres on the renegotiation of the Gas Staffs and Senior Officers (GSSO) agreement in British Gas between 1988 and 1991 and its subsequent implementation. A number of factors made British Gas a good research site.

First, at the time of the review, British Gas was one of the largest and most stable companies in the UK with a turnover of GBP7.5 billion. Second, it was still influenced by the public sector



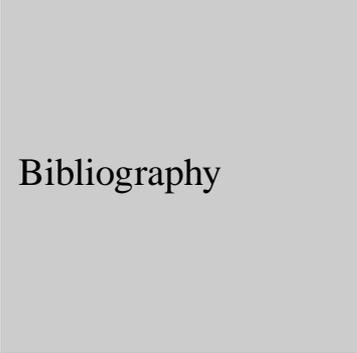
tradition of model industrial relations practice and had a history of introducing equal opportunity measures, both jointly with trade unions, and independently through management policy. Third, collective bargaining was a central element of the management and culture of the company. The GSSO agreements covered approximately 60% of all British Gas staff and 95% of the women in employment. The majority of staff were trade union members, most (64%) belonging to the National and Local Government Officers Association.

The negotiations revised the full range of terms and conditions of employment. New provisions were introduced in the areas of labour flexibility; hours of work; employment patterns and payments; salary scales, and a career support scheme (CSS). The CSS addressed the issue of balancing domestic and work commitments.

The review began in April 1988. The full agreement was concluded formally in the late spring of 1991, and ratified in September 1991.



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# Equal Opportunities and Collective Bargaining in Europe

## *4. Illuminating the Process*

This is the fourth and final report on this subject. It provides an in-depth analysis of the collective bargaining process in each of the Member States, aiming at the identification of important factors which may lead to good agreements. Special attention has been paid to internal characteristics of the social partner organizations, such as the representation of women, as a possible factor influencing the achievement of a 'good' agreement.

The report is based on 15 case studies from the Member States. It covers a wide variety of bargaining levels and sectors with varying levels of female participation in the labour force.

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