

Equal pay for equal work and the gender pay gap

M. Sc. Andreja Poje and Metka Roksandić

Summary of the Study

1. INTRODUCTION

Salaries are an extremely sensitive societal and political issue, from the social, economic and motivational point of view. For most employees, they represent the main source of income and in turn significantly affect the standard of living and the dignity with which they live their lives. In addition, salaries are an important factor that measures personal success and the difference between women's and men's earnings is the most indicative when it comes to measuring the progress women have made in the labour market and the position they have acquired there. In Slovenia, as elsewhere, women on average earn less than men despite the fact that they are better educated.

Equal pay for equal work or work of equal value for women and men is a widely accepted principle – and also a key value – both in Slovenia and in the wider European Union in general.

One possible indicator by which to measure and demonstrate gender pay inequality is the so-called "Gender Pay Gap". Data from the Statistical Office of the European Communities (Eurostat) on the gender pay gap in 2011 show that on average women's salaries are 16 % lower than men's in the EU and Member States and 2.3 % lower in Slovenia. State-level data for Slovenia show there are "hardly any" gender pay differences. However, the gender pay gap becomes considerably greater when salaries are compared by gender at industry- and occupational levels, as well as at the company position level. Gender pay differences in Slovenia therefore exist, despite the fact that, in general, women are better educated than men.

In accordance with the Slovenian constitution Article 133 of the Employment Relationship Act imposes on employers the obligation to offer their employees equal remuneration for equal work or work of equal value irrespective of gender. Published data on gender pay differences always gives rise to an abundance of commentary and varying interpretations, largely testifying to the fact that women and men in Slovenia earn the same salaries, which is further corroborated by the official data, pointing up the fact that Slovenia boasts the lowest gender pay gap in the EU. However, owing to the complexity of the issue, lack of instruments for its implementation and limited access to the relevant data, Slovenia has not yet seen any litigation associated with equal pay for equal work, nor work of equal value irrespective of gender under Article 133 of said act.

The key purpose of the research and study is to arrive at a conclusion, based on theoretical and empirical research and a methodological approach, as to whether gender pay differences at the same job position in a single company exist. **The key goal of the study** is to define the measures necessary to enable the enforcement of the legal provision on the right to equal pay for equal work or work of equal value and to reduce the gender pay gap.

2. EQUAL PAY FOR EQUAL WORK OR WORK OF EQUAL VALUE

Definition of the concept of equal pay for equal work or work of equal value

The concepts "**equal work**" or "**work of equal value**" are not specifically defined neither in EU nor in Slovenian legislation. In practice, case law of the European Court of Justice and relevant literature is used as a reference. Individual Member States (e.g. Germany, Austria, Sweden, Great Britain) have

defined the concepts of equal work or work of equal value in their legislation or in guidebooks for the implementation of legal provisions on equal pay. In its Code of Practice on Equal Pay the Equality Commission for Northern Ireland (2013) defined both concepts in the following terms:

– **equal work** may mean:

- the same or broadly similar (**like work**),
- different work, but which is rated under the same job evaluation scheme as equivalent (**work rated as equivalent**),
- different, but of equal value in terms of demands such as effort, skill and decision-making (**work of equal value**).

It is of key importance for the **concept of equal value** that while jobs may seem very different at first sight, an analysis of demands made on workers demonstrates that they are of equal value.

Importance, purpose and objectives of equal pay

Enforcement of the equal pay for equal work principle promotes the enforcement of equality of women and men in society. Narrowing of the gender pay gap brings benefits to both employers and employees.

Equality between men and women is the key to creating quality jobs. In addition, if companies take the gender aspect into consideration they can benefit from it in various ways: recruitment and retention of best employees, creation of a positive working environment and trust among employees, optimisation of human resources, increased productivity and competitiveness, creation of a better public image, higher value for its shareholders and the cultivation of a satisfied customer base.

The narrowing of the gender pay gap also contributes to improved performance of the economy as a whole. Knowledge and skills of women are vital for the economic and social development of a society. This, however, is not reflected in women's salaries and their position in the labour market. Both the economy and society at large are losing out when women's work is undervalued and their skills underutilised.

A smaller pay gap also promotes social fairness and equal opportunities. When women's work and skills are valued this contributes to higher motivation and increased performance and in turn improves the economic independence of women. Higher salaries across their work cycle means women are less likely to succumb to financial difficulty or poverty. According to the data of the Statistical Office of Slovenia (SURSTAT), the at-risk-of-poverty rate in 2011 stood at 24.1 % for women over 60 and only 12.3 % for men of the same age.

3. OVERVIEW OF LEGAL REGULATION

3.1. Historic overview

The right to equal pay for equal work without discrimination has been guaranteed as a human right by international legal acts since 1948, when the United Nations adopted the Universal Declaration of Human Rights, in which this right is defined in Article 23.

Since then, a number of international legal regulations have been in force in Slovenia, establishing the right to equal pay for equal work or work of equal value. These include the International Covenant on Social, Economic and Cultural rights (UN, 1966) and Convention No. 100 concerning Equal Remuneration of Men and Women Workers for Work of Equal Value (ILO, 1951). The last in line of adopted documents is the Convention on the Elimination of All Forms of Discrimination

against Women (UN, 1979), whose Article 11(1) ensures women equal rights in employment, the right to equal remuneration and benefits from employment, as well as the right to equal treatment in respect of work of equal value and equality of treatment in the evaluation of the quality of work.

3.2. EU Regulation

The basic principle of equality of women and men in the EU is guaranteed by **treaties of the European Union**, namely the Treaty on European Union (TEU, Article 2 and Article 3(3)) and the Treaty on the Functioning of the European Union (TFEU, 2012; Articles 8 and 157), which define the equality of women and men as a value, and whose general goal is to implement the principle of equality irrespective of gender in all activities of the Union. Application of the principle of equal pay for equal work or work of equal value for men and women is the obligation of Member States.

Equal pay for equal work is defined in Article 157¹ of the Treaty on the Functioning of the European Union (TFEU, 2012), which stipulates that “each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied”. This article defines “**pay**” as the usual basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on gender means that:

- (a) pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;
- (b) pay for work at time rates shall be the same for the same job.

Equality of women and men in all areas, including employment, work and pay, is guaranteed also by Article 23 of the **Charter of Fundamental Rights of the European Union** (2012). Article 4 of the recast **Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation** requires that for the same work or for work to which equal value is attributed, direct and indirect discrimination on grounds of gender with regard to all aspects and conditions of remuneration shall be eliminated. Where a job classification system is used for determining pay, it shall be based on the same criteria for both men and women and so drawn up as to exclude any discrimination on the grounds of gender. It lists the most important legal regulations governing equal pay under which it is illegal to discriminate against women in the labour market and pay women lower wages than men when doing the same work or work that is of equal value.

The European Court of Justice based in Luxembourg ensures that the EU law is observed equally in the interpretation and application of treaties in the European Union. It interprets the provisions of European regulations and adopts decisions with regard to appeals by individuals and questions raised by national courts. In respect of equal pay, case law refers to the compliance between individual national regulations and national courts’ decisions based thereon as regards individual or collective litigations in relation to the interpretation of Article 157 of the Treaty on the Functioning of the European Union.

¹ Previously Article 119 of the EEC Treaty of 1957, then Article 141 of the EC Treaty.

In accordance with settled case law of the Court of Justice, in order to assess whether workers are performing the same work or work of equal value, it should be determined whether, considering a range of factors including the nature of the work and training and working conditions, those workers may be considered to be in a comparable situation. The Court of Justice has established that, in certain circumstances, the principle of equal pay is not limited to situations in which men and women work for the same employer (items 8, 9 and 10 of the introduction to Directive 2006/54/EC).

3.2.1. Implementation in Practice

In accordance with its powers, the European Commission is the institution responsible for the enforcement of European regulations, for the adoption of the documents necessary for their implementation, and oversees the enforcement of European laws and proposes legislative amendments. With certain adopted documents, such as the **Strategy for Equality between Women and Men 2010–2015, the European Pact for Gender Equality**, regular reports by the Commission on the enforcement of the principle of equal pay for men and women for equal work or work of equal value, both from the legal perspective and from the perspective of elimination of established differences, it guides and supports Member States in the implementation of this principle. Consistent and efficient application of the existing European legislation on equal pay is the key to narrowing the pay gap and the Commission therefore supports Member States and other parties involved in the correct implementation and application of the existing rules in practice. This includes employers' and workers' organisations both at the European and national levels. Financial resources have also been allocated to that effect.

The Strategy for Equality between Women and Men (2010–2015) represents the Commission's gender equality work programme for this six-year period. It reaffirms the dual approach of specific initiatives and inclusion of the gender equality principle into all EU policies and activities. Communication of the European Commission entitled "Tackling the pay gap between women and men" adopted in 2007 examines the causes of the gender pay gap and puts forward a series of actions designed to tackle the problem.

3.3. Regulation in Slovenia

Although the **Constitution** of the Republic of Slovenia from 1991 does not specifically define the right to equal pay, Article 14 stipulates equal human rights and fundamental freedoms irrespective of gender, and equality before the law.

With its accession to the EU Slovenia became subject to European regulations, including treaties and directives on gender equality and in particular on equal pay for equal work or work of equal value. EU Member States are obliged to implement European legislation and transpose it to the national legislation in accordance with the procedure.

The right to equal pay for women and men for equal work or work of equal value was first regulated in 2002 by the **Employment Relationship Act** (ZDR, 2002) in Article 133 (equal remuneration of women and men) which imposed on employers the obligation to pay to workers equal remuneration for equal work or work of equal value, regardless of gender. This legal provision was in close relation to Article 6 of the same act that prohibited discrimination on the grounds of gender. Paragraph 2 of Article 6 stipulated that "women and men must be provided equal opportunities and equal treatment in employment, promotion, wages and other income arising from the employment relationship, ...".

The new **Employment Relationship Act from 2013** (ZDR-1, 2013) did not introduce any changes as to the provision of Article 133 (equal remuneration of women and men), but introduced slight changes to Article 6 that prohibits discrimination and retaliation. Article 6 now comprises the following:

- in item 1, the obligation of the employer to ensure equal treatment for both applicants seeking employment and his employees, irrespective of gender and other circumstances, whereby the employer is obliged to observe this act and regulations governing the enforcement of the principle of equal treatment and equal opportunities for women and men;
- item 2, amended so as to impose an obligation on the employer to ensure equal treatment in respect of personal circumstances referred to in item 1 of this article for applicants and employees, especially in "... promotion, pay and other receipts from the employment relationship, ...".

These changes reflect the **Equal Opportunities of Women and Men Act** (ZEMŽM, 2002) adopted in 2002 and 2007, and the **Implementation of the Principal of Equal Treatment Act** (ZUNEO-UPB1, 2007).

3.3.1. Implementation in Practice

The right to equal pay male or female workers in Slovenia is therefore guaranteed by law. The obligation to enforce this right lies with the employer. What does legal protection consist of, how can women or men exercise this right?

The provision of Article 133 of the Employment Relationship Act (ZDR-1, 2013) stipulates that provisions of an employment contract, collective agreement and/or employer's general act that are contrary to this article are invalid. A worker may, upon violation of the right to equal pay for equal work or work of equal value, seek legal protection without his/her employment being terminated as a result (Article 90), or may claim unequal treatment on the grounds of gender (Article 6). The provision of Article 133 in itself contains no penal sanctions.

In order to enforce the provision of Article 133 of the Employment Relationship Act, which imposes on the employer the obligation to ensure equal pay for equal work or work of equal value to women and men, workers have the possibility to initiate litigation either by claiming only a violation of Article 133 or in relation to gender-based discrimination (Article 6). This type of dispute refers to a pecuniary claim; direct legal protection is possible. As of yet, there has not been any litigation in Slovenia regarding the violation of Article 133 of the Employment Relationship Act or of other regulations concerning the right to equal pay for equal work for women and men. Regardless of the fact that the burden of proof lies with the employer, the person who initiates the dispute is obliged to prove the likelihood that the right to equal pay for equal work or work of equal value has in fact been violated. Data collection is thus even more difficult because as a rule companies do not collect or analyse data on in-company remuneration by gender, jobs or groups of equivalent jobs. In addition, protection of personal data prevents workers access to information on salaries of their colleagues who do the same, similar or equivalent jobs, thus preventing any comparison of remuneration. In the absence of any analytical grounds for litigation it is difficult to initiate and process a dispute where the outcome is entirely uncertain. In view of the fact that this right has been explicitly stipulated for the last ten years and considering the difficulties associated with proving its violation it is easier to understand why there has not yet been any litigation for violation of Article 133 of the Employment Relationship Act in Slovenia.

As regards equal pay for equal work there is the decision of the Higher Labour and Social Court passed in 2012 (HLSC, decision Pdp 591/2012). In this decision, the Court ruled that the employer had discriminated against the employee by paying him a lower salary than to his colleagues for the same work. In this respect it is significant that a worker is entitled to be paid for the work he/she is actually doing, irrespective of the position to which he/she is formally allocated or for which he/she has concluded an employment contract. This court decision may facilitate enforcement of equal pay for equal work compared to colleagues, but may also be applied to determine whether lower rates are paid to women as opposed to men doing the same job.

4. EXAMPLES OF GOOD PRACTICE FROM EU MEMBER STATES

Irrespective of the fact that EU countries adopt the legislation that imposes on employers equal treatment of women and men, and irrespective of the fact that social partners in collective agreement negotiations also adopt the measures for the elimination of gender pay differences, some EU Member States still have to deal with considerable pay differences between men and women.

Some countries have found that it is necessary to introduce different measures to encourage companies to take action against gender pay differences, to determine the reasons for the gender pay gap in the company and to try to eliminate these differences. Some countries thus introduce certain measures, instruments and tools, both mandatory and voluntary. These measures include different tools and software for the identification of factors driving the gender pay gap, methods of ensuring transparency of payments made to both women and men, granting of marks and certificates and similar. Below are some examples:

- Switzerland: software tool Logib and “equal salary” certification
- Germany: software tool Logib-D and “Logib-D geprüft” certification
- Austria: staff income report
- Finland: equality plan and survey of pay levels
- Sweden: analysis of wage differences between women and men and the “wage pilot analysis” method
- Portugal: revalue work to promote gender equality project
- Luxembourg: positive action in enterprises in the private sector
- Netherlands: study group and equal pay control tools
- United Kingdom: “Think, Act, Report”

5. GENDER PAY GAP ANALYSIS

5.1. Gender pay gap

The Gender Pay Gap is an official indicator that demonstrates the differences between men's and women's pay and is calculated based on the data from the Structure of Earnings Survey (SES) that is carried out in all EU Member States. The gender pay gap refers to the relative difference in average gross hourly earnings of women and men and is calculated as the difference between gross hourly earnings of male and female paid employees.

At the EU level, the so-called **unadjusted gender pay gap**² is used as a gender pay gap indicator, and represents a harmonised source of gender-based pay differences. The unadjusted gender pay gap

² Unadjusted means without correcting for national differences in individual measurable characteristics of employed women and men that might explain some of the pay difference; it gives a general picture of gender inequality in the labour market.

represents the difference between average gross hourly earnings of male paid employees and of female paid employees as a percentage of average gross hourly earnings of male paid employees.

5.2. Measuring the gender pay gap - methodology

From the reference year 2006 onwards, the GPG is calculated annually in the European Union (EU) by the European statistical system (ESS) according to 3 main guidelines (Eurostat, 2013):

- it is unadjusted and therefore not corrected for national differences in individual measurable characteristics of employed women and men that might explain some of the pay differences – as such it gives a general picture of gender inequality in the labour market;
- it is calculated based on gross hourly earnings so as to avoid the impact of differences among EU Member States in terms of use of part-time work;
- it is based on a harmonised source across the EU, the structure of earnings survey (SES).

The unadjusted gender pay gap is calculated:

- using the Structure of earnings survey (SES) as a benchmark, from the 2006 survey onwards; the survey is conducted every four years³
- using national estimates (based on national sources) provided by Member States for the years between the SES benchmark years, from reference year 2007 onwards (same coverage as SES).

In addition, the computation of the unadjusted gender pay gap takes into consideration only fully paid salary compensation (100 %). This includes paid overtime, bonuses and regular allowances paid in each pay period, paid absence from work and stoppage, which are fully paid by the employer. Non-regular bonuses and payments (thirteenth month salary, holiday allowance), payments for absence from work paid by the employer at a reduced rate, payments in kind and similar are excluded (Eurostat, 2013).

Data is collected only for enterprises with 10 or more employees and for activities B to S excluding O - i.e. the whole economy except agriculture, fishing, public administration, private households and extra-territorial organisations according to the standard classification of activities from 2008 (SKD 2008, Nace Rev.2). It covers all employees, irrespective of age and the number of working hours (including part-time employees) (Eurostat, 2013).

5.3. Gender Pay Gap in the EU and Slovenia

5.3.1. Gender Pay Gap in the EU

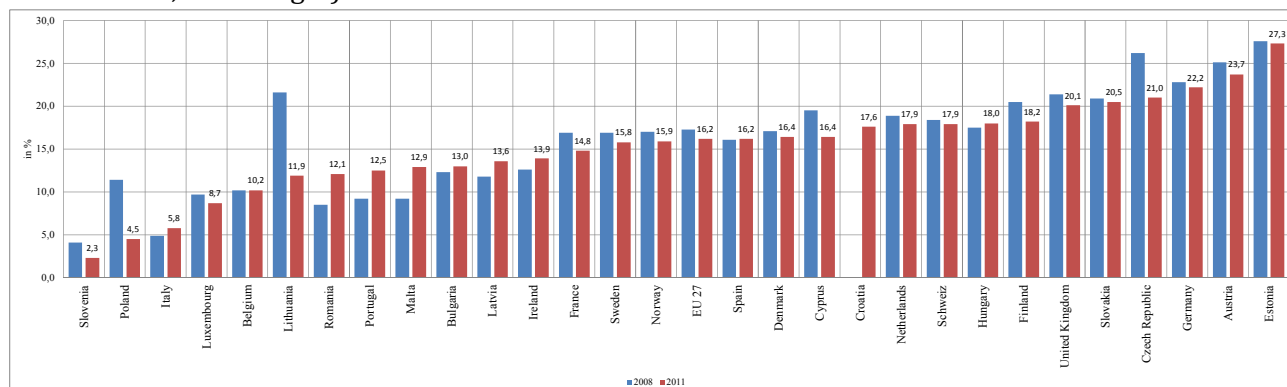
According to the Statistical Office of the European Communities (Eurostat) the pay gap in EU-27 in 2011 averaged 16.2 %, which means that average hourly earnings of women were 16.2 % lower than men's.

As demonstrated in Figure 1, there are considerable differences in gender pay gaps among EU Member States, with the lowest gender pay gap in 2011 recorded in Slovenia at 2.3 %. The only three other EU Member States with gender pay gaps below 10 % in that year were Poland (4.5 %), Italy (5.8 %) and Luxembourg (8.7 %). The highest gender pay gap was recorded in Estonia, where the difference in pay between men and women reached as much as 27.3 %. Gender pay differences larger than 20 % were recorded in six EU Member States (Great Britain, Slovakia, the Czech Republic, Germany, Austria and Estonia).

³ In the interim period (between two SES surveys) Member States provide annual data (broken down by activity, age bracket and similar).

Measures for narrowing the gender pay gap are adopted and implemented independently by Member States, depending on the awareness of the problem and the willingness to reduce any unjustified gender discrimination.

Figure 1: Unadjusted gender pay gap in EU countries as a percentage for 2008 and 2011 (for activities B-S, excluding O)



Source: Eurostat portal – labour market earnings database

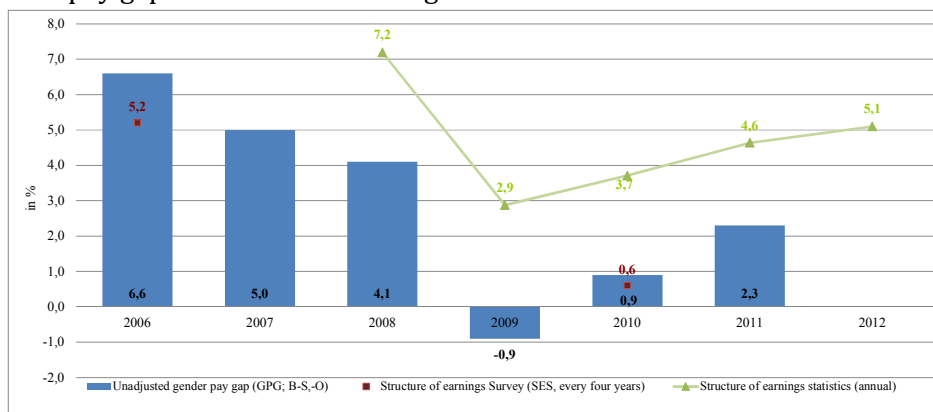
5.3.2. Gender Pay Gap in Slovenia

In many countries, gender is a significant income-determining factor. As demonstrated in Figure 1, gross hourly earnings are higher for men than women in all EU Member States. Differences between salaries by gender in Slovenia are low at the national level, but soon increase considerably when analysed at the level of economic activity, occupation or job position.

As shown in section 5.2, Slovenia also prepares data on gender pay gaps for the years between SES benchmark years (Žavbi, 2013a). Since 2007, these calculations have been based on statistical research called structure of earning statistics (Divjak, 2011). In addition, the Slovenian Statistical Office prepares a four-yearly Survey of Earnings Structure (SES) and special calculations for Eurostat (Žavbi, 2013).

Different methodologies used in the monitoring of the gender pay gap and different statistical surveys have delivered different results when it comes to determining the size of the gender pay gap in Slovenia. In 2010, the gender pay gap according to the survey of earnings structure equalled 0.6 %, which means that women in Slovenia on average earned 0.6 % lower salaries than men. Data on the unadjusted gender pay gap published for the same year show that according to Eurostat the unadjusted GPG was 0.9 %. However, the data from the annual structure of earnings statistics published for the same year reported the gender pay gap at 3.7 %. Such a significant unexplained difference between both data that represent the extreme values of the gender pay gap (0.6 % and 3.7 %) for Slovenia in that year raises doubts as to the credibility of this data.

Figure 2: Gender pay gap in Slovenia according to different statistical research



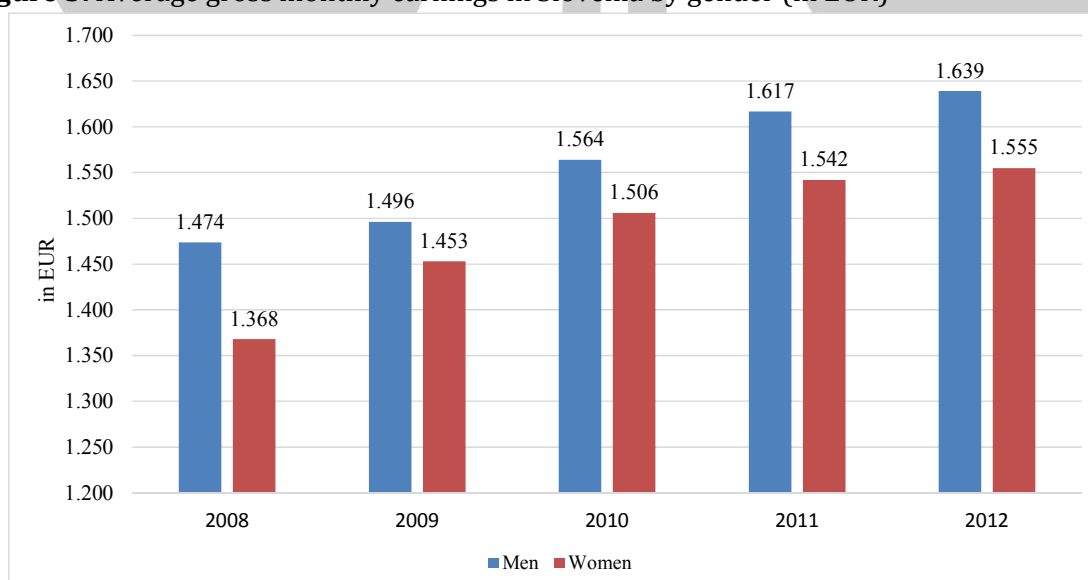
Source: Unadjusted gender pay gap (GPG, B-S, - O): Eurostat portal – labour market earnings database; Structure of earning statistics (annual): SI-STAT portal and SURS (Statistical Office of the Republic of Slovenia), 2013; Structure of earnings survey: Žavbi, 2013 and SI-STAT portal

5.3.2.1. Average gross earnings in Slovenia by gender

When examining the national-level data for Slovenia an observer gets the impression that the differences between earnings of men and women are relatively small. According to the Statistical Office of the European Communities, the gender pay gap in 2011 was 2.3% (see Figure 1)), the lowest among the compared EU Member States. Other national-level data show Slovenia at the very top in the EU in terms of pay equality.

The annual survey of the structure of earnings statistics demonstrates that women’s salaries in 2012 lagged behind men’s by 5.1 % (SURS, 2013). On average, women’s salaries were therefore EUR 84 lower than men’s in the same year. The difference in gross salaries by gender has been increasing since 2009 (see Figure 3).

Figure 3: Average gross monthly earnings in Slovenia by gender (in EUR)



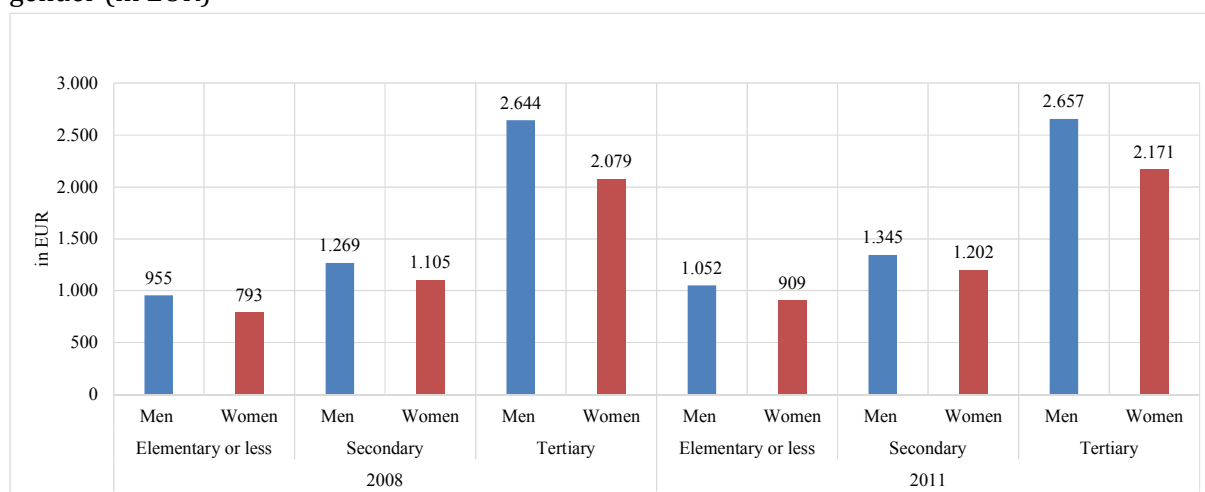
SOURCE: SURS – SI - STAT Data Portal and SURS, 2013

It should be stressed that on average women in Slovenia are better educated than their male colleagues and that the pay gap becomes widest when we compare earnings of highly educated employees. In 2011, women with uncompleted elementary education and those with completed secondary education earned on average EUR 143 less per month than men with the same level of

education. The largest gender based difference in earnings is recorded for completed higher- or university education: in this case, according to the data by SURS, women earned on average EUR 486 less per month than their male colleagues with the same level of education.

According to SURS, the gender pay gap in 2011 was 13.6 % for employees with elementary education, 10.6 % for those with secondary education and 18.3 % for those with higher and university education.

Figure 4: Average gross earnings in the Republic of Slovenia by completed level of education and gender (in EUR)



SOURCE: SURS – SI – STAT Data Portal

5.3.2.2. Classification of employees into deciles with regard to net earnings by gender

Income is an important factor determining the material status and personal success of each employee. The existence of differences between earnings of women and men on the other hand reflects the progress made by a society and the position of women in the labour market.

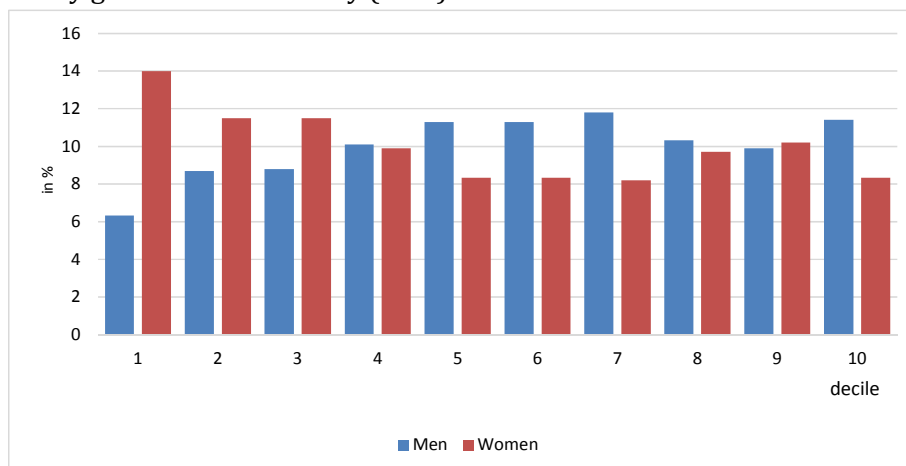
Svetin and Lah (2011) conducted an analysis of the characteristics that have an effect on the decile into which employees are classified (gender, age, education, place of residence and similar). Among other factors they examined into which decile a person in paid employment in Slovenia⁴ is classified based on their net salary and gender. Classification into deciles also enables international comparability of data.

Deciles were determined by dividing all persons in paid employment in Slovenia (about 800,000) into ten-percent groups according to their net salaries, with higher-income employees classified into higher deciles and those with lower income into lower deciles. Each decile comprises 10 % of employed persons whose salaries lie within the range limits of the relevant decile.

Figure 5 shows that based on net salary most women fall within the first two deciles, while the largest proportion of men is recorded in the seventh decile. In terms of net salary, 54.7 % of employed men in Slovenia range within the upper half and more than half the women (55.2 %) in the lower half (Svetin, Lah, 2011).

⁴ The survey did not include the self-employed and assisting family members.

Figure 5: Deciles by gender and net salary (in %)



Source: Svetin, Lah, 2011

5.3.2.3. Gender pay gap by economic activities

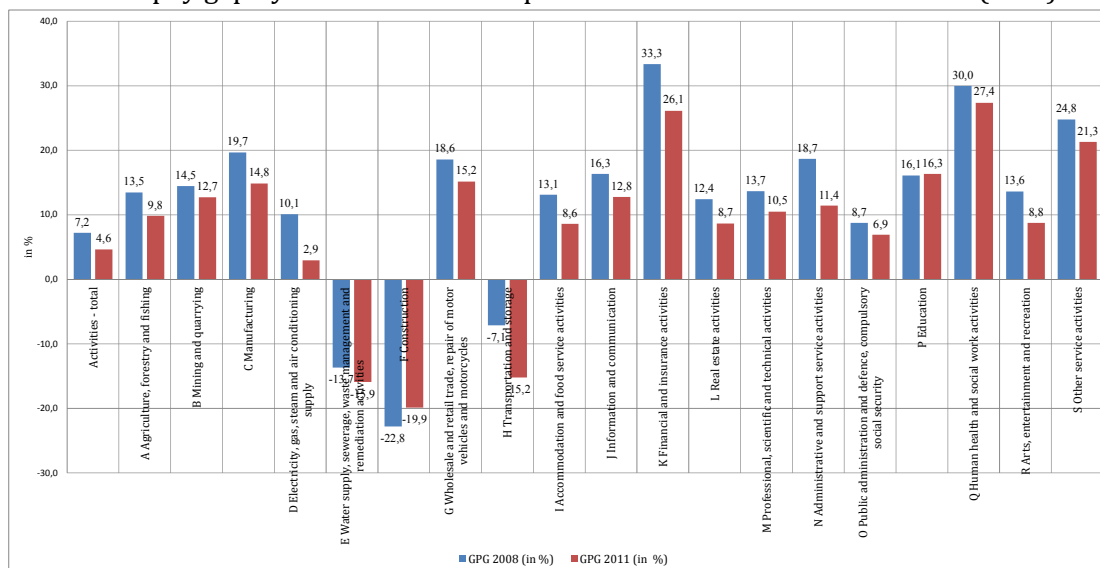
Differences between women's and men's salaries in Slovenia increase dramatically at the activity level. While the gender pay gap in Slovenia in 2012, according to the structure of earning statistics (SURS, 2013) equalled 5.12 %, it reached as much as 26.5 % in **human health and social work** activities, where the difference between gross salaries of women and men was the highest. On average, women in this sector earned 26.5 % less than men employed in this sector. The situation was similar in **financial and insurance services**, where women's salaries lagged behind men's by 24.9 %.

In 2012, women's gross salaries were on average higher than men's in construction (by 18.4 %), in transportation and storage (by 16.1 %) and in water supply, sewerage, waste management and remediation (by 14.8 %) sectors. The differences in average salaries in 2012 were the lowest in the real estate sector with men earning 6.1 % (or EUR 98) more. In public administration and defence and in compulsory social security activities women's salaries lagged behind men's by 6.5 % or EUR 121.

Figure 6 shows the gender pay gap in Slovenia by activities for 2008 and 2011⁵. According to SURS, the gender pay gap in most sectors in 2011 was narrower than in 2008, regardless of the fact that no specific political measures had been adopted nor measures taken by social partners in order to improve the situation as regards pay for equal work or work of equal value irrespective of gender.

⁵ At the time of publication of this Study the data at the activity level for 2012 was not yet available.

Figure 6: Gender pay gap by activities in the Republic of Slovenia in 2008 and 2011 (in %)



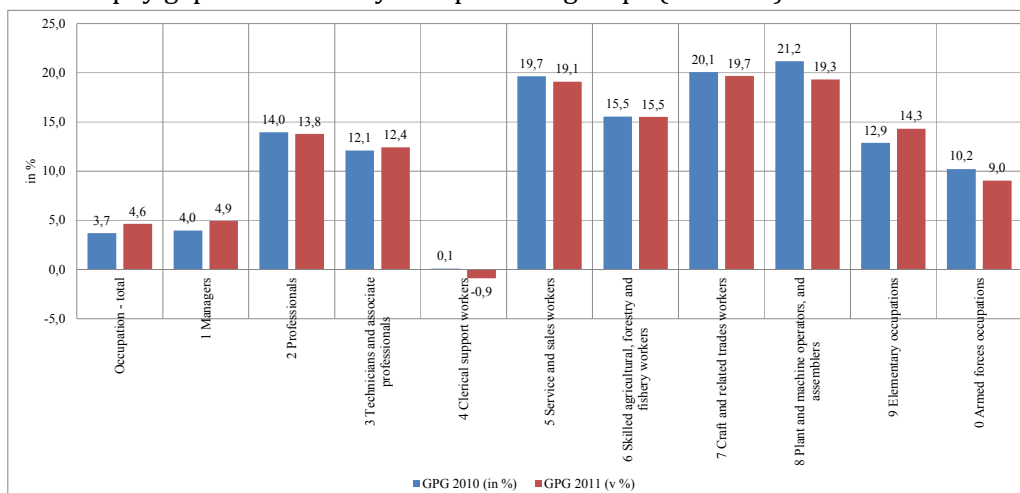
SOURCE: SURS – SI – STAT Data Portal

5.3.2.4. Gender pay gap by groups of occupations

Pay differences as per occupational group and gender show a similar picture. On average, in all groups of occupations women earn less than men working in the same occupation. The largest differences between salaries of women and men are recorded for the professional occupational group. Professional women earn as much as EUR 352 per month less than male professionals, or 86 % of men's salary. The situation is similar in the occupational group service workers, vendors and for the group craft and related trades workers, where women earn EUR 238 less per month than men in the same occupation; women's salaries therefore only reach 81 % of men's salary in occupations of services workers and vendors, and 80 % of men's salary in the occupational group of craft and related trades workers.

The only exception within occupational groups is the clerical group, where average women's monthly salaries were on average EUR 12 or 0.9 % higher than men's.

Figure 7: Gender pay gap in Slovenia by occupational groups (SKP - 08) for 2010 and 2011 (in %)



SOURCE: SURS – SI – STAT Data Portal

5.3.2.5. Gender pay gap by jobs

Gender pay differences in the workplace have not been studied much in Slovenia. The most significant study of this kind was the survey on gender inequality in the period from 1993 to 2007 (Penner et al., 2012).

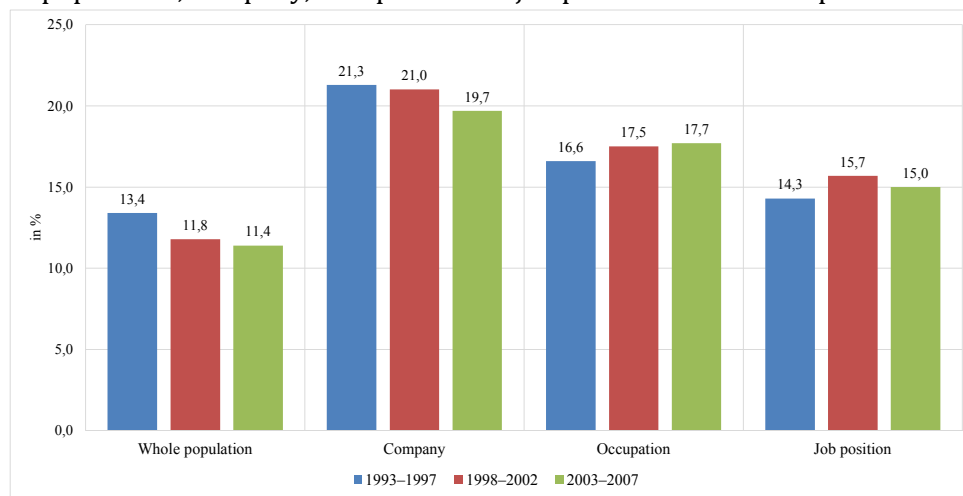
The analysis revealed a significant increase in gender-based differences in the period 1993 to 2007. While men in the post-independence period (1993 to 1997) earned on average and at the job level about 15% more than women, this difference increased in the period 2003-2007 with men on average earning 23 % more than women and 18 % more than women performing equal work for the same employer. Contrary to popular wisdom, the same was found also for the public sector.

Figure 8 shows the percentage by which men's salaries exceed women's for individual periods observed. It gives a comparison of women's and men's salaries for the entire population, according to organisation, occupation and occupational-organisational unit. Figure 8 shows results without consideration of the level of education and work experience.

The results of the survey demonstrate that in the period 1993-1997 women as a whole earned about 13 % less than men; in the period 2003-2007 this difference dropped by two percentage points to 11 %. It should on the other hand be noted that the difference between men's and women's salaries in the observed period increased at the occupational- and job levels (Penner et al., 2012).

Thus the results showed that on average women in the period 2003-2007 earned 11.4 % less than men, but 19.7 % less than men in the same company, 17.7 % less than men in the same occupation and 15 % less than men doing the same job.

Figure 8: Pay differences by gender: the percentage by which men's salaries exceed women's salaries in the population, company, occupation and job position in different periods

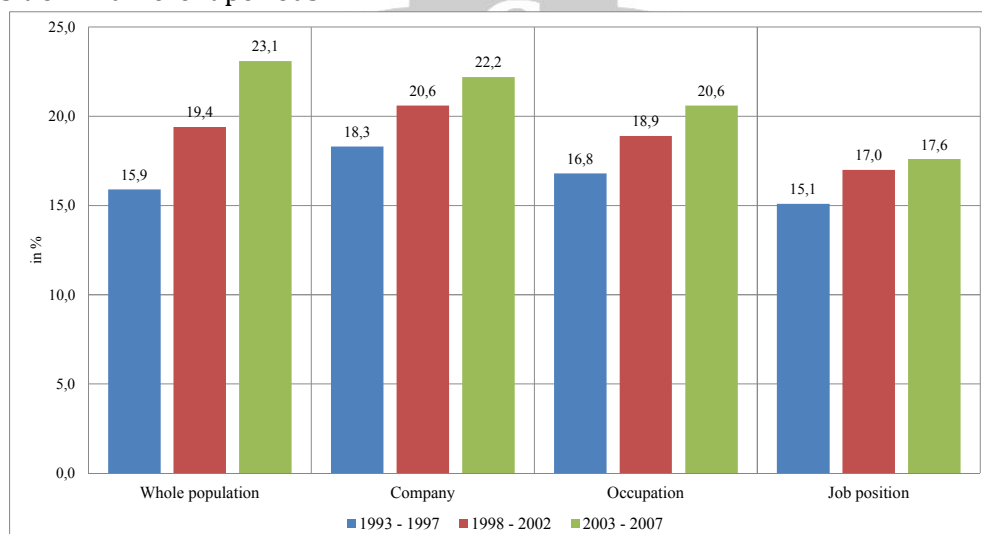


Source: Penner et al., 2012

Figure 9 shows results of the analysis with consideration of level of education and work experience, demonstrating that in this case the gender pay differences only increase further. Gender-based differences are therefore more pronounced when we compare women and men with similar education and experience as opposed to women and men in the labour market as a whole. With consideration of education and experience the differences increase with time. At the level of the entire population women in the period 1993-1997 earned about 16 % less than men and 23 % less than men in the period 2003-2007. At the job level, gender pay differences increased from 15.1 % in the first period to 17.6 % in the last period (see Figure 10).

When researchers considered education and work experience, gender disparities in the initial period were more significant at the level of organisations and occupations than at the level of the entire population, while in the last period these disparities were larger at the level of the labour market as a whole compared to those within organisations, occupations and job positions (Penner et al., 2012).

Figure 9: Pay differences by gender: the percentage by which salaries of men exceed salaries of women with the same education and years of experience within the population, company, occupation and job position in different periods



Source: Penner et al., 2012

In addition, the analysis showed that the major part of the differences in salaries occurs when men and women performing equal work for the same employer receive different pay, and that gender pay differences in Slovenia are less the result of classification to well-paid companies and occupations than other reasons (Penner et al., 2012).

The researchers made similar calculations for the public sector, where the results showed considerable differences between salaries of men and women. With consideration of education and experience women in the public sector in the period 2003-2007 earned 24.1 % less than men in the public sector as a whole. Women performing equal work for the same employer earned 13.5 % less than men in the same job. Differences at the population level are therefore larger than for the labour market as a whole, whereas the differences at the job level are slightly smaller for those employed in the public sector.

Contrary to popular belief, the results showed that the major part of pay differences occurs at the job level, and that men and women earn different salaries when performing equal work in the same organisation. This finding applies to all periods at all levels, regardless of whether education and experience were considered or not. Moreover, researchers found that in Slovenia job classification (occupational segregation) is not the main factor of gender pay inequality, but that it, on the contrary, even conceals gender pay differences at the job level (Penner et al., 2012).

An older analysis of gender pay differences (Kozmik Vodušek, 2001) showed that employers usually do not employ different criteria to determine base salary based on gender, but that the differences occur mainly on account of incentives/fringe benefits. According to the results of analyses men receive on average 46.9 % higher incentives and/or fringe benefits than women.

Many other analyses have shown that activities and jobs that are mainly done by women are evaluated as less demanding and are in turn both less valued and paid less. When similar work is done by men the status changes – work is attributed a higher status and a higher pay. Authors of the Employment in Europe report also find that the gender pay gap in EU countries is largely influenced by gender segregation of activities and occupations and by lower salaries in feminised activities and occupations.

6. EMPIRICAL ANALYSIS IN COMPANIES

Slovenian legislation expressly prohibits any discrimination as regards both employment and salaries. The Employment Relationship Act (ZDR-1, 2013) imposes on employers the obligation to pay to their employees equal remuneration for equal work or work of equal value regardless of gender. Any employment contract, collective agreement and/or employer's general act contrary to this provision is regarded as invalid. This is the main reason it is widely believed that gender pay differences in the same job positions do not exist. While national-level data indicates only small gender pay differences these see an increase at the level of economic activity, occupational and job levels. In light of this increase in gender pay differences that occur upon transition to the lower levels it was the main goal of this project to determine whether differences occur at the level of the same job position in selected Slovenian companies.

6.1 Company-level analysis

When examining the statistics it became clear that there is no data available for the payments for equal work or work of equal value at the job level or at the level of type of work or groups of jobs, nor was there any data demonstrating the implementation of the principle of equal pay for work of equal

value. Large disparities occur already in discussions on which jobs or types of work are comparable with regard to education, experience and effort, and which jobs can be treated as equal.

Five companies from the private and the public sectors were invited to participate in the research to determine whether differences in pay for equal work or work of equal value occur at the job level. Three companies responded positively while two declined to participate. The analysis sought to include the service-, industry- and public sectors. The request for data was communicated to companies from the energy-, chemical and rubber industry, retail, catering and tourism, and health care sectors.

Only socially responsible companies responded to the initiative, all expressing interest in obtaining an insight into their internal situation in terms of the implementation of the principle of equal pay for equal work or work of equal value and were ready to submit the relevant data. The companies included in the analysis came from the energy industry, chemical and rubber industry and from the retail sector.

Even though according to the statistics (SURS, 2013) the most significant differences between salaries of men and women at the level of activity occur in **human health and social work activities**, the public institution from this industry declined to participate in the project and share data on salaries at the level of jobs by gender. In the interview they claimed that there were no gender-based differences, that salaries are determined by law and according to collective agreement, that everything is regulated and determined and that they are a distinctly female organisation which employs an insufficient number of male employees for a specific job. Any differences that may occur are attributed exclusively to education, experience and working conditions. It should be noted that this institute keeps no records or pay analysis by gender and no gender based analysis of pay for equal jobs.

The **catering** company that initially responded positively later refused to participate in the project when they were required to submit the relevant data. Instead, the company claimed they “can declare with full responsibility that gender does not constitute a criterion for salary determination. Jobs are classified into tariff groups with consideration of the amounts laid down by the collective agreement for the catering and tourism industry. In addition the company employs a regulated salary grade system within the tariff group, which gives employees promotion opportunities in line with the complexity of their tasks, additional skills and competencies. Salary therefore depends on the job and not on the gender of the person performing it.”

Our analysis thus encompasses 2,291 employees in 34 jobs classified into different tariff groups⁶, which allowed us to demonstrate gender pay differences also in terms of the completed level of education. The analysis included 688 men and 1,603 women. Although small, this sample of companies and jobs contributed to our determination of whether gender-based differences in the same job position exist.

6.2. Data base

The basic criteria in the selection of jobs included in the survey was classification of jobs and job complexity, which revealed the complexity of work for a specific job, work description, required qualifications, work experience and any other requirements and working conditions that may have

⁶ In Slovenia, employees are classified into different tariff groups with regard to job complexity and required level of education as stipulated in the job classification act.

been relevant. Another criterion for including a job into the analysis was the requirement that at least 10 % of members of the opposite sex were employed in the observed job position.

The selected jobs included those that according to in-company job classification also represent occupations (e.g. chef, waiter, salesperson, specialist doctor, nurse, and similar). Selected jobs also meant a career opportunity in the same occupation or a promotion on account of extensive work experience and good performance (e.g. salesperson I, II, III, specialist salesperson). We selected jobs with required different levels of education, from the most undemanding to the most complex jobs (ranging from tariff group I to VII), in order to determine gender pay differences in terms of education and job complexity. March 2013 was selected as the reference month in order to eliminate the holiday factor.

In accordance with Article 126 of the Employment Relationship Act (ZDR-1, 2013) a gross salary paid is composed of **base salary**⁷, **allowances** (for years of service, special working conditions associated with distribution of working hours and for special working conditions associated with specific burdens at work, unfavourable environmental factors and hazards at work that are not considered in job complexity and in turn in an employee’s base salary) and **performance pay**. Performance pay is a constituent part of the salary if laid down by the collective agreement or employment contract.

Table 1: Composition of paid salary in accordance with ZDR:

Base Salary
+ allowances
+ work performance
+ business performance
= PAID SALARY

Source: ZDR-1, 2013

In order to include all components of paid salary except business performance the companies provided data that included:

- **gross salary for full-time work** (in EUR) for an individual job or gross hourly rate for **hours worked** in March 2013. This gross salary represents payment for regular work (work in hours) without work-related compensation (annual leave, holiday, sick leave and similar);
- **allowances:** companies provided data on allowances associated with the distribution of working hours (night work, overtime, Sunday work and similar) and allowances for special working conditions associated with specific burdens at work, unfavourable environmental factors and hazards at work (that are not contained in job complexity), and seniority allowance. These were also calculated in average per hour.
- As **performance pay** constitutes part of the gross salary paid, companies also submitted data on the calculation and payment of performance pay for female and male employees if this form of remuneration had been paid in the observed month of March 2013. Performance pay was calculated as average amount in Euros per hour.

For each job they were requested to state the total number of employees in a certain job position with indicated proportion of women and men.

⁷ **Base Salary** is determined with consideration of the complexity of the job position for which a worker has concluded the employment contract.

6.3. Results

Based on the obtained data we calculated pay gaps for individual jobs as per all components of the salary presented below.

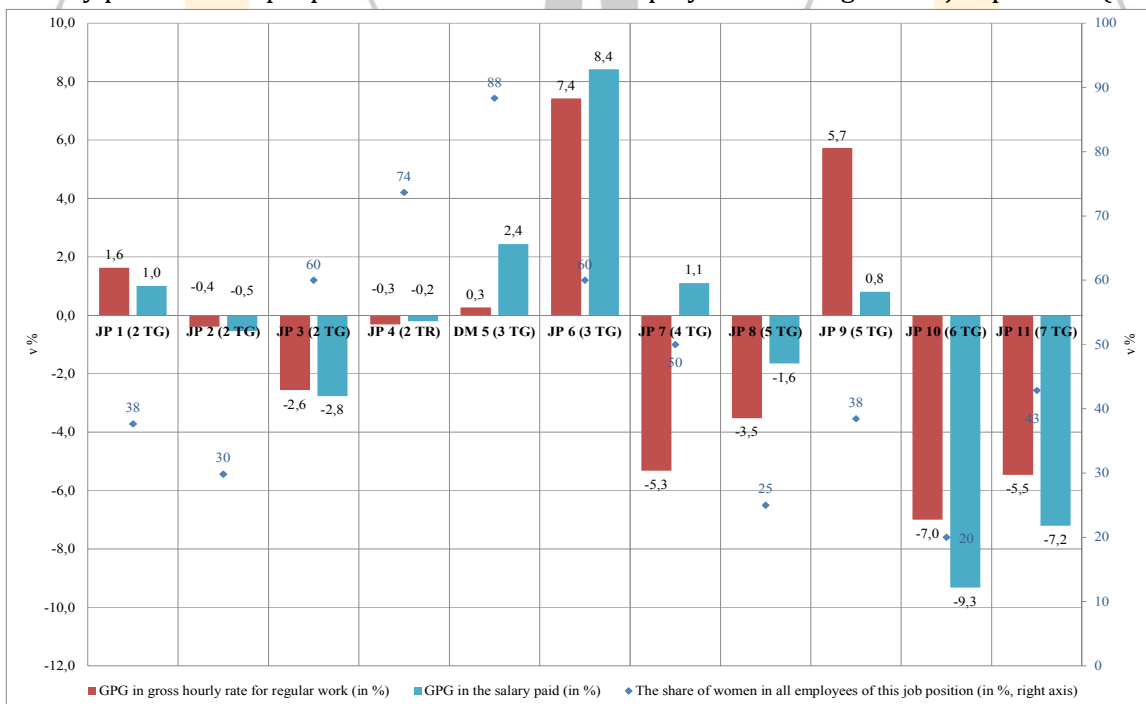
As demonstrated by Figure 10 for **company number 1**, gender pay differences at the level of individual jobs occur already in the salary for regular work hours performed at the same job position, and these differences only increase with the total payment.

In job position 6 classified into the third tariff group women generally earned more than men working in the same position. Data for job positions 10 and 11 classified into tariff grades 6 and 7 on the other hand demonstrate that men in this position generally earned more than women.

On average, women in job position 9 classified into tariff group 5 earned 5.7 % more than men in the same position in the observed month. The difference decreased significantly with the salary paid as the men employed in this position worked at night and in turn received payment for night work that the women did not receive. The data also demonstrates that men received higher payment for working conditions than women, which reduced the difference in paid salary to 0.8 %.

The situation is similar for job position 7 from tariff group 4. Although women on average received lower payments for regular work than men in the same job (by 5.3 %), the salary paid to women on average exceeded the salary paid to men by 1.1 %, namely on account of payments associated with the seniority-, afternoon- and night shift allowances.

Figure 10: Company number 1: gender pay gap in gross salary for regular work, gender pay gap for gross salary paid and the proportion of women in all employees working in this job position (in %)

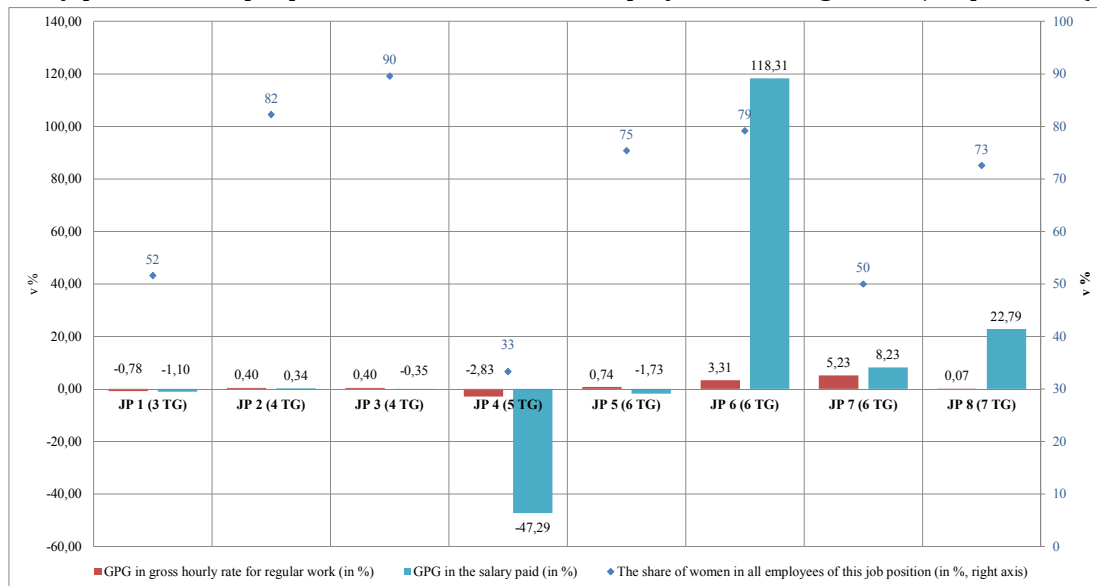


Source: Company data, own calculations.

Note: 1) Gender pay gap in gross hourly rate for regular work is calculated based on data on gross salary paid for regular work, calculated to an hour of work in March 2013 (exclusive of sick leave allowance, annual leave and holiday allowance ...). 2) Gender pay gap in the salary paid together is calculated based on the data that include details on all components of the paid salary by gender.

As demonstrated by Figure 11, gender pay differences in **company number 2** are minimal. The largest disparity occurs in job position number 6 that is classified into tariff group 6. According to the available data, the difference in paid salary, which favours women (by 118 %) arises only because women received payment for overtime work in that month, while men did not. In job position number 4 classified into tariff group 5 the difference favours men (by 47.29 %) on account of the allowance paid for night work that women working in the same job position did not receive in that month.

Figure 11: Company number 2: gender pay gap in gross salary for regular work, gender pay gap for gross salary paid and the proportion of women in all employees working in this job position (in %)



Source: Company data, own calculations.

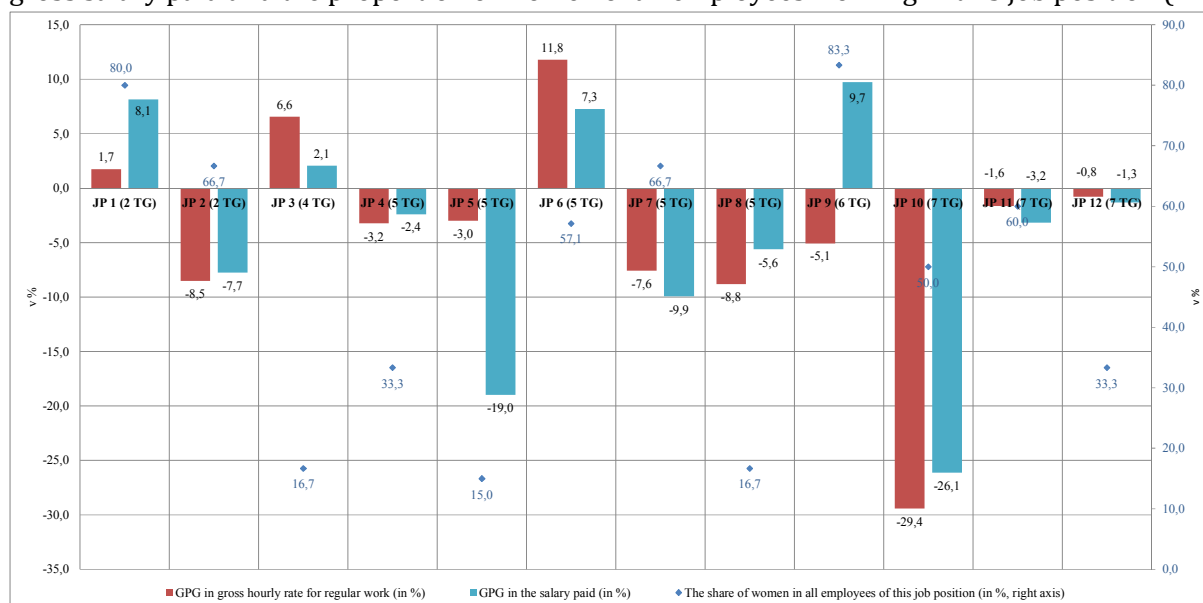
Note: 1) Gender pay gap in gross hourly rate for regular work is calculated based on data on gross salary paid for regular work, calculated to an hour of work in March 2013 (exclusive of sick leave allowance, annual leave and holiday allowance ...). 2) Gender pay gap in the salary paid together is calculated based on the data that include details on all components of the paid salary by gender.

Results of the analysis based on the data provided by **company number 3** are shown in Figure 12. In this company too gender pay differences arise already in the salary for regular work in the same job position and further increase in the full payment.

The largest differences between salaries of men and women are in job position 10 that is classified into tariff group 7. On average, men in this position earned 29.4 % more for regular work than women, with the difference slightly smaller in the salary paid. Women's salaries were higher than men's in job position number 6 classified into tariff group 5, as well as in job position 3 classified into tariff group 4.

On average, women working in job position number 9 classified into tariff group 6 received lower payments for regular work than men in the same job (by 5.1%), but on account of seniority allowance their mean salary paid exceeded the salary paid to men in this job (by 9.7%).

Figure 12: Company number 3: gender pay gap in gross salary for regular work, gender pay gap for gross salary paid and the proportion of women of all employees working in this job position (in %)



Source: Company data, own calculations.

Note: 1) Gender pay gap in gross hourly rate for regular work is calculated based on data on gross salary paid for regular work, calculated to an hour of work in March 2013 (exclusive of sick leave allowance, annual leave and holiday allowance ...). 2) Gender pay gap in the salary paid together is calculated based on the data that include details on all components of the paid salary by gender.

6.4. Key findings

Our survey showed that, contrary to popular belief that there are no gender pay differences in Slovenia, such differences at the company level do exist. Moreover, the determination of base salary and classification into a relevant salary grade within the tariff group turned out to play a significant role in the incidence of gender pay differences. The results showed that differences occur also between hourly rates for regular work classified into the same tariff group and salary grade. Differences therefore occur already in the base salary and increase with total earnings, because according to the Slovenian salary scheme allowances are calculated as a percentage of base salary (e.g. in the trade sector 100 % of base salary for Sunday work) and as a result, allowances are lower for lower salaries and in turn so is the total salary paid.

In our survey of salaries paid we find that differences occur also in terms of performance pay and promotions. This is due in part to incentive schemes that reward job attendance. Certain company collective agreements or employer's acts also specify attendance pay, both in the service and in the industry sectors. This has led to direct discrimination of women who have higher rates of family-related absences from work (care for children and aging parents) and are therefore not entitled to this part of the salary; in addition, this allows them fewer opportunities for promotion and in turn into a higher salary grade. Some companies also have a clause stipulating that in the event of illness a worker is entitled to his/her first performance pay not sooner than in six months, regardless of the results he/she has achieved. Such cases also demonstrate direct discrimination on the grounds of sick leave.

Key findings:

- pay differences between women and men for work actually done in the same salary grade, in the same tariff group and under the same working conditions for the same employer exist;

- the differences occur in hourly rates for full-time work or in payment for the hours actually performed, exclusive of allowances for working conditions, compensations for annual and sick leave, holiday allowance, performance pay and seniority allowance, and increase in full salary paid;
- pay differences between women and men within the observed companies, as at the national level, increase with higher tariff groups and in turn with higher education and a higher level of job complexity.

7. CONCLUSIONS

Employees are human capital, a prerequisite for production and provision of services. From an economic perspective it is important that people are happy and that there are no unjustified differences between them. In this context, salaries play a significant role. Slovenia is no exception to the rule that women on average earn less than men, although they are generally better educated and work the same number of hours. A relatively narrow gender pay gap at the national level compared to other EU Member States is not enough, we should be concerned about the large gender pay differences at the level of activity and at the same job position.

In view of the provisions of the employment relationship act that prohibits any discrimination both in terms of employment and salaries and which stipulates that employers are obliged to pay equal remuneration for equal work or work of equal value irrespective of gender while at the same time declaring any employment contract, collective agreement or employer's general act whose provisions are contrary to this principle invalid, we would expect there should be no differences in salaries for work in the same job position. The national statistics unequivocally testify to the fact that differences between salaries of women and men exist; while small at the national level they rise at the level of activities and jobs. The analyses conducted at the job level demonstrated that gender differences in salaries exist.

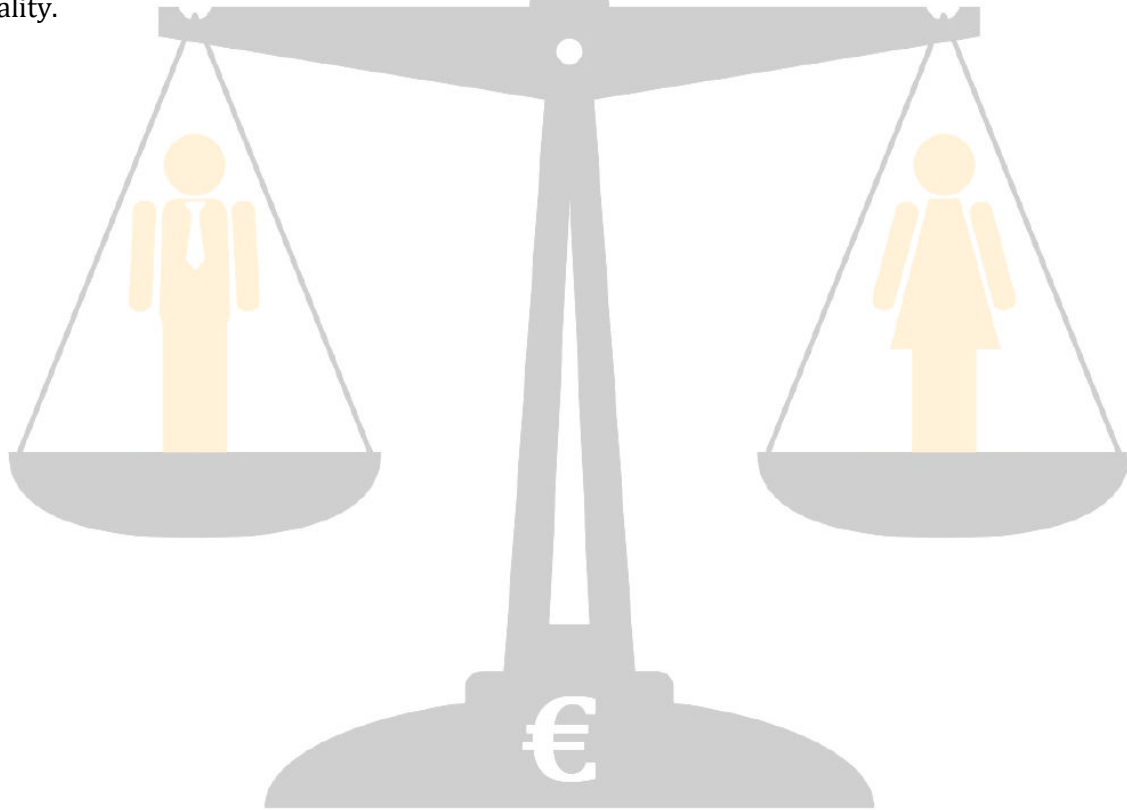
First of all, we should raise awareness and learn to recognise the fact that gender differences exist. In order to reduce pay inequality both the state and social partners should reinforce their commitment to adopt measures that will enable the enforcement of the principle of equal pay for equal work or work of equal value in practice and assume the responsibility for its implementation. Further analyses are needed that will expose the specifics of mechanisms and performance assessment processes which at the job level represent the key basis for the incidence of gender pay differences. An agreement should be made on which jobs are comparable enough to serve as the basis for the assessment of work of equal value. An important step to be taken is the raising of awareness of and calling attention to the fact that not only do gender pay differences for equal work or work of equal value exist, they exist on the Slovenian labour market.

To consolidate and simplify supervision over the implementation of the principle of equal pay for equal work (Article 133 of the ZDR-1) or work of equal value in practice, we need to introduce legislative changes in the field of collection of statistical data. The existing sources of data should be extended and improved, especially in terms of accessibility of data on salaries by gender at the employer level.

Equal pay for equal work or work of equal value for men and women is a wide-ranging issue and the reasons for pay differences between women and men are complex and frequently interdependent. The gender pay gap is therefore caused both by direct and indirect discrimination and by social and

economic factors, including vertical and horizontal segregation of the labour market, undervalued women's work, inequality in balancing work and family, tradition and stereotypes. Enforcement of the principle of equal pay for equal work irrespective of gender involves several decision-makers and levels of decision-making and negotiation: state authorities, employers and their associations on the one hand, and employees and representative unions on the other. Initiatives and incentives are necessary that will facilitate adoption of those instruments that will enable the implementation of this principle in practice. In view of the absence of the key instruments of enforcement it is understandable that there has not yet been any litigation on these grounds. This, however, does not imply that there are no differences between salaries of women and men for the same work or work of equal value in Slovenia.

The lack of thorough analyses at the level of activities, occupations and jobs at the same employer does not allow for definitive conclusions on where these differences occur and why. This analysis however, confirmed predecessors' previous conclusions that gender differences in the same job exist (also at the level of base salary) and that further analyses are required in order to reduce gender pay inequality.



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