a culture that pays little, if any, attention to issues of discrimination in pay.[194] A successful case under the New Zealand Equal Pay Act 1972 may help to restore equal pay issues to the negotiating agenda for both individual and collective contracts.

---

194 For a summary of what has happened to women's pay under the Employment Contracts Act see M Coleman "Pay Equity: Hard Work Down Under" in J Gregory, A Hegewisch & R Sales *Women, Work and Inequality: The Challenge of Equal Pay in a Deregulated Labour Market* (MacMillan, forthcoming).

HARMONISATION OR DEREGULATION? - IMPLEMENTING EQUAL PAY LAW IN THE EUROPEAN UNION AND THE UNITED KINGDOM

Jeanne Gregory[*]

This article discusses the implementation of equal pay law in the European Union and particularly in the United Kingdom. In addition to examining the current legal framework it considers possible developments of equal pay law in the United Kingdom and at European Union level given recent changes in the political environment.

I INTRODUCTION

The globalisation of production in recent years has precipitated a profound shift in the economic and social policies of western democracies, a process accelerated by the collapse of communism in Eastern Europe. Neo-liberalism is in the ascendance: the response to economic recession, fiscal deficits and structural unemployment is to abandon universalist principles of welfare provision in favour of selectivism and individual responsibilty and to move away from employment protection in the labour market towards deregulation. In the context of the European Union (EU) however, historical, political and legal pressures have combined to apply the brake on the headlong rush towards 'marketisation' and offered a breathing space for those who seek less draconian solutions to the current economic difficulties.

Equal pay advocates in Europe find themselves caught up in these conflicting forces. On the one hand, the creation of more flexible and casualised labour markets is producing a bewildering array of payment systems and a substantial increase in the number of workers without employment protection or trade union membership. On the other hand, because the principle of equal pay is firmly enshrined at the heart of EU social policy, European law provides a useful lever for preventing the repeal of national equal pay

* Professor J Gregory, Head of Gender Research Unit, Middlesex University, England.

legislation, while ensuring that the laws are interpreted in accordance with the standards set by the European Court of Justice (ECJ).

This article sets out to explore some of these tensions through an examination of developments in equal pay case law in the EU and the United Kingdom, contrasting European initiatives directed at more effective implementation, with the minimalist approach of the United Kingdom Conservative government. The article concludes by revisiting the social and economic agenda of the EU and of the new Labour government in the United Kingdom, in order to assess the prospects for making equal pay a reality in the near future.

II THE LEGAL FRAMEWORK

A European law

When the United Kingdom government signed the Treaty of Rome in 1973, it joined a European Community (EC)[1] which had as its primary focus greater economic co-operation, aiming to dismantle trade barriers and ensure fair competition between its members. From its inception, the EC also aspired to achieve greater social and political harmonisation, with a view to avoiding future wars and improving the working and living conditions for the citizens of Member States.

The history of Article 119, establishing the principle of equal pay for equal work, in many ways epitomises the relationship between the economic and social dimensions of the Community. It was France that insisted on the inclusion of Article 119 in the Treaty, demanding that other countries follow the French lead, so that they would be unable to undercut France by using women as a source of cheap labour. Article 119 was therefore conceived as an aid to fair competition in the labour market, rather than as a human rights measure; indeed, it was shifted from the economic core of the Treaty to the Title on Social Policy at a late stage in the drafting process, probably in order to boost the content of this section, which was otherwise rather thin.[2]

None of the six Member States who signed the Treaty of Rome in 1957 took any action in relation to Article 119 until women munition workers in Belgium went on strike for equal pay in 1966; in the absence of any Belgian law on equal pay, the strikers appealed directly to European law. The successful outcome of this strike, through negotiation rather

---

1 The name 'European Union' was adopted by the Treaty on European Union (The Maastricht Treaty) in December 1991 and has been in common usage since November 1993 when the Treaty came into force. Prior to this date, the terms 'European Economic Community' and 'European Community' were used.

2 See C Hoskyns *Integrating Gender: Women, Law and Politics in the European Union* (Verso, London, 1996) Chap 3.

than litigation, prompted a feminist lawyer, Eliane Vogel-Polsky, to search for a suitable case to test the possibility of making direct use of EC law in the Belgian national courts. This resulted in three separate cases before the ECJ during the 1970s, all involving the same airline stewardess and although the outcomes were somewhat mixed, the cases did establish that Article 119 is directly applicable in national courts.[3] They also led to the passing of the Equal Pay Directive in 1975,[4] which clarified the scope of Article 119, referring explicitly to equal pay for work of equal value and giving Member States one year to pass legislation in compliance with the Directive.

B United Kingdom law

The United Kingdom Equal Pay Act 1970 was drafted before the United Kingdom became a member of the EC, but came into force in 1975, the same year that the Equal Pay Directive was passed, and two years after the United Kingdom joined the Community. It fell short of the requirements of European law because it only applied where a woman was employed on 'like work' or 'broadly similar' work to a man in the same employment or where their jobs had been rated as equivalent under a job evaluation scheme. Following a decision of the ECJ in 1982, the government introduced the Equal Pay (Amendment) Regulations 1983, widening the scope of the law to include equal pay for work of equal value. It did so with extreme reluctance, as strengthening equal pay law directly contradicted its commitment to 'lifting the burdens on business' and allowing wages to find their own level in a 'free'market. The procedures introduced in 1983 were exceedingly complex, ensuring that litigation was expensive and time-consuming and that outcomes remained uncertain.

Despite these difficulties, there has probably been more litigation in the United Kingdom under the equal pay legislation than in the rest of the Member States put together. There are a number of reasons for this, including the willingness of trade unions to litigate if negotiations fail, and the lead taken by the two Equal Opportunities Commissions (EOCs) in Britain and in Northern Ireland in representing applicants in cases which affect large numbers of women or raise key points of law. There has also been an increasing willingness on the part of the industrial tribunals and the higher courts to reach decisions in conformity with European law where the domestic legislation is unclear or unsatisfactory, obviating the need to pursue claims as far as the European Court of Justice.

---

3 The cases were *Defrenne v Belgium* (No.1) [1971] ECR 445; *Defrenne v Sabena* (No.2) [1976] ECR 445 and *Defrenne v Sabena* (No.3) [1978] ECR 1365. The issues concerned exclusion from a state pension scheme, unequal pay and discriminatory retirement ages.

4 Council Directive 75/117/EU.

III KEY DEVELOPMENTS IN CASE LAW

A The European Court of Justice

If the Council of Ministers thought it had found something safe and non-controversial to include in the social policy section of the Treaty of Rome, it was very much mistaken. The forceful wording of Article 119 is a reflection of its initial inclusion in the economic core, where stronger obligations were being created.[5] Its relocation in the section on social policy has strengthened the obligations on Member States in relation to a particular area of social policy, ie sex equality, in a way that none of them foresaw. Three equality Directives were passed during the 1970s, the one on Equal Pay[6] and two on Equal Treatment;[7] together with Article 119, they have provided the springboard for the creation of a strong body of rights, and the flow of cases brought under their provisions continues to the present day. During the 1980s and 1990s, the Council of Ministers has proceeded more cautiously, so that subsequent sex equality measures have not created such open-ended obligations.

The European Court of Justice is composed of judges from each Member State. It hears cases against Member States who have failed to pass laws in compliance with European law (a procedure established under Article 169 of the Treaty of Rome) and also answers questions put to it by national courts, to help them decide individual cases in conformity with European law.[8] After a rather timid start, the Court seemed to become impatient with Member States who had had plenty of time to comply and who seemed to be dragging their feet. The European Commission started infringement proceedings under Article 169 against most Member States, but only in some cases, including the United Kingdom, did it prove necessary to pursue the matter as far as the ECJ before the Member State agreed to bring their national laws into line.

With regard to individual cases under Article 177, the European Court has helped to widen the definition of pay, to extend benefits to part time workers and to raise the standards of employers' defences for inequalities in pay. All these developments have proved useful in mounting challenges to those forms of labour market restructuring which impact particularly severely on women. A wide definition of pay means that bonuses, allowances and other benefits offered to men but not to women may be illegal. Also, employers cannot simply exclude part timers from a whole raft of benefits without

---

5 Above n 2.

6 Above n 4.

7 Council Directive 76/207/EU and Council Directive 79/7/EU.

8 Treaty of Rome, Article 177.

providing a justification for this, which means that they have to demonstrate that the measures correspond to a real need on the part of the undertaking and are both appropriate and necessary to achieving those objectives.[9] A Danish case was important in establishing that if payment systems are not transparent, the burden of proof is on the employer to show that the system is not discriminatory.[10] This means that individualised pay awards and merit payment systems where the criteria are not made explicit or are subject to sex bias can be challenged. Finally, in the case of *Enderby v Frenchay Health Authority and Secretary of State for Health*,[11] the Court held that separate collective bargaining structures could not be used as a justification for unequal pay; nor could employers use skill shortages as a defence without providing detailed evidence that would explain all of the pay difference.

B Case Law in the United Kingdom

Two important cases before the ECJ in the early 1980s and originating in the United Kingdom established that a woman can claim equal pay with the man doing the job before her[12] and that travel facilities given to retired employees constitute pay and so should be granted to women on the same basis as men.[13] Since then, European law has proved useful in a number of equal pay cases but, with the exception of *Enderby*, the legal issues have not been referred to the ECJ, but have been resolved by the domestic courts, with the House of Lords proving increasingly confident in interpreting United Kingdom and European laws together.

Two recent United Kingdom cases provide an excellent illustration of the ways in which equal pay law is being used to limit the damage of deregulation and fragmentation in the labour market. The first of these, *Ratcliffe v North Yorkshire County Council*[14] did go all the way to the House of Lords and centred on the question of whether the requirements of compulsory competitive tendering legislation could serve as a defence for unequal pay. The second was decided by the Employment Appeal Tribunal and concerned the definition of 'in the same employment', an increasingly important issue, given the break-up of large organisations into smaller units of employment.

---

9 See *Bilka-Kaufhaus GmbH v Weber von Hartz* [1986] IRLR 317.

10 *Handels-og Kontorfunktionaerernes Forbund i Danmark v Danfoss* [1989] IRLR 532.

11 [1993] IRLR 591.

12 *Macarthys v Smith* [1980] IRLR 210.

13 *Garland v British Rail Engineering* [1982] IRLR 111.

14 [1995] IRLR 439.

Compulsory competitive tendering for local authorities was introduced in the United Kingdom during the 1980s, requiring them to tender a range of manual services previously provided 'in house' and unopposed by the private sector. In 1992 this was extended to white collar services and in 1993 local authorities were given responsibility for community care, but they were to act as 'enabling agencies' rather than 'providers of care'. As a result of these measures, an increasing proportion of the work previously undertaken by local authority employees found its way into the hands of those private contractors who submitted successful bids in the tendering process. Some local authorities entered into this process more enthusiastically than others; many tried to keep as much work as possible 'in house', even if it meant a deterioration in the terms and conditions of work on offer to their employees, as they sought to compete with outside contractors. A research project commissioned by the Equal Opportunities Commission[15] revealed that the introduction of compulsory competitive tendering had impacted particularly severely on women, who had lost out in terms of hours, pay and security of employment even more than men.

The *Ratcliffe* case provided an opportunity to draw attention to the iniquities of compulsory competitive tendering, particularly for low paid women workers. The applicants were employed as catering assistants serving school dinners and in 1987 their work had been assessed under a job evaluation scheme and rated as equivalent to the work of road sweepers, gardeners and refuse collectors. When the Local Government Act 1988 drew the provision of school dinners into the compulsory competitive tendering process, North Yorkshire Council set up a direct service organisation to enable it to bid for the work. In order to be able to compete with the commercial catering contractors, the direct service organisation made the catering assistants redundant and offered them re-employment at lower hourly rates. Some of the women filed a claim for equal pay with male workers still receiving the rates of pay awarded under the 1987 job evaluation scheme. Overturning a decision by the Employment Appeal Tribunal and the Court of Appeal, the House of Lords upheld a majority decision of the industrial tribunal in favour of the women's claim. The employer's defence, that the inequalities in pay were genuinely due to the operation of market forces and the need to compete with a rival bid and had nothing to do with sex, was not accepted. The catering staff were almost exclusively female, whereas the council employees still paid according to the old job evaluation scheme were mainly men. This, said Lord Slynn, 'was the very kind of discrimination in relation to pay which the [Equal Pay] Act sought to remove'. [16]

---

15 K Escott and D Whitfield *The Gender Impact of CCT in Local Government* (Equal Opportunities Commission Research Discussion Series No 12, Manchester, 1995).

16 Above n 14.

Inevitably then, there is a head-on clash between the principle of equal pay and the goal of maximising competitive pressures to force down wage costs; between the principle of employment protection to prevent exploitation of vulnerable groups of workers and the belief that the lower the wages, the more jobs will be created, bringing benefit to the economy as a whole.

The successful outcome in *Ratcliffe* might seem like a pyrrhic victory, with the direct service organisation's bid always being undercut by that of the outside contractors. Another piece of European legislation, the Acquired Rights Directive[17] ostensibly enshrined in United Kingdom law as the Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE), was intended to ensure that workers transferring from one employer to another would have their existing terms and conditions protected, but the case law on this issue has become increasingly complicated, so that it is no longer clear when a TUPE transfer can be said to have occurred. Fortunately, the Labour government which took office on 1st May 1997 is reviewing the operation of compulsory competitive tendering and seems likely to adopt a more balanced approach, which recognises that the quality of service offered is at least as important as the price at which it is offered. This 'best value' approach, in combination with a minimum wage set at or near the recently negotiated local authority rate of £4 an hour, would make it more difficult for outside contractors to undercut in-house bids.

In the meantime, the case of *Scullard v Knowles*[18] offers an alternative strategy for pursuing equal pay claims, despite the fragmentation of the labour market. Susan Scullard was employed as a unit manager by the Southern Regional Council for Education and Training, an independent voluntary association of local education authorities, created in order to co-ordinate the work of colleges of further education. There are 13 such units in Britain, all supported and funded by the Department of Education and Employment. Ms Scullard filed a claim for equal pay, comparing herself with the unit managers employed by other Councils, all of whom received higher salaries than her and all of whom were men. The tribunal dismissed the claim on the grounds that the male comparators were not 'in the same employment' as Ms Scullard, as required under the Equal Pay Act. On appeal, the Employment Appeal Tribunal accepted that the class of comparators permitted under European law was wider than that permitted under United Kingdom law. The test under EC law, as interpreted by the ECJ in *Defrenne No.2*,[19] is whether the woman and her

17 Council Directive 77/187/EU.

18 [1996] IRLR 344.

19 See above n 3.

comparators are employed 'in the same establishment or service'. Applying that test, Ms Scullard was entitled to pursue her claim.

This important decision shifts the focus of attention to the nature of the work, away from the status of the employer and opens up the possibility of comparisons across employers, for example where a service has been contracted out but is still funded by the local authority. It has recently been followed in a tribunal case involving dental surgery assistants who sought to compare themselves with a senior dental technician employed by a different National Health Service (NHS) Trust.[20] The introduction of the internal market into the NHS involved the break-up of the old health authorities and the creation of separate hospital trusts, accompanied by a shift away from national collective bargaining towards the local determination of pay and conditions. The decision of the industrial tribunal in the dental assistants case merely helps restore the status quo ante.

Equal pay advocates often feel that they are living in an Alice in Wonderland world of running very hard simply in order to stand still or, more realistically, to slow down the backward slide into deregulation. They are caught up in a recurring good news/bad news scenario, where there are some victories but many setbacks. During the past eighteen years, the focus has been on using European law to the full, in order to contain 'the enemy within'. More recently, strategies have become less clear-cut; there are mixed messages emanating from Europe, while the long term plans of the new Labour government have yet to be revealed.

IV PERSPECTIVES FROM EUROPE

The principle of equal pay has not lost its place at the heart of European social policy and it is well supported by the European Commission whose Equal Opportunities Unit has continued to seek further progress on this issue. In 1994 the Commission produced a Memorandum on Equal Pay for Work of Equal Value, which summarised the jurisprudence of the ECJ, and in 1996 they issued a Code of Practice on the Implementation of Equal Pay for Work of Equal Value for Men and Women. The Code urges the social partners (employers and unions) to conduct pay audits designed to detect discrimination in pay structures and then to draw up plans for eliminating this discrimination. The steps required to accomplish these tasks are spelt out in some detail; what is missing is the element of compulsion. Codes of Practice are a form of 'soft law' and lack the binding legal force of Directives.

As the climate of opinion during the last ten years has made it increasingly unlikely that the Council of Ministers would accept new Directives on social policy, particularly

---

20 *Hayes and Quinn v Mancunian Community Health Trust and South Manchester Health Authority* [1996] 29 EOR Discrimination Law Digest.

where unanimity was required, the Commission has resorted to 'soft law' measures. A recent example is the Recommendation and Code of Practice on Sexual Harassment, adopted by the Commission in 1991, despite the face that the research evidence had indicated a need for strong enforcement measures. In the event, most Member States responded to the Recommendation and Code in some way and this particular body of soft law is beginning to have an impact. In 1990 the ECJ had ruled that national courts are required to take Recommendations into consideration, particularly where they clarify the interpretation of national law or where they supplement binding measures.[21] The Sexual Harassment Code has been referred to in a number of recent tribunal cases in the United Kingdom; it is to be hoped that the Equal Pay Code can begin to be used in the same way, where employers have made no effort to scrutinise their pay structures for possible sex discrimination.[22]

A number of measures which failed to become Directives when the United Kingdom government exercised its veto are now proceeding under the Social Chapter, through consultation with the social partners. They include provisions on parental leave, the burden of proof in sex equality cases and the rights of part time workers. As the new Labour government has agreed to sign the Social Chapter, these new laws will apply throughout the EU. This would seem to suggest that social policy measures have been in temporary abeyance, awaiting a change of government in the United Kingdom, and that the process of harmonisation is back on course. The picture is however more complicated than that analysis would suggest. First, there has been a definite political shift away from 'harmonisation' in favour of 'subsidiarity', whereby Member States are given a freer hand to decide on a range of domestic issues without interference from Brussels. This fits well with proposals to enlarge the EU, as the extension of membership to Eastern European countries will make it increasingly difficult to impose common standards. Second, as the governments of Member States struggle to meet the convergence criteria for Economic and Monetary Union by reducing budget deficits, social policies have been pushed well down the political agenda. Across the EU, women have been hit particularly severely by the reduction in public sector jobs and the cutbacks in the provision of welfare and social services.

---

21 *Grimaldi v Fonds des Maladies Professionelles* [1990] IRLR 400.

22 In May 1997, the Equal Opportunities Commission in Britain also issued a Code of Practice on Equal Pay, admissable in tribunal proceedings. The two codes taken together should prove extremely useful in negotiations and in tribunal cases, although the EOC in its wisdom chose to highlight the sentence: 'There is no legal obligation on employers to carry out a pay systems review or to adopt an equal pay policy': See Equal Opportunities Commission *Code of Practice on Equal Pay: Challenging Inequalities Between Men and Women* (Manchester 1997).

It would also be incorrect to regard the ECJ as in any sense a pro-feminist institution. Hoskyns argues that 'improving the situation of women has never been a prime objective of the Court, and its rulings only have that effect if the interests of women coincide with other objectives being pursued.'[23] Despite a number of innovative rulings, for example in relation to part time workers and pregnant workers, the Court has refused to acknowledge the importance of women's work as unpaid carers or to intervene in the sexual division of labour within households. It frequently allows the needs of the market to take priority over the principle of equality and has in a number of cases permitted a 'levelling down' of provision against the interests of women. The Court has facilitated women's participation in the labour market by widening the concept of a typical worker to include more women-identified characteristics, but only the political institutions can provide the initiative for broader social policy reforms.

There is no shortage of incisive analysis of these issues within the EU; what is lacking is the political will to take decisive action. The European Commission's White Paper *European Social Policy - A Way Forward for the Unions*[24] singles out three areas of activity for the achievement of sex equality: desegregating the labour market and promoting the value of women's work; reconciling working life and family life; increasing women's participation in decision-making. On the question of job segregation, the White Paper refers to the need to guard against the danger that structural economic change, particularly the development of new technologies and flexible working, may generate poorer working conditions and isolation for women. This is not simply a theoretical danger: the research findings from a number of studies reveal that the increase in the labour market participation of women has not been accompanied by any easing of horizontal or vertical job segregation by sex[25] and that the growth in atypical and part time work merely accentuates the concentration of women in a narrow range of precarious, low-paid and marginal forms of employment.[26]

Having flagged up the key issue, the White Paper is seemingly lacking in the courage to propose strong remedial measures, particularly in the form of new Directives. It insists

---

23 Above n 2, 159.

24 European Commission *European Social Policy - A Way Forward for the Unions* (White Paper, Brussels 1994).

25 See for example, J Rubery and C Fagan *Occupational Segregation Amongst Women and Men in the European Community* (Commission of the European Communities, Brussels, V/2146/92-EN, 1992).

26 See Dickens L *Whose Flexibility? Discrimination and Equality Issues in Atypical Work* (Institute of Employment Rights, London, 1992), M Maruani *The Age of Paradoxes* European Commission Conference Paper on Green Paper on Social Policy (Equal Opportunities Unit, DGV, 1993)

that the key to social progress lies in 'a positive and active conception of subsidiarity' and argues against further legislation:[27]

> Given the solid base of European social legislation that has already been achieved, the Commission considers that there is not a need for a wide ranging programme of new legislative proposals in the coming period.

This seems to put the ball firmly back in the court of individual Member States. As far as the United Kingdom is concerned, this provides an opportunity to reopen a number of doors that were firmly closed during the Conservative administration.

V PERSPECTIVES FROM THE UNITED KINGDOM

In 1993, the Trades Union Congress (TUC) made an official complaint to the European Commission concerning the failure of the United Kingdom government to comply with European law on equal pay. It was particularly concerned that the proposed abolition of Wages Councils would impact severely on low-paid women workers. It also drew attention to lengthy and costly procedures involved in equal pay litigation, which in effect constituted a denial of justice. No sooner had this bulky document arrived on the desk of the Commissioner for Employment, Industrial Relations and Social Affairs than it was followed by a similar document from the Equal Opportunities Commission, also requesting that the European Commission take action against the United Kingdom government.

In fulfilment of the statutory duty to keep the sex equality laws under review, the EOC and the EOC (N.Ireland) have both submitted a number of recommendations to the government for amending the equal pay laws, based on a careful assessment of their operation.[28] If adopted, these proposals would improve access to the judicial process, enhance the quality of adjudication and make a positive step towards the provision of collective remedies. By 1993, the government had made no response; the EOC lost patience and the reference to Europe was about to be sent when a faxed reply arrived from the Department of Employment. Even then, the EOC's key proposals were firmly rejected and only a few minor concessions made, and so the EOC sent its request to Brussels.

Unfortunately, the European Commission seemed embarrassed by the arrival of these two substantial documents. Although claiming in its Memorandum that it 'would continue to have recourse to proceedings under Article 169 of the Treaty when this is considered

---

27 Above n 24, 5.

28 Equal Opportunities Commission Report *Equal Pay for Men and Women - Strengthening the Acts* (Manchester, 1990) and Equal Opportunities Commission (Northern Ireland) Report *Comments on the Operation of the Equal Pay Act (Northern Ireland) 1970 as amended by the Equal Pay Amendment Regulations (Northern Ireland) 1984 and Recommendations for Change* (Belfast, 1990).

appropriate',[29] the Commission decided to take no action against the United Kingdom government for the time being. The political reasons behind this decision remain shrouded in mystery, but it could be that the Commission is more concerned with the lack of litigation in other Member States, as in many ways it regards the United Kingdom as a model of how the laws are supposed to work. Taking the wider view, the Commission may have wanted to avoid antagonising the United Kingdom government any further, given ongoing conflicts in other areas, for example in relation to the BSE crisis, fishing quotas and the Working Time Directive.[30] There was also the imminent possibility that a change of government in the United Kingdom would enable the issues raised by the TUC and the EOC to be resolved at home.

There were no specific commitments in the Labour Party Manifesto concerning the sex equality laws, but in response to specific questions put to all the parties by the journal Equal Opportunities Review shortly before the election, a number of longstanding commitments were reiterated, including the promise of a new Sex Equality Bill combining the Equal Pay and Sex Discrimination Acts into one comprehensive law and the appointment of a Minister for Women with full cabinet status.[31] Since the death of Jo Richardson MP, the position of Shadow Minister for Women has been held by a bewildering number of different women MPs, very few of them holding the post long enough to take the issues forward. At the present time, the brief to look after women's issues has been given to Harriet Harman, the Secretary of State for Social Security and added to the end of an already long job description.

There is a Manifesto commitment to setting a national minimum wage, to incorporating the European Convention on Human Rights into United Kingdom law, to signing the Social Chapter and to working for greater openness and democracy in EU institutions. Finally, the EOR interview raises the possibility of a return to contract

---

29 Commission of the European Communities *Memorandum on Equal Pay for Work of Equal Value* (Office for Official Publications of the European Community, Luxembourg, 1994).

30 The crisis over BSE or 'mad cow disease', with the EU banning exports of beef from the UK, became so vitriolic that at one point John Major refused to sign any EU documents, in an attempt to force the EU to make some move towards lifting the ban. Similarly, the issue of 'quota hopping', whereby some Spanish and Dutch fishermen had managed to purchase some of the UK quotas, was a long-running sore. The Working Time Directive, passed in 1993, was treated as a health and safety issue and adopted under Article 118a, using qualified majority voting and so bypassing the UK veto. The UK goverment objected to the use of this procedure and mounted a challenge in the ECJ. When this challenge failed, the government was obliged to comply with the terms of the Directive.

31 (1997) 72 Equal Opportunities Review 1.