



## Discussion Paper



# The Persistence of the Gender Wage Gap in Germany

Friederike Maier

Harriet Taylor Mill-Institut für Ökonomie und Geschlechterforschung  
Discussion Paper 01, 12/2007

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# **The Persistence of the Gender Wage Gap in Germany**

**Friederike Maier**

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## **Discussion Paper 01/2007**

**Editors: Miriam Beblo, Claudia Gather, Madeleine Janke, Friederike Maier,  
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## **Abstract**

The gender wage gap is remarkably persistent in Germany. Additionally it is among the European Member states one of the highest. The paper examines the empirical data which allow analysing the gender wage gap; it discusses the development of the gender pay gap over time, the trends in wage inequality and the incidence of low pay. As institutional factors are of certain importance, the paper describes the overall system of wage determination, especially the minimum wage regulations. Important is the treatment of gender wage gaps in the equal pay legislation to date, which is analysed in detail. As firm level decisions are of great importance to constitute the gender wage gap, this aspect is discussed, too. The paper summarizes the actual state of the art in empirical studies on the gender pay gap in Germany and comes to the conclusion that relevant factors to explain the persistence are mainly structural factors like vertical and horizontal segregation, especially in the work place. Individual characteristics of women and men (human capital endowments) do play a minor role, but are still existent.

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## **1 Introduction**

The persistence of the gender pay gap is on the agenda in Germany. When the scientific institute of the trade unions, the WSI, presented in December 2005 its new publication called *FrauenDatenReport 2005*, a collection of data and analyses on women's position in the labour market and the society, the major newspapers mainly reported the finding that the gender wage gap is still very large in Germany. When the EU published the new Report on Equality between Women and Men in February 2006, the newspapers reported the growing gender pay gap in Germany. When the Statistical Office produced a press release for International Women's Day on March 8<sup>th</sup>, it mainly focused on the gender wage gap.

A very recent publication of the EU (2007a) pointed out that the German gender wage gap is among the highest in Europe: women receive in average around 22% less than men (see figures and table in the Appendix).

However, there is a lack of action to achieve positive changes in the gender wage gap. It is not considered sufficiently by the social partners in their wage policies, nor in public policy – where the gap could be reduced through moving towards minimum wages or other related initiatives. Although there is an on-going debate about the position of men and women in employment and the role of family policy, this public debate is more influenced by the falling fertility rate than by serious concerns about gender relations and women's position in the economy and the society. Within these public debates the reconciliation of work and children is an issue but the connection of employment, skills, working time, occupational segregation especially vertical segregation and wages/remuneration is not taken up seriously. There have been major changes in labour relations and in social partner relations in wage policy and other issues of collective bargaining – but there is no evidence of “gender mainstreaming” in the negotiation process.

Given these changes (the weaker position of social partner agreements on one hand, and high and stagnating wage differentials between men and women) the role of the state in wage-setting policy becomes more evi-

dent, as well as the “old” question of strengthening women's position in vocational training, in the labour market and in developing careers.

The paper summarizes different aspects of the gender pay gap in Germany: it presents firstly some empirical findings not only over time but also for East and West Germany, it discusses some trends and the incidence of low pay on gender inequality, and it develops the institutional framework of wage (in) equality in Germany. The last parts present some major new studies on gender wage gaps and comments on their findings.

## **2 The gender pay gap: empirical measurement**

### **2.1 The gender pay gap over time**

To analyze gender wage gaps in Germany we may use three different sources (see for details Ziegler 2005: 301ff.):

1. The Federal Statistical Office regularly produces wage data (on a quarterly basis) and occasionally in-depth data (the last in-depth data are from 2001). The *regular quarterly data* are based on employers' data, covering the manufacturing industry as a whole including the construction industry, and some parts of the service sector (trade, banks and insurance). The gross wages paid to full-time employees (workers and salaried employees) who are covered by social security insurance are reported according to wage groups. Excluded are part-timers, persons in apprenticeships, family workers, and highly paid employees, included are only firms with at least 5 or 10 employees. Since the data are collected since 1950 or 1957 (in East Germany since 1991), we do have time series:

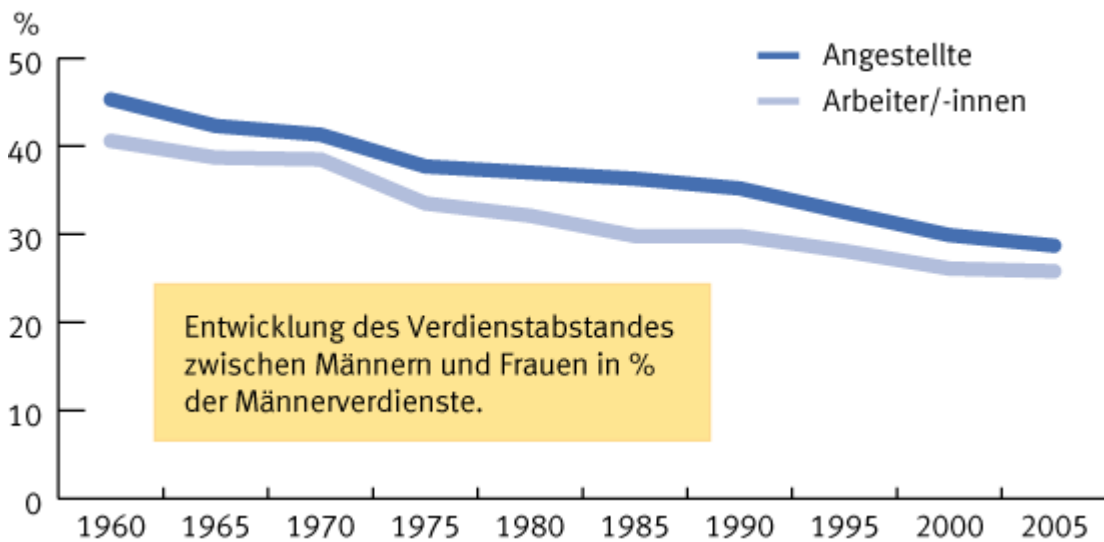
**Table 1 Gender wage gap in current wage statistics (relation women's wages to men's in %)**

Year	Salaried employees West (monthly gross)	Workers West (hourly gross)	Salaried employees East (monthly gross)	Workers East (hourly gross)
1957/1950	55.1%	59.9%	–	–
1991	65.1%	73.3%	77.5%	78.9%
2004	71.2%	76.3%	77.4%	78.4%

Source: Ziegler 2005, p. 262f.

The trend over the last 40 years is quite clear: a falling gender wage gap for salaried employees and workers by 16 percentage points in West Germany, resulting in 2005 in a wage gap of nearly 28% for salaried employees and 24% for workers. In East Germany the data suggest an increase in the wage gap, although men's and women's wage are closer together than in West Germany.

**Graph 1 Development of Gender Wage Gap West Germany**



Dark blue: salaried employees; grey: manual workers

Source: Statistisches Bundesamt 2007

These data exclude relevant parts of the service sector, exclude employees/workers in small firms and include only persons, covered by social security regulation, i.e. these data exclude relevant parts of female employment in Germany. They are therefore only reporting on parts of the



labour market and may underestimate the wage gap especially in the service sector.

More detailed, but not regularly collected data of the Federal Statistical Office are included in the Gehalts- und Lohnstrukturerhebung (GLS). These data cover a broader range both of sectors (manufacturing, construction, trade, hotels (since 2001), traffic (since 2001), banks and insurances, business related services (since 2001) and of employees and workers: the data include all employees covered by social security insurance including part-time, highly paid employees, and persons in apprenticeships. Firms with at least 10 employees are included.

**Table 2 Gender wage gap in the GLS (relation women's wages to men's in %)**

Year	Salaried employees West (monthly gross/full time)	Workers West (hourly gross/ full-time)	Salaried employees East (monthly gross /full-time)	Workers East (hourly gross/ full-time)
1951	57.1%	64.0%	–	–
1990/1992(East)	61.9%	74.0%	74.5%	77.9%
2001	67.3%	77.3%	71.5%	82.3%

Source: Ziegler 2005, p. 262f.

As expected these data show a bigger wage gap for salaried employees and a somewhat smaller gap for workers. As these data include in 2001 now larger parts of the service sector industries, they cover employment in firms not included in collective agreements like in business related services or hotels, they include part-time covered by social security and marginal part-timers and they cover workers more precisely. Over time the data show a reduction of the gap, which is quite substantial for workers and less pronounced for salaried employees (only minus 10% points).

2. The second source is the IAB-Beschäftigtenstichprobe (IABS), which is based on employers' data for social security insurance. It covers therefore all employees who had been insured during a year. The data include all sectors, but excludes public servants as long as they are civil servants (Beamte), marginal part-timers not covered by social security regulations, students and family workers. The data cover around 80% of all employees

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in West and 86% in East Germany. The data are rather detailed and allow highly specified analysis. The data do not distinguish between workers and salaried employees as they cover all employment relationships for which the employers pay social security contributions during a year.

**Table 3 Gender wage gap in the IABS (relation women's wages to men's in %)**

Year	Employees West (yearly gross /full time)	Employees East (yearly gross /full-time)
1987	73.5%	–
1993	76.2%	93.0%
2001	76.9%	94.5%

Source: Ziegler 2005, p. 262f.

The data of this source do not find a relevant gender wage gap for East Germany, but a nearly as big gap for West Germany as the other sources do.

3. The third source used is the Sozioökonomisches Panel (SOEP), which is a representative panel of household data taken since 1984 (since 1990 in the East) to analyze changes in households. All household members over the age of 16 are included. The data give details on employment, wages, working time, length of service at a firm, etc. It is used for several empirical research projects (see chapter 2.3 and chapter 4). Data about employment and wages cover all different kinds of employment, irrespective of working time and social security coverage. It covers all sectors of the economy and is therefore a quite broad data base. Due to the fact that it has a limited number of cases, the sample size is not big enough for very detailed analysis.

**Table 4 Gender wage gap in the SOEP (relation women's wages to men's in %)**

Year	Employees West (yearly gross/full time)	Employees East (yearly gross/full-time)
1984	69.1%	–
1993	74.6%	94.9%
2003	76.7%	90.2%

Source: Ziegler 2005, p. 262f.

To summarize the findings so far: the different data sources have different samples and all of them have limitations. As shown in tables 1 to 4, there is a substantial gender wage gap in all data sources but the variations between the different sources are considerable, especially for East Germany. Whereas the Federal data sources report a substantial wage gap in West and East (although it is smaller in East Germany), IABS and SOEP show a very small gender wage gap of less than 10% in East Germany, but similar gaps for West Germany as the Federal data. The contrasting results may not be due only to differences in sample size, sample selection, etc. but need further research as no one in Germany has a fully plausible explanation for these differences (see Ziegler 2005, p. 264).

The quality of data is of importance for the answering of the question, whether the gender wage gap decreased or increased during the last decade. Concerning the data published by the EU this is of importance, too, because of comparability over time and with other countries. As figure 1 and table 1 in the Appendix show, is Germany one of five countries where the gender wage gap seems to have increased between 1999 and 2004, the gap is around 23% in 2004 and decreased to 22% in 2005. In 1999 the data had been based on the ECHP. There was a change in 2001 so that data in 2004 are based on a national earnings survey and the SOEP. Eurostat states that this is estimated to have increased the gender pay gap by 1 percentage point (European Commission 2006, p.18). Given the large differences in the national data themselves, further investigation is needed on data reliability.

## **2.2 Trends in wage inequality**

The **overall trend** concerning women's and men's wages in West Germany is a decrease in the wage gap since the early 50's, with a consistently higher wage gap for salaried employees than for workers. As women constitute a rather small proportion of workers, and most women, even in unskilled jobs in the service sector, are classified as salaried employees, the wage gap of salaried employees is of much more importance than that of workers. Although the wage gap decreased over

time, it remained remarkably stable at around 30% for salaried employees during the last decade. As the current wage statistics of the Federal Statistical Office now include a broader sample of service sector employment, the quality of data may be improved<sup>1</sup>. The small decrease of the gender wage gap over such a long period of time is accompanied with an increase of wage dispersion in Germany as a whole during the 90s. As Schettkat (2006) could show had Germany in the 1980s a decrease in wage dispersion followed by an increase during the last decade. His paper summarizes all empirical research done on this subject (see Tabelle 3.2 in the Appendix) and comes to the conclusion that Germany's wage structure became less equally distributed during the 1990s. This trend includes a rising wage inequality among men and among women, which is – according to some empirical findings – for women even bigger than for men. Growing wage inequality associated with an overall stable gender pay gap indicates that women must have gained access to some higher paid positions as well as men must have had declining wages in some occupations. The expansion of service sector employment associated with part-time and low paid jobs contributed substantially to the increase of overall wage equality (Schettkat 2006). In general we find a smaller gender wage gap in the lower paid segments of the labour market than in higher paid positions (Hübler 2003, p. 549, Holst 2003).

The difference of wages between **East and West** is, for both men and women, still very high. Table 5 shows that the East-West wage gap is higher for men than for women – this is influenced by the fact that wages in East Germany are less unequal than in West Germany, i.e. women's wages in the East are relatively high compared to in the West, and men's wages are relatively low in the East compared to in the West. The East-West wage gap is of high importance for the future development of Germany as this wage gap contributes significantly to the low overall increase in wages in Germany as a whole. West German wages have increased

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<sup>1</sup> For East Germany the data are highly contradictory, as the Federal Statistical Office data do report a bigger gender wage gap than the other two data sets, but within the SOEP data the wage gap increased, whereas in the IABS data set it decreased.

only very slowly and in real terms there has been a decrease in real wages over the last two years (European Commission 2007b).

**Table 5 Wage differences between East and West Germany  
(relation East wages to West wages, West = 100%)**

	Salaried employees full-time, monthly gross <b>Women</b>	Salaried employees full-time, monthly gross <b>Men</b>
Current wage data (2004)	81.4%	74.9%
IABS (2001)	86.5%	70.4%
SOEP(2003)	79.0%	67.1%

*Source: own calculations based on Ziegler 2005, p. 262f.*

The high proportion of women among the **low paid** (around 70% of all low paid are females) contributes substantially to the overall gender wage gap, although in the reported data sources mini-jobs are often not included and the wage gap may therefore be even higher than the reported figure.

The low proportion of women among **highly paid** groups is another factor that contributes to wage gaps – recent data analyze the distribution of women and men according to broader groups, showing that women's representation among higher paid employees and civil servants is 12%, whereas 22 % of all men are in this group (BMFSFJ 2005). As data on high wages are even more complicated to collect (in many of the data sources they are excluded), women's low proportion among persons in leading positions of the German economy may be an indicator of the problem (given that using the most generous definition of leading positions we find that 20 to 25% are women, BMFSFJ 2005, Brader/Lewerenz 2006).

### **2.3 Incidence of low pay**

**Low paid employment** is an expanding segment of the German labour market. There are a variety of studies on the low paid segment of the labour market, drawing on different definitions of low pay and different data

sources (see above). All studies, irrespective of whether the definition is 66% of the median wage measured in hourly wages, only for full-time or including part-timers etc. or 77% of the average wage, come to the common conclusion that the vast majority of low paid persons in Germany are female (see for a detailed overview Kalina/Weinkopf 2006). Kalina and Weinkopf calculated an hourly wage of 9.83 € in West and 7.15 € in East Germany in 2004 taking the 66% median income as a low wage. Their data base included full-time, part-time and mini-jobbers<sup>2</sup> and allowed therefore a distinction to be made between these groups.

**Table 6 Characteristics of the Low Paid in Germany (2004)**

<b>variable</b>	<b>Proportion low paid in this category</b>	<b>Proportion among all low paid</b>	<b>Proportion among all in employment</b>
<b>Full-time</b>	14.6%	51.5%	72.1%
<b>Part-time</b>	21.1%	22.2%	21.6%
<b>Mini-job</b>	85.8%	26.3%	6.3%
<b>Without voc. training</b>	42.1%	22.4%	11.2%
<b>With voc. training</b>	21.5%	67.2%	65.6%
<b>University</b>	9.4%	10.4%	23.2%
<b>Men</b>	12.6%	30.4%	50.7%
<b>Women</b>	29.6%	69.6%	49.3%
<b>Total employment 29,044,714</b>	20.8%	100.0%	100.0%

*Quelle: SOEP 2004, Welle U, eigene Berechnungen*

<sup>2</sup> So called mini-jobs are jobs not covered by social security contributions because the monthly wage is below 400€. They are often performed as part-time jobs or second jobs.

Source: Kalina/Weinkopf 2006

In 2004 20.8% of all in employment had been paid less than 9.83 € or 7.15 €, of all employed women nearly 30% had been low paid, of all employed men 12.6%. Working time plays a role as of all mini-jobbers 86% had a low paid job, of all full-time employees 15% had a low paid job. Low paid jobs are not only found among unskilled persons, although 42% of all unskilled persons do have a low paid job, among all low paid persons more than two thirds do have a vocational training. Nearly 70% of all low paid are women – a result that is found in all other studies as well.

**Table 7 Low paid by working time and sex 2004**

<b>Working time</b>	<b>Men</b>	<b>Women</b>	<b>Total</b>
<b>Full-time</b>	10.8%	21.8%	14.6%
<b>Part-time</b>	15.6%	21.9%	21.1%
<b>Mini-job</b>	87.4%	85.5%	85.8%
<b>total</b>	12.6%	29.6%	20.8%

Quelle: SOEP 2004, Welle U, eigene Berechnungen

Source: Kalina/Weinkopf 2006

Table 7 shows that of all full-time employed women nearly 22% earned a low hourly wage (compared to 11% of all full-time employed men), regular part-time employment among women is not exceptionally low paid (same proportion as for full-time employment), but mini-jobbers in general do have low paid jobs, and the proportion is marginally higher for mini-jobbing men than for mini-jobbing women (87.4 to 85.5%). However, as most mini-jobbers are women in the age group 25 to 45, and the mini-jobbing men are concentrated in the young and older age groups, their mini jobs do have a different meaning in the employment position.

## 2.4 Summary and conclusions

We observe in Germany a substantial and persistent gender wage gap – the unadjusted gap is at least 23 to 25%, and is more pronounced in West Germany than in the East. The data and studies available report quite

substantial gaps, but are themselves not without contradictory results. Major problems are the growing inequality in wage distribution, connected with a high proportion of women in low paid jobs and a still low proportion of women in highly paid jobs. However, the fact that the overall wage dispersion increased whereas the gender wage gap remained nearly the same indicates that some progress had been made with more women in higher paid jobs but at the same time an increase of men in lower paid jobs.

### **3 Institutional factors and the gender pay gap**

#### **3.1 Overall system of wage determination**

In Germany the majority of employees are still paid according to collective agreements, although the coverage is declining. The landscape of collective agreements is characterised by sectoral agreements. There are also firm-specific agreements which cover a small number of employees. Firms which are neither members of an employers' association nor having a firm specific agreement may follow the respective collective agreement voluntarily. In 2003, 14% of all employees in West and 22% of all employees in East Germany were not covered by any collective agreement, neither on the sectoral level, nor on the firm level nor is their wage based on a voluntarily agreement based on a collective regulation (see Ziegler 2005, p. 254).

Collective agreements regulate basic pay<sup>3</sup> and additional wage elements, which are performance allowances (e.g. piecework or premium wage) and extra pay (for example shift-work supplements, holiday pay, Christmas bonus). Other additional payments such as bonuses at the end of the year or company based pension payments are normally not part of collective agreements, but they can be part of works council agreements, supplemental workplace agreements or individual labour contracts. The basic

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<sup>3</sup> The methods used for basic pay differentiation are the summarial or analytical job evaluation. These systems are normally part of the collective remuneration agreement, but there also exist classification systems on the firm level. The summarial evaluation system dominates in Germany.



pay is the most relevant component of the overall pay which amounts to 60 or 70 per cent of the individual effective earnings.

The right to equal pay for equal work and work of equal value covers all agreed and non-agreed wage components, and gender pay discrimination may occur in each of the above mentioned elements.

Collective agreements do exert a major influence on Germany's wage system, although the coverage is declining. The position of trade unions and employer organisations towards the principle of pay equality do play an important role in the development of the wage systems.

Since the 1950s, actions have been initialised mainly by the trade unions, but also by single female employees. When women were fighting for wage increments they mostly were supported by trade unions. The most significant campaign to have female-dominated work upgraded started at the end of the 1980s. Women of different occupations started to examine their workplace. The activities were documented in several publications which were entitled 'Women want more'. The women analysed several occupational groups including manual workers, librarians and typists (see Kraus 1994; Kraus/Gumpert 1998).

Since the mid 1990s discrimination free pay scales (Entgeltregelungen), classification systems (Eingruppierungsregelungen) and job evaluation procedures (Arbeitsbewertungsverfahren) are discussed more intensively. To check existing collective pay agreements as well as payment systems on the firm level, legal guidelines based on already existing legal norms and decisions were developed. Furthermore, decisions of the European and the German Labour Court were analysed so that they indicate the way to proceed in case of indirect pay discrimination in Germany (see Winter 1998; Feldhoff 1998; Colneric 1999).

The development of guidelines for discrimination-free assessment of work prompted a debate, above all in the trade unions of the metal and the public sector, on whether collective agreements accomplish the demands of EU legislation or not. This debate is still going on and has not produced positive effects as yet (see Ziegler 2005, p. 297). Nevertheless, a lot of trade unions awarded contracts for a legal opinion on their collective

agreements. The legal opinion was sought to indicate whether there is any potential for discrimination or breaches against European law. Some of the advisory opinions were compiled by job evaluation experts. There are also trade unions which developed their own codes of practice for the application of the principle of equal pay for men and women. Nevertheless, the new job grading system both for the metal industry as well as for the public sector, which introduced a new job evaluation and grading mechanism which gave up the idea of separate grades for workers and salaried employees, did not change anything substantially. The public sector is implementing the new system in the months to come and as far as we know there are no attempts to achieve a more gender sensitive implementation.

The Confederation of German Employers' Association (Bundesvereinigung der Arbeitgeverbände – BDA) is convinced that existing wage differentials between men and women are the result of different 'job biographies'. This position has been presented in a study by the Institute of German Economy (Institut der deutschen Wirtschaft – IW), an institute which is linked to employers. The study took the viewpoint that direct gender discrimination no longer exists in Germany, and that existing pay differentials between men and women could be explained by the different gender-specific job biographies (see Schäfer 2001). Unsurprisingly, the BDA also rejects all binding regulations on gender equality and consequently on equal pay. The idea of a law on equal opportunities in the private sector proposed by the government was not accepted (see Pfarr 2001). The BDA instead preferred to reach a bilateral agreement with the government on the subject of equal opportunities for men and women, which explicitly excludes pay and wages.

There have always been claims by individual employees which refer to all pay components. Two publications detail the actions and decisions up to 1989. However, both studies fail to undertake an analysis of the total number, costs and effects of litigations. Female employee claims are normally supported by trade unions. A right for collective claims (Verbandsklagerecht) and group or class claims (Gruppenklagen) has been a matter of discussion for several years but it is not yet realised.

Pfarr/Bertelsmann undertook a comprehensive analysis of legal practice in Germany (inventory of legal cases up to 1989 and annotations) referring to all fields of pay discrimination in 1981 and 1989. Two other studies of 1998 highlight the basic pay legislation in Germany. Both studies influenced the German discussion on basic pay discrimination in recent years, which focussed on indirect pay discrimination and on the composition of collective agreements in the sense of satisfying the requirements of European law (see Feldhoff 1998; Winter 1998).

As far as we know there is no recent study that has included an impact assessment of the legal equal pay practice and its effects on the labour market in Germany. There are though several studies, enquiries and reports, which deal with some aspects of equal pay between men and women. These particularly focus on basic pay. The concentration on basic pay results in a lack of focus of three important problems in Germany: indirect pay discrimination on grounds of sex, determination of equal pay for work of equal value and finally the question of the extent to which collective pay agreements breach the requirements of European Law. The problem of direct pay discrimination plays only a less significant role at present.

### **3.1.1 Minimum Wage Regulation**

There is no general minimum wage for Germany as a whole, though there are some sector-specific regulations in the construction industry (Entsendegesetz). Low wages are regulated either by collective agreements or by single employer agreements or by an individual work contract. There is a Government initiative to introduce some form of minimum wage during the next years, but the point is highly controversial among the social partners and the political parties. One controversial point is the question of whether there should be one minimum wage for all sectors, for all groups of employees (age groups), for all regions (East/West) and for all labour relations (regular employees, temporary workers, seasonal workers). The other controversial point is the possible wage level. As demonstrated in the section on low pay, there is a low paid segment in the Ger-

man labour market in which people receive wages below 9 € in the West and 7 € in the East (66% of median). If we take a wage of 50% of the median as the absolute minimum, we would end with a minimum wage of 7.4 € in West and 5.4 € in East Germany (see Kalina/Weinkopf 2006). However, even today are there wages in collective agreements which are below this level in both male and female dominated jobs like hair dressers, security men, unskilled jobs in the retail trade and restaurants, and cleaners (Ziegler 2005, p. 258). Another study on low paid occupations shows very low wages in collective agreements (see below):

**Table 8 Collectively regulated low wage occupations**

West Germany – monthly full-time gross basic payments without overtime and premiums:	
• unskilled worker agriculture	814 €
• security personnel	970 €
• unskilled shop assistant	1,035 €
• florist (skilled)	1,294 €
• hair dresser (skilled)	1,312 €
• cleaner (skilled)	1,380 €
• clerk in industry 1.year after apprenticeship	1,428 €
East Germany – monthly full-time gross basic payments without overtime and premiums:	
• security personnel	748 €
• unskilled shop assistant	863 €
• hair dresser Meister	895 €
• unskilled worker in agriculture	908 €
• florist (skilled)	948 €
• cleaner (skilled)	978 €
• sales of cars (skilled, first year)	1,225 €

Source: *Bispinck 2004*

A general minimum wage would increase low wages which are concentrated on women. The introduction of a general minimum wage would therefore help to reduce the overall wage dispersion between women and men.

### 3.1.2 Equal Pay Legislation to date

The gender pay gap has not being addressed in Germany by specific legislation, although this does not mean, that pay discrimination is legal. Ta-

ble 9 gives an overview of the legal norms and the persons covered by equal pay principles.

**Table 9 Legal norms on equal pay in Germany**

<b>Legal basis</b>	<b>Article/paragraph</b>	<b>Persons covered</b>
Basic Law (Grundgesetz)	Article 3 Para 2 and 3	all employees
Civil Code (Bürgerliches Gesetzbuch)	§ 612 Para 3 <b>replaced</b> by General Equal Treatment Act (Allgemeines Gleichstellungsgesetz AGG) in 2006, §§3, 7, 8	any employment relationship
Works Constitution Act (Betriebsverfassungsgesetz)	§§ 75, 80, 84, 85, 86a and 99	employees on firm level to whom the Works Constitution Act applies

The development of equal pay legislation and the debate on low female wages can roughly be divided into four phases:

1. Initial realisation of the principle of 'equal pay for equal work' (gleicher Lohn für gleiche Arbeit) within the constitutional gender equality clause.
2. From 1955, use of the term 'equal pay for work of equal value' (gleicher Lohn für gleichwertige Arbeit).
3. The use of the concept 'gleicher Lohn für gleichwertige Arbeit' in the 1970s also changed the perspective from direct to indirect pay discrimination, although Germany did not create new legislation on this issue. The concept of indirect pay discrimination was only accepted reluctantly following influences of the European law (Schiek 2007).
4. From the end of the 1980s, broader discussions on the relevance of EU legislation on equal pay for the composition of collective pay agreements began.

The German Constitution of 1949 states in Article 3 paragraph 2 that men and women have the same rights. Article 3 paragraph 3 also states that no one shall be prejudiced or favoured on grounds of gender. With reference to equal pay Article 3 paragraphs 2 and 3 brought about positive results. Until 1955 special wage groups for women were allowed in collective agreements. These wage groups permitted lower wages for women even if they did the same work as men. In 1955 they were declared unconstitu-

tional and were replaced by so called light-work wage groups or bottom wage groups (Leichtlohngruppen) defining the work done by employees in such a job as light and easy work. The Courts advice to the social partners to replace special wage groups for women by wage groups for "light work" opened the door for indirect pay discrimination as most work done by women had now been defined as "light". It took a rather long time until the principle of equal pay for work of equal value could be established in the German case law.

Until 1980, Article 3 paragraph 2 of the Civil Code remained the only legal norm which demanded equal treatment and equal pay. In 1975 directive 75/117/EEC was passed. The member states were requested to adopt regulations and laws within one year which would carry into effect Article 119 (141). The German government refused to follow this request because Article 3 paragraphs 2 and 3 of the Civil Code would already accomplish the demands of Article 119 (141) and no other measures would therefore be necessary. Legislation was not forthcoming until the European Commission instituted a legal proceeding against Germany as a result of a violation of the contract. In 1980 a new paragraph was integrated into the Civil Code requiring equal pay not only for equal work but also for work of equal value (see Winter 1998, p. 201).

The implementation of the light-work wage groups in the collective agreements since 1955 had already changed the discussion from the demand for 'equal pay for equal work' to 'equal pay for work of equal value'. The changed Civil Code of 1980 then meant that work evaluation became important for the implementation of the principle of equal pay for work of equal value (§ 612 paragraph 3 BGB). Under the changed Code after 1980, there was criticism of the prevailing methods of job evaluation in Germany, as the new paragraph of the Civil Code says that job evaluation systems should be used to identify work of equal value. However, the paragraph does not clearly define 'work of equal value' (see Pfarr/Bertelsmann 1981, p. 271). As a result of the legislation, job evaluation became a main tool for showing the equal value of jobs in Germany. Between 1980 and 2006 legislation did not change but some

trade unions campaigned and some women won some cases related to indirect pay discrimination.

Just recently § 612 paragraph 3 BGB was replaced in 2006 by the Allgemeines Gleichbehandlungsgesetz (General Equal Treatment Act – AGG). § 7 AGG prohibits unequal treatment within any employment relationship. This prohibition comprises the equal pay principle, as is clarified by § 8 paragraph 2 AGG. According to this provision, any contractual agreement for a lower remuneration on grounds of sex (and other traits covered by the Act) cannot be justified by the existence of protective legislation. “While the provisions of the AGG in the §§ 7 and 8 are not spectacular, there is some progress discernible in the fact that German law explicitly defines indirect discrimination for the first time in § 3.” (Schiek 2007, p. 35)

Another development was that a second sentence was added to Article 3 paragraph 2 of the Basic Law in 1994 which states that the state promotes equal opportunities of men and women and works towards the elimination of disadvantages. This means also that the state has to carry into effect the principle of equal pay for work of equal value. As an employer, the state is directly responsible for the principle of equal pay for work of equal value being implemented. With reference to the private sector, the state can affect the general framework of conditions without impairing the autonomy of collective bargaining. As long as it does not prescribe the evaluation of occupations to the unions and management, in principle the state has a lot of room for manoeuvre (see Winter 1998, p. 201ff.).

According to the Works Constitution Act collective bargaining has clear priority over workplace bargaining in Germany. Nevertheless, there are some opportunities for works councils to pursue the principle of equal pay. However, one has to act on the assumption that works councils are rarely active. This is not only due to a lack of time and experience but also because of a structural lack of power.

Compared to EU legislation, German equal pay legislation neither contains improvements nor advancements. On the contrary, Winter assumes that

the German equal pay legislation is too inexplicit and indistinct, as parts of the EU legislation can not be identified within the national legislation. Consequently, employees are not able to clearly perceive and realise their rights (see Winter 1998, p. 247). This is still true even under the new regulations of the AGG. German law evidently lacks legal provisions that specifically implement the equal pay principle. "In contrast to other Member States, which used the opportunity of implementing the directives on non-discrimination law to empower associations as legal actors, the German legislator restricted itself to the barest minimum of implementing the relevant provisions" (Schiek 2007, p. 36).

Institutionalised mechanisms to implement the principle of equal pay are therefore still missing in Germany. The actors who are committed to the principle of equal pay (i.e. employers' associations, trade unions; single employers; works councils and governmental institutions) have been not very active so far. Here, the public sector as an employer has so far not set a good example<sup>4</sup>. Claims have rarely been successful and they are characterised by considerable process-related obstacles. Besides, only individual claims are possible in Germany. Furthermore, the main actors of equal pay (single employers, employers' associations and trade unions) are not encouraged to follow the principle of equal pay for work of equal value (see Winter 1998, p. 285ff, Winter 2003.). There are no special procedures or institutions set up to investigate pay discrimination in detail or in general – so it is up to single actors, like women's groups in the trade unions to campaign. Government support is sporadic and not institutionalised<sup>5</sup>.

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<sup>4</sup> The public sector wage group system BAT has been replaced recently by a new collective wage group system. After analysing the BAT system as male biased and under evaluating typical female workplaces, an effort made by the trade union, the new wage group system should be less discriminating. The full implementation is still under way – the outcome of the new job description and job evaluation system on women's positions will be a major test on how willing public employers are to follow a non-discriminatory wage system.

<sup>5</sup> The former Government did organize a conference on the subject and promoted several studies both on wage inequality in the economic sense, legal issues and covering the work place and job evaluation aspect (see BMFSFJ 2002).



### **3.2 Firm Level**

As relevant parts of the wages are determined in collective agreements and the role of works councils is rather weak in implementing equal pay regulations independently, major problems are described in the section above. On the firm and workplace level we discover changes in pay systems, increase of non-monetary benefits etc. which may influence the gender wage gap. Since there are no empirical studies on the changes and trends in firm level payment systems, we cannot report on major trends here, we can only take up the factors on a firm level that are studied and analyzed so far. What we know, however, is the fact, that the precise allocation of men and women to different occupations and tasks is happening on the level of the firm/workplace. This kind of vertical and horizontal segregation of men and women is a major source of the overall wage gap. The placement of persons within the horizontal and vertical levels of the firms is normally not part of co-determination of work councils; it is part of the fundamental rights of the employers. However, the process of allocation is not free of gender-related mechanism, which place women in different work places both in horizontal and vertical aspects and this contributes substantially to the gender wage gap. Chapter 4 of this paper deals with these processes as far as they are empirically researched.

### **3.3 Summary and conclusions**

Different factors point to the right of equal pay for work of equal value not yet becoming a legal reality in Germany. The limitations are in part due to the German rules of entitlement. Essential shortcomings of equal pay legislation in Germany are: First, the possibilities for legal action are very restricted. Once women claim for equal pay, it is an individual claim. Groups of plaintiffs or organisations are not authorised to file a suit. No class action is possible. Secondly, the rules of procedure for the application of the principle of pay equity are missing (Ontario model). Rules of procedure would above all compel the social partners responsible for the remuneration structures to discharge their duties. Finally, one of the main problems seems to be the absence of institutions that are commissioned to inform

and teach organisations about the legal basis and its implementation, possibly with the power to initiate legal action. The lack of institutionalised mechanisms to enforce the equal pay principles is a major failure of the Government, which excuses its unwillingness to intervene with the freedom of social partners to wage negotiations.

The missing legal barrier against low wages is another factor influencing the gender pay gap. As mostly women are employed in jobs below the 66% median wage, a general minimum wage would help to stabilize their wages.

As there is no obligation to promote women to higher paid jobs in the same proportion as men (only in the public sector is there a soft quota rule, which is only partially effective), vertical segregation in job hierarchies contribute to the overall gender wage gap, too.

As social partners are reluctant to follow a gender mainstreaming approach in their wage policies, especially in collective agreements, and the Government is still reluctant to enforce minimum wage regulation, we may observe a growing gender pay gap. However, there are contradictory trends: women with better educational background, less children, shorter periods of employment interruption are confronted with a labour market with growing wage differentials, less collectively agreed wages and wage components, limited job career prospects and high unemployment, combined with the overall pressure on the wages. The impact of these different factors on the further development of the gender wage gap is open.

#### **4 State of the Art: empirical studies on gender pay gap in Germany**

There is a growing number of empirical studies on gender wage gaps in Germany, showing – all together – two major results: a relevant part of the wage gap is attributable to structural components like sector and occupation (vertical and horizontal segregation), firm size and relevance of works councils, personal characteristics like age, education and years of employment do play a minor role. And – dependant on data source used –

there remains a relevant unspecified residuum in all models, which is due to gender discrimination or other unobserved characteristics

The general state of the art on national and international research on the gender wage gap is outlined by Hübler (2003). The paper presents major findings from the 90s. He concludes that over time there is an observable systematic reduction of the wage gap in West Germany with regard to the differences in structure. However, this is not the case for unobserved influences and rates of return. He adds his own research on the influence of over-time work and work with computers. His data suggest that the use of computers in working life contributes to closing the gender-specific gap, whereas over-time increased the gender gap.

An empirical study by Beblo/Wolf (2003) used the IABS data to estimate the wages of men and women taking into consideration the entire employment biography including the type and duration of each past employment interruption. Thus they can differentiate between the short-term and the long-term wage effects of unemployment, formal parental leave as well as other interruptions. Their analysis shows that the wages of men and women are affected differently by past employment interruptions, and the negative wage effects of statutory parental leave and other interruptions contribute considerably to the gender wage gap.

Using the IABS data base and the IAB establishment survey data Gartner/Stephan (2004) analyze whether the existence of a collective agreement or a works council reduces the gender wage gap. The data are subject to self-selection and do not include detailed work biographies. The analysis shows that average wages are generally higher in firms applying collective contracts and having works councils, and the gender wage gap is smaller across workers employed in firms covered by collective agreements and/or having a works council. Two elements are important: the *within firm gap* is smaller in firms with collective agreement/works councils, i.e. these firms do have lower unobserved productivity differentials or less wage discrimination and the *within firm unobserved price components* show that a lower gender wage gap is associated with a more compressed wage distribution.

In the study of Achatz/Gartner/Glück (2004) was asked to what extent the gender wage gap of full-time employees is due to differences in productivity-related characteristics, to discrimination of female employees, and how the wage gap is affected by firm specific features? To analyze these problems the authors used a linked employer-employee database for East and West Germany in 2000, made available by the Institute for Labour Market Research. In particular, they addressed the effect on wage levels of the sex composition of occupations within firms (job cells). Their estimations rely on the decomposition of the wage differential proposed by Oaxaca and Blinder. Their major findings are that only one tenth of the gender gap in wages is explained by human capital differences between men and women. Regarding the gender wage gap in Germany they conclude that "discrimination in the allocation of men and women to different jobs is an important mechanism: With increasing proportions of women within job cells we observe decreasing wage levels for men and women but with higher rates of decline for women than for men. While the presence of the worker's councils is shown to have a positive impact on wage levels, women are found to profit most from their presence within firms" (p. 3f.).

The latter analysis of wage differences in firms was extended by Hinz/Gartner (2005) further and came to the conclusion that – in contrast to other studies in the US and Scandinavia – West Germany has remarkable wage differences within the same occupation within the same firm (job cells). The wage gap was 17% in 1993 and declined to 15% in 2001. Taking education and years in employment as constant, the wage gap is still 12%. The authors point to the fact that there is a gap of 12% between men and women with the same educational level, the same employment experience and the same job cell. A deeper analysis of firms' use of collective (or firm specific or individual) agreements to describe and allocate tasks and remunerations would be necessary to identify the factors to explain gender wage gaps at this level.

Ziegler (2005) calculated the gender wage gap by applying the Oaxaca-Blinder method to all three different major data sources. She shows that between 40% of the wage gap for salaried employees in the West (using

the GLS), or 37% using the IABS data or 18% using the SOEP 2003 are due to differences in structural factors – mainly the educational level, the job level and the sector influenced this result. For East Germany the part of the gender wage gap explained by structural factors is smaller: 33.8% in the GLS-data, 9% in the IABS data and 11% in the SOEP data. This means that in East Germany a woman received around 10% less because she had less education, was employed in a low paying sector or occupation etc. In East Germany sector plays a major role, but SOEP data suggest that differences in human capital (education/years in employment) count more.

Parts of the wage gap can not be attributed to structural factors and may be interpreted as discrimination or are due to other unobserved factors. Depending on the data source the unexplained part is between 32% (West IABS) and 11% (East SOEP) – in general, calculations based on the IABS data showed a higher unexplained wage gap than the SOEP data. Ziegler concludes that in East Germany the gender wage gap is smaller than in the West and the explained part is more relevant than the discrimination part (Ziegler 2005, p. 294).

Finally Gartner/Rässler (2005) use the IABS to analyze the changes in the gender wage gap and to solve the problem of the data sample only including persons covered by social security insurance and therefore excluding persons with a wage above the threshold. The data set is therefore skewed to the right. Their main findings are: The log wage of men rises over the period (1991-2001) by 0.009 from 4.481 to 4.490, whereas the log wage of women rises more rapidly by 0.078 from 4.126 to 4.204. Therefore the wage gap decreases from 0.355 to 0.286 by 0.0689. Changes in the relative endowment of women account for 50.8% of the lower gender pay gap.

The largest fraction of the endowment effect is attributable to the improvement of women's endowment with human capital in the 1990s.

The endowment effect of the firm size and industrial dummies can be interpreted as changes in gender-specific sorting across firms and industries. Large firms pay higher wages than small firms. As males work more

frequently in large firms than females, males receive more frequently this additional wage premium. But the share of males in large firms declines from 1991 to 2001. The change in the gender specific sorting between large and small firms contributes to the declining gender gap. Changes in sorting between industries are very small; they account for nearly zero log points of the change in the gender gap. The observed price effect is positive. This indicates that changes in the returns alone would have increased the gender wage gap. Changes in the returns on human capital increase the gender wage gap. As the literature about skill-biased technological change found, skill premiums increased in most industrial countries in the last decades because of technological change. Because males are better endowed with human capital than females, the male wage rises faster than the female wage and this widens the gender pay gap.

Rising wage differentials across industries amplify the gender gap. This trend widens the gender wage gap, because men work more often in high wage industries than women. The authors found also an increase in firm size differentials that widens the gender pay gap.

The gap effect of -0.0728 indicates, that women have improved the position of their wage residuals in the distribution of male's wage residuals. The reduction of the gender wage gap because of the gap effect is 5.7% greater than the observed reduction of the wage gap. The gap effect could be caused by both an improvement in women's unobserved productivity or a lowering of discrimination against women. The unobserved price effect works in the opposite direction: The standard deviation of the residuals rises from 0.335 to 0.346 log points. This increases the wage gap.

The authors summarize: "In the 1990's there is a general trend of wage structure, caused by rising observed and unobserved prices, that widens the gender wage gap (...). But improvements in observed and unobserved endowments, a reduction in gender-specific sorting and in discrimination reduce the gender wage gap. (...) the trend of the gender wage gap in Germany can be described as 'swimming upstream against the rising wage inequality'".

Therefore the findings of most studies can be summarized of the following way: the German gender wage gap can still be attributed to occupational segregation both vertical and horizontal, but seems to be strongly connected to work place related remuneration policies as well. It seems to be worth while to study in depth the use of collective agreed job evaluations and the development of tasks and job content in the implementation on the work place. Given the fact that women's wages do better in firms with a collective agreement and a works council, the decline in the number of employees covered by collective agreements may have a negative impact on gender wage equality as well as the general increase of wage inequality in the society as a whole. The lack of any coherent minimum wage policy or employment promotion policy concerned with women's position in the labour market, will exert a negative impact, along with the long interruption of employment due to care for children.

## **5 Summary and conclusion**

Germany has an important gender wage gap which did not disappear during the last decade but remained fairly stable or even increased. The factors explaining the gender wage gap are multifaceted, but major factors are:

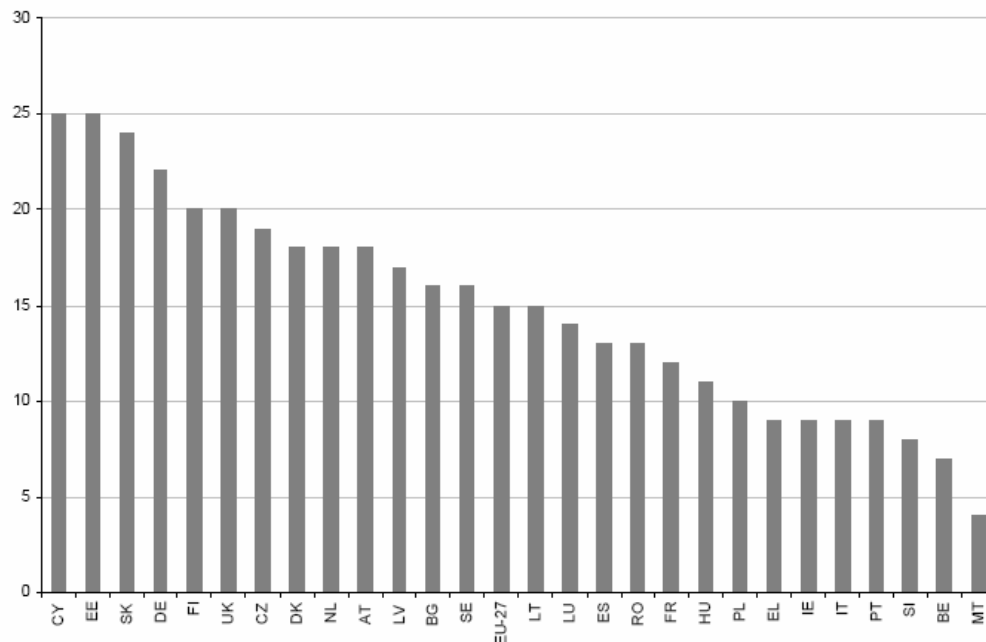
- women's distribution over sectors, occupations and firms (size) influence the wage gap quite substantially, whereas factors like age, education and employment experience still play a role, but are less pronounced,
- on the level of occupations the allocation of jobs by firms to men and women seems to play an important role and needs further investigation,
- job evaluation and grading systems are not gender neutral and efforts to implement less gender biased systems within the great collective agreements in the metal- and the public sector are not really followed by the major actors,
- the declining role of collective agreements, the weaker position of works councils and women's predominant employment in small firms of

the service sector may increase wage differentials and the proportion of the low paid made up of women,

- there is a lack of any explicit strategy from the Government or the social partners to implement the right to equal pay for work of equal value.

## 6 Appendix

**Figure 1 – Gender pay gap in the EU, 2005 (%) (1)**



Source: Eurostat.

Administrative data are used for LU, Labour Force Survey for FR and MT. Provisional results of EU-SILC (Statistics on Income and Living Conditions) are used for BE, EL, ES, IE, IT, AT, PT, and UK. All other sources are national surveys. EU27 estimates are population weighted-averages of the latest available values.

(1) The gender pay gap in unadjusted form is a structural indicator adopted for the follow-up of the European Strategy for growth and employment. It is defined as 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. The population consists of all paid employees aged 16-64 that are at work 15+ hours per week.

Source: Europäische Kommission (2007)



**Table 1 – Gender pay gap (%) in the EU**

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
EU-27 (1)	17	17	16	17	16	16	16	16	15	15	15
BE	12	10	10	9	11	13	12	:	:	6 (2)	7
BG	:	:	:	:	:	:	22	21	18	16	16
CZ	:	21	21	25	22	22	20	19	19	19	19
DK	15	15	13	12	14	15	15	18 (2)	18	17	18
DE	21	21	21	22	19	21	21	22 (2)	23	23	22
EE	27	27	28	26	26	25	24	24	24	24	25
EL	17	15	13	12	13	15	18	17	11 (2)	10	9 (3)
ES	13	14	14	16	14	15	17	21 (2)	18	15	13 (3)
FR	13	13	12	12	12	13	14	13	12 (2)	12	12
IE	20	21	19	20	22	19	17	:	14 (2)	11(3)	9 (3)
IT	8	8	7	7	8	6	6	:	:	7 (3)	9
CY	29	28	27	26	27	26	26	25	25	25	25
LV	:	:	:	20	20	20	16	16	16	15	17
LT	27	22	23	22	16	16	16	16	17	16	15
LU	19	19	19	18	17	15	16	17	15	14	14
HU	22	23	24	23	21	21	20	16	12	14	11
MT	:	:	:	:	:	11	9	6 (2)	4	4	4
NL	23	23	22	21	21	21	19	19	18	19	18
AT	22	20	22	21	21	20	20	:	17 (2)	18	18 (3)
PL	:	:	:	:	15	:	12	11	11	10	10
PT	5	6	7	6	5	8	10	8	9	5 (2)	9
RO	21	24	24	20	17	17	18	17	18	14 (2)	13
SI	14	15	14	11	14	12	11	9	:	8 (3)	8 (3)
SK	:	:	:	:	23	22	23	27	23	24	24
FI	:	17	18	19	19	17	17	20 (2)	20	20	20
SE	15	17	17	18	17	18	18	17	16	17	16
UK	26	24	21	24	22	21	21	23 (2)	22	22	20 (3)

Source: Eurostat, Structural Indicators.

(1) Estimate. (2) Break in series (3) Provisional value.

Source: Europäische Kommission 2007

Tabelle 3.2: Lohnspreizung in Deutschland, Übersicht verschiedener Studien

Autor/Datenbasis	Jahr	D9/D1 (D8/D1)	D9/D5 (D8/D5)	D5/D1 (D5/D2)
<b>Gernandt/Pfeiffer ( 2006)</b>				
	<b>1984 Männer</b>	2.14		
	<b>1994 Männer</b>	2.11		
	<b>2004 Männer</b>	2.52		
<b>EU Kommission (2005)</b>				
SES	<b>2002 Deutschland</b>	3.15	1.78	1.78
	<b>2002 Hamburg</b>	3.49	1.83	1.91
<b>EU Kommission (1998)</b>				
	<b>Westdeutschland</b>			
SES ( $\rho_{D5} =$ Durchschnittslohn)	<b>1995 insgesamt</b>	2.51	1.51	1.67
	<b>1995 Männer</b>	2.43	1.70	1.42
	<b>1995 Frauen</b>	2.20	1.12	1.96
<b>Möller (2005)</b>				
	<b>Vollzeit, Westdeutschland</b>			
IABS	<b>2001 insgesamt</b>	(2.52)	(1.42)	(1.74)
	<b>2001 Männer</b>	(2.20)	(1.43)	(1.54)
	<b>2001 Frauen</b>	3.31 (2.78)	1.63 (1.34)	2.03
<b>Kohn (2006)</b>				
	<b>Vollzeit, Westdeutschland</b>			
IABS	<b>1992 Männer</b>	(1.71)	(1.37)	(1.25)
	<b>2001 Männer</b>	(1.87)	(1.44)	(1.30)
	<b>1992 Frauen</b>	(1.91)	(1.33)	(1.44)
	<b>2001 Frauen</b>	(2.06)	(1.37)	(1.51)
<b>OECD (1996)</b>				
	<b>Vollzeit, Männer, Westdeutschland</b>			
SOEP	<b>1984</b>	2.79	1.69	1.68
	<b>1993</b>	2.32	1.78	1.44
<b>OECD (2006)</b>				
	<b>Vollzeit, Männer, Westdeutschland</b>			
Labour Force Database	<b>1984</b>	2.88	1.69	1.70
basiert auf SOEP	<b>1993</b>	2.86	1.78	1.61
	<b>1998</b>	3.04	1.85	1.65

Tabelle 3.2 (continued)

<b>Autor/Datenbasis</b>	<b>Jahr</b>	<b>D9/D1 (D8/D1)</b>	<b>D9/D5 (D8/D5)</b>	<b>D5/D1 (D5/D2)</b>
<b>Steiner/Hölzle (2000)</b>				
SOEP	<b>1990 Männer</b>	2.39	1.66	1.44
	<b>1997 Männer</b>	2.52	1.62	1.56
	<b>1990 Frauen</b>	2.38	1.56	1.53
	<b>1997 Frauen</b>	2.27	1.46	1.56
<b>Prasad (2004)</b>	<b>Westdeutschland, Männer, Vollzeit</b>			
SOEP	<b>1985</b>	2.20	1.54	1.43
	<b>1989</b>	2.16	1.55	1.39
	<b>1996</b>	2.23	1.55	1.43
<b>Jacobebbinghaus (2002)</b>				
GLS	<b>1996</b>	2.48	1.65	1.50
SOEP	<b>1996</b>	2.78	1.77	1.57
<b>Steiner/Wagner (1998)</b>				
SOEP	<b>1984</b>	(1.74)	(1.27)	(1.37)
	<b>1990</b>	(1.73)	(1.27)	(1.37)
IABS	<b>1984</b>	(1.67)	(1.24)	(1.35)
	<b>1990</b>	(1.74)	(1.26)	(1.37)
<b>Blau/Kahn (1996)</b>	<b>Männer</b>			
ISSP		2.70	1.72	1.58

Quelle: siehe Literaturliste

Source: Schettkat 2006

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