

# Labour Participation and the Pay gap

The RoSa-factsheets aim to familiarise you with the scope of equal opportunities in Flanders. Each factsheet probes the situation in a specific area. Broad themes as well as specific ones are put into the spotlight, depending on the relevance and/or availability of information and numerical data. We do not intend to offer exhaustive information, our primary aim is to sketch the position of women in Flanders in a surveyable and accessible way. Since its founding in 1978, RoSa is the place in Flanders to look for information and documentation about equal opportunities, emancipation policy and women's studies.

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## 1. Introduction

*One of the most thorough changes in West European society during the past decades is the increasing number of women having a paid job. Feminisation of employment went with an extension of the services sector and a general reorganisation of employment and working hours.*

*We find a number of differences between man's and woman's labour: women work more part-time than men, they interrupt their career more often and they bear more responsibility for housekeeping than men<sup>1</sup>.*

*Gender segregation, the unequal distribution of men and women over professions and jobs and the ensuing discrepancy in remuneration, leads a persistent and almost universal existence. According to G. de Groot<sup>2</sup>, there still is a separation between man's and woman's work based on gender instead of individual capacities. Women's jobs generally entail a lower social status and lower wages and they offer less career opportunities than men's jobs. Changes in technique, government policy and workers' desires seem to have no effect whatever on this phenomenon.*

*Collective conditions of employment with regard to wages, including the issue of job rating, give reason for concern<sup>3</sup>. "Equal pay for equal work" is supposed to mean that jobs with "work of equal value" are remunerated equally. In order to define the equal value, jobs are compared and estimated. At the first sight, job rating appears to be an objective and scientific occupation. In practice, all sorts of hidden mechanisms, prejudices and stereotypes distort the rating, at the expense of women.*

*The labour market appears to value men's time higher than women's. For as long as that is just the way things are, neither policy measures nor compensations, parental leave or nurseries will change woman's economic status<sup>4</sup>.*

<sup>1</sup> S. Hatt, Gender, work and labour markets. London: MacMillan Press ; New York : St. Martin's Press, 1997. - 200 p. ISBN 0-333-65779-9

<sup>2</sup> G. De Groot, Fabricage van verschillen : mannenwerk, vrouwenwerk in de Nederlandse industrie (1850-1940) Amsterdam: Aksant, 2001. - 584 p.: ill. ISBN 90-5260-011-2

<sup>3</sup> European Commission, Monitoring, implementation and application of Community Equality Law : general report 1997 & 1998 of the Legal Experts' Group on Equal Treatment of Men and Women [Luxemburg]: European Commission, 1999. - 144 p.

<sup>4</sup> H. Joshi, P. Paci, Unequal pay for women and men : evidence from the British birth cohort studies

## 2. Women's participation in the labour market

### 2.1. EMPLOYMENT RATE<sup>5</sup> AND PART-TIME WORK

*Employment rate* means the relation, in terms of percentage, between the number of people actually working and the labour force (the population between the age of 15 and 64). Women's employment rate amounts to 50,7%. In comparison with other European member states: the cracker Sweden reaches 69,7% and tailender Greece 41,2%. Because informal labour and moonlighting aren't included in the statistics, we're probably faced with an underestimation of the actual employment rate.

In Belgium, *part-time work* is chiefly a female matter: 36,8% women as opposed to 5,2% men opt for part-time work. The motive is mainly to care for children or invalid adults. To a lesser degree, working part-time is due to having no choice but to take a part-time job for lack of a full-time one, or due to a positive choice.

### 2.2. SCHOOLING LEVEL<sup>6</sup>

In 2001, 42,5% of women was semi- and unskilled, 32,6% was medium-skilled and 24,9% highly-skilled. Men and women are distributed 50/50 over each schooling level. Semi- and unskilled are those women who received no education at all, primary education or lower level secondary education. Medium-skilled women have a certificate of higher level secondary education. Those who are highly-skilled have a degree of short (2 years) or long (4 years) higher non-academic education or a university degree.

The influence of the schooling level upon the employment rate is remarkable for women in Belgium. Only 29,3% the semi- and unskilled women have a job. That percentage nearly doubles for medium-skilled women, whereas 80% employment rate is reached among highly-skilled women. The increase of male employment rate with increasing schooling level is less spectacular.

While the majority of women active on the labour market had the advantage of a higher education, that is not the case with men: the majority of working men is medium-skilled. The largest part (45,6 %) of unemployed women is semi- and unskilled. Medium-skilled women represent 35,5% and highly-skilled women 18,6%. The schooling level of unemployed women is on average higher than that of unemployed men. Among the inactive<sup>7</sup> women, 62,3% is semi- or unskilled.

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<sup>5</sup> I. Goffin (onderz.), N. Steegmans (onderz.), M. Van Haegendoren (prom.), DEUCE : Arbeidsmarktstatistieken vanuit een genderperspectief. Diepenbeek: Limburgs Universitair Centrum, 2002. - 333 p. - ISBN 90-75262-36-1

<sup>6</sup> *ibid.* p. 10-12

<sup>7</sup> by which we mean women who are not active on the labour market and are not registered for employment

### 3. Wages and pay gap

The equal pay principle is guaranteed by several European and national standards. European legislation<sup>8</sup> on equal pay for equal work already exists since 1975. Although Belgian legislation has been adapted as regards content, there still exists a substantial pay gap.

#### 3.1. WHAT ARE WAGES ?

Wages include, next to the actual pay, benefits in kind such as luncheon vouchers or a company car, holiday allowances that come on top of what is legally due, as well as non-compulsory social security arrangements such as a group insurance for supplementary retirement benefits.

#### 3.2. WHAT IS EQUAL WORK?

Equal work, or work of equal *value*. Sometimes, that value is estimated by means of job classification systems. Those systems must not lead to discrimination, neither by the criteria selection nor by the way in which job rates are converted into wage rates. Social interlocutors negotiate about job ratings and wage base determination in joint industrial committees and in the National Labour Council<sup>9</sup>.

#### 3.3. PAY GAPS: HOW COME?

##### 3.3.1. BACKGROUND HALLMARKS

A part of the pay gap can be explained by "objective" factors, the so-called background hallmarks. We distinguish three kinds: *personal hallmarks*, *job hallmarks* and *remaining hallmarks*.

*Personal* hallmarks are age, schooling level, nationality, family situation: civil status, living with a partner or not, having children or not.

*Job* hallmarks are working regime (full time or part-time), atypical working hours (before 7 a.m. or after 8 p.m. and week-end), job steadiness (public sector), fringe benefits, job type and level (e.g. executive staff: supervise and influence other employees' promotion or wages).

*Remaining* hallmarks are economic sector (welfare, industry), company size ...

Those background hallmarks determine the *uncorrected* pay differences, which one obtains as follows:

**(gross hourly wage woman - gross hourly wage man) / gross hourly wage man x 100%**

The *corrected* pay difference is created by adjusting the pay difference for the

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<sup>8</sup> <http://europa.eu.int/scadplus/leg/en/cha/c10905.htm>

<sup>9</sup> <http://www.cnt-nar.be/E11.htm>

<sup>10</sup> R. Spijkerman, De positie van mannen en vrouwen in het bedrijfsleven en bij de overheid 1998. 's-Gravenhage: Ministerie van Sociale Zaken en Werkgelegenheid, 2000. ISBN 90-5749-572-4

background hallmarks between men and women<sup>10</sup> .

### 3.3.2. JOB RATING SYSTEMS<sup>11</sup>

It now appears that a rather important part of the pay gap *cannot* be put down to "objective" background hallmarks. Consequently, there must be hidden mechanisms of gender discrimination at work within the job rating systems and the job classifications linked to them.

Typical for Belgium is that most job classifications are created on the sectorial level. Those are based on a job rating system about which has been negotiated between trade unions and employers' federations. They often imply discriminating elements or they are formulated too vaguely. That leaves room for employers to discriminate, deliberately or not.

The labour inspectorate is authorized to make a report of the offence when employers break socio-legal regulations. An employer can be prosecuted only when he commits a penal offence consciously and wilfully. Since job rating systems are negotiated at a sectorial level between employers' federations and trade unions, and since job classifications are defined in a collective labour agreement which is binding for the whole sector, one cannot prosecute an individual employer for a discriminatory job classification, of which one's employer has no say.

Should an employee go to court by herself, then? Even if she knew of her unequal remuneration, she will hardly find the union a willing ear for her complaint, although it functions as first resort for such problems. Trade unions themselves have negotiated job classifications within the joint committees. They won't feel inclined to contest them in court afterwards.

Judicial authorities often lack the technical know how. To judge whether a job rating system has a gender discriminatory effect, is an expert's job.

Gender neutral job rating systems can still be an efficient way of eliminating the pay gap between women and men. Those systems have to match a number of criteria, though. The system has to be objective. Whether it is a man or a woman who executes a job must not be taken into account. There has to be a proportional distribution between criteria belonging to male and female jobs. Research exists on "good practices" with regard to equal pay in the Netherlands, Ireland, Finland and the United Kingdom. Certain elements are sure to be relevant for the Belgian situation<sup>12</sup> .

### 3.3.3. IN SHORT:

There is a discrepancy between the juridical and the actual situation in tackling pay gaps in Belgium. There are problems with furnishing of proof and with sanctioning. Female employees are too isolated legally to prove on their own the discriminative nature of a certain job rating and corresponding wages. The emotional burden to sue one's own

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<sup>11</sup> Kabinet van de Minister van Tewerkstelling en Arbeid. Studiedag "Van punten naar munten", 28 mei 1998. Brussel: Kabinet van de Minister van Tewerkstelling en Arbeid, 1998.

<sup>12</sup> I. Goffin (onderz.), N. Steegmans (onderz.), M. Van Haegendoren (prom.), DEUCE : Arbeidsmarktstatistieken vanuit een genderperspectief. Deel 3 : Arbeidsmarktstatistieken in genderperspectief in België op basis van de Panelstudie bij Belgische Huishoudens 1995 en 1999 (golf 4 en 8).

<sup>13</sup> *ibid.*

employer has a restraining influence. That is why women have brought hardly any cases before the court in the past years<sup>13</sup>.

### 3.4. HOW BAD IS IT?

Women's gross incomes fluctuate around 85% of men's gross incomes. That emerges from the DEUCE-report, mapping out pay gaps in Belgium for civil servants and employees and measuring the (variable?) influence on the wages of man and women of a number of employee characteristics.

Since the *longer working week* of men has often been quoted as one of the reasons for pay gaps between men and women, the research not only takes into account the contracted working hours, but also the actually performed working hours of women and men.

Men receive an average gross monthly pay of 2 410 euro (97.225 BEF) and women 1 700 euro (68.584 BEF). Men actually perform on average 41,92 hours per week whereas they have to work an average of 37,15 hours according to contract. Women actually perform an average of 34,4 hours per week whereas they have to perform an average of 31,03 hours according to contract. Converted to a full-time job of 38 hours a week for each, men earn on average 2 185 euro gross whereas women earn 1 878 euro (75.761 BEF) for the same performance.

The pay gap appears to be less blatant for temporary contracts. The following table from the DEUCE-report shows for 1999 the M/F wages index according to contract type<sup>14</sup>.

It emerges that even after correction of actually performed hours, in a fixed job women receive nearly 14 points less on the wages index for the same performance than men: 100 / 86,63. For temporary contracts the pay gap is small: 100/99,33.

	M/F wages index (VTE) according to contract type 1999			
	Hours according to contract		Really performed hours	
	Men	Women	Men	Women
Permanent	100	85,10	100	86,63
Temporary	100	95,75	100	99,33

### 3.5. WHO IS MOST AT A DISADVANTAGE?

For semi- and unskilled people the gender pay gap is small. It becomes wider for employees with executive powers. Especially women with an influential function in human resources management do not reap the benefits of that responsibility. That tendency seems to have become stronger between 1995 and 1999. It is no doubt more rewarding for men than for women to have executive powers. Men with a supervisory job earn 143% of the wages of men with a non-supervisory job, or 134% after weighting for actually performed hours. For women it amounts to 117%, or 115% after weighting for actually performed hours.

Whereas male employees with a permanent contract are spread equally over all earnings groups, with a peak in the highest, that is not the case with women. Women are concentrated in the lower earnings groups (less than 1 487 euro gross). Hardly 6% of women get gross wages over 2 479 euro, while 25 % of men are in that pay group. Women with supervisory or coordinating jobs are spread equally over all earnings

<sup>14</sup> ibid. p. 282

groups. Men with such jobs are situated mostly in the highest earnings groups.

### 3.6. PARTNER OR SINGLE?

The breadwinner's model still appears to be influential. Men who are living with a partner are chiefly in the higher earnings group. Whether women live with someone or not doesn't influence their wages. In 1995 there was a gender deviation in favour of single women compared to single men. Between 1995 and 1999 the M/F wages index evolves at a disadvantage of single women. Gross wages of single men have shown the sharpest rise.

## 4. Legal foundations

Pay equity legislation includes the following fundamental texts<sup>15</sup>:

- article 6 of the Belgian Constitution<sup>16</sup> of 1831; it became article 10 of the Belgian Federal Constitution of 17 February 1994: Belgians are equal before the law; the equality of women and men is guaranteed<sup>17</sup>;
- article 119 of the E.C.- Treaty of 1957, amended in article 141 of the Amsterdam Treaty of 20 October 1997 regarding equal pay for equal work or work of equal value, without discrimination based on sex<sup>18</sup>;
- European Social Charter of 18 October 1961, article 4<sup>19</sup>;
- Council Resolution of 21 January 1974, the E.E.C.- Directive 75/119 of 10 February 1975 on equal pay for men and women as well as the E.E.C. - Directive 76/207<sup>20</sup>
- E.E.C.-Directive of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes<sup>21</sup>;
- Collective Agreement nr. 25 of the National Labour Council of 15 October 1975 relative to the equality of pay for male and female workers<sup>22</sup>, given the force of law by Royal Decree K.B. of 9 December 1975, Belgian Law Gazette 25 December 1975;
- Equal Treatment Act: title V: Equal treatment for men and women as regards working conditions, access to employment, vocational training and promotion as well as access to independent professions.<sup>23</sup>
- As well as texts resulting from it, such as:

o Royal Decree of 8 February 1979 on mentioning the sex in job offers<sup>24</sup>;

<sup>15</sup> Versluys, L., Inkomensgids voor de werkende vrouw: sociale en fiscale aspecten van de arbeidsrelatie en het inkomen: editie 1993. Deurne: Kluwer Rechtswetenschappen, 1993. - 555 p.

<sup>16</sup> <http://users.skynet.be/historia/grondwet.html>

<sup>17</sup> [http://www.arbitrage.be/nl/basisteksten/basisteksten\\_grondwet.html](http://www.arbitrage.be/nl/basisteksten/basisteksten_grondwet.html) Dutch

<sup>18</sup> [http://europa.eu.int/abc/obj/treaties/en/Article\\_119](http://europa.eu.int/abc/obj/treaties/en/Article_119) English

<sup>19</sup> <http://conventions.coe.int/treaty/en/treaties/html/035.htm> English

<sup>20</sup> <http://www.pfc.org.uk/legal/etd.htm> English

<sup>21</sup> [http://europa.eu.int/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31986L0378&model=guichett](http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31986L0378&model=guichett) English

<sup>22</sup> <http://meta.fgov.be/pdf/pk/nlk173-177.pdf> Dutch

<sup>23</sup> <http://meta.fgov.be/pdf/pk/nlk190-200.pdf> Dutch

<sup>24</sup> <http://meta.fgov.be/pdf/pk/nlk202.pdf> Dutch

- o the Royal Decrees and Decrees of the Flemish Executive on vocational training;
- o The Royal Decrees on positive action.

## 5. Bibliography

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## 6. Useful links

- Bibliography "Arbeid en loonverschillen" (in Dutch and English): RoSa - publication November 2003 <http://www.rosadoc.be>
- National Labour Council: <http://www.cnt-nar.be/N11.htm>
- Social-Economic Council of Flanders (SERV): <http://www.serv.be>
- An overview of federal pay equality legislation (in Dutch): <http://meta.fgov.be/pk/pkc/nlkc01.htm>

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