

Conference examines obstacles to equal pay

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In March 2003, Portugal's Commission for Equality in Work and Employment (CITE) organised an international conference on guaranteeing the right to equal pay for women and men. In spite of the developments in law at both EU and national levels, speakers at the conference stressed the difficulties experienced in applying the equal pay principle in practice. In Portugal, for example, very few equal pay cases have been taken to court.

On 28 and 29 March 2003 the final conference of an EU [project](#) entitled 'Guaranteeing the right to equal pay - legislation and mechanisms to ensure greater equality in pay for men and women' was held at Lisbon University, organised by the Commission for Equality in Work and Employment (Comissão para a Igualdade no Trabalho e no Emprego, CITE). The main aim of the project, which was organised by CITE and co-funded by the European Commission, was to examine and disseminate information on the right to equal pay for male and female workers and make proposals on eliminating or reducing existing gender pay differences. Three issues were analysed: improving equal pay legislation in the EU Member States; making enforcement mechanisms more effective; and improving the action taken by the bodies enforcing national and Community law

The project's aims were in line with the programme relating to the EU [Framework Strategy on Gender Equality \(2001-5\) \(EU0007264F\)](#). The project also involved compiling and analysing current equal pay legislation in the EU Member States and other countries, such as Canada, with a view to gathering examples of good practice and fostering the exchange of information between the partners in the project.

Portuguese partner organisations participating in the conference included: the Inspectorate General for Labour (Inspeção Geral do Trabalho, IGT); the Inspectorate General of Public Administration (Inspeção Geral da Administração Pública); the Inspectorate General of the Ministry of Labour and Social Security (Inspeção Geral do Ministério do Trabalho e da Segurança Social); the Centre of Judicial Studies (Centro de Estudos Judiciários) - the institution that trains judges and public prosecutors; the Higher Magistrates Council (Conselho Superior de Magistratura) - the body responsible for the management, discipline and professional assessment of judges; the Higher Public Prosecutors' Council (Conselho Superior do Ministério Público) - the body responsible for the management, discipline and professional assessment of public prosecutors; the Portuguese Association of Human Resource Managers and Practitioners (Associação Portuguesa dos Gestores e Técnicos de Recursos Humanos, APG); and the Portuguese Management Association (Associação Portuguesa de Management). The international partners that attended the event were the Luxembourg Ministry of Women's Promotion, the Irish Office of the Director of Equality Investigations, the Norwegian Gender Equality Ombudsman and the Italian Department for Equal Opportunities.

The conference was organised around the following issues:

- EU policies on equal pay for men and women - future prospects;
- pay discrimination - limits of the legislation and new challenges;
- equal pay for men and women - the contribution of the Council of Europe;
- access to law and justice and gender inequalities;
- guaranteeing equal pay for men and women in the EU; and
- compiling data for specialised consultations.

Gender pay discrimination and the administration of labour law

Most speakers highlighted the continued existence of gender-related pay discrimination. In spite of the fact that equal pay for male and female workers, doing the same work or work of equal value, has been extensively enshrined in international and Community law and in the legislation of Member States, the persistent gender differences in remuneration attest to the difficulties in enforcing it. Difficulties mentioned with regard to the practical application of the principle of equal pay included:

- lack of information among the social partners on existing rights;
- breaches of employment contracts;
- difficulties experienced in collective bargaining on job categories;
- problems in finding a balance between the right to equal pay and the right to reconcile work and family life;
- different interpretations of the concepts of direct and indirect discrimination by the relevant actors; and
- difficulty in implementing the principle at judicial level

With specific reference to Portugal, particular mention was made of difficulties in access to labour law and justice, in that hardly any cases of pay discrimination are taken to court. In spite of the fact that more women than men bring cases before the labour tribunals, the cases in question usually have nothing to do with discrimination. Studies of the administration of labour law in Portugal have shown that most individual labour disputes relate to dismissals, severance pay and pay arrears. The barriers that conceal gender-based problems are said to be a lack of information and of awareness among the social actors involved.

Increasing the effectiveness of the equal pay principle

Measures mentioned by conference participants that might help to increase the effectiveness of the application of the principle of equal pay for men and women included:

- awareness and training campaigns on gender equality for social partners and negotiators;
- the implementation of good practice in collective bargaining;
- raising awareness of the issue among legal practitioners and supervisory bodies; and
- introducing new regulatory instruments.

The importance of collective bargaining and alternative ways of settling disputes also arose during the discussions.

Social partner positions

Representatives of the social partner organisations which are members of CITE also spoke during the debates at the conference. Trade union and employers' representatives underlined the importance of disseminating good practice in collective bargaining and in companies, and the need to raise legal practitioners' and supervisory bodies' awareness of the equal pay issue.

Commentary

The importance of the equal pay project and the March conference was twofold. First, they provided the opportunity for discussion and comparative debate and, second, they brought together the social actors who produce and apply the principle of equal pay. (António Casimiro Ferreira, UAL)