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Achieving greater equality between women and men has been a key focus of EU legislation and action for many years, and the Union has had a gender mainstreaming strategy in place since the late 1990s. Largely in response to EU law, all Member States have a substantial body of legislation seeking to ensure equal opportunities and treatment for women and men at work. However, major gender gaps persist – in terms of pay, for example – suggesting that the practical achievement of equality at workplace level remains problematic. In this context, the comparative supplement in this issue of *EIRObserver* examines the issue of workplace plans aimed at achieving greater equality between women and men through specific, concrete measures.

Looking at the current EU, Norway, and a number of new Member States joining the EU in 2004, the supplement considers the regulatory framework for workplace gender equality plans and the extent and nature of such plans in practice. It finds that the issue is rarely dealt within collective bargaining above the company level, and that legislation on workplace equality plans is infrequent in the private sector, though somewhat more common in the public sector. In practice, gender equality plans are rare, at least in the private sector, in most countries (though data on this point are very scarce), arguably assuming greatest importance in the two countries with legislation making such plans obligatory – Finland and Sweden. Where they exist, their content tends to be quite similar across the countries examined.

EIRObserver presents a small edited selection of articles based on some of the reports supplied for the *EIROnline* database, in this case for January and February 2004. *EIROnline* - the core of EIRO's operations - is publicly accessible on the World-Wide Web, providing a comprehensive set of reports on key industrial relations developments in the EU Member States (plus Norway) and an increasing number of acceding and candidate countries, and at European level. The address of the *EIROnline* website is:

http://www.eiro.eurofound.eu.int/

EIRO, which started operations in 1997, is based on a network of leading research institutes in each of the countries covered and at EU level (listed on p.12), coordinated by the European Foundation for the Improvement of Living and Working Conditions. Its aim is to collect, analyse and disseminate high-quality and up-to-date information on key developments in industrial relations in Europe, primarily to serve the needs of a core audience of national and European-level organisations of the social partners, governmental organisations and EU institutions.

European Foundation for the Improvement of Living and Working Conditions

EU

Commission consults on review of working time Directive

In January 2004, the European Commission launched consultations on a re-examination of the 1993 working time Directive, focusing on the Directive's reference periods for calculating average working time, the possibility of allowing individuals to opt out from the maximum 48-hour week, recent ECJ case law regarding on-call working, and measures to improve work–life balance.

The 1993 EU Directive on working time (see box opposite) states that two of its provisions are to be reviewed before 23 November 2003. These are:

• derogations from the four-month reference period over which the Directive's maximum 48-hour working week (set out in Article 6) may be averaged, whereby Member States may allow the reference period to be extended to six months or, by collective agreement, to 12 months; and

• an option for Member States of not applying Article 6 if the individual worker consents to this (ie the 'opt-out' from the 48-hour maximum working week).

There have also been important recent European Court of Justice (ECJ) rulings regarding the definition of working time with regard to on-call working, notably the judgments in the *Simap* case in October 2000 and the *Jaeger* case in October 2003. These rulings essentially stated that on-call working should be considered to be working time, even where the employee is provided with a bed to sleep in on the employer's premises during periods of non-working. The European Commission therefore believes that it is timely to look at the Directive in the light of these cases.

The Commission thus issued on 5 January 2004 a Communication on the reexamination of the Directive. The review has three aims:

• to evaluate the application of the two provisions for which review is provided in the text of the Directive – on derogations from the reference periods for calculating average weekly working time and the opt-out from the 48-hour maximum week;

• to analyse the impact of the recent ECJ judgments in the area of the definition of working time and the status of on-call working, in addition to new developments aimed at improving work–life balance; and

• to consult the European Parliament, the Council of Ministers, the European Economic and Social Committee, the Committee of the Regions and the EU social partners on a possible revision of the text.

Reference periods

The Commission notes that only four Member States (Greece, Ireland, Portugal and the UK) faithfully reproduce the provisions of the Directive in relation to reference periods.

In Denmark, no reference periods are set out by law – collective agreements provide for reference periods of between four and 12 months. In Finland, the four-month reference period is applied only to the maximum amount of overtime – collective agreements may set out a 12-month reference period for ordinary working time and for limiting overtime. In France, the 48-hour limit is absolute and not an average to be calculated over a reference period. Other Member States have different reference periods – often of one year – for the calculation of ordinary working time, which is less than the 48-hour maximum set out in the Directive.

With regard to extending the reference period to up to 12 months by collective agreement, the Commission notes that Member States are not all in the same position, due to the fact that coverage by collective bargaining varies widely, from 36% in the UK (22% in the private sector), to almost 100% in some Member States.

Use of the opt-out

Article 18(1)(b)(i) of the Directive allows Member States to make provision for a worker to work longer than 48 hours a week under the following conditions:

• the employer must gain the prior consent of the worker to do this;

• no worker should be subjected to any detriment by their employer because they are not willing to give their consent to do this;

• the employer must keep up-to-date records of all workers working longer than 48 hours a week;

• the records must be placed at the disposal of the competent authorities, which may, for health and safety reasons, prohibit or restrict the possibility of exceeding the 48-hour limit; and

• the employer must provide the competent authorities at their request with information on cases in which agreement has been given by workers to exceed the 48-hour week over a period of seven days, calculated as an average over a reference period of four months.

A key feature of the worker's consent, states the Commission, is that it must be free and informed.

Implementation in the UK

The UK is the only country which has made general use of this possibility of allowing workers to opt out of the 48-hour weekly maximum. However, although the UK's implementing legislation, as revised in 1999, makes reference to employer record-keeping, it does not, in the Commission's opinion, fully comply with the Directive's requirements in the area of record-keeping concerning workers working above 48 hours a week. The Communication also states that if there is no record of time actually worked by these workers, it is difficult to ensure that there is compliance relating to other areas of the Directive, such as daily rest periods, breaks and weekly rest periods.

Implementation in other Member States

The Commission believes that the ECJ's ruling in the *Simap* case has had a significant impact on other Member States' decisions on whether to apply the opt-out. Essentially, they saw this as 'a way of alleviating some of the problems created by this case law, allowing doctors to continue to work for more than 48 hours per week (including on-call time) if they wished'. All Member States incorporating this clause into their legislation, with the exception of Luxembourg, have done so for the health sector alone. Luxembourg has introduced the opt-out for the hotels and catering sector.

Impact of ECJ case law

The Commission notes that, prior to the *Simap* ruling, the general interpretation was that periods of inactivity during time spent on call should not be defined as working time. In most Member States therefore, periods spent not working during on-call duty were excluded from working time. Consequently, the *Simap* ruling has had a major impact, particularly in the health sector, as on-call working is most widespread among doctors. This will be even greater when Directive 2000/34/EC extending the 1993 working time Directive to previously excluded sectors and activities is applied with respect to trainee doctors on 1 August 2004, implementing the 48-hour week in stages (although there is a transition period of four years that can be extended to eight years). Most on-call working requiring a physical presence at work is performed by trainee doctors.

To comply with the maximum working week of 48 hours, including all time spent on call, most Member States will need to recruit large numbers of additional doctors to ensure the same level of care. However, all Member States agree that even if it were possible to pay for these extra staff, it would be impossible in practice due to the lack of candidates with the necessary training to take on these jobs. The Commission therefore fears that some Member States will use the derogations or exceptions on offer in the Directive, primarily the opt-out.

Work and family life

The Commission states its belief that the revision of the Directive could be used to encourage Member States to take steps to improve the compatibility of work and family life. Greater flexibility in the organisation of working time would, it argues, meet the growing needs of workers, particularly those with dependants, as well as the interests of companies, which need to be able to respond to user and customer demands for extended operating hours to adapt rapidly to fluctuations in demand.

The way forward

The Commission believes that there are several ways forward, but lists what it feels are the criteria that must be met by the solution chosen:

- workers should be given a high level of health and safety protection in respect of working time;
- firms and Member States should have more flexibility in the way they manage working time;
- it should be made easier to reconcile work and family life; and
- no unreasonable constraints should be imposed on firms, particularly small and medium-sized businesses.

The Commission highlights the following five areas that it would like those responding to its Communication to address:

- the reference periods;
- the ECJ's interpretation of the concept of working time in the *Simap* and *Jaeger* cases;
- the conditions of application of the opt-out from the 48-hour maximum week;
- measures aimed at improving reconciliation between work and family life; and
- whether an interrelated approach to these issues would allow for a balanced solution capable of meeting the four criteria set out above.

All comments were to be sent to the Commission by 31 March 2004.

This process constitutes the first phase of the European social partner consultation process, provided for by Article 138(2) of the Treaty. A second consultation phase, on the content of any proposal envisaged, will follow once the Commission has digested all the replies.

EP's position

On 11 February 2004, the European Parliament (EP) adopted a resolution calling on the Commission to advance the formal process of social partner discussion on review of the working time Directive and urging it to revise it 'with a view to the phasing out', as soon as possible, of the opt-out. It also states that the Commission has adopted a 'reluctant attitude' following the *Simap* ruling, which has led to 'a lack of clarity' in some Member States.

Commentary

Debate on this issue is likely to be lively over the coming months. The European Trade Union Confederation (ETUC) issued an initial response, expressing its concern that the Commission has not made any concrete proposals for overhauling the Directive at this stage, despite the fact that Commission research has found that the implementation of the Directive has not been satisfactory. According to John Monks, the ETUC general secretary: 'With Commissioner Diamantopoulou having accepted that the implementation of the working time Directive has been unsatisfactory, particularly though not exclusively in the UK, and that as a result the health and safety of European workers is being compromised, I am very disappointed that the Commission has not felt able to come forward now with concrete proposals for remedying the situation.'

The Union of Industrial and Employers Confederations of Europe (UNICE) is in the process of formulating a position paper on this issue. The main UK employers' organisation, the Confederation of British Industry has called for retention of the opt-out (the UK will be the most affected country if the Commission decides to modify or abolish the opt-out).

While it is not possible to anticipate what the Commission will do, it is clear that much emphasis will be placed on the opt-out provided for by the Directive. It was acknowledged at the time that the Directive was formulated that this clause could put at risk the Directive's aim of protecting workers' safety and health, which is why there is provision for its review after a period of seven years. The Commission clearly believes that the opt-out is problematic: pointing to the experience of the UK, it says there are: 'existing difficulties in ensuring that the spirit and terms of the Directive are respected and that real guarantees are provided for workers. It also brings out an unexpected effect in that it is difficult to ensure (or at least check) that the other provisions in the Directive have been complied with, concerning whether workers have signed the opt-out agreement.' These doubts about the opt-out have been reinforced by the EP's recent resolution. However, employer representatives are likely to campaign strongly against phasing out the opt-out. (Andrea Broughton, IRS)

EU0402203F (Related records: EU0310202N, UK9907117N, LU0301107F, EU0005249F, UK0401104F)
20 February 2004

Key points of Directive

The 1993 EU Directive (93/104/EC) on certain aspects of the organisation of working time aims to ensure a better level of safety and health protection for workers by limiting excessive working hours, providing for sufficient rest breaks and regular organisation of work. Its main provisions include:

- a minimum rest period of 11 consecutive hours for each 24-hour period;
- a rest break where the working day is longer than six hours;
- a minimum rest period of one day per week;
- maximum weekly working hours of 48 hours on average, including overtime, over a reference period not exceeding four months;
- four weeks of paid annual leave; and
- an average of no more then eight hours of work at night in any 24-hour period.

All Member States were obliged to transpose the provisions of this Directive into national legislation by 23 November 1996.

AUSTRIA

Common pay system agreed for blue- and white-collar workers

A collective agreement has been signed in the Austrian electrical and electronics sector providing for a common pay system for blue- and white-collar workers, which is seen as a milestone in terms of pay harmonisation for the two groups.

On 12 December 2003, the Federal Organisation of the Electrical and Electronics Industry (EEI) on the employers' side and the blue-collar Metalworking and Textiles Union (GMT) and white-collar Union of Salaried Employees (GPA) on the employees' side concluded a new collective agreement for the electrical and electronics sector. After three years of negotiations, the social partners in this sector have managed to reach a settlement on a new common pay scheme for both employee groups – ie blue-collar and white-collar workers. Accordingly, the sector's 250 companies and 58,000 employees will be covered by a new classification scheme providing for a more precise single classification of jobs. This aim to replace the old classification system which has been widely perceived as too inflexible and imprecise, with problems of incorrect classification arising, mostly to the detriment of women.

The new scheme seeks to improve the validity of job classifications, in particular regarding formally unskilled workers actually working as skilled/trained employees. These advantages are counterbalanced by a less favourable system of automatic pay increments as compared with the current automatic two-yearly increments. However, the new agreement stipulates another additional pay scheme analogous to the 'distribution option' which has been laid down in collective agreements on several occasions in the past. Under the new agreement, a certain proportion of the collectively agreed pay increase can be flexibly distributed among the employees of an individual establishment. In contrast to the 'distribution option', which was voluntary, the new clause is binding on the employer. The new pay scheme will come into effect on 1 May 2004.

New grading scheme

The new accord provides for a joint grading scheme for blue- and white-collar workers. This scheme specifies 11 newly designed grades to replace the old separate sets of pay grades for manual workers and white-collar employees. Hitherto, there have been different classification criteria for blue-collar workers and for white-collar workers. Whereas the former have primarily been classified according to their (formal) skills, the latter have primarily been classified according to both formal skills and actual job requirements, including such criteria as the degree of responsibility involved, the 'learning time' needed, formal qualifications and practical experience. The new classification scheme will enable even unskilled manual workers to move up into higher grades which have so far been reserved for skilled/trained workers only. This implies that workers without an apprenticeship leaving certificate may move up into skilled grades. For white-collar workers, the new scheme defines more precisely the (formal) qualifications of the employees, which will result in more security and fairness when it comes to classifying a given employee, in particular women, in a particular grade. Under the current scheme, the classification of employees is carried out by the employer with a veto right for the works council (if there is one).

New increments scheme

The agreement creates a new scheme for automatic pay increments within each of the 11 grades. More precisely, four pay increments are established, becoming due after two, four, seven and 10 years of continuous employment in the same grade. The increment applies to both collectively agreed minimum pay and actual pay and is fixed as a certain percentage of the minimum pay for each grade. This means that the actual amount of pay increment – calculated as a percentage of the minimum pay for each grade – is the same for all employees within the same grade. The increment falling due after two and four years will be twice as high as the third and fourth increments. This scheme will replace the current scheme based on two-yearly increments, which is more favourable to the employees.

Flexible wage component

Aside from the grading and increment systems, the new agreement contains another innovative provision: an obligatory, flexible pay increase in addition to the collectively agreed minimum pay increase. This new wage component is to be distributed flexibly among employee groups in each individual establishment. This flexible pay increase has to be paid annually and irrespective of the 'normal' collective bargaining procedure. In contrast to the 'distribution option' established in some sectors of industry for several years, the new scheme must be implemented by the employer. Accordingly, the employer is obliged to distribute 0.35% of the total wage bill in September each year flexibly among the employees, unless a works agreement provides for more favourable conditions. The distribution of this wage component must be based on the following criteria: work performance (including social skills); the company's pay structure (involving compensation for low pay); and equal treatment of the sexes (involving compensation for unjustified unequal pay of men and women). In this matter, the collective agreement provides for a co-determination right for the works council, in that any rules on how to distribute this wage component must be laid down in a mandatory works agreement concluded by management and the works council.

Commentary

The conclusion of the electrical and electronics sector agreement in December 2003 is seen by the signatories as a milestone in Austria's collective bargaining history. The sector is the first in which a common pay system for both manual and white-collar workers has been established. Until now, a harmonisation of agreements for blue- and white-collar workers has been achieved in some sectors only in terms of equal application of labour law regulations. This new agreement may pave the way for similar arrangements in other sectors such as the overall metalworking industry (where negotiations on this issue have already started).

The introduction of the joint grading scheme in the electrical and electronics sector marks the end of the traditional, unequal treatment of white-collar and blue-collar workers to the disadvantage of the latter. This is true particularly for unskilled manual workers who – in spite of their lack of formal qualifications – have often become highly trained on the job and have actually performed corresponding work. However, they have been treated as unskilled workers so far. Since the new scheme provides for far more differentiated classification criteria (such as practical experience and actual work performance), it gives more performance-related opportunities to move up into higher grades. In general, the main beneficiaries of the new schemes will be younger employees, (formally unskilled) low-pay workers and women. Moreover, the position of works councils will be strengthened as a consequence of the enlargement of their co-determination rights. (Georg Adam, University of Vienna)

AT0402202F (Related records: AT0103209F, AT0111229N, AT0309203T)

20 February 2004

Equal opportunities and industrial relations

In Cyprus, women have a lower employment rate than men and a higher unemployment rate, and are more likely to work part time or on a temporary basis, while their average pay is lower than men's. Specific legislation on workplace gender equality has been introduced only recently, and bargaining does not appear to deal with equality matters.

Here we look at the current situation with regard to women's position in the labour market, the legislative framework for equality between women and men, and collective bargaining on gender issues

Employment and unemployment among women

Women's share of overall employment (ie the proportion of employed women in the total number of employed people) is significantly lower than that of men. The gap between the numbers of employed men and women in Cyprus is greater than in most of the current EU Member States. According to Labour Force Survey data, in 2002 the overall employment rate (ie the number of employed people aged 15-64 as a percentage of the whole population aged 15-64) in Cyprus was 68.5% (up from 67.9% in 2001). The rate for men was 78.8% (down from 79.4% in 2001) and for women 59% (up from 57.1% in 2001). For the group aged 25-54, in 2002 the employment rate was 93.2% for men and 72% for women (and 82.2% in total).

Overall, in recent years the composition of employment has displayed a small but steady shift in women's favour. According to data from the National Statistical Service of Cyprus, over 1995-2001 the presence of women in the labour market showed a steady increase. The percentage of women (of all ages) in employment rose to 41.3% in 2001 from 39.1% in 1995, while the corresponding rate for men was 60.9% in 1995 and 59.7% in 2001.

However, despite the progress in women's participation in the labour market, women have a higher unemployment rate. The overall unemployment rate was 3.4% in 2000, falling to 2.9% in 2001. Unemployment rates for men fell from 2.7% to 2.3% and for women from 4.4% to 3.8%. Some 47% of unemployed women were aged 30-50, and 27% were aged under 29.

Qualitative data

There has been no analysis in Cyprus of the extent of gender-based occupational segregation or of how the situation in this area compares with the present EU Member States. However, according to the data available from the National Statistical Service (Labour Statistics 2001), in both 2001 and over the five-year period 1995-2000, a distinct concentration of women can be seen in certain occupations and fields, mainly in the services sector and in unskilled work.

According to the National Statistical Service's Labour Force Survey, in 2002 there was a fall in overall part-time employment compared with 2001. In 2001, the number of part-time workers stood at 26,000, or 8.4% of total employment, falling in 2002 to 22,600, or 7.2% of total employment. Of these, 7,000 were men (4% of total men's employment) and 15,600 were women (11.3% of total women's employment) in 2002, while the corresponding proportions for 2001 were 5.1% for men and 12.9% for women. With regard to part-time employment undertaken out of necessity and not by choice, the data indicate that in 2002 some 17.3% of part-timers (3,900 workers) turned to part-time employment because they were unable to secure work on a full-time basis, while 65.5% (14,800) chose part-time work because they did not wish to work full time. People in part-time employment worked an average of 21.2 hours per week in 2001 and 22 hours in 2002. By gender, the figures in 2001 were 20.9 hours for men and 21.3 hours for women, and in 2002 they were 21.1 hours for men and 22.4 hours for women.

The overall rate of temporary employment also fell between 2001 to 2002, from 10.7% (25,400 workers) to 9.1% (22,100 workers). As with part-time employment, a large majority of workers in temporary employment are women, who made up 16,600 (65.4%) of the total in 2001 and 14,900 (67.4%) in 2002.

However, the situation is different in respect of self-employment and holding a second job. In both these cases, men are in a significant majority. In 2002, out of the total number of 15,300 workers with second jobs (4.9% of all workers), 13,100 were men (4.1% of all male workers) while only 2,300 were women (0.8% of all female workers). In 2002, out of 72,600 self-employed workers, 50,600 were men (69.7%) and 22,000 were women (30.3%). In a society like Cyprus, where traditional, deeply-rooted values and stereotypes regarding the genders and their roles insist that the man is still the head of family, the securing of a second job by men is not surprising. It is possible that men taking second jobs results in a widening of the wage gap to the detriment of women, and also proves unhelpful to women in improving the gender distribution of work within the family.

In conclusion, despite the greater numbers of women in the labour market and, to a certain extent, a shift in the 'patriarchal' structure of employment, the overall situation of women is particularly disadvantageous vis-à-vis that of men. As seen above, women's employment rate lags significantly behind that of men, women's unemployment rate is almost double, and women prefer or are preferred in positions of flexible employment, particularly part-time and temporary employment. At the same time, they continue to be over-represented in low-skilled jobs, and there are indications that they fill a significant number of jobs in the clandestine economy. This last category includes the large number of female migrant workers employed in the so-called 'sex industry', as well as many migrants employed as domestic workers. In addition, women as a whole constitute the majority of unpaid workers in family enterprises. It should be noted that the largest increase in employment in 2001 (1,400 persons in total) related to private households that employ domestic staff, and was due to the continued increase of migrants employed as domestic workers.

Legislative framework

The prohibition of discrimination and the principle of equality constitute a fundamental legal principle first laid down in the Constitution of the Cyprus Republic in 1960. Specifically, Article 28 of the Constitution provides that 'all persons are equal before the law, the administration and justice and are entitled to equal protection thereof and treatment thereby' and that 'every person shall enjoy all the rights and liberties provided for in this Constitution without any direct or indirect discrimination against any person on the ground of his community, race, religion, language, sex, political or other convictions, national or social descent, birth, colour, wealth, social class, or on any ground whatsoever ...' The principle of equality is a cornerstone of the legal framework, at least formally - commentators point out that the Constitution basically secures formal rights and not necessarily their substantive expression. Moreover, the same principle of equality and non-discrimination features in the Council of

Europe's European Convention for the Protection of Human Rights and Fundamental Freedoms (to which Cyprus is a party), and a large number of International Labour Organisation Conventions and other United Nations (UN) instruments ratified by the Cyprus Republic.

However, the most important legislative measures relating to sex equality have occurred recently, notably in terms of the enactment of the following laws:

- Law 205(1) of 2002 on the equal treatment of men and women in employment and vocational training; and
- Law 177 of 2002 on equal pay for men and women for similar work or work of equal value.

These statutes were adopted within the framework of harmonisation of Cyprus law with the EU's 'acquis communautaire' (the body of law which new Member States must implement) prior to accession in May 2004. Specifically, they relate to harmonisation with the following EU Directives:

- Directive 76/207/EC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working condition; and
- Directive 97/80/EC on the burden of proof in cases of discrimination based on sex.

Given that the relevant laws entered into force on 1 January 2003, an assessment of their effectiveness is not yet possible. However, on the basis of the indications to date, some observers question whether the content of the relevant legislation has been made known sufficiently to those who are directly concerned, in order to effect the necessary improvements in the lives of women at the workplace, as these laws intend. Government departments, trade unions, employers' organisations, women's organisations and human rights organisations will all have a great responsibility in making sure that the new provisions are utilised to the greatest possible extent.

It may be noted that the introduction of these laws had been a prominent demand of the women's section of the Pancyprian Federation of Labour (PEO), since 1987 when the UN Convention on the Elimination of All Forms of Discrimination against Women (34/180) was ratified.

Collective bargaining

Despite the fact that in the Cypriot system collective agreements have traditionally played a primary role in regulating industrial relations, with the law playing a secondary regulatory role, the content of such agreements is fairly limited. With regard to the question of equality of opportunity for men and women, it may be said that there is no connection with the collective bargaining process. Although no study has been conducted with regard to the content of collective agreements at sectoral and company level, the indications are that agreements at these levels do not appear to take gender into account in the setting of terms and conditions of employment.

Moreover, with regard to the setting of wages and salaries, the parties to collective agreements are not bound by the principle of a national minimum wage. In other words, a general minimum wage is not set for all unskilled workers. The effect of such a minimum wage would, according to advocates, be to secure a viable basic threshold for worker's survival. In this context, the absence of a minimum wage may help to widen the wage gap between men and women (see box above), given that a large number of women are employed in unskilled and low-paid jobs.

Commentary

The position of women in the Cypriot labour market is clearly worse than that of men, in respect both of their participation in employment and unemployment and of the quality of their employment. The same is true with regard to the wage gap between men and women. It is thus necessary to conduct studies relating to occupational segregation, and the factors that determine the wage gap which acts so disadvantageously towards women. With regard to improving women's terms and conditions of employment, the legislative framework has an important role to play. The delay exhibited in previous years in adopting specialised legislation can undoubtedly be counted among the negative developments, while it will be of definitive importance to see whether the recently enacted legislative framework will be put to effective use or not. However, the laws by themselves, no matter how comprehensive, are not enough to wipe out inequality in the workplace and society in general. The social partners are therefore called upon to play a major role both to tackle the gaps, shortcomings and negative provisions of the relevant laws, and to improve the legislation, mainly through establishing a link between the collective bargaining process and equal opportunities. (Eva Soumeli and Nikos Trimikliniotis, INEK/PEO)

CY0401103F (Related record: CY0311103F)

23 January 2004

Gender pay inequality

According to the latest overall pay data from the National Statistical Service's Labour Statistics, covering 2001, managers and senior management were the group that received the highest pay, followed by qualified professionals and technical assistants, while unskilled workers received the lowest wages. The lowest-paid 25% of employees received a monthly wage of about CYP 529 (EUR 875), while the highest paid 25% received monthly wages higher than CYP 1,055 (EUR 1,740). The corresponding figures for 2000 were CYP 507 (EUR 840) for the lowest 25% and CYP 975 (EUR 1,610) for the highest. The median wage, which indicates the border between the lowest paid 50% and the highest paid 50% of employees, rose to CYP 729 (EUR 1,210) in 2001 from CYP 692 (EUR 1,140) in 2000.

With regard to the gender wage gap, in 2001 men were paid on average 34.9% more than women, a situation identical to 2000, while women received lower pay on average than men in all main occupational categories. However, the gap was smaller in occupations that require greater skill, such as the managers and senior management, and greater in the categories of machine operators, and people working in the service sector and in sales.

To date, no study has been conducted in Cyprus with regard to the determining factors that create the wage gap between men and women. However, according to indications, the National Statistical Service attributes part of the wage gap to the differences in qualifications between the two genders, length of service, professional duties, the field of work and possible discrimination in certain occupations.

New collective agreements concluded in industry

In February 2004, new three-year collective agreements were concluded in Denmark's pace-setting industry sector, providing for improvements in occupational pensions, paid parental leave and sick pay, plus minimum wage increases.

New collective agreements for hourly-paid and salaried workers in the industrial sector were concluded on 1 February 2004 by the Confederation of Danish Industries (DI) employers' organisation and the Central Organisation of Industrial Employees (CO-industri) trade union bargaining cartel. The key points of the three-year deal are improvements in 'social' areas, such as occupational pensions, parental leave and sick pay. The settlement is a compromise based on a wish to maintain jobs and its provisions represent an increase in labour costs of nearly 1% per year over its three-year term, leaving room for subsequent local pay negotiations which should ensure real wage increases without jeopardising the competitiveness of enterprises. The new agreements will succeed the four-year deal concluded in 2000.

The new industry agreements also provide for greater decentralisation of the collective bargaining system, which will give employers and workers at enterprise level greater independent room for manoeuvre - see box on p.8.

The settlement contains a number of clauses which have further implications for both the relations between the two sides in the industrial sector and the Danish collective bargaining system as a whole. Current political discussions about a central parental benefits fund (see below) raise the question of the balance between the social partners and the political system. The social partners in the industrial sector have thus included a so-called 'revision clause' in the settlement, allowing negotiations to be reopened in the event of political initiatives which might change the basis of the agreements, such as the creation of a central parental benefits fund or changes to unemployment benefit rules.

'Social' improvements

The accord makes major improvements to existing industry sector schemes relating to maternity leave, sick pay and occupational pensions.

With regard to collectively agreed occupational ('labour market') pensions, it is significant that contributions to this scheme in the trend-setting industrial sector will now exceed the previous trade union target of 9% of pay (of which the employers pay two-thirds and the employees one-third). For workers paid on an hourly basis there will be two increases during the agreement period of 0.9 points each, of which the employer will pay two-thirds. For salaried employees, there will be a single increase of 0.9 points. Thus, by the end of the agreements' term, the contribution for both categories of employees will be 10.8% of pay. This demand had been given a high priority by union members and its attainment will strengthen the important role of occupational pensions in the Danish pensions system.

The agreements increase the period of fully paid childbirth-related maternity/paternity leave from 14 to 20 weeks - which may now be taken by both women and men - as well as introducing further 'pregnancy leave' of four weeks for women. This in line with the demands of politicians for better conditions in this area, but the social partners in the industrial sector have not taken a position on the issue of the establishment of one or more central funds to cover such additional parental benefits, as demanded in some political circles. The industry social partners believe that they have managed to deal adequately with this issue in their sector through their own fund; this led some politicians to criticise the agreements, while others have praised them as a 'lever' for improvements in other sectors.

The deal also introduces leave of up to one week with full pay if an employee's child is hospitalised. Furthermore, the period of full pay compensation during sickness has been increased from five weeks to nine weeks.

Although the issue of further and continuing vocational training was not given a high priority, there was one improvement in this field. If they are made redundant, workers with service of three years or more will have a right to paid training lasting two weeks.

Finally, the minimum wage in the industry sector, which is presently DKK 88.40 (EUR 11.90) per hour will be increased in three instalments of DKK 2.25 (EUR 0.30) each during the agreement period, while the rates applying to apprentices and trainees will, on average, be increased by 4.5% per year. The only major demand made before the start of the bargaining not dealt with in the agreements is an increase in holiday pay.

Relationship with political initiatives

The most discussed aspect of the new agreements in the industry sector is the introduction of a provision (known as a revision or 'mousetrap clause') whereby the parties may reopen the negotiations if parliament adopts legislation which changes the basis of the agreements - for example, by amending the rules on unemployment benefits during temporary lay-offs, establishing a central fund to finance additional parental benefits, or other initiatives which will increase employers' costs in the industrial sector.

This clause was seen as necessary to secure the agreements' relatively long duration of three years. At the same time, it should be seen as a warning to the political actors against intervention in matters which traditionally fall under the competence of the social partners - ie matters concerning the regulation of pay and working conditions. If parliament decides, for example, to increase the period of maternity/paternity leave on full pay, it is the social partners that have to finance the difference between the level of state maternity/paternity benefits and full pay. The social partners thus feel that it should be left to them to decide how such improvements should be implemented. In this connection, the idea of a central fund to finance additional parental benefits is a hot issue. Such a central fund, financed by employers collectively, would spread the cost evenly between employers in order to support the sectors with a high proportion of women workers. Parliament is working on such a model, and some trade unions want sectoral-level central funds. The industry sector already has its own central maternity fund, and was thus reluctant to take up the issue. However, it must still be addressed, sooner or later.

Industrial action

The issue of industrial action was subject to considerable discussion during the negotiations. The Danish collective bargaining system is based on the principle that the right to take industrial action is reserved for negotiations concerning the conclusion or renewal of collective agreements. Once a collective agreement has been concluded, there is an almost unlimited peace obligation.

The new agreements have introduced somewhat stricter rules on unlawful industrial action. Overtime work which is necessary to catch up with production lost due to an unlawful work stoppage is not compensated by overtime pay until the number of working hours lost as a result of the work stoppage has been performed. A clause has now been inserted in the collective agreement which provides

that 'missed working hours' are to be deducted from overtime hours and it is expressly stated that unlawful work stoppages are to be considered as 'missed working hours'. Until now, the rule has been that this has referred to overtime work within the week when the 'missed working hours' occurred, but now the period during which the employer may order overtime work without special overtime pay has been extended to 14 days. It is thus a matter of a minor tightening up of the rules, and not something radically new.

Commentary

The agreements between DI and CO-industri should lay down the main elements to be dealt with in agreements in the entire private sector area covered by the Danish Confederation of Trade Unions (LO) and the Danish Employers' Confederation (DA), and the level of improvements that will be agreed. The social partners in the industry sector have once again managed to play the pace-setting role in the collective bargaining round. The agreements concluded in the industry sector may be put by the public conciliator to a joint membership ballot including the proposed agreements in other parts of the private sector.

However, in mid-February 2004, it seems that the bargaining in other sectors has reached a sort of deadlock. The remaining bargaining rounds – including in major sectors such as transport and construction – have been referred to the public conciliation service with a view to finding a solution, if possible. The situation differs from the last bargaining round in 2000, when it was a relatively uncomplicated matter to transfer the results from the industry sector to other sectors.

In 2000, the main problem was whether it would be possible to get the so-called 'normal wage sectors', with rigid pay systems whereby the sectoral agreements set the actual wage increases (as opposed to the more common 'minimum wage' system, where local bargaining builds on sectoral settlements), to agree to the long four-year agreement period. This time, the main problem is the question of a central fund for financing additional parental benefits, which is so complicated that it may jeopardise the possibilities of reaching a compromise in the longer perspective.

The issue of setting up such a central fund has been the most important theme in the political debate and this has put heavy pressure on the social partners. In the major sectors it covers with a predominantly female membership, the Union of Commercial and Clerical Employees (HK) is exerting pressure to introduce a protocol in its agreements with the Danish Commerce and Service Organisation (DHS) and the Danish Chamber of Commerce (HTS) to the effect that negotiations should continue over a central parental benefits fund. This has been turned down by the employers' organisations as they would not be able to obtain DA's approval for such a provision.

It should be emphasised that it is the central organisations - LO and DA - that are formally the decision-making parties in relation to the public conciliator and, if agreement is reached between LO and DA, it will be possible to present a compromise which might, for instance, include the establishment of a central fund in addition to the fund already set up in the industrial sector. However, it is a precondition that the most powerful organisations in both DA and LO approve this so that it will be possible to reach consensus within the central organisations. (Carsten Jørgensen, FAOS)

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20 February 2004

Decentralisation

A major innovation in the new industry agreements which gives the social partners at local level room for manoeuvre is the introduction of a clause which makes it possible to deviate from a number of rules laid down in the agreements. These include those relating to management-employee cooperation, working time, telework and further and continuing training. The parties at local level now have a right to conclude local agreements which deviate from the central collective agreement. The parties to the central agreement must only be informed of such local agreements.

From the point of view of the employers, this means a higher degree of flexibility as agreements can be tailor-made to the conditions in individual enterprises. From the point of view of the trade unions, this will give employee representatives a stronger role, as it is a condition that consensus is reached between the two sides at local level about such deviations and local agreements can be concluded only in enterprises which have elected employee representatives.

Another provision which increases the decentralisation of the bargaining system in the industry sector is the possibility of introducing variable weekly working hours. Until now, it has been possible to introduce such schemes only if agreed between company management and employee representatives.

In future, a framework for variable hours schemes may still be laid down by local agreement, but the actual organisation of the working time within this framework may be subject to a direct agreement with the individual employee or groups of employees. For the employers, this is a step in the direction of 'individualisation' in this field, while the trade unions are pleased to have maintained the collectively agreed framework. Further, the employers have given up a demand for lower 'nuisance' and inconvenience bonuses.

These new provisions can be seen as an extension of decentralisation in the bargaining system, with the central agreements increasingly acting as a framework for bargaining at enterprise level. However, this is centralised or controlled decentralisation, with the parties to the central agreement controlling the process, for instance through their agreed rules on the settlement of industrial disputes.

Debate on introduction of 'assignment contracts'

A report on employment law reform, commissioned by the French government, was issued in January 2004. The most controversial proposal is the creation of a new 'assignment contract', enabling employees to be recruited for the duration of a particular project.

The idea of an 'assignment contract' (contrat de mission) or 'project contract' (contrat de projet) was mooted by the Movement of French Enterprises (MEDEF) employers' confederation in May 2000, during early bargaining under its 'industrial relations overhaul' programme. It was to be an employment contract lasting a maximum of five years (as opposed to 18 months for the current fixed-term contract, including renewals) and whose end would be tied to the completion of the project for which the employee had been taken on.

This issue was recently revisited by several employers' associations directly or indirectly linked to the information technology (IT) sector. The largest of these is Syntec-informatique, the trade association of IT services and engineering companies (sociétés de services et d'ingénierie informatique, SSIIs) and software publishers. At Syntec-informatique's initiative, the Syntec employers' association – whose members are firms specialising in engineering, IT services, research and consultancy, and ongoing vocational training – published a document in early December 2003 outlining its stances in the area of industrial relations. Among the numerous proposals for bringing increased flexibility to work and employment was the creation of an 'assignment contract'.

Two employers' bodies with very close links to the IT sector also took similar positions. The Young Managers' Centre (CJD), whose chair runs an SSII, presented a report on employment to the Prime Minister on 27 November 2003. Among the recommendations was the establishment of an assignment contract. Croissance Plus, a network of companies experiencing very high rates of growth (and thus often linked to IT), whose current chair also runs an SSII, adopted a similar stance.

The debate on a possible new assignment contract is therefore focused on the needs, in terms of employment flexibility, of companies specialising in high technology, particularly IT services firms.

Precedent in construction industry

The Labour Code already contains a provision enabling an employer to end the employment of an employee at the completion of work on a given site, without necessarily being subject to the provisions on redundancy. However, the use of such a 'site contract' (contrat de chantier) is restricted to the construction and public works sector, where it is a traditional form of employment for manual workers.

Syntec, which includes companies from a wide variety of sectors within its ranks, has as a member Syntec-ingénierie, which represents, among others, companies specialising in the construction industry. Since 1993, the national collective agreement applicable to technical, engineering, and other consultancy practices (known as the Syntec agreement) has allowed these firms to conclude site contracts, a provision that a number of other parts of the consultancy sector would like to see applied to them. However, in 2001 the committee which interprets the Syntec collective agreement issued a recommendation stipulating that only member companies operating in the building industry should be able to avail of this form of employment contract.

Virville report proposal

The idea of creating an assignment contract was echoed by a committee (which included the chair of CJD) chaired by Michel de Virville, which was recently commissioned by the Minister of Social Affairs, Labour and Solidarity to look into a reform of labour law.

In its report, entitled 'For a more effective Labour Code', published on 15 January 2004, this committee advocated 'supplementing the spectrum of special contract types by creating a new form of contract, applicable to managerial and professional staff and other highly-qualified workers ... enabling an employee to be recruited by a company to take part in the implementation of a given project'. This would be a contract 'modelled on the fixed-term contract which would refer to the completion of a project rather than a set period of time'. In order to implement this change, the committee advocates introducing a specific provision into the Labour Code (therefore distinct from the provisions on site contracts), and referring the task of organising the criteria for using such a contract to extended sector-level collective agreements in each industry.

There is no maximum duration of the proposed assignment contract referred to in the Virville report, but the Minister of Social Affairs, Labour and Solidarity, has spoken of a period 'of three to five years'.

Heated responses

As the Virville report was one of two reports commissioned as preparation for a 'mobilisation on employment' (mobilisation sur l'emploi) law promised by the government for spring 2004, the trade unions have adopted a stance on the topic of assignment contracts. All the unions have stated that this type of contract would create potential for more precarious employment, with the French Confederation of Professional and Managerial Staff-General Confederation of Professional and Managerial Staff (CFE-CGC) even dubbing it an 'anti-manager scheme' due to the targeting of the assignment contract on 'managerial and professional staff and other highly-qualified workers'.

As for the MEDEF employers' confederation, it expressed regret that the proposed assignment contract would be a priori restricted to particular categories of the labour force, and has asked that companies be 'trusted' to use such a provision properly.

In the IT sector, although the unionisation rate is low, reactions to the assignment contract proposals have been heated and widespread. The most dramatic is an online petition launched by three IT sector unions in the Nantes region - affiliated to the General Confederation of Labour (CGT), the French Democratic Confederation of Labour (CFDT), and Solidarity, Unity, Democracy (SUD). On 5 February 2004, the unions handed in a document containing the first 18,000 signatures collected in this way below a text opposing the Syntec industrial relations proposals, and especially the assignment contract, to Syntec-informatique and the Ministry of Social Affairs, Labour and Solidarity.

Commentary

In the space of a few weeks, three reports were presented to the government advocating the creation of an assignment contract. In addition to the Virville report, the 'Fries report' on the video games industry should also be mentioned, as well as the 'Gourinchas report' on the use of casual labour in the public broadcasting sector. This obviously means that this topic, alluded to several times by the Minister of Social Affairs, Labour and Solidarity even before these reports were published, has a good chance of being included in the forthcoming 'mobilisation on employment' law. (Yannick Fondeur, IRES)

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20 February 2004

SWEDEN

Government sets out new measures to cut sickness absence

The Swedish government has announced new measures to improve health at work and cut sickness absence. It plans to increase employers' responsibility in this area and calls on the social partners to conclude new collective agreements on the work environment.

On 18 December 2003, the minority Social Democratic Party government, with the support of the Left Party and the Green Party, issued a declaration of intent on 'a more healthy working life'. It sets out a number of measures to combat ill health, aimed at reaching the goal, set in 2002, of halving the number of days of sickness absence by 2008. It provides for the introduction of a system of 'co-financing' of sick pay between employers and the state from 1 January 2005. Employers' financial responsibility should not, however, consist of passive co-financing and may be reduced if they engage in active measures.

Co-financing and agreements

Employers' current responsibility for paying employees' full sick pay will be decreased from the first three weeks of absence to the first two weeks. However, employers will be responsible, indefinitely, for about 15% of sick pay costs for their employees after the two first weeks. The change should result in no overall cost increases for employers, as the payroll tax will be decreased in order to make the change cost-neutral. Employer's responsibility for ongoing sick pay will stop if the sick worker receives rehabilitation pay from the state system or returns to work on a half-time basis. The idea is to give impetus to the rehabilitation process. Employers are currently obliged to draw up a rehabilitation plan for sick workers, supervised by the local social insurance agency, and it is proposed that this plan must be implemented much more rapidly in future. Furthermore, the organisation and resources of the agencies involved must be overhauled to make the rehabilitation process work much faster for each individual concerned. A special working group, commissioned by the government, will follow developments in this area until 1 January 2006, when it will publish a report.

The social partners have a great responsibility to decrease ill health at the workplace, according to the government. It is therefore important that collective bargaining on this issue should be intensified. Collective agreements on the work environment and active rehabilitation should, it is hoped, allow for enhanced systematic work environment improvement activities and work environment education.

Further measures

If sufficient results are not achieved by co-financing and reaching new work environment agreements, the government states that the level of co-financing may be increased. New measures might, however, also be introduced to reduce costs for employers that work actively for a better work environment.

The issue of an upper limit for the employers' co-financing may also be discussed later on. For small companies there will be a high degree of protection from an excessive increase in sickness-related costs. For workers who have special difficulties leading to above-average sickness absence, there is already a high-risk protection scheme that may be paid for by the social insurance system. This protection will be further adapted as the new financing system is introduced.

The system of sickness insurance must be further overhauled, the government states. In March 2003, it proposed changes that came into force on 1 July 2003, for example laying down the principle that part-time sickness absence should be used when possible and introducing an improved procedure for the certification of sickness. Furthermore, the employers' responsibility for paying sick pay was extended from the first two to three weeks, a provision which was much criticised by the employers and will now be reversed when the new system of co-financing comes into operation

A national work environment conference will be held during 2004, while a Work Environment Council, chaired by the Minister for Working Life, will be established, and a commission that is currently examining the occupational health service system will continue its work.

The government concludes that its programme should make it possible, from 1 January 2005, to increase the level of sick pay from 77.6% of normal pay (up to a certain income limit) back to the 80% it stood at prior to the most recent reform.

Finally, the government sent a message to the social partners, stating that setting out its policies in the declaration 'will result in the social partners receiving clear information before the 2004 bargaining round'. Spring 2004 will see the negotiation of new collective agreements in most sectors and the government has sought to send a clear message as to where it stands on in issue which may be important in bargaining.

Commentary

The government has an enormous task in managing ill-health among employees and the resulting huge costs, divided between the state and the employers, and to some extent insured people who lose pay when they are absent sick (though some collective agreements top up sick pay to some extent). According to the Confederation of Swedish Enterprise, for employers the annual costs of workers' ill-health amount to SEK 170 billion (EUR 18 billion). Of this, SEK 25 billion (EUR 2.7 billion) is paid directly to employees in sick pay, while SEK 145 billion (EUR 16 billion) is paid as contributions to the state sickness insurance scheme and collectively agreed schemes. According to estimates from the National Insurance Board, the cost of sick pay to the state in 2003 will be around SEK 46 billion (EUR 5 billion). The government is now seeking to put more emphasis on the social partners, and especially employers. The effects of sickness on the pay of individual workers will be reduced slightly, as the government intends to re-establish sick pay at the previous 80% of normal pay.

Employers have expressed strong concern about the effect of the changes on smaller companies, in spite of promises of special protection from high sickness-related costs, and of lower employer payroll taxes. The Confederation of Swedish Enterprise states that the new burden of paying 15% of employees' sick pay for an unlimited period may result in financial problems for companies, in the light of current economic difficulties. A major decrease in payroll taxes is seen as necessary to ensure growth for businesses.

The government's appeal to negotiate more work environment agreements and for more responsibility from trade unions has brought no particular reactions. The possibility of negotiating such agreements has existed for many years, but has not been used to a great extent, especially at local level. However, the unions are naturally pleased to have support for such bargaining from the government. (Annika Berg, Arbetslivsinstitutet)

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23 January 2004

Union learning representatives profiled

Statutory rights for 'union learning representatives' came into force in the UK in 2003. This article reviews the latest evidence on the spread, activities and impact of this new kind of workplace representative.

Where trade unions are recognised by employers, the Employment Act 2002 provides a statutory right to paid time off work for appropriately trained 'union learning representatives' (ULRs) to carry out duties including:

- analysing members' learning or training needs;
- advising members about learning or training matters;
- arranging learning or training;
- promoting the value of learning or training;
- consulting the employer about these issues; and
- undergoing training relevant to their functions.

The new statutory provisions came into force in April 2003, as did a revised Advisory, Conciliation and Arbitration Service (Acas) code of practice on time off for trade union duties and activities, which includes guidance on the practical application of ULRs' time-off rights.

TUC survey

According to a survey commissioned by the Trades Union Congress (TUC), published in November 2003, the number of trained ULRs increased from 2,000 in 2000 to 6,500 in 2003. The TUC has set a target of 22,000 ULRs by 2010. With regard to ULRs' demographic profile: there are currently far more men than women (62.5% and 37.5% respectively); over half are aged over 45; only 6% are from minority ethnic groups; and just under 10% have a disability. There has been high growth since 2000 in ULRs in the public sector, where just over half are employed. Almost one-fifth of ULRs work in organisations with fewer than 250 employees.

Significantly, the survey found that 28% of ULRs carried out no union functions before becoming a learning representative, compared with 9% in 2000. The majority (59%) of the new activist ULRs were women. The survey also reveals an increase in ULR activities:

- 81% are involved in promoting the value of learning;
- 82% in offering advice and guidance on learning;
- 77% in getting information on learning opportunities;
- 54% in negotiating learning with employers; and
- 55% in developing on-site learning resources.

On average, ULRs spend 7.5 hours per month on ULR activities and over half have undertaken a 'learning needs assessment' at their workplace. In 51% of responses, URLs indicated that a learning agreement existed. In nearly half of these cases ULRs reported that the learning agreement was part of a wider partnership agreement, whilst around one-third said it was a stand-alone agreement.

The TUC and the government are encouraged by the results of the 2003 survey. TUC general secretary Brendan Barber said: 'With 2,000 more reps out there pushing the learning agenda forward, unions are making a valuable contribution towards improving the skills of UK workers.' The government education secretary, Charles Clarke, commented: 'Their [ULRs'] work is vital to our productivity and underpins our drive to close the skills gaps holding back our competitiveness.'

Case studies

With the rapid spread of ULRs, there are now many organisations held up as exemplars of the potential of union-employer learning agreements to create 'lifelong learning' opportunities for employees, often utilising the government's Union Learning Fund. Leading examples include:

- Metroline Buses has worked with the TGWU union to provide employee training opportunities beyond basic skills. The company/union training partnership began by providing courses such as English as a second language, and has now grown into the provision of a 'learning bus', providing access to a dozen PCs for staff to use for non-work-related learning activities at the company's garages;
- at British Bakeries, a learning centre for the company's 280 employees has been established in partnership with the Bakers, Food and Allied Workers' Union and a ULR has been seconded from the shopfloor to manage the centre on a full-time basis; and
- Gloucester City Services has worked with ULRs to support basic skills training among its predominantly manual workforce through a dedicated classroom containing 10 computers, plus access to a tutor, offering individual support for employees who want to develop their skills up to and beyond basic literacy and numeracy standards.

Other 'good practice' cases include TMD Friction UK, Sainsbury's and the London Borough of Barking and Dagenham.

Commentary

The general message appears to be that the concepts of ULRs and 'lifelong learning' are perceived as positive by government, employers and unions.

One argument in favour of involving union representatives in learning is that it encourages a more 'bottom-up' approach to its development. The organisation, and by extension the economy, benefits because employees are more likely to be frank about their basic skill needs to a peer (their union representative) than to a manager. Addressing basic skill needs should help employers with staff recruitment and retention, as well as improve individual and organisational performance. From this perspective, we can see why employers and the government have taken such an interest in ULRs. However, it is also likely that not all employers are persuaded by the supposed merits of ULRs. The chief executive of the Employers' Forum on Statute and Practice is reportedly concerned that 'companies will find themselves saddled with a new union official, and little idea of how to relate to them'.

From the union point of view, what is to be gained from partnership agreements generally, and learning agreements specifically? This is a very controversial question. Some academic commentators argue that union-employer partnership undermines the traditional union goal of improving members' basic terms and conditions and redirects union efforts towards employer goals. Certainly, from case studies of learning agreements it appears that employers are most interested in improving basic work-related skills, and although these might be 'sold' to employees as developmental, there is a question mark over whether and how the individual gains.

Why then are unions so interested in expanding ULR numbers? One reason is that basic skills training could provide an opportunity for low-skilled manual workers and others with few skills or qualifications to step onto a 'learning ladder', which could be enormously beneficial for individuals. Providing educational opportunities to working class people is a longstanding aim of the trade union movement. Another reason is a widespread belief that ULRs help unions to create new agendas which might engage previously under-represented groups, such as women, part-time workers, manual workers and ethnic minority workers. With the changing demographic composition of the workforce, if the existence of ULRs assists the unions in reinventing themselves to appeal to a broader base, they are likely to continue to have the union hierarchy's backing. (Gill Kirton, Queen Mary, University of London)

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eiro observer
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EIRObserver

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Other relevant European Commission Observatories

Employment Observatory
Contact: ECOTEC Research and Consulting Ltd, 28/34 Albert St, Birmingham B4 7UD, UK, Email: eeo@ecotec.co.uk, web: http://www.ecotec.com/eeo

Community information system on social protection (MISSOC)
Contact: ISG, Barbarossaplatz 2, D-50674 Cologne, Germany, Tel: +49 221 235473, Fax: 49 221 215267,
Web: http://europa.eu.int/comm/employment_social/missoc2001/index_en.htm

eiro observer

Gender equality plans at the workplace

This comparative supplement examines the content and process of gender equality plans at workplace level in the current EU Member States (except Portugal), Norway and four of the countries due to join the EU in May 2004 (Hungary, Poland, Slovakia and Slovenia). It is an edited version of a full comparative study - based on contributions from the EIRO national centres in the countries concerned - available on the *EIROnline* website.

The equality plans considered here are defined as all types of coordinated attempts to create greater equality between men and women at the workplace level. Hence, the focus is on gender equality, and not equality in terms of age, ethnicity, sexuality or other issues.

The aim of the equality plans examined might be *equal treatment* of men and women – ie to avoid any kind of discrimination at the workplace. However, the plans can also aim to promote *equal opportunities* for men and women, by removing barriers so that women can enjoy the same possibilities within the organisation as men. This might or might not include positive discrimination. Finally, equality plans can aim at creating *equality in fact* (ie in terms of outcomes). This can also be said to be a long-term aim of some of the other initiatives considered, but some actions address such factual equality directly.

The nature and content of equality plans can be expected to vary according to how developed they are. Some plans are pure *equality statements*, affirming the equal treatment of all employees, but not linked to any specific actions. Other, more developed plans might include *special actions* targeted at defined areas or limited groups of employees. Plans embedded in an employer's *general human resources/personnel policy* are likely to be even more developed. In such cases, the equality plans concerned are applied to all employees and all sections of the organisations concerned. In some such cases, equality between men and women is made part of the company culture and equality indicators might be communicated to external 'stakeholders'. Plans of this kind might be seen as an implementation at company level of the EU's gender mainstreaming strategy. We are not, however, interested here only in equality plans that could be seen as a 'top-down' implementation of EU and national policies regarding gender equality, but are also in initiatives taken at the company level, and the relative importance of this level in the process. This supplement looks at:

- the role of legislation, collective agreements and the social partners in regulating work-related gender equality issues in general, and bargaining on workplace equality plans in particular;
- the existence, content and implementation of specific 'top-down' legislation on workplace equality plans;
- the extent and status of 'bottom-up' voluntary, decentralised firm-specific workplace equality plans; and
- the contents of workplace gender equality plans.

The role of legislation, bargaining and the social partners

Largely owing to EU regulation of the issue, all countries considered have legislation in place that regulates equality issues at work and in the labour market. Table 1 on p.iii indicates the extent to which work-related gender equality issues are regulated through legislation, or through legislation combined with collective agreements (including agreements specifically on gender equality plans), and summarises the role of the social partners in this area.

Table 1 reveals that legislation by far is the most important means of regulating work-related equality issues. However, it is reported from most countries that gender equality issues in general, or specific related topics, do feature in collective agreements at various levels and to varying extents, sometimes repeating and sometimes supplementing the legislative provisions. However, gender equality bargaining of any type does not yet seem to have developed in the central and eastern European countries examined, with the partial exception of Slovakia. Furthermore, in western Europe, equality bargaining seems particularly poorly developed in Austria, Greece and Luxembourg.

On the specific issue of gender equality plans, bargaining is much rarer. Such plans are subject to some degree of bargaining of some type at company level in countries such as Austria, Belgium, France, Germany, Ireland, Italy, Norway, Spain and the UK (see below). Above company level, agreements containing any provisions on the matter are uncommon. Where they exist, these agreements tend to encourage or enable company-level plans, and do not seem to have led to a widespread implementation of equality plans.

Norway seems to have the most developed bargaining on this issue. Since 1985, the private sector 'basic agreement' between the Confederation of Norwegian Business and Industry (NHO) and the Norwegian Confederation of Trade Unions (LO) has encouraged the development of company-level gender equality plans. Furthermore, a few sectoral collective agreements in the LO-NHO area state that companies must have equality plans, while others provide only that such plans ought to be introduced.

In Denmark, some sectoral collective agreements provide for gender equality plans - eg in the local government sector. However, most equality plans laid down in collective agreements mirror the relevant legislation, with only a few expanding on these provisions. In Germany, gender quality plans are laid down in some sectoral agreements. For example, an agreement covering private insurance, financial service enterprises and public banks seeks the advancement of equality between men and women, including provisions on childcare leave, recruitment policies and access to training. In Italy, a number of sectoral agreements contain some relevant provisions, such as the establishment of joint equality bodies, observatories and working groups to promote studies and analysis aimed at designing positive action plans. In Spain, an intersectoral agreement laying down recommendations for lower-level bargaining in 2003 contains a specific section on equal opportunities. While not providing for gender equality plans as such, it recommends measures such as: the adoption of positive action clauses; the establishment of gender-neutral systems of selection, classification, promotion and training; and the removal of pay differentials that do not comply with the principle of equal pay for work of equal value. In a few other countries (such as Austria, Finland and Luxembourg), there are isolated examples of relevant sectoral agreements.

Thus in almost all cases where gender equality plans are made obligatory or enabled by regulations drawn up above the company level, it is the law rather than collective agreements that plays this role. Therefore, the next section of this supplement, on 'top-down' regulation, focuses exclusively on legislation and public policy, rather than collective agreements.

With work-related gender equality issues overwhelmingly regulated through legislation, the role of the social partners in most countries is one of more or less active involvement in bipartite, tripartite, state-initiated or individual projects, evaluations, initiatives and declarations of principles. There is, however, significant variation in the direct involvement the social partners have in gender equality issues.

In Greece, Hungary, Luxembourg, Poland and to some extent Italy, the social partners seem to play a minor role. By contrast, there are countries where the social partners both have extensively developed internal structures that specifically work on gender equality issues, and participate in bipartite, tripartite or other working groups and projects. Denmark, Sweden, Finland, Norway, Germany and France all belong to the latter group.

'Top-down' legislation

The evidence indicates that in most countries the majority of implemented gender equality plans are the result of 'top-down' public policies and legislation, rather than being locally initiated and 'embedded'. Table 2 on p.v lists the 11 countries examined which have specific legislation on firm-level gender equality plans in place.

Private sector legislation

There is specific legislation referring to gender equality plans which applies to private sector workplaces in six of the 19 countries considered. However, in only two countries – Finland and Sweden – is there a specific obligation on private sector employers to draw up a gender equality plan as such.

Sweden has the most comprehensive system. According to the 1991 Equal Opportunities Act, all employers (private or public) with 10 or more employees must draw up an annual equal opportunities plan.

In Finland, the Act on Equality between Women and Men, as amended in 1995, introduced an obligation on all employers (private or public) which regularly employ at least 30 workers to include measures to further equality between women and men at the workplace in their annual personnel and training plan or action programme for 'labour protection', and draw up an equality plan at workplace level

In Norway, the obligation on employers is rather less specific. An amendment to the Gender Equality Act was introduced in 2003 which states that employers have a duty to promote gender equality, and 'shall make active, targeted and systematic efforts to promote gender equality within their enterprise'. Though there is no explicit mention of gender equality plans in the text, the Gender Equality Ombudsman, which is responsible for enforcing the Act, has provided guidelines on how to implement the duty to promote equality. These guidelines mention mapping the gender equality situation in order to identify problems, or introducing measures to promote equality or prevent discrimination. The Act states that companies have to report on their equality activities in their annual reports.

In Belgium and France, there is a legislative framework for gender equality plans in private sector workplaces, but these are essentially voluntary. However, in both countries there is an obligation on employers to draw up an annual equality report.

In Belgium, the royal decree of 14 July 1987 provides that positive action plans may, voluntarily, be drawn up in private sector companies or at sector level (these may lead to a collective agreement or an agreement with a works council). However companies in financial difficulties which want to obtain the special official status of a 'company under restructuring' are obliged to draw up a positive action plan. Furthermore, since 1993 all private sector companies are obliged to provide an annual report on gender equality. The report should provide a general overview of the employment conditions, working arrangements, jobs and training of women and men respectively. The report must be presented to the works council or, where there is none, to trade union representatives.

Though equality plans are not obligatory in private sector companies in France, there is a legal framework for their agreement on a voluntary basis, plus an unusually high level of regulation of other aspects of the issue. The law of 9 May 2001 (the 'Génisson law') on gender equality at work aims to incorporate the concept of occupational equality into all collective bargaining on pay, working conditions, training etc. Article L.432-3.1 of the Labour Code obliges companies with at least 50 employees to present an annual written report on the comparative employment positions of men and women, which is to be assessed by the works council. The works council may make a recommendation on the report, which must be based on evidence. The annual report must contain relevant statistically-based indicators, and the employer must display these indicators at the workplace. The annual report is designed as a bargaining instrument, acting as the prerequisite for the specific negotiations on occupational gender equality which the 2001 law requires at company (and sector) level every three years.

The law of 13 July 1983 introduced the concept of workplace occupational equality plans in France. These are agreements which may be reached voluntarily by company management and unions. They are then submitted to the works council for approval. The plans are drafted on the basis of the obligatory annual report presenting a comparative analysis between men and women in the company in terms of recruitment, training, grading according to qualifications, and pay. They are then used as a legal instrument and a practical tool for implementing 'catch-up' measures in terms of women's position within the company. The areas dealt with are recruitment, ongoing vocational training, promotion, access to responsible posts, working conditions and general employment conditions. Since 1983, two further instruments have been developed to promote occupational gender equality and access for women to various jobs in companies – 'occupational equality contracts' and 'contracts for greater gender balance in employment'.

In Italy, there is no obligation on private sector employers to draw up gender equality plans. However, the 1991 'positive action' law (125/91) allows organisations to apply for total or partial funding of positive action plans. The idea is that the law's provisions promoting substantial gender equality at the workplace imply the implementation of relevant innovations and changes in work organisation and human resource management. Financial support is thus granted to organisations in order to minimise the cost of change. A wide range of organisations – both public and private – have access to the funding, though priority is given to positive action projects resulting from an agreement between the social partners.

Finally, on a similar note, in Ireland there is a publicly funded scheme to encourage the adoption of equality plans by employers. In February 2003, the Equality Authority launched an 'equality review and action plan' scheme – a voluntary employer/employee-led initiative designed to promote equality and diversity (with a gender focus) in the workplace. The Authority offered its assistance to public and private sector firms to develop equality reviews and action plans. An equality review as a comprehensive examination of the policies, procedures, practices and perceptions within the workplace and their contribution to equality outcomes and to building an organisational culture that values equality and diversity. The review provides the material for an action plan, which should define the goals and steps necessary to promote equality and better accommodate diversity. The scheme provides funding for an equality auditor, a template from which the organisation and the auditor work, an agreed action plan, and an external review of implementation of the action plan after an agreed time. An equality steering committee representing all the 'stakeholders' within the participating organisation should work in cooperation with the equality auditor and ensure that the agreed action plan is implemented.

The initiative is funded by the government. Several public and private sector employers – such as Superquinn,

Table 1. The role of legislation, collective agreements and the social partners in regulating work-related gender equality issues

	Regulation via:		
Country	**Legislation**	**Collective agreements (CAs)**	**Role of social partners**
Austria	Yes	Equality provisions in CAs rare. One example of a sectoral CA on positive action, covering white-collar employees of social security providers. A few works agreements at company level provide for equality plans.	No tripartite or bipartite agreements. Social partners tend to regard CAs as gender-neutral. Two trade unions – the white-collar Union of Salaried Employees (GPA) and blue-collar Metal-working and Textiles Union (GMT) – are seeking to gender mainstream CAs.
Belgium	Yes	Intersectoral agreements contain some relevant provisions. Equality action plans, defined by law (see table 2 on p.v), can give rise to company CAs	Trade unions have internal structures at all levels that work for gender equality.
Denmark	Yes	Some examples of equality provisions – sometimes involving equality plans – in CAs, mainly sectoral.	Extensive presence of gender equality structures in both employers' organisations and trade unions.
Finland	Yes	Some equality provisions in intersectoral and sectoral agreements (with one example of a sectoral CA referring to equality plans). Legislative changes concerning working life prepared by tripartite negotiations.	Regular and active involvement in policy issues regarding gender equality.
France	Yes	2001 equality law ('Génisson' law – see main text) introduced obligation to include occupational equality issues in collective bargaining at sector and company level. However few agreements have been signed. Small number of company CAs on equality plans enabled by law (see table 2).	Due to Génisson law, social partners obliged to initiate sector- and company-specific bargaining on gender equality.
Germany	Yes	Some CAs deal with gender equality issues. Equality plans found in some CAs – especially those signed by United Services Union (ver.di). Some works agreements at company level include affirmative action plans.	Employers' organisations and trade unions at all levels actively involved in initiatives regarding gender equality.
Greece	Yes	Intersectoral agreements contain some provisions on equality issues, as do a few sector (eg banking) and company agreements. However, no CAs on equality plans.	Modest involvement in gender equality issues
Hungary	Yes	Do not play a role.	Social partners have role in new Equal Opportunity Commission. The few trade unions that have a gender equality policy regularly publish statements.
Ireland	Yes	Intersectoral agreements contain equality provisions. Some company CAs deal with equality issues, including equality plans.	Trade union lobbying for change, plus rise in female employment and union membership, have fostered initiatives to promote equality within union agenda, both nationally and locally.
Italy	Yes	Gender equality issues frequently bargained at national sectoral and company level. Positive action plans generally negotiated locally, with some relevant enabling provisions in sectoral CAs.	Unions' role mostly that of declaring principles. Higher-level social partners have minor role in formulation of company-level policies.
Luxembourg	Yes	Very little bargaining on equality issues.	Social partners not explicitly involved in equality issues
Netherlands	Yes	CAs deal with some equality issues, mainly in areas not covered by legislation. Gender equality plans as such are not part of CAs, but latter do in some cases deal with relevant issues (eg equal opportunities in recruitment, selection and training, and positive action).	At central level, social partners take special initiatives in field of gender equality.
Norway	Yes	Gender equality referred to or regulated in many CAs. In 'basic agreements', the obligations tend to be general in nature, and in other CAs more specific.	Social partners actively involved in encouraging gender equality issues, nationally and locally. Joint statement calling for equal opportunities to be integrated into development work in companies.
Poland	Yes	Do not play a role.	No known bipartite or tripartite initiatives with wide impact.
Slovakia	Yes	Some CAs contain regulations that oblige employers to work for gender equality. However, equality plans as such are not an issue.	No bipartite or tripartite initiatives taken yet. Role of social partners is more one of declaring principles. The Confederation of Trade Unions (KOZ SR) has established a commission for equal opportunities for women and men.
Slovenia	Yes	Do not play a role.	Tripartite Economic and Social Council (ESSS) signed 'social agreement' for 2003-5, which obliges all parties to promote equal opportunities.
Spain	Yes	Some CAs at sectoral, regional and company level contain clauses referring to gender equality. They do not include specific provisions on workplace equality plans, but some cover relevant issues such as positive action.	No social partnership on gender equality. However, 2003 central agreement providing framework for lower-level collective bargaining makes recommendations for gender equality to be part of bargaining at all levels.
Sweden	Yes	As they are covered by law, gender equality provisions and plans rarely appear in CAs. However, some CAs improve on legislative provisions.	Social partners at local level play important role in fulfilment of equality law. Gender equality issues in general are of high importance for social partners.
UK	Yes	Role difficult to assess due to fragmented and decentralised nature of collective bargaining. Joint regulation of equality issues not widespread.	No special bipartite or tripartite initiatives, however social partners participate in initiatives independently of each other. Mostly involve declarations of principles.

Source: EIRO.

Organon and Dublin Corporation - have already participated in the scheme.

Implementation
As seen above, there is a legal obligation on private sector employers to draw up gender equality plans in Finland and Sweden. In Finland, responsibility for monitoring whether companies comply with the Gender Equality Act lies with the Office of the Ombudsman for Equality. In 2002, the Ombudsman conducted a survey among a sample of 200 workplaces covered by the obligation to produce an equality plan (introduced in 1995). Of private sector respondents, only 27% had drawn up an equality plan in line with the law. The compliance rate was highest (91%) in companies with 500 or more employees and lowest (12%) among those with 30-49 employees. As the Gender Equality Act does not specify the content of equality plans, monitoring of implementation is difficult, though recent incentives have tried to address this issue.

In Sweden, the Equal Opportunities Ombudsman is responsible for ensuring that employers draw up equality plans and review gender pay differentials, while the Equal Opportunities Commission can impose fines on employers if they do not comply with the law. Despite this, a survey commissioned in 1999 by the Ombudsman found that only 25% of all private sector companies had equality plans in accordance with the law.

Thus, even in countries that have specific legislation obliging private sector companies to draw up gender equality plans, implementation in practice is poor, involving little more than a quarter of companies concerned.

In the two countries – Belgium and France – where legislation does not make gender equality plans obligatory in the private sector, but provides only a framework to facilitate them, the actual use of such plans is very limited. In Belgium, only about 10 action plans were recorded between 1991 and 1996, since when about three or four have been recorded per year. Furthermore, very few companies comply with the obligation to draw up an annual gender equality report, since there are no sanctions in place for non-compliance. In France, only 35 company-specific gender equality plans under the terms of the law have been signed since 1987, mostly in larger companies and in industry. Collective bargaining is increasingly dealing with equality issues, as determined by law, but this is still at a relatively low level.

Public sector legislation
As indicated in table 2 on p.v, specific legislation on gender equality plans which applies to public sector workplaces is more common than legislation applying to the private sector, currently existing in nine of the 19 countries. In some countries with no private sector provisions, there are public sector ones, while in a number of countries where private sector provisions are voluntary, the public sector rules are mandatory. Overall, the legislation for the public sector is far more developed than that for the private sector.

The obligation on employers over a certain size to draw up gender equality plans in Finland and Sweden applies to both the private and public sectors, as, it appears, do the Norwegian provisions obliging employers to promote gender equality. Austria, Denmark and Germany (and to a lesser extent Slovenia) have only legislation which applies to the public sector, and no private sector provisions, as follows.

• Article 7(2) of the Austrian Constitution obliges all public authorities to eliminate gender inequalities within their area. With regard to employees of the federal state, the Act on Equal Treatment for Men and Women in the Public Service. sets out a general requirement of positive action in favour of women by specifying detailed provisions for their preferential hiring (a quota system) and preferential treatment as regards promotion, training and further training. All federal authorities are covered by positive action plans in favour of women, drawn up by each ministry in line with the statutory provisions. All subordinate authorities within the ministry's purview are, in principle, obliged to implement these plans. Some regional (Länder) governments have established similar provisions for their own employees.

• In Denmark, the Law on Equality between Women and Men, amended most recently in 2003, states that municipalities and councils must draw up an annual report on their equality work, which is to be presented to the public and the Ministry of Equality. Ministries, state institutions and state-owned companies with over 50 employees must every second year produce a report on their equality work and submit it to their respective minister. All ministers must subsequently write a joint report for their area and submit this to the minister of equality, who annually presents a report to the government on the work being done towards gender mainstreaming.

• In Germany, a 1994 amendment to the Federal Constitution provides (in Article 3(2)) that the government must promote equal employment opportunities, institutionally and qualitatively, at all levels of its administrative, judicial, legislative and social structure. The 2001 Federal Equality Act for the Public Sector provides for equality plans to be drawn up in public sector organisations, and a quota system whereby women are to be given preference in those areas where they are underrepresented in comparison with men, and where they demonstrate equal suitability, qualification and performance. This expressly includes functions entailing senior and managerial tasks.

• In Slovenia, the 2002 Act on Equal Opportunities for Women and Men obliges public authorities to draw up periodical plans and biannual reports on the implementation of the National Programme for Equal Opportunities for Women and Men.

Hungary currently has no provisions on equality plans. However, a draft Law on Equal Treatment and Equal Opportunities submitted to parliament in September 2003 would oblige state-owned companies with over 50 employees to draw up annual gender equality plans in the framework of a national equality programme to be submitted to parliament by the government.

In Belgium, gender equality/positive action plans are, as seen above, essentially voluntary in the private sector. However, the royal decree of 27 February 1990 obliges each public service to put in place a such a plan. It provides for the compilation of an analysis, examining the situation of employees by gender according to a fixed set of criteria, followed by the production of the equality plan. Similarly, in Italy the 1991 positive action law (125/91) provides only funding for private sector positive action plans, but in the public sector imposes a specific duty on public administrations in their capacity as employers to introduce positive action measures. A decree of 19 May 2000 set a deadline for the introduction of such positive action plans and introduced penalties for non-compliance.

Implementation
In the nine countries with some form of obligatory public sector gender equality plans, it might be expected that there will be a high level of implementation in practice. While data is not available for all countries, this appears to to be the case in countries such as Denmark – where research indicates that 80% of all municipalities and 90% of councils have a written equality policy – and Sweden – where a 1999 survey found that 75% of public authorities had equality plans. In Austria, all employees of the federal state are, formally, covered by positive action plans in favour of women. However, the quality, implementation and monitoring of of such equality plans is reported to depend strongly on the engagement of the particular minister in charge. Furthermore, only some of the public

Table 2. Countries with specific legislation on firm-level equality plans

Country	Private sector	Public sector
Austria	–	All public sector authorities at federal level obliged to take action to eliminate gender inequality, with Act on Equal Treatment for Men and Women in the Public Service providing for preferential hiring of women (through a quota) and preferential treatment for women in promotion and training. Similar legislation in some regions.
Belgium	Private sector employers may draw up equality/positive action plans (royal decree of 14 July 1987). This is voluntary, except for companies undergoing restructuring. Companies obliged to produce an annual gender equality report, which must be presented to works council or trade union representatives.	Public sector employers obliged to draw up equality/positive action plans (royal decree of 27 February 1990).
Denmark	–	Law 286/2003 on Equality between Women and Men provides that all public institutions must work towards equality and incorporate equal opportunity in planning and administration. Ministries, councils, state institutions and state-owned companies with over 50 employees must, every second year, draw up a report on their equality work.
Finland	Employers with at least 30 workers must include measures to further gender equality in annual personnel/training plans or 'labour protection' action programmes, and draw up workplace equality plans (Act on Equality between Women and Men, as amended in 1995).	
France	Legal framework for (voluntary) agreed equality plans (law of 13 July 1983). Companies with at least 50 employees obliged to draw up annual report on comparative employment position of men and women, which is assessed by employee representatives. Specific bargaining on gender equality obligatory at company (and sector) level every three years (law of 9 May 2001).	
Germany	–	1994 amendment to the Federal Constitution provides for the government to promote equal opportunity at all levels of its administrative, legislative and social structure. 2001 Federal Equality Act for the Public Sector provides for establishment of office-specific equality plans, preferential treatment (quotas) for women in areas where under-represented, and gender mainstreaming initiatives.
Hungary	–	(Draft law submitted to parliament in September 2003 will oblige state-owned companies with over 50 employees to draw up annual gender equality plans.)
Italy	Companies may apply for total or partial public funding of (voluntary) positive action plans (law 125/91)	Public administrations obliged to introduce positive action measures (law 125/91). Obligation strengthened (by decree of 19 May 2000) through introduction of deadlines and sanctions for non-compliance.
Norway	General duty on employers to promote gender equality recently introduced (amendment to Gender Equality Act, applying from 1 January 2003), and not yet clear how employers will meet this obligation. However, some guidelines on implementation from Gender Equality Ombudsman (eg referring to measures to promote equality or prevent discrimination). Companies must report on equality activities in their annual reports.	
Slovenia	–	Public authorities obliged to produce periodical plans and biannual reports on the implementation of the National Programme for Equal Opportunities for Women and Men.
Sweden	1991 Equal Opportunities Act obliges employers with at least 10 employees to to draw up an annual equal opportunities plan.	

Source: EIRO.

servants employed by the regions are covered by such provisions.

However, in other countries, despite the existence of legislation, equality plans are still relatively rare in the public sector. In Italy, positive action plans were adopted in very few public administrations after they were made obligatory in 1991, as there was no penalty for failure to comply and no provision for financial assistance. New legislation adopted in 2000 sought to address this situation (see above). However, plans are still not widespread. In Finland, a 2002 survey found that only 21% of public sector workplaces had equality plans.

By no means all of the countries with public sector provisions have introduced monitoring strategies with regard to their effectiveness. The countries can be divided into two groups: those that enforce a 'soft' interpretation of gender mainstreaming; and those that, institutionally and structurally, have introduced rigid forms of coordination. The first group consists of Austria, Slovenia and Italy, where there are no sanctions in place if public authorities fail to act according to the statutory principles, while the institutional set-up supportive of the legislation is underdeveloped. By contrast, some countries have monitoring procedures for public sector legislation which are institutionally well-developed and throroughly implemented in practice -

notably Sweden, Denmark and Finland, and to a lesser extent in Germany and Belgium.

Future legislative change

The EU pursues a gender mainstreaming strategy, which started in 1996 and is incorporated in the current Community framework strategy on gender equality (2001-5). This is a framework strategy, but a binding element has been introduced by EU Directive 2002/73/EC, which amended the 1976 equal treatment Directive (76/207/EEC). Among the changes was the introduction of the following new provision into Article 1 of the 1976 Directive: '1(a) Member States shall actively take into account the objective of equality between men and women when formulating and implementing laws, regulations, administrative provisions, policies and activities in the areas referred to in paragraph 1.' These areas are access to employment, including promotion, and to vocational training, plus working conditions and (on certain conditions) social security. Member States must implement the revision of the Directive by October 2005. The amendment of Article 1 will in theory oblige all Member States to introduce gender mainstreaming as a strategy. The list of countries with specific public sector legislation on gender equality plans is thus likely to be expanded from 2005.

With regard to the private sector, new legislation on equality plans has been proposed in Ireland. The Equality Authority is seeking a new statutory obligation on employers to prepare and implement equality action plans. In the remaining countries, there are no reported plans to introduce legislation.

'Bottom-up' policies

Above we have examined legislation, public policy and (much less significantly) collective agreements which make workplace gender equality plans obligatory or promote them. We now turn to decentralised, locally-initiated gender equality plans, adopted and implemented voluntarily at the workplace level. Table 3 on p.vii looks at the extent of workplace equality plans in the countries examined, excluding Finland and Sweden, where such plans are mandatory, and looking only at the private sector in countries where plans are obligatory in the public sector. The table illustrates the lack of data on this issue in almost all countries, with only broad estimates available in most cases. Furthermore, there is an almost total absence of information specifically focused on the type of equality plan examined here, and where statistical data are available, they generally relate to company equality *policies*, which is not necessarily exactly the same thing.

As table 3 indicates, firm-specific equality plans of the type examined here do not seem to be common across Europe (though this is not necessarily to say that measures or policies on specific gender equality issues generated at company level do not exist - in some cases, such as the Netherlands, they are widespread, but overall plans of the sort considered here are lacking) . They are virtually non-existent in Greece, Hungary, Luxembourg and Slovakia, and rare or very rare in Austria (private sector), Belgium (private sector), Denmark (private sector), France, the Netherlands and Poland. In the other countries, there does seem to be at least some presence of workplace equality plans. Figures are hard to find, but in all cases plans seem to be very much a minority phenomenon. The country where this area is best documented appears to be Germany. The best proxy for workplace gender equality plans here is arguably works agreements on affirmative action for women, and a 2002 survey of works councils found that 9% had concluded such agreements.

Data are available for some countries on the proportion of companies with formal equality/equal opportunities policies which, while not exactly the same as equality plans, may provide a pointer to the extent of relevant measures. For example, based on various surveys, formal equality policies have been found in over a third of Italian companies, around an eighth of German companies, and a little over one in 20 Slovenian companies. The only country where such policies are in place in a majority of (larger) companies is the UK, where a 1998 survey found that 64% of workplaces with over 10 employees were covered by a formal equal opportunities policy, with the proportion rising with company size.

Where they exist, whether workplace equality plans are unilateral employer initiatives or are based on agreement with/involvement of workers' representatives varies from country to country, and also within countries, depending on factors such as company size and union presence. For example, in Austria some of the few examples of equality plans are based on works agreements in larger companies, while they are usually informal employer initiatives in smaller firms. Similarly, in Ireland plans are likely to be the result of joint employer-union negotiation in unionised companies, particularly in the public sector, but unilateral employer initiatives in non-union companies. The only country for which statistical evidence is available is Germany, where a 2002 survey found that formal gender equality promotion policies were nearly twice as likely to be based on works/collective agreements as on voluntary initiatives. Other countries where bargaining seems to play a relatively important role are Italy, France (in the case of the few formal equality plans based on legal provisions) and Norway. Unilateral employers' initiatives predominate in Slovenia and the UK.

The UK is an interesting case. Here, there is no legislation on equality plans and collective bargaining is decentralised and fragmented – most equal opportunity initiatives are thus implemented at firm level and by the individual firm. While there is growing trade union support for promoting gender equality through collective bargaining, joint regulation of equality issues has not been widespread. Nevertheless, as seen above, formal company equal opportunities policies seem more widespread than in any other country examined (including those with legislation on equality plans), while the number of firms with equality plans appears to be increasing. The explanation appears to lie in employers embracing the 'business case' for equality. The main employers' organisation, the Confederation of British Industry (CBI), stresses the need to engage equality as a 'mainstream business issue and priority for business goals' (eg stability, reward, improved perceptions of business in society). Equality plans fit this broad agenda, but the CBI would emphasise that it is up to individual employers to decide the best approach to fit their own particular circumstances. It also opposes what it sees as 'undue' regulation by the state in the form of more or 'ineffective' legislation on employers to 'curb the discriminatory practices of just a few'. The emphasis on gender mainstreaming as a 'business issue', and one whereby a company's perception in the community can be improved, resembles the role gender equality policies play in 'corporate social responsibility' in the USA. However, despite the large proportion of firms with formal equal opportunity policies, little research is done on the effect these policies have on the overall equality of women and men in the UK.

Contents of gender equality plans

This supplement focuses essentially on formal and explicit workplace gender equality plans established to cover the entire organisation concerned or parts of it. Before examining the contents of such plans, it should be noted that there may also be less formal and more individual arrangements in workplaces, with a similar aim. This is reported from Austria, where a distinction can be made between: on the one hand, the few cases of formal organisation-wide plans (sometimes based on works agreements) aimed at dealing with structural problems of women's discrimination, documenting existing gender inequalities and drawing up measures to promote positive action for women, with monitoring of

Table 3. Extent of voluntary, decentralised firm-specific equality plans

Austria (private sector)	Very few.
Belgium (private sector)	Very few.
Denmark (private sector)	Very few (examples include Falck, TDC, Nordea and Novo Nordisk).
France	Very few - one example is Segafredo Zanetti.
Germany (private sector)	A 2002 survey found that 13.3% of establishments with over 10 employees had formal gender equality promotion policies. A 2002 survey of works councils found that 9% had concluded works agreements on affirmative action for women.
Greece	Thought to be close to zero.
Hungary	Virtually nil – one exception is the Hungarian State Railways (Magyar Államvasutak, MÁV) and, less formally, the subsidiaries of several multinationals.
Ireland	Unknown – plans do exist, and tend to be found in large private sector companies (eg Superquinn) or in the public sector (eg Dublin Corporation).
Italy (private sector)	Not common, but examples include Electrolux Zanussi and Coop Toscana Lazio. Relatively few have received public funding (see main text). A (small-scale) 1998 survey found that 37% of respondent companies had drawn up and communicated a policy statement on equality.
Luxembourg	Thought to be non-existent.
Netherlands	Specific equality plans rare. However, relevant issues often incorporated into general company human resources policy.
Norway	Not thought to be very common, especially in private sector. Examples include Aker Brattvaag and municipality of Stavanger.
Poland	Thought to be very few, though some relevant measures in some subsidiaries of multinationals
Slovakia	Thought to be non-existent.
Slovenia	Unknown, but not thought to be extensive. A 1999-2001 survey of larger companies found that 6% had a written policy on diversity/equal opportunities, and 31% an unwritten one.
Spain	Not known.
UK	Thought to be increasing. A 1998 survey found 64% of workplaces with over 10 employees are covered by a formal equal opportunities policy, with incidence increasing with company size. Mainstreaming policies more common in public sector.

Source: EIRO.

implementation; and on the other hand, more common informal arrangements aimed at meeting company employment needs, providing for example for preferential recruitment of women or special provisions for women/parents of small children, which if they have a legal basis are grounded in individual employment contracts. This distinction might usefully be applied to the other countries.

With regard to the content of formal equality plans, in countries with legislation on the issue, this is regulated to varying extents. For example:

- in the Austrian public sector, plans should deal with the preferential hiring of women (expressed in a quota rule) and preferential treatment for women as regards promotion, training and further training;

- in Finland, the Office of the Ombudsman for Equality has published a gender equality 'toolkit' which provides broad guidelines on how to draw up the gender equality plans required by law. It states that, as a basis for equality planning, there should be a comprehensive and detailed preliminary charting of equality in the organisation concerned, including the structure of the personnel and recruitment policy. The equality plan should deal with subjects such as: organisation and task structure in the workplace; pay and pay structure; training and occupational advancement; use of family leave; and working conditions and the working environment;

- in Belgium, a detailed methodology is laid down for (voluntary) private sector plans, involving an equal opportunities working group and based on a five-stage procedure (engagement, analysis, setting up the plan, implementing the plan, and follow-up/evaluation). In the Belgian public sector, the legislation provides for the compilation of an analytical report and then the drafting of an equality plan; and

- in France, the legal framework for optional occupational equality plans lays down the procedure – ie agreements between management and trade unions, approved by the works council and based on a report on the situation of women and men – and the issues to be dealt with: recruitment, ongoing vocational training, promotion, access to responsible positions, working conditions and general employment conditions.

The Swedish legislation is probably most detailed in this area. The process starts with an annual examination of the current situation at the workplace, dealing with the following aims: working conditions which are suitable for both women and men; combining employment and parenthood for both female and male employees; prevention of sexual harassment; promotion of an equal distribution between women and men in various types of work and within different categories of employees through training, skill development and other suitable measures; ensuring that both women and men apply for vacant positions; and, where there is not an equal distribution of women and men in a certain type of work or within a certain category of employees, special efforts to recruit applicants of the underrepresented sex in new positions. The second stage is to set out the measures that the employer will commence or to implement during the

Commentary

This supplement has found that firm-specific gender equality plans are not widespread across the European private sector (though specific data are lacking in most countries). In most countries examined there are only few and fragmented examples of implemented firm-based equality plans. Looking only at the private sector, among the 19 countries considered the relative importance of workplace gender equality plans is, it can be argued, low in terms of dissemination and effect in 15 cases, including several of those where there is some legislation on the issue – Belgium (where the legislation does not make plans obligatory) and Norway (where the legislation is very new). Among the other four countries, workplace equality plans can be said to have a relatively high formal importance in France (where there is legislation on the issue, but plans are not obligatory), but in practice the importance of these plans is quite low. In the UK, equality plans, or at least policies, are widespread and formally important, but their practical effect might be questioned. It is arguably only in Finland and especially Sweden, which both have legislation making equality plans obligatory, that they are of relatively major practical significance. Binding legislation thus appears to have an important effect in this area, but it also requires monitoring and follow-up, as provided by the Swedish Equal Opportunities Ombudsman. Overall, Sweden seems to have the most developed and effective policy in the field.

On the wider issue of regulating gender equality, the strong emphasis on top-down legislation and national implementation of EU Directives has meant that the role of the social partners in this area is generally modest. Most employers' organisations and trade unions at central level are in principle supportive of furthering measures that will secure greater gender equality. However in roughly half of the countries examined here, these policies mainly involve declarations of principles and are not aimed at pushing national legislation to extend the provisions laid down in EU laws. The trade unions in the Nordic countries, Germany and France seem to have the most proactive policies with regards to combating gender inequalities.

Interestingly, the whole area of gender equality is one of the most – if not the most – legally regulated areas of the labour market. However, gender equality is far from having been reached in all European countries. In the Nordic countries, the high degree of labour market segregation is often referred to as hindering effective gender equality. In Southern Europe, the low labour market participation rate of women and the use of 'atypical' forms of employment is a problem, and in some of the new EU Member States of central and eastern Europe gender equality per se is presently regarded as a lesser problem than the integration of minority ethnic groups and migrant workers. It is therefore tempting to suggest that legislation matters in this area, but that the extent of legislation has removed the social partners' responsibility in combating gender inequality. For example, statistical evidence has shown a significant wage gap in all countries despite the EU Directive on equal pay for equal work. This could imply that there is a problem *applying* legislation in practice and that effective measures aimed at overcoming gender inequalities have not been introduced by the labour market parties, employers and policy-makers.

There seems little doubt that EU legislation has created a sound foundation on which any further measures must be based. Yet despite an increasing importance of, and focus on, gender equality in European discourse, more far-reaching or concrete policies are apparently called for. The Swedish model can in this respect be used as an example of good practice. Not only does the Swedish gender equality legislation extend the provisions in EU law, it also commits private and public sector employers to introduce equality measures that are tailored to individual workplaces. In addition, the local social partners are given a role in the creation and implementation of the plans. This is then backed up by a monitoring procedure that institutionally and effectively has the resources and power to ensure that the laws are applied in practice. (Christina J Colclough, Mikkel Mailand and Carsten Jørgensen, FAOS, University of Copenhagen).

coming year to achieve these goals and deal with deficiencies. The plan also includes a summary report of the plan of action for equal pay that the employer must implement, and a report on how measures in the previous year's plan have been implemented.

In practice, the gender equality plans identified in this supplement deal with a similar range of issues across countries, mostly similar to those set out in the legislation in the countries mentioned above. Broadly speaking, the key themes are

- recruitment and selection of new employees, often with preferential recruitment of under-represented groups, usually women;
- promotion and career development, often with preferential treatment of under-represented groups, usually women;
- pay and pay structures, with measures aimed at achieving gender equality;
- training and development, often targeted at women;
- various family-friendly measures aimed at a better reconciliation of work and family life. These can include provisions on parental, maternity, childcare and other types of family leave, special working time arrangements (organisation of working time part-time work, job-sharing etc) and childcare arrangements;
- work organisation; and
- working conditions and the working environment.

Within these general headings, there is a range of specific measures reported from various countries, such as: teleworking (Germany and Italy); hours banks or accounts (Germany and Italy), unpaid leave or reduction of working time for family responsibilities (Spain); job-sharing (UK): career breaks/return to work schemes (UK); and 'mentoring' arrangements for female employees (Denmark). Additionally, some further issues seem important in some countries, such as combating sexual harassment in Sweden and the UK, or changing company culture in Italy and the UK.

In general, workplace gender equality plans thus tend to deal explicitly with several factors that are related to the individual employee's occupational attainment on the one hand (eg career development, training and wages) and on the institutional arrangements on the other (eg childcare facilities, flexible working hours, parental and other family-related leave, and recruitment and promotion procedures).

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