



Northern Ireland  
Assembly

## Research and Information Service Briefing Paper

---

Paper 12/15

29 January 2015

NIAR 921-14

**Michael Potter and Dione Todd**

# Commission Work Programme 2014: Update

## 1 Introduction

This Briefing Paper is written in the context of scrutiny by the Committee for the Office of the First Minister and deputy First Minister (COFMdFM) of responses by the Northern Ireland Executive to developments in EU policy and legislation that may impact upon Northern Ireland.

The paper briefly summarises developments in three action points from the Commission Work Programme 2014 of interest to COFMdFM<sup>1</sup>:

- Tackling the gender pay gap
- Accession of the EU to the European Convention on Human Rights
- The European Accessibility Act

In each case, the issue is summarised and key developments in the past year are tracked.

---

<sup>1</sup> Annexes to the Commission Work Programme 2014: [http://ec.europa.eu/atwork/pdf/cwp\\_2014\\_annex\\_en.pdf](http://ec.europa.eu/atwork/pdf/cwp_2014_annex_en.pdf).

## 2 The Gender Pay Gap

'Tackling the gender pay gap' is No 15 of the new initiatives associated with the Commission Work Programme 2014. Non-legislative in nature, the initiative is described as follows<sup>2</sup>:

*This initiative would promote and facilitate effective application of the principle of equal pay in practice and assist Member States in finding the right approaches to reduce the persisting gender pay gap.*

There is no standard method for calculating the gender pay gap, as there are variations for full and part time work, industry, occupation, use of mean or median averages, hourly, weekly, annual or lifetime pay and other differences in calculation. The EU measures the pay gap according to the average hourly gross earnings of male and female employees. This measure gives an average of female earnings 16.4% lower than those of men across the EU; on this scale, the figure for the UK is 19.1% and that for the Republic of Ireland is 14.4%<sup>3</sup>.

The Office for National Statistics uses median hourly earnings, excluding overtime. On this scale, men are paid 9.4% more than women for full time work and women are paid 5.5% more than men for part time work. Broken down geographically, Northern Ireland is the only region where the difference is negative: women are paid 3.2% more than men for full time work, which has been explained as follows<sup>4</sup>:

*Part of the explanation for the negative full-time pay gap in Northern Ireland is the higher proportion of public sector jobs than in the rest of the UK. There are more women employed in the public sector and these jobs tend to be higher paid, in general, than in the private sector.*

It is not intended to go into detail for the purposes of this paper, but these figures mask a range of variations in the relative pay of women and men in Northern Ireland and across the UK.

The EU action in relation to the equal pay initiative consist of the Commission Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency<sup>5</sup>, which recommends to Member States measures in relation to wage transparency and monitoring, with a requirement to report back to the Commission on measures introduced by 31 December 2015<sup>6</sup>. The specific recommendations are reproduced at Appendix 1.

---

<sup>2</sup> Appendix II to the Commission Work Programme 2014, p.8.

<sup>3</sup> European Commission (2014), *Tackling the Gender Pay Gap in the European Union*, Brussels: EC, p.10:  
[http://ec.europa.eu/smart-regulation/impact/ia\\_carried\\_out/docs/ia\\_2014/c\\_2014\\_1405\\_en.pdf](http://ec.europa.eu/smart-regulation/impact/ia_carried_out/docs/ia_2014/c_2014_1405_en.pdf).

<sup>4</sup> David Hough and Feargal McGuinness (2014), *The Gender Pay Gap*, House of Commons Standard Note SN/EP/07068 19 December 2014, p.9: <http://www.parliament.uk/Templates/BriefingPapers/Pages/BPPdfDownload.aspx?bp-id=sn07068>.

<sup>5</sup> Actions adopted by the Commission 01/01/2014 - 01/09/2014, p.12: [http://ec.europa.eu/atwork/pdf/execution\\_report\\_2014.pdf](http://ec.europa.eu/atwork/pdf/execution_report_2014.pdf).

<sup>6</sup> Commission Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency, C(2014) 1405: [http://ec.europa.eu/smart-regulation/impact/ia\\_carried\\_out/docs/ia\\_2014/c\\_2014\\_1405\\_en.pdf](http://ec.europa.eu/smart-regulation/impact/ia_carried_out/docs/ia_2014/c_2014_1405_en.pdf).

The Recommendation does not exist in isolation. Directive 2006/54/EC<sup>7</sup> on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) provides the legislative basis for the prohibition of discrimination in the area of equal pay for women and men (Article 4). A review of the implementation of this Directive in 2013 noted the persistence of the gender pay gap and the problems associated with the practical application of equal pay provisions in the Member States<sup>8</sup>.

In policy terms, the Strategy for Equality between Women and Men 2010-15 includes a priority area on equal pay for equal work and work of equal value<sup>9</sup>. This states that the Commission will:

- With the European social partners, and respecting the autonomy of the social dialogue, explore possible ways to improve the **transparency of pay** as well as the impact on equal pay of arrangements such as **part-time** work and **fixed-term** contracts.
- Support **equal pay initiatives at the workplace** such as equality labels, 'charters', and awards, as well as the development of tools for employers to correct unjustified gender pay gaps.
- Institute a **European Equal Pay Day** to be held each year to increase awareness on how much longer women need to work than men to earn the same.
- Seek to encourage women to enter **non-traditional professions**, for example in "green" and innovative sectors.

A mid-term review in 2013 noted progress on almost all actions for the strategy, but acknowledged a need to remain engaged to address 'remaining gender gaps'<sup>10</sup>.

---

<sup>7</sup> Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast): <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006L0054&from=EN>.

<sup>8</sup> Report on the application of Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), COM(2013) 861, 6 December 2013: [http://ec.europa.eu/justice/gender-equality/files/gender\\_pay\\_gap/com-2013-861-final\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/gender_pay_gap/com-2013-861-final_en.pdf).

<sup>9</sup> Strategy for equality between women and men 2010-2015, COM(2010) 491, 21 September 2010: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:EN:PDF>.

<sup>10</sup> Ibid., p.13.

### 3 Accession to the European Convention on Human Rights

'EU Accession to the ECHR – internal rules' is No 16 of the new initiatives associated with the 2014 Work Plan. The description of this legislative initiative is as follows<sup>11</sup>:

*The initiative sets out legal rules which are required to make the forthcoming accession to the European Convention on Human Rights operational internally.*

Accession to the ECHR was an obligation under the Treaty of Lisbon, which came into force in 2009, and will permit cases to be brought to the European Court of Human Rights in respect of EU acts<sup>12</sup>. A draft agreement was concluded in 2013 setting out the scope of changes required of the ECHR, the Council of Europe and the EU to enable accession<sup>13</sup>.

The Court of Justice of the European Union has considered the compatibility of the draft agreement with EU law and delivered its Opinion on 18 December 2014. The Opinion states that 'the Court concludes that the draft agreement on the accession of the European Union to the ECHR is not compatible with EU law'<sup>14</sup>. The main areas of incompatibility are stated as follows<sup>15</sup>:

- The EU would be subject to external control, specifically the EU would be subject to decisions by the European Court of Human Rights, which is not an EU institution, whereas the interpretation of EU law lies with the Court of Justice
- There is no provision in the draft agreement for co-ordination with the EU Charter of Fundamental Rights
- The agreement proposes treating the EU as an individual state, which misinterprets the intrinsic nature of the EU, as Member States will be required to check the observation of human rights in other Member States, undermining the EU principle of mutual trust
- The right of Member States to request advisory opinions of the European Court of Human Rights on compatibility with the ECHR undermines the autonomy of the preliminary ruling procedure provided for in the EU Treaty

The legal basis of a revised agreement would be required before there is further action.

<sup>11</sup> Appendix II to the Commission Work Programme 2014, p.8.

<sup>12</sup> 'Accession of the European Union', European Court of Human Rights website, accessed 5 January 2015:  
<http://www.echr.coe.int/pages/home.aspx?p=court/accessioneu&c=>.

<sup>13</sup> Council of Europe (2013), *Fifth Negotiation Meeting between the CDDH Ad Hoc Negotiation Group and the European Commission on the Accession of the European Union to the European Convention on Human Rights*, 47+1(2013)008rev2, Strasbourg: CoE:  
[http://www.coe.int/t/dghl/standardsetting/hrpolicy/Accession/Meeting\\_reports/47\\_1\(2013\)008rev2\\_EN.pdf](http://www.coe.int/t/dghl/standardsetting/hrpolicy/Accession/Meeting_reports/47_1(2013)008rev2_EN.pdf).

<sup>14</sup> Court of Justice of the European Union Press Release No 180/14, 18 December 2014:  
<http://curia.europa.eu/jcms/upload/docs/application/pdf/2014-12/cp140180en.pdf>.

<sup>15</sup> 'Court of Justice rejects draft agreement of EU accession to ECHR', *Euractiv* 19 December 2014:  
<http://www.euractiv.com/sections/eu-priorities-2020/court-justice-rejects-draft-agreement-eu-accession-echr-310983>.

## 4 European Accessibility Act

Under the heading 'European Accessibility Act', initiative 21 of the Commission's 2014 Work Programme is described in the following terms<sup>16</sup>:

*The initiative will improve the market of goods and services that are accessible for persons with disabilities and elderly persons, based on a 'design for all' approach. This business friendly initiative will include binding measures to promote procurement and harmonisation of accessibility standards. The initiative is currently in a consultation process with industry and stakeholders.*

The rationale behind the Act is from the European Disability Strategy 2010-2020, where the Commission proposed to use legislation and standardisation in order to optimise accessibility for persons with disabilities and older people.

'Accessibility' is defined within the consultation for the European Accessibility Act as meaning that<sup>17</sup>:

*people with disabilities have access, on an equal basis with others, to the physical environment, transportation information and communications including technologies and systems (ICT), and other facilities and services in line with Article 9 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD).*

The European Accessibility Act aim is to provide details on what accessibility means for the goods and services addressed within the Act but will not change or amend existing EU legislation. The Act will also be the legal framework on accessibility for existing EU legislation regulating in detail particular goods or services (including their accessibility).

No update has been made to the European Accessibility Act; however, a written question to the European Parliament was posed on 10<sup>th</sup> December<sup>18</sup>:

*In 2012 the Commission was planning to propose a European Accessibility Act, which was to be a legislative initiative aimed at improving the accessibility of goods and services in the single market. To date, no such proposal has been adopted.*

*The only proposal made to date concerns web accessibility, and I am the rapporteur for it. This directive, while very important, is limited in scope. It focuses solely on government services and is confined to the accessibility of digital goods and content. By definition, it does not cover physical goods.*

---

<sup>16</sup> Appendix II to the Commission Work Programme 2014, p.9.

<sup>17</sup> European Accessibility Act Consultation Document: [http://ec.europa.eu/justice/discrimination/files/2011-12-13\\_consultation\\_background\\_document.pdf](http://ec.europa.eu/justice/discrimination/files/2011-12-13_consultation_background_document.pdf)

<sup>18</sup> European Parliament Written Question P-010502-14, 10<sup>th</sup> December 2014: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bWQ%2bP-2014-010502%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>.

*There is an urgent need to adopt the wider European Accessibility Act in order to allow all individuals with disabilities, together with the elderly, full access to the market.*

*According to the Commission's own reports, people with disabilities currently represent approximately 10% of the EU's working-age population, a proportion that is increasing as the population ages. Given the correlation between disability and ageing, and the demographic changes taking place in Europe, over 20% of the EU population would benefit from future improvements in the accessibility of goods and services.*

- 1. What is the current status of the European Accessibility Act?*
- 2. Why has it not been adopted by the Commission?*
- 3. When is it expected to be adopted?*

The Commission responded as follows<sup>19</sup>:

*1. The Commission services' preparatory work for a European Accessibility Act continues. The content of a future proposal cannot be prejudged at this stage.*

*A lot of work has already been done — stakeholders have been consulted on different occasions, namely through a public consultation, a Eurobarometer, an SME Panel and a High-Level dialogue with industry and users representatives. Stakeholders largely agree on the advantages of having common accessibility rules at EU level. The Commission services have also commissioned an in-depth market study to gather further data of the situation in the EU and its Member States.*

*2. The preparatory work is addressing accessibility from different perspectives. Improving accessibility of products and services would be of benefit to persons with disabilities, older persons, people with small children, pregnant women as well as other groups with functional limitations whether permanent or temporary.*

---

<sup>19</sup> The Commission referred the Member to Answer given by Ms Thyssen on behalf of the Commission on 12 January 2015 to E-008406-14: <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2014-008406&language=EN>.

## Appendix 1: Commission Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency

### ***I. SUBJECT MATTER***

1. This Recommendation provides guidance to Member States to assist them in a better and more effective implementation of the equal pay principle in order to combat pay discrimination and to contribute to tackling the persistent gender pay gap.

### ***II. WAGE TRANSPARENCY***

2. Member States should encourage public and private employers and social partners to adopt transparency policies on wage composition and structures. They should put in place specific measures to promote wage transparency. In particular, these measures should include one or more of the actions referred to in points 3 to 6 in an approach tailor made to the specific domestic situation.

#### *Right of employees to obtain information on pay levels*

3. Member States should put in place appropriate and proportionate measures to ensure that employees can request information on pay levels, broken down by gender, for categories of employees doing the same work or work of equal value. This information should include complementary or variable components beyond the fixed basic salary, such as payments in kind and bonuses.

#### *Reporting on pay*

4. Member States should put in place measures that ensure that employers in undertakings and organisations with at least 50 employees regularly inform employees, workers' representatives and social partners of the average remuneration by category of employee or position, broken down by gender.

#### *Pay audits*

5. Member States should take appropriate measures to ensure that pay audits are conducted in undertakings and organisations with at least 250 employees. These audits should include an analysis of the proportion of women and men in each category of employee or position, an analysis of the job evaluation and classification system used and detailed information on pay and pay differentials on grounds of gender. These audits should be made available to workers' representatives and social partners on request.

### *Collective bargaining*

6. Without prejudice to the autonomy of social partners and in accordance with national law and practice, Member States should ensure that the issue of equal pay, including pay audits, is discussed at the appropriate level of collective bargaining.

### *Statistics and administrative data*

7. Member States should further improve the availability of up-to-date gender pay gap data by providing Eurostat with statistics annually and in a timely manner. These statistics should be broken down by gender, economic sector, working time (fulltime / part-time), economic control (public/ private ownership) and age and be calculated on an annual basis.

8. Member States should also provide the Commission with data on the number and types of pay discrimination cases when notifying it in accordance with point 18.

### *Data Protection*

9. To the extent that any information provided pursuant to measures taken under points 3 to 8 involves the disclosure of personal data, it should be provided in accordance with national data protection laws, in particular those implementing Directive 95/46/EC of the European Parliament and of the Council.

### *Concept of work of equal value*

10. In line with the case-law of the Court of Justice of the European Union, Member States should clarify the concept of "work of equal value" in their legislation. The value of work should be assessed and compared based on objective criteria, such as educational, professional and training requirements, skills, effort and responsibility, work undertaken and the nature of tasks involved.

### *Job evaluation and classification systems*

11. Member States should promote the development and use of gender-neutral job evaluation and classification systems, including in their capacity as employers in the public sector, to prevent or identify and tackle possible pay discrimination based on gender-biased pay scales. They should specifically encourage employers and social partners to introduce gender-neutral job evaluation and classification systems.

12. As regards gender-neutral job evaluation and classification systems, Member States are encouraged to draw inspiration from the Annex 1 of the Commission Staff Working Document accompanying the Report on the application of Directive 2006/54/EC.



### **III.HORIZONTAL PROVISIONS**

#### *Equality Bodies*

13. Member States should ensure that their national equality bodies' powers and mandates cover issues related to gender pay discrimination, including transparency obligations. Where applicable, Member States should give equality bodies' the right to access the information and audits referred to in points 4 and 5 of this Recommendation.

14. Member States should reduce procedural obstacles to the bringing of equal pay cases to court by enabling equality bodies to represent individuals in cases of pay discrimination.

15. Member States should ensure closer cooperation and coordination between the national equality bodies and national bodies that have an inspection function in the labour market.

#### *Monitoring and enforcement*

16. Member States should ensure the consistent monitoring of the implementation of the principle of equal pay and the enforcement of all available remedies for pay discrimination.

#### *Awareness-raising activities*

17. Member States should raise awareness among public and private undertakings and organisations, social partners and the general public to promote equal pay, the principle of work of equal value and wage transparency, to tackle the causes of the gender pay gap, and devise tools to help analyse and assess pay inequalities.

### **IV.FOLLOW-UP**

18. Member States should take the necessary measures to ensure the application of this Recommendation and are invited to notify the Commission of these measures by 31 December 2015, in order to enable the Commission to closely monitor the situation, to draw up a report on progress made in implementing this Recommendation and, on that basis, to assess the need for further measures.

### **V.FINAL PROVISIONS**

19. The Recommendation is addressed to all Member States. It is also addressed to the social partners, in particular in the Member States where in accordance with the national law and practice, the social partners have a specific responsibility for implementing the principle of equal pay by concluding collective agreements.