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Who is accountable for closing the gender pay gap?

PD Dr. Alexandra Scheele
University of Bielefeld

Abstract:

With 21% the unadjusted gender pay gap is very high in Germany. There are significant differences between East and West Germany. While in East Germany it is only about 8%, the gender pay gap in West Germany is 23%. Since July 2017, the Pay Transparency Act is in force. Since it mainly consists of an individual information right in large companies plus a non-binding request for a report on the situation of gender equality in companies with more than 250 employees as well as an obligatory report on pay differences for companies with more than 500 employees, it is not clear whether it will have a positive effect and contribute to narrow the gender pay gap.

1. Relevant Country Context

There still are significant differences regarding the employment opportunities of women and men in Germany, and labour market segregation at horizontal and vertical level is quite high. This means that women are underrepresented in managing positions, have lower weekly working times, are working fewer years, have lower income, and are more often at risk of poverty, especially if they are lone mothers.

1.1 Employment

Employment rates in Germany are very high. In 2017, the employment rate (20-64) for women was 75.2%. Women's labour market participation in this age group is above the EU-28 average of 66.5%, but still below men's employment rate of 83.1%. The gender employment gap (20-64) was 7.9 p.p. in 2017, about the same than in previous years (2016: 8.2, 2015: 8.7) and below the EU-28 average of 11.5 p.p. in 2017.

However, the share of part-time workers amongst women is high at 46.8 % (similar to 2015 and 2016), compared to only 9.3% amongst men. It is much higher than the EU-28 average for women part-time workers of 31.1% in 2017. As a result, the full-time employment rate (FTE) for women was only 58.7% in 2017, up slightly from 2016 (58.1%).

1.2 Gender Pay Gap

With 21% the unadjusted gender pay gap is very high in Germany. There are significant differences between East and West Germany. While in East Germany it is only about 8%, the gender pay gap in West Germany is 23%. The adjusted (statistically unexplained) gender pay gap is at 7%. Both figures have been more or less unchanged since the year 2000.¹ Compared to the EU-28 average of 16.2% in 2016 Germany ranks 3rd in the EU.

According to different studies, the unadjusted pay gap is mainly caused by four factors:

- The gendered labour market segregation and the corresponding unequal distribution of women and men in sectors, occupations, and positions (horizontal and vertical segregation);
- Women (more often than men) take career breaks and/or work part time due to care responsibilities, which has negative effects on their service length (seniority);
- So-called 'women's jobs and sectors' are often lower-paid jobs and sectors due to existing collective agreements;
- Intransparent and unsystematic wage setting processes and individual pay agreements are often less advantageous for women.

The adjusted gender pay gap is 13 % if one takes these differences into account and only 4 % if one adds also the career breaks of women due to maternity leave.²

1.3 Gender Equality as Policy Issue

There is no national gender equality plan or national strategy for equality. Though since 2011 the government publishes a gender equality report in every legislation period, which consists of an expert's report and the statement of the government. The Second Report on Gender Equality of the Government (Zweiter Gleichstellungsbericht der Bundesregierung), published in 2017, recommends the government to improve the general conditions for a fair division of paid and unpaid work between women and men. Therefore, a new index, the gender care gap, has been introduced. Currently, the gender care gap is at 52.4%, meaning that women spend much more time on unpaid work and care in private households than men. Both, the gender pay gap and the gender care gap are strongly intertwined and show the unequal distribution of opportunities for women and men in the society.³

¹ Federal Statistical Office (2018): https://www.destatis.de/DE/ZahlenFakten/GesamtwirtschaftUmwelt/VerdiensteArbeitskosten/VerdiensteVerdienstunterschiede/Tabellen/UGPG_01_Gebietsstand.html

² Anger, Christina/Schmidt, Jörg (2010): Gender Pay Gap: Gesamtwirtschaftliche Evidenz und regionale Unterschiede. In: IW-Trends, Vol. 37, No. 4, pp. 3-16.

³ <https://www.bmfsfj.de/bmfsfj/aktuelles/alle-meldungen/bundesregierung-sieht-weiter-handlungsbedarf-in-der-gleichstellungspolitik/116922>

2. Policy Debate

There was a broader political debate on the gender pay gap in the last governmental period 2013 to 2017. The government coalition between CDU/CSU and SPD (Grand Coalition) the government took initiative to reduce the gender pay gap by making income schemes more transparent. Contested over years by employer's associations (e.g, the Federal Association for medium-sized businesses) as too bureaucratic and not feasible⁴ and by the very influential Cologne Institute for Economic Research as unnecessary⁵ since pay inequalities were considered a result of different career patterns of women and men, the German Bundestag finally agreed upon the Pay Transparency Act (Gesetz zur Förderung der Transparenz von Entgeltstrukturen) on 30 March 2017 (see 3).

With regard to the gender pay gap, it is further relevant that a statutory minimum wage came into force in January 2015. It was originally at 8.50 EUR but increased to 8.84 EUR on January 1st 2017 and to 9.19 EUR on January 1st 2019. On January 1st 2020 it will be raised on 9.35 EUR. Some groups of employees, such as trainees, young people under the age of 18 without training qualification, people who are doing internships for up to six weeks, long-term unemployed, and volunteers have been excluded from the statutory minimum wage. According to the latest data on the gender pay gap by the statistical office⁶, the statutory minimum wage has had a positive impact on the income prospects for women as they often work in low-wage sectors.

3. Good Practice Example

The Pay Transparency Act (Gesetz zur Förderung der Transparenz von Entgeltstrukturen) came into force on 6 July 2017. Core points of the law are:

- Employees (either male or female) in companies with more than 200 employees have an individual right to wage comparison information; the employee can ask for information relating to a comparable group of up to six employees of the opposite sex (§§ 10ff. EntgTranspG).
- In companies bound by collective bargaining agreements, works councils will administer this legal entitlement; in companies without works councils, employees have to address the employer themselves.
- Companies employing 500 or more employees are encouraged to implement a voluntary monitoring process for equal pay and to make an internal report on their pay structure. This procedure needs to be carried out at least every five years.
- Incorporated companies with more than 500 employees are to report on equal opportunities measures as well as on equal pay on a regular basis.

⁴ <http://www.mittelstandsverbund.de/themen/arbeit-soziales/d-lohngerechtigkeit-%C3%A0-la-schwesig-nein-danke-432635690>

⁵ <http://www.iwkoeln.de/presse/pressemitteilungen/beitrag/lohnluicke-der-staat-muss-nicht-handeln-286778>

⁶ https://www.destatis.de/DE/PresseService/Presse/Pressemitteilungen/2016/03/PD16_097_621.html

There are some aspects which are – also in comparison to the Icelandic model – problematic. *First* of all it settles an „individual right“ which means that employees themselves have to address unequal pay and not companies. *Second*, since employees' request for pay transparency is only realised if there is a comparable group of 6 employees, some groups of employees which work in highly individualised and differentiated employment structures might not be able to receive the required information. *Thirdly*, it is not clear, what happens after pay differences have been identified. Since the act does not contain any legal consequences, it is again the task of the individual to initiate a law suit – whether employees are willing to do so, needs to be further attention. *Finally*, it is not foreseen that the company reports on gender equality and pay structures will be published. This means that there will be no public debate on companies' policy regarding equal pay.

The law will be evaluated regularly and the government reports every four years on the results of the evaluation (§23 EntgTranspG). The first evaluation (after two years) is carried out by the two consultant companies Flick Gocke Schaumburg and Kienbaum Consultants International GmbH and the market research company uzbonn. The report will be presented not until July 2019, but there do exist some surveys.

According to a survey of 1000 Managers by the consultant agency EY, only half of the managers were aware of the Pay Transparency Act in 2018.⁷ Another survey among works councils in 2.300 companies⁸ carried out at the end of the year 2018 showed that

- nothing has happened so far in the majority of companies
- 74% of the companies with more than 500 employees ignore the Act
- only a minority of companies (12%) are reviewing their pay structures and try to make pay structures more transparent.

Another survey of personnel managers in German companies⁹ shows the following results:

- fewer than 1 in 10 companies has received enquiries from staff about their pay in relation to that of comparable colleagues
- even among larger companies, only 16% have had employees ask for such information, and in those cases, the number of enquiries has been low.

⁷ EY (2018): Entgelttransparenzgesetz im Realitätscheck. Wie Mitarbeiter das neue Gesetz nutzen wollen.

⁸ Baumann, Helge/Klenner, Christina/Schmidt, Tanja (2019): Wie wird das Entgelttransparenzgesetz in Betrieben umgesetzt? Eine Auswertung der WSI-Betriebsrätebefragung 2018. Reihe: WSI Report, Nr. 45.

⁹ Randstad/Ifo (2019): Ist das Entgelttransparenzgesetz ein Papiertiger? <http://www.cesifo-group.de/de/ifoHome/facts/Survey-Results/Personalleiterbefragung/Archiv/Personalleiterbefragung-2018Q3.html>

Against the background of these results it is difficult to present the Pay Transparency Act as a “good practice”. However, one has to point out that its introduction has initiated a broader public and political debate on the gender pay gap in Germany which might have some effects in the long run.

4. Transferable Aspects

The Pay Transparency Act in Germany can be seen as a first step to tackle the gender pay gap. However, the law faces some shortcomings which have been described in the previous section 3. The main difference to the Icelandic law is that since January 1st 2018 employers in Iceland are obliged “to obtain certification on the basis of a management requirement standard [...] **to prove** they offer equal pay for work of equal value regardless of gender” (Discussion Paper Iceland). In contrast, companies in Germany are only **encouraged** to carry out a monitoring process. Further, the law in Iceland applies to employers with more than 25 employees and thus is effective for 80% of all employees in Iceland. In Germany, the law applies only for companies with more than 500 employees and thus only 22,14% of all employees. The individual right for information is effective for about 33% of all employees – which means that the Pay Transparency Act is not relevant for about 67% of all employees. Taking Iceland as an example, the Pay Transparency Act in Germany should be effective for medium-sized companies as well.

5. Conclusion and Recommendations

Though Germany is among 11 Member States that have taken action on the European Commission’s recommendation for pay transparency from 2014¹⁰, it is not yet clear, whether the new Pay Transparency Act will be an effective tool to reduce the gender pay gap. So far, the pay transparency act had no or only little effects, the first regular evaluation will be presented in July 2019.

Against this background, it is still important (as already recommended in the previous comments paper 2016¹¹) to address the gender pay gap as the effect of structural problems as well as of traditional wage setting processes by developing (a) further the number and quality of affordable childcare facilities, in order to improve employment opportunities for parents (especially mothers); (b) to tackle horizontal and vertical segregation, to initiate active measures against gender stereotypes and to improve career opportunities for part-time workers; and (c) to revise current job classification and to replace it by gender-neutral job classifications in order to change the undervaluation of so-called women’s professions.

¹⁰ Eurofound (2018): Pay transparency in Europe. First Experiences with gender pay reports and audits in four Member States. Publications Office of the European Union. Luxembourg.

¹¹ https://ec.europa.eu/info/publications/mlp-gender-equality-seminar-tackling-gender-pay-gap-october-2016-belgium_en