

## STRENGTHENING AND MAINSTREAMING EQUAL OPPORTUNITIES THROUGH COLLECTIVE BARGAINING

This paper links some of the main findings of the Equal Opportunities and Collective Bargaining project of the European Foundation for the Improvement of Living and Working Conditions to the European Employment Strategy.

### RECOMMENDATIONS FOR THE PROMOTION OF EQUALITY BARGAINING:

#### **Social partners (at the appropriate levels) should:**

- Improve their expertise on equality issues by establishing equality officers or expertise centres within their organisations at national, sectoral and/or company level.
- Take positive action to ensure women's proper representation within their organisations and to improve women's participation in the bargaining process both in terms of quantity (increasing the number) and quality (increasing women's influence).
- Develop equality guidelines or manuals for their negotiators, to promote equality on the bargaining agenda and to help mainstream equality in all agenda items.
- Provide training to develop equality awareness of negotiators.
- Develop an equal opportunities scan as an instrument for gender-proofing collective agreements.
- Ensure that agreements include provisions for implementation and monitoring of equality measures.
- Set up joint equality bodies on national, sectoral or company level with responsibility for overseeing the implementation and elaboration of equality provisions.
- Conclude general framework agreements on equality issues, on European, sectoral and national level, as appropriate, to tackle, for example, the gender pay gap or sexual harassment.
- In order to integrate an equality perspective in all collective bargaining, focus, for example, on the creation of good quality new jobs and on the inclusion of flexible and part-time workers in all collective arrangements.

#### **Action by others**

- National governments should seek to utilise (or establish) mechanisms to disseminate good practice in equality bargaining, for example by stimulating national expertise centres and expert groups and by ensuring that attention is paid to equality in the administrative collection and review of agreements.
- National Action Plans should report at least on quantitative developments on the decrease of the pay gap between the sexes, changes in horizontal and vertical sex segregation and the increase of female negotiators in collective bargaining.
- National governments should develop equality legislation and review how new and existing equality legislation requires action by the social partners, and facilitate and monitor such action.
- National governments should ensure action by the social partners to promote collective bargaining includes an equality dimension.
- The European Union, national member states and local authorities should reserve funds for equality areas, for example, childcare facilities and care leave facilities, to guarantee equal opportunities for employees and self-employed persons with care responsibilities while they are undergoing training.
- The European Commission's technical and financial support to the social partners could involve funds for the appointment and/or training of equality officers or the creation of joint equality bodies on national, company or sectoral level.
- The European Commission should ensure equality is mainstreamed into legislative measures promoting social dialogue and collective bargaining, such as provisions relating to European Works Councils and the proposed national level consultation and information bodies.
- The European Commission should maintain a database on the results of equality bargaining throughout the EU.



## 1. INTRODUCTION

Collective bargaining (defined in the broadest sense to include all forms of joint consultation and regulation) has enormous potential as a mechanism for strengthening and mainstreaming equal opportunities. At the same time, including an equal opportunities perspective offers excellent possibilities for improving and modernising collective bargaining. This paper draws on extensive research on collective bargaining and equal opportunities in the European Union, funded by the European Foundation for the Improvement in Living and Working Conditions, to demonstrate this potential. The five-year research project, which involved national experts in the 15 EU countries, identified and analysed agreements with good potential for promoting equality, and explored the process by which such agreements were reached (see p.12 for full details of all the reports of the project).

The importance of identifying and harnessing mechanisms for strengthening and mainstreaming equality is underlined by the significance attached to equality in the 1997 Amsterdam Treaty and in the European Employment Strategy (European Commission Joint employment report 1998 and Employment guidelines of 1998 and 1999). Strengthening policies for equal opportunities is one of the Strategy's four pillars and equality is to be mainstreamed in the other three: improving employability, developing entrepreneurship, encouraging adaptability of businesses and their employees.

In terms of improving employability, the promotion of equal opportunities is expected to utilise the potential of women better. Although women have filled more than half of the new jobs created in the European Union in recent years, the female unemployment rate is still higher than the rate for men. Strengthening equal opportunities may also encourage the development of entrepreneurship. Women are already responsible for more than one third of the new business start-ups and setting up a business is an important solution to unemployment for women (Equal opportunities report 1996: 54). Equality measures also support the adaptability of work organisations, helping them to adjust to the diverse characteristics of employees and hence improve the quality of production and services.

The European Employment Strategy recognises the role social partners can play in improving equal opportunities. Social partners are given responsibility, together with national member states, to increase employment rates for women, to balance the representation of women and men in certain economic sectors and occupations and to improve career opportunities for women. Furthermore, the social partners, together with national member states, are exhorted to facilitate the reconciliation of work

and family life and the re-entry of women into the labour market.

This final policy paper of the Foundation's research project seeks to demonstrate how collective bargaining can play a positive role in areas that the European Employment Strategy identifies as important. In establishing a link between equal opportunities and collective bargaining, the research is shown to be directly relevant to the current EU policy debate. Although the project was already begun before the European Employment Strategy was launched, the Foundation and the Commission felt that the research could usefully be drawn on to produce a paper which would inform social partners, policymakers and all those involved in implementing the Strategy. The report does not attempt to provide a comprehensive discussion of what might be necessary to implement the Strategy, but seeks rather to illustrate the way in which collective bargaining can contribute to the objectives.

### **Collective bargaining: the strengthening of equal opportunities**

Collective bargaining is a complementary instrument to legal regulation in promoting and strengthening equal opportunities, not a substitute. In comparison with other instruments, collective bargaining on equality offers a number of potential advantages relating to flexibility, acceptability, enforcement and participation (Report 4, 1998: 42, 43).

Collective bargaining offers the social partners the opportunity to obtain flexibility of approach in the promotion of equality. It offers a route to develop targeted, tailored measures that suit national traditions, sectoral and local circumstances and organisational contexts. Such a tailored approach is likely to be more acceptable and workable than imposed universal approaches (although these may also be necessary). Where equality measures emerge through joint regulation, resistance to them may be lessened.

In the European Union there already exists considerable legal regulation in the field of equal treatment, but this has been no guarantee for the elimination of discrimination in practice. The influence of law has been found to be stronger where the emphasis is on positive measures to promote equality rather than simply measures to counter discrimination. Collective bargaining offers the possibility to design such positive measures. It also provides ready-made policing and enforcement mechanisms.

The balanced participation of women and men in decision-making in the different spheres of life has been recognised as an important condition for equality (see the 1996 Council Recommendation on the balanced participation of women and men in the decision-making process). Collective bargaining,



resting as it does on representative structures, provides a way of giving women - and men - a voice in the shaping of their own working conditions, enabling them to define their own needs and interests and to set their own priorities for action (Report 4, 1998: 43).

### **Collective bargaining: the mainstreaming of equal opportunities**

In the last five years there has been growing consensus about mainstreaming equal opportunities within the general policies in the European Union. Since collective bargaining plays an important role in the determination of the terms and conditions of employment for large numbers of citizens in Europe, it is therefore a key mechanism for mainstreaming equality in employment.

It is essential that the equality potential of collective bargaining is developed since, in its absence, collective bargaining may in fact serve to underpin inequalities. If collective bargaining lacks a gender perspective, it is very likely that agreements will institutionalise discriminatory practices, entrench rather than challenge gender segregation of work, and operate on a male norm of employment, to the obvious disadvantage of women (Report 2, 1997). This can occur because of the historic coverage and traditional priorities of collective bargaining, which have often excluded women (Report 4, 1998:1, 41). Ways in which this gender perspective can be developed is discussed later.

### **Practical examples**

This paper provides examples drawn from the research of provisions in collective agreements which have the potential to lead to equality between women and men. Limitations of space do not permit full coverage of all the provisions and agreements and those seeking further details are referred to the national reports and to the consolidation reports 1 and 2 listed on p.12.

The examples given in this report should not be considered as ideal reference models, but, rather, practical illustrations of what has been done in concrete situations. The quantity and quality of collective agreements with good equality provisions varies, and this has influenced the number and nature of examples that the authors have used.

Although the selected provisions need to be understood within their particular context (for which see the national reports), they do nevertheless offer the possibility for transposition. It has been suggested (Report 3, 1999) that such transposition may be possible in particular (but not only) within sectors, within transnational enterprises and between countries with comparable bargaining contexts. More generally, the examples in this report provide a starting point for debate and potential guide for action.

The examples selected are from agreements whose content has positive potential for promoting equality between women and men. It has to be borne in mind that this potential has not always been realised in practice in the implementation and impact of the particular agreement. The issues of implementation and monitoring are dealt with later.

In structuring the material in the report, the authors have adopted the categorisations used in the European Employment Guidelines. Thus, for example, reconciling work and family life is discussed under 'strengthening equal opportunities', where it is to be found in the Employment Guidelines. It has to be said that the mainstreaming of equal opportunities advocated in the fourth pillar is not always followed in the other pillars. Had the authors chosen not to follow the approach of the Guidelines, they might have placed reconciliation of work and family life under 'adaptability of organisations and their employees' (instead of under the fourth pillar) where it is equally relevant.

## **2. COLLECTIVE BARGAINING AND STRENGTHENING EQUAL OPPORTUNITIES**

Examples of collective agreements with provisions that are potentially good for equality can be found, to a greater or lesser extent, in all countries of the European Union. They can be found in public and private sectors, in both manufacturing and service sectors, at sectoral and company level and in branches of industry with varying levels of female participation. This suggests that a priori there are no areas where collective bargaining cannot be used to promote and strengthen equal opportunities, although the use of this instrument varies among and within the member states (Report 2, 1997; Report 4, 1998).

The two key areas identified in the Employment Guidelines under the equal opportunities pillar are: tackling gender gaps and reconciling work and family life. These accord with areas of impact specified in the research to aid the identification of good agreements (namely, reducing pay inequality, narrowing the gender hierarchy, breaking down horizontal segregation, and encouraging a more equal distribution of paid and unpaid work between women and men). In addition, however, the research set out to identify agreements with the potential to change organisational cultures and structures (Report 1, 1996:32).

Seeking to change organisations rather than simply 'adapting women' is an important component of strengthening policies for equal opportunities. Gender gaps arising from sex segregation and pay inequalities are embedded in the gendered nature of employment organisations, for example, the assumption that workers do not have domestic caring

responsibilities and the undervaluing of work traditionally done by women. Tackling these issues calls for a critical review of organisational cultures and structures, in addition to particular measures directed at improving the entry of women into the labour market and their career progress.

The 1990 German Frankfurt Airport equal opportunities agreement treats equal opportunities as an integral element of human resource development with the emphasis on training. It has provisions on family/work interface, including career breaks; on working time, including part-time and flexible working hours; on job access/sex segregation, including the promotion of women, a promotion pool for female staff, a policy on advertisements, selection procedures and special training; and a programme to sensitise organisational culture and structures to equal opportunities. The agreement is to be implemented through an active information policy and the creation of a special commission to ensure its implementation.

Germany report 2, p. 2.

A 1991 equality agreement in a French credit institution sought to improve job access for women and to reduce sex segregation, particularly in management posts. The agreement was distinguished by parity representation at all stages. Equality was considered part of general management strategy. Two structures were established to achieve the objectives: a commission representing different occupations, trade unions and management, which meets at least once a year to review progress and prepare a fresh proposal; a smaller body comprising management and employee representatives which meets as frequently as necessary to ensure implementation of the agreement.

France report 2, p.24; France report 3.

There is evidence of collective agreements which address in general terms the obstacles to equal opportunities to be found in the culture and structures of organisations. Such agreements do not (or do not only) focus on particular issues but, rather, are concerned with setting up programmes of positive action, establishing procedures, fixing goals and providing funds. They attempt to integrate equal opportunities into human resources policy (Report 3, 1999:31).

In the London Fire and Civil Defence Service in the UK, an equality audit was targeted explicitly at organisational culture. The approach adopted was modelled on the principle applied in health and safety audits, namely risk assessment. This involves identifying the areas of risk, assessing the degree of risk, and taking appropriate action. Implementation of the audit involved investigation of existing policies and procedures, and of patterns and trends in recruitment and selection, retention, promotion, grievance and discipline, training and development, promotion and career development. A survey of workforce opinion was undertaken, involving the trade unions. Analysis focused on the issues of organisational and cultural change and the management of equality. An outcome of the audit was the formal adoption of an agreement aimed at embedding the programme for equality in a broader programme aimed at widespread cultural change, in partnership with trade unions.

UK report 2, para 143-151.

In the 1994 local authorities agreement in Sweden, equal opportunities is seen as a strategic issue in restructuring local government. Sex segregation and the equal distribution of job opportunities is 'an important question in terms of democracy, power and efficiency' and, at managerial level, is regarded as relevant to the quality of decision-making. Equal opportunities is thus mainstreamed as a central operational principle for all relevant policy areas of the agreement.

Sweden report 2, p. 26.

A collective agreement covering a number of government institutions in Spain set up a committee with a majority of women (minimum of 60 per cent) with various responsibilities including examining company rules and ensuring women's participation in all activities. The committee has the right to participate in defining conditions governing job access and promotion and job evaluation, and the right to be involved in determining working conditions (e.g. health and safety).

Spain report 2, p. 23.

### **Tackling gender gaps**

The research documents provisions directed at improving women's job access, reducing sex segregation and diminishing pay discrimination (see national reports, Report 3, 1999: 30). All of these contribute significantly to closing gender gaps in employment.

### ***Improving women's job access and career progress***

Throughout the EU there is pronounced gender segregation at work. One aspect of this is vertical segregation where, for example, women are less likely to work in managerial posts than men. Nearly 17% of women are in supervisory positions, compared to 33% of men (The Second European Survey on Working Conditions, 1996). There is also persistent occupational segregation, with women over-represented among service workers, clerical and sales workers and in the care, nursing and education professions. Other occupations, such as technical workers, production workers and transport workers, are heavily male-dominated.

Collective agreements which address the issues of women's access to and progress in jobs and sex segregation in the workforce, focus on three, often overlapping aspects: recruitment, promotion and training.

In relation to recruitment and selection, features of the good agreements analysed in the research include:

- elimination of sex stereotyping in job descriptions and advertisements;
- opportunities to combine work and caring and to work part-time;
- removal or raising of age limits and the elimination of discriminatory requests for information;
- checking for suitable internal candidates;

- positive action recruitment advertising (to encourage applications from the under-represented sex);
- setting of recruitment targets;
- inviting all female candidates for interview or putting female candidates on the shortlist for jobs in which they are under-represented, at least in proportion to the number of women among the applicants.

In the UK transport industry, a number of equal opportunities recruitment initiatives were adopted to tackle sex segregation on the railways. Gender recruitment targets were set; recruitment training was provided for all involved in the selection process; recruitment centres were established and staffed by personnel trained in equal opportunities; recruitment advertising ensured that images and text were gender and culture fair. All-women teams were recruited for certain jobs (e.g. track workers) and recruitment drives were fronted by women technicians acting as role models.

UK report 2, p.116.

In the filling of vacancies, the preferential recruitment of women for fields or posts in which they are under-represented appears to be an effective way of trying to achieve better gender balance. Such positive action is in accord with the provisions of the Amsterdam Treaty.

#### **Promotion and training**

Another instrument which can be used to tackle gender segregation is promotions policy. The agreements analysed (Report 3, 1999:69) covered:

- commissioning studies of the sex composition of the workforce;
- identification of obstacles to the promotion of women;
- mapping of career paths to facilitate access by women to higher posts.

Targets for the promotion of women ranged from achieving an equal balance of the sexes at all hierarchical levels to defining possible proportions in selected departments for selected groups of positions.

The Post Office in Ireland agreed that work assignments and subsequent moves would be arranged in such a manner as to ensure that employees were not confined to narrow areas of work which might restrict their potential for promotion.

Ireland report 2, p.24.

Measures to achieve the targets included:

- gender-sensitive promotion criteria;
- preferential treatment of women;
- promotional pools;
- encouragement of women;
- incentives for departments to achieve targets.

The research also found that agreements which provide for training can help women progress within organisations and break down gender segregation. Such agreements (as above: 75-77) covered:

- equal or preferential access to training and work experience;
- special training (for example, enabling women to acquire 'male' skills and for managers and others in equal opportunities awareness);
- training funds and places reserved for women;
- arrangements for care facilities during training.

A 1994 enterprise agreement in the Italian banking sector initiated research on equality and provided for vocational training for women returners and also training for senior management to encourage them to positively value female employees. It established a technical commission consisting of trade union equality activists and representatives from the firm's management charged with the task of monitoring implementation and undertaking an evaluation. The agreement aimed at invisible obstacles to their recruitment of women with the objective of promoting a specified number of women to roles of responsibility through encouraging women in a particular age band to apply for identified posts.

Italy report 2, p. 30.

In the electricity industry in Ireland, it was agreed that special training, including single-sex training, may be required to prepare women for participation in non-traditional roles, especially supervisory and management roles. Job rotation, subject to work requirements, is facilitated and women are to have equal opportunities in this regard. Work shall not be allocated in such a manner as to disadvantage men or women in terms of gaining work experience.

Ireland report 2, p.21.

#### **Closing the gender pay gap**

The European Union has a long tradition of equal pay regulation for women and men. Nevertheless, gender pay gaps persist. This is partly due to labour market segmentation processes, which, for example, encourage women re-entering the labour market into low paid jobs, and it is partly due to the undervaluing of traditional women's jobs. On average, women still earn 20% less than men. Pay differences exist to differing degrees in all member states, in both the manufacturing and service sectors. However, the pay gap tends to be narrower in countries with strong statutory protection - where there is, for example, a minimum wage and centralised wage fixing (countries such as Sweden, Denmark and France) - than in countries without such features (UK and Ireland) (Equal opportunities report, 1996).

In Denmark, attention has been focused on the potentially discriminatory operation of decentralised wage determination systems and arrangements for individualised pay. A 1995 agreement covering commercial and clerical employees requires the employer to carry out a systematic evaluation as the basis for the determination of individually negotiated pay. Pay is to reflect input, qualifications, competence, responsibility, training for the work, flexibility and the content of the job. The agreement explicitly states that pay-setting must take into account the equal remuneration legislation. If there is a dispute over equal pay, an appraisal is to be conducted by the parties at the enterprise.

Denmark report 2, p. 171.

It follows then that the way in which the gender pay gap is best tackled will vary according to the national context. However, it should be borne in mind that pay determination is a central component of collective bargaining, and so if an equal opportunities

perspective is not incorporated into the agreement, gender gaps will be (re-)institutionalised by collective bargaining (Report 2, 1997: 9).

It is important to reveal any invisible discrimination in a collective agreement by looking at the context within which it is to be implemented. This context (e.g. organisational, sectoral) is generally one of labour market segregation, by employment forms combined with sex segregation. Consequently, it is necessary to ask who are the workers in the various categories of the agreement. Who is left outside the scope of the agreement (for example employees in flexible and part-time jobs) and who in practice receives the different benefits that are negotiated?

In Sweden all current agreements include the statement that the parties will analyse wages by sex (e.g. engineering industry agreement of 1995-1998). Prior to agreeing wages, the local parties will analyse women's pay in relation to men's; if there are discrepancies these are to be adjusted. The same wage-fixing principles apply to women and men and special consideration is given to groups or individuals with unfavourable wages or wage development.

Sweden report 2, p. 27- 28.

An agreement for white collar staff in the chemical industry in Finland (1995) provides for the new pay system to be based on the evaluation of the demands of the job and the required personal qualification. Formerly separate agreements regulating the pay of technical and office staff will be integrated into a single pay structure. These two groups are roughly the same size in the same sector doing similar value jobs but the technical group is predominantly male (64%) and the clerical group predominantly female (76%). The monthly payroll of the clerical group was only 88 per cent of the male-dominated technical group. The amalgamation of pay structures under the same job evaluation scheme constitutes an equality exercise attempting to eradicate the pay gap.

Finland report 2, p. 44-46.

More positively formulated, collective bargaining can assist in the removal of discrimination, for example by ensuring transparency, the review of pay structures and the development of gender-neutral job evaluation schemes. In so doing, the undervaluing of traditional women's work could be addressed. Other possibilities illustrated in the research are a systematic re-evaluation of work that is traditionally done by women and using equality supplements to balance out discriminatory tendencies in the wage-fixing process.

In the UK, a comprehensive agreement in 1986 attempted to tackle pay discrimination for local authority manual workers. Basic wage rates were negotiated nationally. A team then drew up 540 job descriptions based on six factors: skill, responsibility, initiative, mental and physical effort, and working conditions. Forty major occupations covering about 90 per cent of the labour force were analysed in terms of the factor headings, with each factor having four or five possible levels. A co-ordinating panel comprising seven employer and six union representatives and including five women, applied weights to the different factor levels. Each job was then allocated points according to the presence of various factors and their weighting. The resulting rank order of jobs differed from the previous structure which had been criticised as discriminatory. In particular some predominantly female jobs, such as care workers, were more highly evaluated than they had been previously and some male jobs, such as refuse collectors, moved down the pay hierarchy.

UK report 2, paras 131-140.

In Finland equality awards are used to provide an extra increase in pay for certain categories of employees, as a form of solidaristic wage policy. Female and low-paid workers are awarded additional pay increases negotiated by employers' associations and unions.

Finland report 2, p.32-40; report 3.

### Reconciling work and family life

The ability to combine paid work and family life is important for male and female employees at different stages of life, not only with regard to childcare, but also care for elderly relatives. To improve the possibilities for reconciling work and family life, the European Employment Guidelines point to the desirability of family-friendly policies such as career breaks, parental leave facilities, possibilities for part-time working, and flexible working time. Opportunities for care time (such as parental leave, care leave or part-time work) in combination with care services (child care and elderly care facilities) would give employees the possibility to choose an arrangement which fits best with their individual needs or situation.

In the retail trade in North Rhine-Westphalia, a collective agreement gives an entitlement to a parental leave period of one and a half years, with suspended employment, after the legal parental leave of three years. It allows for such leave to be taken on a part-time basis. The period of leave of absence can be taken in two sections, each of them least six months. In cases where both parents work in the company, the one and a half year entitlement is only given once but can be divided between the parents. Employees are entitled to employment in a similar job in the company after parental leave without this being set out in a contract clause.

Germany report 2, p. 17.

An agreement in the Swedish insurance sector provides that the employee's salary is to be reviewed after a return to work following full-time parental leave. This was introduced in 1995 after it was noticed that the salaries of returners tended to lag behind those of fellow employees.

Sweden report 2, p. 33-34.

In Austria, agreements in the public sector provide for career breaks. There is provision for information on job opportunities, discussion on deployment to other jobs, maintaining contact during leave, and particularly, dealing with the resumption of work: support after leave, targeted training and preferential admission to courses.

Austria report 2, p. 45.

Provisions relating to the reconciliation of work and family life must be available equally to women and men. Otherwise the traditional unequal distribution of family work would be reinforced and constitute a barrier to equal opportunities in paid employment. Some agreements aimed to encourage the take-up of provisions by men, for example, full pay for parental leave.

The research identified many examples of agreements with leave facilities that went beyond the legally required minimum standards. Good examples were also found of agreements where the social partners provided for child-care facilities, sometimes

in co-operation with national or local government or non-governmental organisations.

The Broadcasting Authority in Ireland, in conjunction with the trade unions, created a childcare co-operative in 1987, a creche located on site. The employer bears the cost of the building and maintenance. There is an overall management committee working in conjunction with an operational committee elected by parents whose children attend the creche.

Ireland report 2, p. 27.

An agreement in the Dutch medical insurance sector provides for the employer to invest 0.4 per cent of the wage bill in childcare provision. This is in the context of the government subsidising childcare places together with places financed by employers.

Netherlands report 2, p. 19.

Collective agreements also focused on the reintegration of workers into the labour market following a career break. The main areas touched on here were:

- training measures during parental leave and in relation to reintegration into employment;
- ways of maintaining contact while on leave;
- building up seniority rights and social security rights during periods of leave.

In the railway sector in Spain, the 1995 agreement provides that the period of leave is taken into account in the worker's length of service record; workers taking leave may take part in competitions for transfers and promotion as if they were still at work. In the retail trade in Spain, the 1995 agreement gives workers taking leave of absence the right to attend training courses, to facilitate their return to work. Absence for childcare counts in the length of service records.

Spain report 2, p. 49 and 52.

In Belgium, an agreement from the National Labour Council provides for the right to unpaid leave up to 10 days per year for urgent reasons: illness, accident or hospitalisation of a person living under the same roof, or the parent or close relation.

Belgium Report 2, p. 41.

In Italy, a 1994 national agreement in the financial sector allows unpaid leave for family, personal or educational reasons of up to one year and unpaid leave to care for children with grave illness.

Italy report 2, p.10.

In the Greek collective agreement for male and female accountants in the private commerce, industry and service sector, employees with children up to the age of 16 may take 5 days' paid leave per year to monitor their children's school progress and 6 days unpaid leave for exceptional domestic problems. Either partner may opt to work reduced hours to care for a child.

Greece Report 2, p37.

A 1995 agreement in the Danish insurance sector provides for full or part-time leave with pay to care for sick children, and if they require hospitalisation, up to 8 days on full pay. Leave without pay may also be granted. If there is serious illness full or part-time leave of up to 13 weeks may be granted on full pay, including holiday entitlement, pension contributions and seniority entitlement. Similarly, in the case of care for a dying or terminally ill person, leave on full pay is provided.

Denmark report 2, p 19.

### 3. COLLECTIVE BARGAINING AND MAINSTREAMING EQUAL OPPORTUNITIES

During the Luxembourg summit in 1997 the mainstreaming approach was strongly supported: equal opportunities for women and men was to be not only a priority in itself, but an integral dimension of the employability, entrepreneurship and adaptability pillars. Since the Employment Guidelines give social partners a role in improving adaptability and encouraging employability, their involvement in these areas also provides mainstreaming potential for equal opportunities.

In this section we indicate how collective bargaining can contribute to mainstreaming equal opportunities under the pillars of employability and adaptability. However, the mainstreaming concept encompasses more than is indicated in the Employment Guidelines. The Medium-term Fourth Community Action Programme on Equal Opportunities defines gender mainstreaming as:

'the systematic integration of the respective situations, priorities and needs of women and men in all policies with a view to promoting equality between women and men and mobilising all general policies and measures specifically for the purpose of achieving equality by actively and openly taking into account, at the planning stage, their effects on the respective situations of women and men in implementation, monitoring and evaluation...'

Obviously there are issues for negotiation of direct relevance to women and to gender equality, such as those discussed earlier in this report. But as well as bargaining on these equality issues, equality-aware bargaining is needed on all issues. Using collective bargaining as a mainstreaming instrument requires the social partners to inject an equality dimension into all bargaining. It will be necessary to examine how agreements will impact on women and men, and to consider how their implementation and outcomes might be monitored (Report 4, 1998:40).

The research provided different examples where introducing equal opportunities considerations into negotiations was shown not to add costs or dilute adaptability, but rather as a way of improving the image and performance of the organisation or sector. Embracing equality demonstrates modern community and family responsible entrepreneurship. This may serve organisational objectives, like increasing the ability to recruit personnel. The research showed how equality-aware bargaining can produce 'win-win' outcomes for employers, employees and the wider community.

## Employability

Training and education are crucial measures for improving employability. Vulnerable groups in the labour market, such as re-entering women, ethnic minorities, young people and the elderly are helped by special schemes which take into account their specific situation. To promote training for employees with care responsibilities, special provisions have to be created, such as child-care facilities for women and men while they are in training, paid education leave or schemes in which training and work can be combined.

The 1991 equality plan in the Finnish Broadcasting Company provided that selection for vocational training should have regard to an equal distribution of the sexes and that the relevance of equality issues for the organisation should form part of wider training modules, with special awareness training on equality specifically targeted at management.

Finland report 2, p. 14-15.

In a 1995 sectoral agreement covering the hotel and catering industry in Spain, provision is made for training to take place during working hours, recognising it may be difficult for women to attend training outside working hours.

Spain report 2, p 34.

## Adaptability

The concept of adaptability in the European Employment Guidelines is focused on the objective of modernising the organisation of work, by introducing flexible working arrangements - such as the reduction of working time, the development of part-time work, lifelong training and career breaks - and including different contractual forms. In this context, the Employment Guidelines stress a balance between flexibility and security.

### *Flexible workers*

Improvements in the adaptability of organisations have often happened at the expense of equality and security. Flexible workers, for example part-time and temporary workers, often have lower pay and inferior working conditions to other employees, and enjoy less security. In 1997 80% of part-time workers were women, while women accounted for more than half of the temporary jobs (Joint Employment report, 1998).

In general it is important that collective bargaining is directed towards the creation of good quality jobs. Furthermore, flexible workers need to be protected by equality agreements and not excluded from the scope of collective bargaining. Some national studies in the research underlined the positive influence of minimum standard regulations, in particular the introduction of a minimum wage. There were many agreements which sought to promote equality in working conditions for temporary and part-time workers, by introducing hourly wages, care facilities and training opportunities. Other agreements were concerned to promote part-time work in jobs higher up the occupational hierarchy and to improve the

quality of part-time work and temporary work at lower levels in the organisation or sector. Recent European Directives are likely to stimulate further developments of this kind.

The German national sectoral agreement in banking states that part-time work should be possible at all occupational levels. An enterprise agreement referring to the sectoral agreement includes the introduction of part-time work in all areas of responsibility and in all departments, the checking of each vacancy to see if it could be done as a part-time job, and a statement in every internal job advertisement as to whether it could be filled by a part-timer.

Germany report 2, p11.

An agreement in the Dutch building materials trade states that no jobs will be excluded in advance from part-time work. Vacancies and all new posts will be systematically evaluated to ascertain their suitability for part time work.

Netherlands report 2, p.82.

### *Adapting organisations to women: working time*

Organisations should be challenged and changed so both women and men have equal opportunities. Currently women are often expected to adapt to existing organisational structures and arrangements, and these have been shaped by and around the needs and priorities of men. An important aspect of modernising the organisation of work has to be adapting organisations to women. This includes adapting working time to meet the needs and circumstances of women.

An equal opportunities plan in a federal ministry in Austria challenges organisational norms as regards the balance between professional and family work, emphasising men's responsibilities for family work. It also questioned existing working time cultures. The measures providing for reconciliation of work and family life include meetings in core time so part-timers and child carers can attend; work scheduled so as to be completed in normal hours; if overtime is required account is to be taken of childcare responsibilities; encouraging part time work; part-timers' entitlement to training, and encouraging the acceptability of parental leave for men.

Austria Report 2, p.30.

An agreement in Portugal for the Post Office entitles employees with children under the age of 12 years, and those who are responsible for disabled family members to work part time. In the banking sector, employees are entitled to part-time work to care for children under 12 years old. The 1996 agreement in the paper and cardboard industry entitles fathers and mothers with one or more children under 12 years of age to work on a reduced or flexible timetable.

Portugal report 2, pp. 46, 60, 81.

An agreement in the petroleum products sector in France provides six different formulae for part-time work linked to the school timetable.

France report 2, p. 40.

Women have been prime movers in the 'time in the cities' developments in Italy, in which the male-defined organisation of time is challenged and urban time linked to working time.

A 1994 agreement signed by the municipal authorities of Milan, the prefect's office, the Chamber of Trade and provincial trade unions, tackles the relationship between working time and free time and models the social organisation of time. Working times are now used as an indicator to ascertain the quality of life of male and female workers and their families. These changes are affecting people whose needs are not only different but may be contradictory. It is up to negotiators to identify ways of directing negotiations towards an equitable outcome, with account being taken of the fact that working time no longer concerns only the specific area of production processes but also other areas.

Italy report 2, p.21-23.

#### ***Adapting organisations to women: tackling sexual harassment***

Modernising organisations is also directed at adapting organisational cultures to accommodate a diversity of employees. To attract women to higher positions and to technical sectors, a safe and hospitable working environment has to be created. Too often, organisational cultures are unfriendly or even hostile to female employees.

Sexual harassment and unfair treatment are no isolated phenomena affecting only individual women, as seen in the fact that in one year 3% (2 million) of the women in the European Union had been subjected to sexual harassment. Health disorders, loss of production and quitting are more likely to occur in this situation (Second European Survey on Working Conditions, 1996), making sexual harassment both an equality and efficiency issue.

In the research project different examples were found of collective agreements with elaborated provisions to combat sexual harassment and other kinds of intimidation. Agreements included:

- a clear, contextual definition of sexual harassment;
- detailed provisions on preventative measures;
- a complaint procedure and complaint officer;
- protection and support for harassed employees;
- sanctions for those found guilty of harassment;
- supportive initiatives such as special training programmes, designed to raise awareness of the issue and to equip those given responsibility for operating the procedures.

Some agreements distinguish between harassment from superiors and from others and regard sexual harassment that takes place in the context of a hierarchical relationship in the workplace as particularly grave (Report 3, 1999:98).

An enterprise agreement in the German steel industry notes that sexual harassment leads to adverse consequences for the workplace atmosphere, work performance and well-being of the staff members. Sexual harassment is defined as including sexual actions and behaviour which are a punishable offence under criminal law and other sexual harassment and demands, sexually determined physical contact, remarks of a sexual nature, as well as the display of pornographic material which are clearly disapproved of by the person affected. It is the perception of the harassed employee which determines

whether or not harassment has occurred. The prohibition extends to staff visiting from outside companies.

The agreement tries to prevent harassment as well as guaranteeing that harassed employees are given protection. Preventative measures include sexual harassment awareness training and the provision of information, especially for managers and employee representatives. Complaints are to be made to supervisors, the personnel department or the works council. The employer is to act on complaints immediately and take appropriate measures. There is a right to stop work if no protection is provided. Sanctions for harassment include possible transfer and dismissal.

Germany report 2, 34.

#### **4. ACTION TO PROMOTE BARGAINING ON EQUAL OPPORTUNITIES AND EQUALITY-AWARE BARGAINING**

In the above sections we have described good practice in equality bargaining and given examples from different countries and sectors throughout the European Union. This final chapter identifies some factors which can encourage the use of collective bargaining as an instrument for strengthening and mainstreaming equal opportunities and, following on from this, offers some suggestions for action.

The recommendations for future action are addressed, in the first place, to the social partners and, in the second, to national and supra-national authorities who are in a position to request, stimulate and/or facilitate action by the social partners. In looking at potential action by the social partners we have followed the different stages of the bargaining process, although certain recommendations are relevant to all three stages.

#### **The bargaining process: action by the social partners**

##### ***Pre-agreement phase***

##### ***Improving equality awareness: the creation of expertise centres***

The existence of expertise centres and/or the appointment of equality officers within the social partners, whether at national, sector or company level, can play an important role in facilitating equality bargaining and in mainstreaming equality into all bargaining. Such centres or officers can provoke an awareness of the equality dimension of bargaining issues; provide negotiators with examples of bargaining proposals on equality; inform and assist the bargaining process; and help with the implementation and monitoring of the agreement.

##### ***Increased voice for women: more female bargainers***

The presence of women at the bargaining table and the articulation of women's concerns within the organisation was found to have a positive influence on equality bargaining. These factors also tend to have a favourable impact on the equality awareness of male bargainers, as does the existence of equality structures within the organisation. Sometimes the

presence of women among the negotiators was a decisive factor in obtaining a good collective agreement, in other cases the involvement of women was considered to be significant, but not decisive (Report 4, 1998:34). It is important that the composition of the bargaining delegation of both employers' and trade union organisations on different levels is representative of the interest groups.

#### *Influencing the bargaining agenda: equality guidelines*

The research demonstrated the importance of having equality manuals or guidelines for bargainers. Such guidance can be provided by equality officers or by equality structures within the organisation or sector. It may help to put equality items on the bargaining agenda and to formulate concrete bargaining proposals. Bargaining proposals need to be as clear as possible, and to include concrete targets, an allocation of responsibilities and an evaluation procedure. This report provides an indication of good practice in a number of areas which social partners might like to emulate.

#### *Agreement phase*

##### *Equality aware bargaining: the role of key individuals*

The research showed that equality aware bargainers, both male and female, can play an essential role in the conclusion of innovative agreements. Supported by, and responsive to, the equality structures in the organisation and keeping in regular contact with their interest groups, they succeed in keeping equality issues on the agenda and in finding compromises that are acceptable to all parties. Such key individuals succeed in translating good intentions into concrete measures that address the contextual situation. Training for negotiators can help develop such equality awareness.

##### *Checking the bargaining results: the equal opportunities scan*

An equal opportunities scan provides an analysis of the likely consequences on women and men of provisions in proposed agreements. Such a scan can be used to gender-proof draft (or pre-signature) collective agreements. This includes the checking of texts to see if they incorporate an equal opportunities perspective. Are sex-disaggregated statistics used? Will the agreement have different effects for male and female employees? What will be the effects on temporary and part-time workers? And what are the likely effects on employees with care responsibilities? An example of such a scan is the Equal Opportunities Effect Measuring Instrument developed in the Netherlands. This instrument is successfully used for new policy measures at national and local level.

#### *Post-agreement phase*

##### *Realising the full potential of agreements: effective implementation*

Where agreements with good equality potential had been concluded, the research found that the social partners were often less concerned with their implementation and monitoring. Thus, the full potential of the agreements was not always realised.

The research suggests that effective implementation requires a package of measures including:

- binding targets or goals;
- timescales for implementation;
- the allocation of responsibility for implementation and its systematic monitoring and review;
- training for those responsible for implementation;
- mobilisation and active participation of women in implementation;
- provision of information and criteria for transparent evaluation of progress;
- effective sanctions.

##### *Cooperation on implementation: joint equality body*

The research showed the advantages to be gained by establishing a properly resourced and supported joint equality body with responsibility for the implementation and elaboration of bargaining results. Cooperation between labour and management on the implementation of agreements creates a willingness to act among all parties involved. Joint equality bodies can be established at sectoral and company level and at national and European level.

##### *Framework agreements on equality*

Framework agreements, at both national and European level, can have a positive influence on equality bargaining, not least by providing an example. In line with the social protocol drawn up for the directives on parental leave, part-time work and flexible contracts, European framework agreements could be concluded in other areas of importance for equal opportunities.

The instrument of bargaining on framework agreements could also be used more generally at national or sectoral level. Such agreements could be underpinned by government action to generalise the results to all employees and (as appropriate) to the self-employed.

The 1993 National General Collective Agreement in Greece includes articles on the equal treatment of women and men; equal treatment of part-time employees and the payment of a levy for combating unemployment. This collective agreement has a special value because it provides a safety net for workers covered by other agreements and because it serves as a model for lower-level bargaining.

Greece report 3.



**The bargaining context: action by others**

***Providing equality expertise and information for the social partners***

National or European funds can be used to establish equality commissions or expertise groups whose function is to promote bargaining on equality. Such expertise centres can provide information and keep such tools as bargaining manuals and a database on good practice. Expertise groups can advise on equality measures and use their experience and knowledge to mediate in conflict situations. The databases can be used to provide information on bargaining at national, company or sectoral level and also assist in the monitoring of equality bargaining at European level.

At national level, administrative measures on collective bargaining appear to contain unrealised potential for encouraging and facilitating the adoption of equality issues in collective bargaining, often because external examples from other countries where similar agreements have been adopted are lacking. In a number of countries (e.g. Austria, France, the Netherlands) an administrative structure for the collection and review of collective agreements is already in place, which could be used more effectively to this end (Report 4, 1998:24).

***Monitoring equality bargaining in the National Action Plans***

A general monitoring instrument at European level is needed on the implementation and results on equality bargaining. The National Action Plans are required to report on the pillars of the Employment Guidelines. The first Joint Employment Report 1998 states: "Preparing and implementing the National Action Plans has raised awareness of the importance of equal opportunities policies for women and men. However, the policy content of the fourth pillar in most NAPs remained relatively modest and lacks integration. ... Although a growing number of Member States acknowledge the importance of gender mainstreaming, concrete examples of the application of this principle are still rare" (Joint Employment Report, 1998:24). Social partners can take advantage of this NAP monitoring by using it as a benchmarking instrument for equality bargaining.

***Legislative Framework for Equality***

The importance of the legislative framework for 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 (Report 4, 1998:20-22). Legislation may actually require the social partners to take equality action (or empower or allow them to do so), or – less directly – it may give equality issues prominence. Legislation can symbolise public policy

concern for equality and play an agenda-setting role in collective bargaining.

The pursuit of equal opportunities through collective bargaining is likely to be aided if:

- (a) legislation enacts positive measures to promote equality, requires specific action by the social partners – procedural or substantive - and provides for the monitoring of results and effective sanctions (Report 4, 1998:21).
- (b) there is legislation designed to stimulate and support joint regulation and social dialogue and if those measures themselves have an equality dimension.

***Equality funding***

The provision of European, national as well as local-level funding can play a role in instigating equality bargaining. The research demonstrated that priority funding should go towards measures which help to combine work and family life, such as childcare and leave facilities.

One possibility is to use funds from the European Structural Funds that are already earmarked for the improvement of employment opportunities of specific groups or within specific sectors or regions.

Such funds can also be effective in encouraging measures which tackle gender gaps, for example the funding of gender-neutral job evaluation schemes and mechanisms for revaluing traditional women's work.

***European Works Councils and equality***

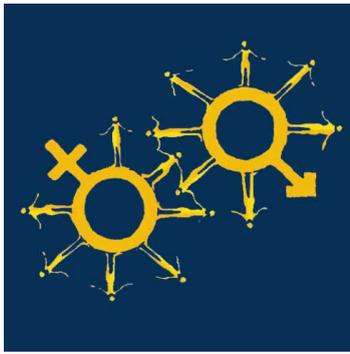
The research found equality provisions in agreements relating to some (but not all) national subsidiaries of transnational enterprises, indicating the potential for equal opportunities issues on European Works Council agendas (Report 3, 1999:23).

The European Works Council Directive may be seen as a missed opportunity in that it did not provide for gender balance in the membership of negotiating bodies nor did it specify equal opportunities (or men's and women's terms and conditions of employment) as a required subject for consultation (Report 4, 1998:20).

***European databases on equality bargaining***

Good information has to be available on the development of equality bargaining and on good practices. Therefore databases need to be created which could inform all parties on recent developments. The European Commission has already undertaken to monitor equal opportunities initiatives in the framework of the social dialogue. Such data could be fed into these databases at country or sectoral level, while conversely, data from the expertise centres can inform the monitoring at European level.

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## EU DOCUMENTS

EU documents mentioned in this report are available from the sources mentioned above; documents published in the Official Journal may also be obtainable from the EUR-lex website (<http://www.europa.eu.int/eur-lex/>) on the Europa server.

- 1. Defining the issues. Report 1 of Equal opportunities and collective bargaining in the EU.**  
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Cat. No. SX-12-98-215-EN-C  
(Available in all official languages of the EU).
- 8. Council Decision of 22 December 1995 on a medium-term community action programme on equal opportunities for women and men (1996-2000).**  
OJ L 335 of 30.12.95.
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- 10. Employment policies in the EU: joint employment report 1998.**
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(Available in all official languages of the EU).
- 14. Equal opportunities for women and men in the European Union, annual report 1998.**  
Cat. no. CE-18-98-502-EN-C.  
(Available in all official languages of the EU).

## FURTHER INFORMATION

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