

**MEETING WITH  
THE EUROPEAN WOMEN LAWYERS  
ASSOCIATION CONGRESS**

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Address of Lenia Samuel  
Deputy Director General

Employment, Social Affairs and Equal Opportunities DG  
European Commission

Ladies and Gentlemen,

It has been more than a year since I last addressed your association and I am delighted to be back to present the latest development in gender equality at EU level. I must say that the timing is very opportune and I have a lot to tell you about. And what I have to tell you about is good news.

### ***Renewed Social Agenda***

As you may know, two days ago, on 2 July, the European Commission adopted a Renewed Social Agenda Package, which looks at ways of empowering and enabling individuals to realise their full potential. Although it is first and foremost a major political statement from the Commission, underlining the value of the European Social Model and looking at ways of modernising it, it also contains a number of concrete initiatives adopted at the same time – that is why it is called a package - and announces a number of measures to be adopted before the end of the EU legislature in Spring 2009.

I hear you ask "empowerment" did she say "empowerment"? Yes, I did say "empowerment". Drawing partly on what we have been trying to achieve in the field of women's rights in the European Union and on the global scene, the European

Commission is seeking to renew its Social Agenda by ensuring that ALL European citizens and residents have more opportunities and better access to good quality education, health care and services, whilst promoting more solidarity between people, generations and regions.

In fact, the approach owes a lot to the Great economist and Nobel prize winner, Amartya Sen, who developed the theory of capabilities for men as well as women. In fact, Amartya Sen is not only a great Economist, he is also a great feminist and in 1990, he wrote a controversial article in the [\*New York Review of Books\*](#) entitled "More Than 100 Million Women Are Missing", analyzing the mortality impact of unequal rights between the genders in the developing world, particularly [Asia](#).

But back to the Commission's Renewed Social Agenda.

Quite naturally, a section of the main communication on the Renewed Social Agenda is dedicated to fighting discrimination and promoting gender equality. As part of the package, the Commission also adopted a new proposal to combat discrimination on grounds of religion or belief, disability, age or sexual orientation outside the field of employment. This will complete the comprehensive legal framework that already exists, in particular for sexual and racial discriminations. As we all know, multiple discrimination being quite widespread, we can

only welcome this initiative on behalf of those millions of women who are being discriminated against also because they practice a particular religion, because they are disabled or because they are lesbians.

As I have already indicated, the Renewed Social Agenda also announces a number of initiatives to be adopted soon.

In that respect, two issues are very high on the Commission's list of priorities: firstly, the reduction of the pay gap between women and men and secondly, the reconciliation between professional and private and family life. Many of you – even as high powered women – probably have experienced these difficulties yourself: men still in general earn more for an hour of their work and we all know the difficulties of having a family or a private life and in the same time continue to pursue our career.

The Commission believes that actions to reduce the pay gap and increase reconciliation facilities are necessary **to achieve more gender equality, address economic and demographic challenges**, raise the quantitative and qualitative level of participation of women on the labour market, and also in order to encourage men to take an equal share of caring responsibilities. Both topics are priorities in the Commissions Roadmap for equality between women and men 2006-2010.

The two priorities I have just referred to are crucial if we are to modernise our European Social Model and I would like to develop them further.

### ***The Pay Gap***

Tackling the Pay Gap is a high political and economic priority within the European Union. The pay gap is the difference between women's and men's average gross hourly earnings. More than 50 years after the Treaty of Rome, which promotes, equal pay for equal work, the Pay Gap between women and men is still a reality in today's Europe. On average, in the Member States there is a 15% gap in wages between women and men - only two points below its 1995 level. And as we are here in London today let me add that for UK the gender pay gap is particularly high, namely around 20%!

Which legislative rules are in force at EU level? We have Article 141 of the EC Treaty stating the general rule of equal pay for equal or equivalent work. When the provision was introduced, the objective was to create a level playing field in the Member States and avoid competitive disadvantages. However, thanks to the ECJ and its vast jurisdiction, this article created the basis of an ever growing gender acquis with several directives specifying more and more in detail the equal pay rule.

The ECJ has clarified that equal pay means equal access to employment, training, promotion and working conditions. It has dealt with occupational pensions under the concept of 'pay' and it has ruled on job classification systems. The ECJ has developed guiding principles in the area, namely definitions on direct and indirect discrimination. This has been very important in cases of unequal pay for part-time workers, for example.

So, why is the gender pay gap then still persistent?

Unfortunately, the ECJ and the existing Community legislation are by far not enough to combat the gender pay gap. It is not only a legal issue and perhaps not even essentially a legal issue. Let me explain this. If you realise you earn less than your male colleague you can complain to your employer and go to court if necessary. So, in principle this part of the pay gap can be dealt with legally – even if in practice there might be a lot of obstacles.

But there is more to the pay gap which cannot so easily dealt with by legal measures. Why do women earn less than men? This was the question the Commission put itself and came up with the 2007 Communication on the gender pay gap entitled **"Tackling the pay gap between women and men"**.

Women achieve a higher pass-rate at school than men in all the EU Member States and account for the majority of graduates.

Why is it therefore that, once they leave the education system, they find themselves in a labour market in which they enjoy less favourable conditions than men and in which their productive potential is not fully exploited?

No modern and competitive economy can afford a situation of this kind, particularly in view of the challenges posed by demographic change and the expected decline in the working population.

The pay gap is linked to a number of legal, social and economic factors which go far beyond the single issue of equal pay for the same job. Article 141 of the Treaty stipulates that equal pay for work of *equal value* must be guaranteed. This raises the question of how the work done by every individual is valued and, in particular, of how different jobs are evaluated. The fact that the pay gap still exists means that the professions and jobs in which women predominate are undervalued in comparison with those in which men predominate, without this necessarily being justified by any objective criteria.

There is *segregation* of the labour market. Women are concentrated in a much smaller number of sectors and professions than men. However, these tend to be valued less highly and associated with lower pay levels than those in which men predominate. This segregation is reinforced by *traditions*

*and stereotypes* which influence, for example, the choice of education courses, the evaluation and classification of occupations and employment patterns.

This Communication invites to an in-depth analysis of the causes of the persistence of the relatively high gender pay gap. Social partners play an important role in this context. National authorities are called upon to control this issue for their own staff and in public contracts. The Commission will provide better statistics with structural indicators and evaluate the best means to combat the pay gap and it will continue to monitor application of the current law. But also Member States help is needed: they should fix national objectives to combat the pay gap, provide more information, and implement fully the existing legislation.

Further analysis of the pay gap is in process. The Social Partners have been consulted, and the European Network of National Equality Bodies has chosen the Pay Gap as the theme for their 2008 work programme. A seminar was already organised last February, that focused on the causes of the Pay Gap, and another one, aimed at exchanges of good practices and national experiences – such as case law dealing with this issue -, is scheduled for the end of this year. For me is clear that the pay gap will persist. But we can all help to combat it. It is also a question of stereotypes, for example about women's working capacities and family responsibilities. And that leads

me to the other issue I want to discuss with you today: reconciliation of professional, private and family life.

### ***The Reconciliation Package***

**Reconciliation between family, private and working life** has been for a long time **one of the priorities of EU Gender Equality policy**. Reconciliation is one of the most important issues for many citizens in Europe and I guess most of us will have been in a situation already where reconciliation was difficult and we did not have free choices but our decision was determined by necessity.

The current legal framework is mainly dealing with leave arrangements, payment and protection during this leave. The Directives concerned are the Maternity leave directive - 92/85/EEC, and the Parental leave directive – 96/34/EC.

What is the EC doing to do to improve reconciliation measures?

In order to get the most accurate view of the needs and the possible actions the EU could take, the Commission launched in 2006 and 2007 a two-stage **consultation of the European social partners on reconciliation**, setting out a number of options for possible legislative and non-legislative measures. The Commission has also consulted Member States and European NGOs on this issue.

After having examined all the responses, the Commission has started an **impact assessment** on possible legislative and non-legislative changes in the field of reconciliation. Depending on the outcome of this impact assessment, the Commission will consider bringing forward proposals to complement the existing legislation in the area of reconciliation.

The impact assessment will include an **analysis of costs and benefits of introducing amendments to maternity leave and to parental leave**. The current minimum duration of 14 weeks maternity leave and the current minimum level of payment could be increased. The same applies to parental leave: the minimum duration is 3 months for each parent, payment is not provided at EU level. Many Member States have gone beyond these minimum requirements.

Nevertheless, there is a problem with reconciliation facilities: mainly women make use of them. By definition, only women can take maternity leave and it is mostly women who make use of parental leave. The labour market participation of women with children falls considerably when they have children whereas that of men increases. Women coming back from family related leave often work part-time, have lower wages and pensions. They take the main responsibility as regards caring for the family in general, be it children or elderly relatives. All these features add to the pay gap, of course.

The possible options, we are currently assessing, include also legislative proposals on adoption leave, paternity leave and leave to care for dependent family members (so called filial leave). So, we can not discuss any concrete proposal here. For me personally I think it will be important to increase the possibilities of women to stay in employment and also to increase men's share in family responsibilities.

The Commission will most probably come up with proposals in this area in September. However, if the Social partners open formal negotiations to the European Commission which is practically sure – the Commission has to restrain from legislative proposals in this area for nine months. However the scope of these negotiations is not yet clear. It is not clear whether the Social partners will negotiate 'only' parental leave or also paternity and filial leave, for example. This intention of the Social Partners needs to be formalised in the coming weeks.

The so called reconciliation package also includes an initiative to review Directive 86/613/EEC on self-employed workers in order to improve social rights and gender equality for self-employed women and helping spouses.

The aim is twofold: to improve the protection of self-employed women in case of pregnancy and motherhood and to recognise

the work of "assisting spouses" in family businesses and improve their social protection. The amendments planned to this Directive could contribute to bridging the gender gap in terms of entrepreneurship (only one third of entrepreneurs are women) and also improve the situation of "assisting spouses", essentially in agriculture.

The reconciliation package also includes a report on childcare on the progress made in reaching the "Barcelona targets" on childcare services. It will analyse issues such as the accessibility, availability, affordability and quality of childcare in Member States. The main purpose of the report will be to underline the importance of the childcare targets in the frame of the Lisbon strategy, through their contribution to lift employment rates of parents with young children, to reducing gender gaps and to foster equality between women and men.

In addition, as part of a new programme of measures to exchange good practice between Member States in the area of gender equality, the Roadmap priority area "Enhancing reconciliation of work, private and family life" was chosen as the main topic for 2008 by the High Level Group on Gender Mainstreaming (composed of Commission and Member States officials). The first exchange will be held on 23 and 24 September 2008 in Ljubljana and will focus on the Slovenian childcare services, while the second, to be held in Iceland on 22

and 23 October, will look at the Icelandic parental leave provision.

## ***Conclusion***

It is time for me to conclude.

The European Union has come a very long way on the road to Gender Equality but it is clear that we are not there yet and the last part of the road is often the most arduous.

Growing inequalities in the EU often make women more vulnerable so I believe that a Social Agenda that aims at creating more opportunities for people is good news for women. I also believe that a Social Agenda that aims at ensuring access to quality services that so many depend on is good news for women. Finally, a Social Agenda that promotes solidarity between all members of society and between generations is good news for women.

Overall, I remain deeply convinced that what I have presented is not just good news for women, it is good news for all the people residing in the European Union, for the aim of the Renewed Social Agenda is to improve the well-being of all of us.

I thank you for your attention