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Social Dialogue, Employment Policy and the Principles of Equal Treatment

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SPEECH

It is a great honor for me to participate in this important conference. I congratulate ILO on having chosen the topic of equal treatment in social dialogue thus on the one hand creating synergies with and on the other hand building upon the conferences of the European Commission held in Bled "agenda equality" in October 1998 Warsaw in march, 1999 on "social dialogue for success "and the one in Prague in march of this year on the social dimension of enlargement.

Before I tackle the role of social of social partners let me outline to you why it is important for candidate countries to dedicate time and effort to this topic and the European strategy for the promotion of equality.

1. Why talk about equal treatment?

The non discrimination on the basis of sex is a human right and -therefore a Copenhagen criteria which has to be respected by every country that wants to become a member of the union.

There are eight directives on equal treatment

Such as :

- directive on equal pay for equal work and work of equal value
- directive on equal access to work and working conditions
- equal treatment in social security
- maternity protection
- parental leave

- burden of proof

Which form part of the *acquis* to be transposed into your respective national laws. The treaty of Amsterdam has given new impetus to equal treatment by enshrining equality between women and men in the tasks of the European Union and by obliging it to eliminate inequalities and promote equality in all its policies. In addition the new article 141 gives equality of treatment its own specific legal base and allows explicitly that member states take specific measures to facilitate the employment of the underrepresented sex, so called positive action. In the beginning of the screening meetings candidate countries used to say that non discrimination was guaranteed in their constitutions therefore there was no need for action. by now, all candidate countries have realized and indeed your presence here confirms this – that legislative action is necessary and particular attention has to be given to **the enforcement of law**.

2. European strategy

The European strategy encompasses legislation and the so called soft law such as the employment policy and programs to promote equality. The principal of equal pay for work of equal value has to be guaranteed by law. It requires the assessment as to which types of jobs can be considered of equal value (for example the mason and the nurse). skills, training and demands on concentration have to be compared. Who is in a better position to judge on the comparability of jobs if not those who are close to the work the social partners. the comparability of jobs is across the sectors; therefore collective agreements can be compared even if they have been agreed for different branches. For a certain time the commission believed that if only women were equally qualified then men, the pay gap would disappear by itself. however, a look to the candidate countries of Eastern Europe showed that the formal equality in qualifications did not lead to equal pay or an equal share in jobs with high responsibilities; even today we have to observe that the higher responsibility, the less women are present.

There is a gender segregated labour market jobs exercised by women pay on average 27.5% less than those carried out by men. That is why the union not only adopted the already mentioned directive on equal access to work but also integrated equality into the employment policy as the fourth pillar. equal access of women to work is often hampered by obstacles, explicit ones as well as indirect ones. The European Court of Justice considered for example that the general ban for women to perform night work was a violation of equal opportunities because the choice of work should be left to the individual woman as well as to the individual man who might choose night work as a means to raise their salaries or to accommodate with other obligations.

The case law on night work illustrates the principle of the equality directives well. Women have to be treated equal unless there are imperative and gender specific health risks in a work place. Women are not a specifically endangered species that need to be protected even against their own will but women are equal partners at work ready to take on responsibility.

The right of member states to foresee derogations from equal access to work is reduced by the obligation to regularly monitor whether the derogations are still justified. After the European Court of Justice considered the general ban on women to join the army in Germany as unjustified the only examples of excluded jobs are those for which the sex of a worker is a constituent factor such as male or female models. Another albeit not real - derogation from the principle of equal treatment is that of positive action mentioned above. Positive action targets the elimination of obstacles to women's employment by giving them preference in recruitment or promotion. The treaty of Amsterdam allows positive action and thereby recognizes that women's situation on the labour market and in society is one of inequality.

Positive action is not a violation of equality but a remedy to reduce inequality. Women's situation on the labour market is hindered by traditional values, stereotypes and attitudes that attribute the public sphere to men and the private sphere to women thus keeping them away from actively participating in the labour market and in society.

The private sphere is characterized by the care for the children, dependant elderly and the household. It is in this very field that the social partners reached a major and indeed-, the first breakthrough when they adopted their first framework agreement which is the one on child care. It recognizes an individual non transferable right of the mother **and the father** to take a three months leave up to the eighth year of the child. If the father does not use his right, it cannot be transferred to the mother - it is lost. Interestingly, this provision caused and still causes the majority of problems in the implementation of the equality directives in your countries.

While most have very generous leave schemes for mothers, the comparatively modest right to a leave of three months for a father constitutes major problems. I suspect it is not only the drafting of the provision which causes headaches, it is the very concept of men taking care of their children.

Social partners role

This agreement was the first one adopted under the **Agreement on social policy** which has now been integrated into the community treaty. The treaty gives social partners the - and I quote Mr Tyszkiewicz, the former Secretary general of UNICE, **awesome** legislative powers placing heavy responsibilities on the E.U. level Organizations of trade unions and employers. With a view to the referendum in Denmark and the fear caused by the seemingly power - obsessed European bureaucracy allow me to say that this delegation of powers to those who are close to the work place is a sign of the union's will and commitment to democracy.

Complementing their legislative powers social partners have the right to monitor the application of their agreements. Social partners exploited the powers conferred to them in the fields of part time work and fixed term contracts the latter agreement signed in Warsaw to give a signal on the importance of social dialogue to the candidate countries.

All the three areas agreed upon so far have a strong gender dimension. parental leave - if taken by both parents - would gradually relieve women from the stigma not to be available for the job at all times. If practiced, it would demonstrate that women and men have joint responsibilities at home and at the work place. The part time agreement which forbids discrimination of part timers and encourages companies to offer flexible working conditions is equally important for women who constitute 95% of all part time workers in the union. The same - albeit to a lower percentage - is true for fixed term contracts. The application of these agreements has the potential of improving women's position on the labour market. apart from their very important and comparatively new role as legislators, social partners are essential actors in the area that is of major concern for the commission - **the enforcement** of equality rights. Whilst the commission is fairly confident that the equality directives will be implemented in the candidate countries statute books, we are preoccupied with the application of these laws in real life. The directives give workers the right to information, to protection against dismissal and the right to go to court in cases of discrimination.

Who is in a better position to give information then Employers and Trade unions?

Who can assess the risk of a hazardous work place?

Who - if not social partners - are negotiating collective agreements that take into consideration the principle of equal pay for equal work and work

of equal value and an equitable access of women and men to all types of work?

Who can examine whether part time workers are guaranteed equal rights, that they are invited to training measures, that persons taking parental leave are not forgotten in pay raise or in promotion processes?

Social partners have a role to perform in each member state at grass route level in the implementation of the directives. The Feira European council as well as the new equality strategy presented by the commission to the European Parliament and Council invite them to play a more prominent role in the finding, implementing and evaluating the employment guidelines which depend on them, focusing particularly on modernizing work organization, life long learning and increasing the employment rate, particularly for women. This call of the council stresses the importance of increasing the employment rate in Europe as a means to maintain European competitiveness. Countries with a high activity rate have low unemployment (for example Denmark and the United States) whereas countries with low participation rates have high unemployment. With the demographic development in the union, employers will increasingly look at the reserve in the labour market which is made up by women. The employment policy obliges member states to provide care facilities as a means of reconciling professional and private life of both - women and men. The Irish example shows that this can be done, especially when there is a need for workers, in Ireland - not too long ago - women when they married, had to leave the public service. Today, Ireland is now looking actively at providing child care and encouraging women employment through positive action because the Irish economy is flourishing and running short of labour.

Let me finish by briefly presenting you in a very concrete way the commission strategy on **Mainstreaming**. Mainstreaming means the integration of the gender perspective into all policy areas. Mainstreaming is based on the philosophy that women and men are different and have different needs and situations in life but they have equal rights. Every political decision has a - possibly different - effect on people depending on whether they are women or men. A responsible political decision has to take this different effect into account. Let us briefly exercise this analysis with the social policy agenda adopted on the 28th June 2000, invites social partners :

- To contribute and co-operate more systematically to the employment strategy . As the employment strategy is based on four pillars, equal treatment being one of them social partners have to check whether they have respected the principle and applied equal treatment in their measures for example to adapt enterprises and workers to the new economic challenges .
- Develop dialogue , in particular on life long learning. Do women benefit from the offer of life long learning equally as men? Are they integrated as partners in the dialogue process ?

Launch at European level the development of common objectives to serve as a reference for social policy actions at national level. Is gender equality a reference point and a benchmark?

- Participate at a conference on corporate social responsibility . Is the issue of reconciliation of work and family life as a corporate responsibility taken on board?
- To establish voluntary mechanisms on mediation, arbitration and conciliation for conflict resolution. Have the social partners recognized the potential of women in conflict resolution? These days it is common to look to Australia. Sydney reported that the crime rate has dropped by 20 %. The reason possibly - being the interest of thieves in sports, - but - definitely, the increased presence of police, in particular of female

police officers who prevent conflicts rather than settling them at a later stage.

This example demonstrates that it is worthwhile to employ women for the state, for the enterprise, for the trade unions and for society as a whole.

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