



# The EU Mutual Learning Programme in Gender Equality

## Tackling the gender pay gap

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Comments Paper - Portugal



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# Tackling the gender pay gap in Portugal

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## 1. Country context

### 1.1. The socioeconomic context: key labour market figures

The statistics available on labour market, poverty and social inequality are clearly illustrative of the degradation of labour and living conditions since 2008 and its greater intensification since 2011. Unemployment has increased dramatically, along with poverty and the risk of social exclusion (Casaca, 2012; Addabbo et al., 2015). Such a trend is the result not only of the impact of the economic recession and the financial crisis, but also of the austerity programme, the fiscal consolidation plan, the labour market reforms put in place under the three-year bailout programme agreed with the Troika (the EC, the International Monetary Fund and the European Central Bank) in 2011, and the political reforms implemented at the time. Some convergence has been found between men and women's situation in the labour market, as the gender gaps have narrowed in employment, unemployment, part-time work and temporary work. Far from being a trend towards greater gender equality, "[it] suggests that men have moved closer to women's vulnerable position in the labour market, in a process that is accelerating the generalisation of degraded labour market conditions (i.e. low quality jobs, part-time work, insecure temporary contracts, low wages, and unemployment) and vulnerability to income poverty and social exclusion" (Addabbo et al., 2015: 467).

In Portugal, until 2010, the women's employment rate (15-64 years) was above the EU average. In 2015 (Eurostat, Labour Force Survey, latest available data), the women's employment rate was 61.1 % while the EU-28 average was 60.4 %. Full-time employment is still the main pattern in terms of working times. Only 12.5 % and 7.1 % of employed women and men work on part-time basis. Moreover, Portuguese women tend not to interrupt their labour trajectories after childbirth. On the contrary, women employment rate in 2015 (20-49 years old) with children aged under 6 was actually higher (78.5 %) than among women without children (74.1 %). The share of unpaid work (incl. domestic and caring activities) is still predominantly performed by women, particularly when it comes to most time-demanding tasks performed on a daily basis. Considering the overall amount of time spent in paid and unpaid work, women work 1:13h per day more than men (Perista et al., 2016).

In 2014, the average basic wage in Portugal was EUR 820.25 for women and EUR 985.02 for men. According to Portuguese Law, women are entitled to receive equal pay for equal work or for work of the same value as that performed by men. However, despite some slightly positive trends, the gender pay gap (GPG) has been a prevailing feature of the Portuguese labour market (González, Santos and Santos, 2005; Ferreira, 2010; Carvalho, 2011; Casaca and Perista, 2014). In 2014, the monthly basic female wage was 16.7 % lower than that of men, slightly below the gap in 2010 (18 %) and in

2005 (19.3 %) <sup>1</sup>. However, in line with the severe degradation of labour conditions among men, the reduction in the gender pay gap – particularly between 2010 and 2014 – was due to a relative stagnation of men’s wages and a slight increase in the very low wages of women (variation rates of 0.8 and 2.3, respectively). The monthly earnings gap (including bonuses and other payments – see footnote 1) was even higher – 20 % in 2014 (a slight decline in relation to 2010 – when the gap was 20.9 % – and 2005 – 22.6 %). This asymmetry is even more pronounced at the top of the qualification ladder: among those in upper management positions, as far as overall monthly income is concerned, women earned 26.3 % less than men in 2014.

## 1.2. The institutional context

The Commission for Citizenship and Gender Equality (CIG, *Comissão para a Cidadania e a Igualdade de Género*) is the official mechanism responsible for implementing public policies designed to promote gender equality, non-discrimination and citizenship in general. It is currently answerable to the Secretary of State for Citizenship and Equality. One of the main policy instruments is the National Action Plans, including the current Fifth National Plan on Gender Equality, Citizenship and Non-Discrimination (2014-2017). As mentioned in Section 2, the Plan includes specific measures designed to encourage the adoption of gender equality action plans in companies and organisations in general and to tackle the gender pay gap. Since 2014, CIG has worked as the programme operator for the EEA Grants, and a specific call has been launched for proposals to develop methods and tools to advance gender equality in the business sector, under the sub-programme PT07: Mainstreaming Gender Equality and Promoting Work-Life Balance. The approved project “Break Even – Promoting Gender Equality in Business”, specifically addressed the gender pay gap. The outputs from this project, which have been available since April 2016, address the issue in its guide on how to carry out a gender audit and how to design an action plan. The reference training guide also deals with the importance of building and developing competences on methodologies for producing a job classification and evaluation free of gender bias. <sup>2</sup>

The Commission for Equality in Labour and Employment (CITE, *Comissão para a Igualdade no Trabalho e no Emprego*) is a tripartite mechanism involving representatives from the government and the social partners. Its main competences are focused on the promotion of equality and non-discrimination between women and men in work, employment and vocational training. In regard to the gender pay gap, it is this

<sup>1</sup> These figures are well above the ones provided by Eurostat (13 % for Portugal, in 2013). In this case, GPG is presented as unadjusted. The figures used in this report refer to the data collected under the survey “Quadros de Pessoal” (Employment Records). Data reflect the payments differentials (as percentages) between men and women on a monthly basis, considering not only the basic wage, but also overall earnings (productivity, performance-related bonuses, as well as other payments – overtime and tenure-related payments). Data relate to an annual survey conducted by the GEP (*Gabinete de Estudos e Planeamento* – Office for Studies and Planning/Ministry of Labour, Solidarity and Social Security) and provide information on firms, establishments and workers in mainland Portugal. The information collected includes age, sex, schooling, skill level, occupation, hiring date/tenure, contracts, earnings, working hours, payments (basic wages and overall earnings), in addition to the sector of activity, the location and size of the establishments/companies, their sales volume, ownership and legal framework. The survey is compulsory for all establishments and companies with wage earners (except for central, regional and local public administration and public offices, and for employers of domestic service workers). The representation of agriculture, fisheries and mining is low. Employers are obliged to submit the information to the Labour Inspectorate (ACT, *Autoridade para as Condições de Trabalho*). Employers are also obliged to display the list of staff and their respective earnings during 30 days (at least) in a visible place (on the website, for instance). Full access to micro data is conditional on the existence of a protocol with universities and research centres. Social partners (trade unions and employers’ associations) are entitled to have access to the detailed information, on demand.

<sup>2</sup> <https://www.iseq.ulisboa.pt/aquila/unidade/CeS/projetos/projetos/projeto-igualdade-de-genero-nas-empresas---break-even>

mechanism that plays the predominant role in the country. Under CITE's activity, some trade unions and employers' associations have been involved in the promotion of equality and in initiatives designed to close the gender pay gap. This is the case with the project "Revaluing work to promote gender equality"<sup>3</sup>. In 2013, CITE established the *Forum of Companies for Gender Equality*, involving companies committed to the promotion of gender equality. The impact of these initiatives on the gender pay gap has not been made public. In 2011 and 2012, the Equal Pay Day was marked for the first time on European Equal Pay Day (Feb 22). The initiatives were also coordinated by the Commission for Equality in Labour and Employment (CITE). The material used for awareness-raising purposes was the same as that which was used in the campaigns launched by the EC. In 2013 and 2014, the Day was marked on 6 March, with stress being laid on the fact that, in order to be paid the same as men in 2012 and 2013, Portuguese women would have to work 65 days more than their male counterparts. No initiatives were undertaken in 2015 and 2016. Other relevant actors have a role to play: ACT (Labour Conditions Authority, through inspection activities); GEP (Office for Studies and Planning/Ministry of Labour, Solidarity and Social Security, mainly collecting data and pay information). Attempts have been made to foster cooperation between these key actors and CITE.

### 1.3. The legal and policy context

The Portuguese Constitution (Article 59 on Workers' Rights) establishes the right to equal pay for equal work. The current Labour Law (Article 270 – Criteria for Wage Determination) clarifies that the value of wages shall be determined by taking into account the quantity, nature and quality of work, in line with the principle that, for equal work or work with equal value, the same wage is due. Article 23 clarifies the core concepts regarding equality and non-discrimination, such as direct and indirect discrimination. Furthermore, it also provides for the clarification of "equal work" and "work of equal value". Work is to be considered equivalent, 'taking into consideration the qualification or the experience of the worker, the level of responsibility involved, the physical and mental effort required and the working conditions in practice'. And Article 31 addresses wage transparency by stipulating that job description and job evaluation must rely on objective criteria that are common to men and women, and that such criteria must exclude all forms of sex discrimination (see in Palma-Ramalho, 2015).

The Fourth National Action Plan for Equality, Gender, Citizenship and Non-Discrimination (IV PNI – 2011-2013), coordinated by CIG (see above), included a measure (No. 26) that aimed at reducing the gender pay gap, under the area of intervention entitled "Economic Independence, Labour Market and Reconciliation of Professional, Personal and Family Life". However, it was defined in a very general way, referring to the promotion of good practices in gender equality in the workplace, mainly through awareness-raising campaigns and the attribution of a prestige award in both public and private organisations/companies (an initiative already in place since 2000).

A government resolution was published on 8 March 2012, intended to make the implementation of gender equality plans (GEPs) compulsory for state-owned

<sup>3</sup> The project was designed in 2006 to tackle the gender pay gap in particular. It was carried out by the General Confederation of Portuguese Workers (CGTP) – Coordinating Organisation, CITE, the Working Conditions Authority (ACT), the Portuguese Association of Restaurants and Similar Establishments (ARESP), the Centre for Studies for Social Intervention (CESIS), the Portuguese Trade Union Federation for the Agriculture, Food, Beverages, Hotels and Tourism Industries (FESAHT), and the International Labour Organisation (ILO). A methodology for assessing value of work without gender bias was developed, as well as a guide to the respective application and a complementary training handbook – "Equal Pay for Men and Women" (in 2008). A similar project was recently created for the footwear industry (2012), by CITE, APICAPS (the Association of Portuguese Manufacturers of Footwear, Components, Leather Goods and Associated Articles) and FESETE (Portuguese Federation of Unions of Textile, Wool, Clothing, Footwear and Leather Workers).

companies. Listed companies were recommended to follow the same route. By making the adoption of GEPs clearly mandatory for public sector companies, this resolution went beyond the previous one, approved in 2007, on the Principles of Good Governance for Public Sector Companies. Since 2007, central and local public administration, as well as public and private sector companies have been encouraged to adopt action plans in order to ensure the equal access of women and men to recruitment and training opportunities, equal pay, career advancement and the reconciliation of family and private life. Accordingly, financial support was made available through a specific funding line of the POPH (Operational Programme for Promotion of Human Potential) developed under the Portuguese National Strategic Reference Framework (QREN) 2007-2013. Nonetheless, the adoption of concrete measures to close the GPG was not monitored.

A module on gender pay gap was included in a guide and a reference training plan to support the labour inspectors in tackling gender-based discrimination at work. These instruments were developed by CITE and ACT, in 2012.<sup>4</sup>

The current National Action Plan for Equality, Gender, Citizenship and Non-Discrimination (V PNI - 2014-2017) incorporates a measure (No. 46) designed to ensure that a regular assessment is carried out of the evolution of the gender pay gap, by sector of activity, through the production of an annual report. In 2013, on the occasion of the International Women's Day, a Government Resolution (13/2013) was approved to enforce that measure. The first report was produced in 2014. In 2013, resolutions approved in the national parliament made recommendations to the government, requesting concrete measures to tackle discrimination in the labour market (46/2013), including tackling direct and indirect wage discriminations (45/2013).

One year later, Resolution of the Council of Ministers No. 18/2014 stated the government's commitment to eliminating the gender pay gap and intensifying efforts to encourage a debate on the issue among the social partners. The debate would be prompted by the report on the gender pay gap by sector of activity (mentioned above). Furthermore, it determined that all state-owned companies should elaborate a diagnostic report on the wage differentials between men and women, every three years, internally disclose it, display it on the web, and design corrective measures to eliminate any unjustified discrepancies on the grounds of gender. It also determined that state-owned companies should include specific measures for eliminating gender-biased wage differentials in their action plans for gender equality. Recommendations were made to private companies with 25 or more employees to conduct a quantitative and qualitative analysis of wage differentials between men and women, and define measures to tackle any unjustified gender-biased gap. The document stated that CITE would make available to any company or organisation an electronic tool for compiling data on wages and calculating differentials between men and women, also supporting the identification and correction of gender-biased gaps.<sup>5</sup> It also indicated the government's intention to adopt specific measures to take into account equality in pay between men and women in the selection of projects applying for funding under the Cohesion Policy. This intention was reinforced by Resolution of the Council of Ministers No. 11-A/2015.

## 2. Policy debate

In line with Government Resolution No. 18/2014, a qualitative study was ordered by CITE from the authors of this current paper (Casaca and Perista, 2014), outlining a set of recommendations to be discussed with the social partners under the scope of the

<sup>4</sup> Available at:

[http://www.cite.gov.pt/asstscite/downloads/publics/Instrumentos\\_apoio\\_combate\\_discrimin.pdf](http://www.cite.gov.pt/asstscite/downloads/publics/Instrumentos_apoio_combate_discrimin.pdf)

<sup>5</sup> This electronic tool is available at: [www.cite.pt/index.php/welcome/home](http://www.cite.pt/index.php/welcome/home)

national mechanism for social dialogue and social concertation. This study was based on the national report with disaggregated data by sector of activity, drawn up in accordance with Resolution of the Council of Ministers No. 13/2013. As yet, no progress has been reported in regard to this debate.

Recently, in 2016, as part of a wider government programme entitled *The Agenda for Gender Equality in the Labour Market and at Companies*, the current government selected the gender pay gap as one of the four critical topics to be discussed with the social partners, at a national level. The Agenda is still under consultation. A National Action for the Promotion of Gender Equality at Work was launched by CITE and ACT on 20 September 2016. Equal pay is one the four thematic axis chosen for this awareness-raising action.<sup>6</sup>

### 3. Transferability aspects

The authors presented a wide range of recommendations for tackling the gender pay gap in Portugal (Casaca and Perista, 2014). In that report, the case of Belgium was cited – i.e. the Gender Pay Gap Law enacted in that country in 2012. There is definitely scope for further regulatory enforcement in Portugal. The modestly positive trends recorded in this country towards a reduction in the pay asymmetries between men and women clearly suggest the need for more proactive public policies and concrete actions. Following the recommendations made in the Resolutions of the Council of Ministers Nos. 13/2013 and 18/2014 (see above), a further step needs to be taken towards a more proactive strategy – transposed into specific legislation (in line with the Belgian case). The regular assessment of pay differentials between men and women and the respective elaboration of biannual reports should be made mandatory, as well as the adoption of Gender Equality Plans for all companies and organisations with gender-biased wage gaps, regardless of their legal status. The regulatory framework should state that all the information included in the *Relatório Único* (social balance sheet) should be broken down by sex. Companies or organisations with 25 or more employees should annually report detailed information about the wage structure (basic wages, benefits and overall earnings), broken down by sex, and biannually report on the progress. Action Plans would specifically address pay asymmetries between men and women, stating the necessary actions to be undertaken in order to achieve gender-neutral pay structures, as well as the concrete milestones, targets, the resources needed and the respective time frames. As in the Belgian case, sanctions would be applied to companies/organisations not complying with these requirements (further recommendations regarding this topic will be provided in the next section).

The success of a legislative route, from its design to its effective implementation, will depend on the social dialogue and commitment of all social partners. The transferability of the Belgian case may be somewhat critical, however, due to different patterns of labour relations that characterise Portugal. Whereas, in Belgium, the involvement of social partners in public policy is a regular feature of government, and collective bargaining (national, sectoral and corporate) has been a central issue in recent years, in Portugal social dialogue has traditionally been weak. Like a number of other countries, it shares the common features of the “Southern European social model”, consisting of low levels of cooperation among social partners, highly politicised and internally divided labour movements (EC, 2015), as well as quite traditional (non-participatory) management practices. Moreover, in a context of profound labour market, fiscal and social reforms, the structure of the industrial system was also profoundly reformed, resulting in a significant decline in collective bargaining agreements after 2011.

<sup>6</sup> For further information on the contents of this National Action related to equal pay please see: [http://cite.gov.pt/pt/destaques/complementosDestqs2/cam\\_act/MONOFOLHA\\_salario\\_16.06.2016.pdf](http://cite.gov.pt/pt/destaques/complementosDestqs2/cam_act/MONOFOLHA_salario_16.06.2016.pdf).

Therefore, serious and effective efforts need to be made in order to create a favourable context for social dialogue and partnership leading to the elimination of the GPG. For employers in general, it would also require making them aware of the importance of integrating the transparent disclosure of information about pay structures, wages and total earnings into their corporate social responsibility (CSR) practices, together with an effective commitment to the promotion of gender equality.

## 4. Recommendations

In general, all EU Member States should agree on a harmonised formula for the calculation of the GPG, at both European and national levels. Moreover, effective commitment is needed regarding the provision of systematic updated data. More sophisticated statistical methods should be used in order to adjust the figures on the pay gap and to determine the gender-based discriminatory part of it.

A comprehensive policy framework is required, as tackling GPG requires dealing with all the other related sources of segregation and discrimination on the grounds of gender. This would include effective measures to eliminate (horizontal and vertical) gender-based segregation in the labour market and asymmetries between men and women in the allocation of their time to both paid and unpaid work.

As far as Portugal is concerned, the government's commitment to this topic has increased over the last few years (Section 1.3), but both its enforcement and its translation into concrete action need to be improved. Despite the difficulties previously mentioned, which to some extent are embedded in the Portuguese industrial system, attempts to build and deepen a cooperative network seem to be a fundamental step. Such efforts should also imply a new government orientation in order to boost social dialogue and collective bargaining. This should also include a strategy geared towards ensuring the involvement of all the key stakeholders in the field, including the official mechanisms for the promotion of gender equality, other official departments working in the field of data collection and labour inspection or in the promotion of collective bargaining agreements, as well as NGOs, the social partners, ILO local offices, professional associations, experts, and youth associations (including student unions). In this respect, under the coordination of the national mechanisms (CIG and CITE), a task force could be created to discuss the GPG and the appropriate (joint) responses needed to tackle it. The national report on the wage differentials between men and women, based on updated data, would form the basis for the task force's work, followed by recommendations addressing all the key stakeholders. The recommendation document should be presented and discussed within the context of the national mechanism for social dialogue, with the government coordinating attempts to attain a Partnership Agreement on the Elimination of the GPG. Moreover, since the national report discloses data by sector of activity, collective bargaining agreements at the sectoral level should be encouraged and sectoral plans for tackling the GPG should also be designed. Incentives should be given that will lead to the decentralisation of this approach (at a company level) in order to strengthen the effectiveness of the overall strategy for eliminating the GPG, in line with the Belgian case. This would require a dedicated task force (a gender equality committee) operating at all three levels. In each organisational setting, and to overcome a weakness identified in the Belgian paper, terms of reference should be designed in order to formalise, recognise and protect the role of internal gender focal points ("mediators" in the BE paper).

Public funds should provide training for social partners and the task force members (gender equality committees, gender focal points), on GPG audits, the design, implementation and systematic monitoring of action plans, as well as on methodologies for producing job classification and evaluation free of bias. Information is also required



for preparation of the regulatory framework, in order to avoid the constraints reported in the Belgian paper. These recommendations may be applied to all participating countries.

Furthermore, as far as Portugal is concerned, more efficient interventions are needed at the level of inspection, through an effective and closer collaboration between CITE (see above) and ACT (the Labour Conditions Authority, through inspection activities). Specialised training of labour inspectors should be pursued in a systematic and regular way. There is room for improving the cooperation with GEP (the Office for Studies and Planning/Ministry of Labour, Solidarity and Social Security), which mainly collects data and information on pay), and DGERT (the Directorate-General for Employment and Labour Relations, operating under the same Ministry), providing support in the design of employment and vocational training policies, in occupational certification, in monitoring and promoting collective bargaining agreements, and in preventing industrial conflicts.

Finally, from a policy point of view, efforts need to be made to ensure that the reduction of the gender pay gap reflects the progress that has been made towards greater gender equality, and does not represent a degradation of men's payments and a general degradation of working conditions.

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