



Dr. Andrea Jochmann-Döll
Am Gerichtshaus 73
45257 Essen

Te1. +49 (0)201-4868037
Fax. +49 (0)201-4868039

jochmann-doe11@gefa-forschung-beratung.de



1. Basics on eg-check.de

eg-check.de is a short form for “Entgeltgleichheit-Check” which can be translated by “pay equality check”. It was launched in 2010 and updated in 2014 as a tool-box aiming at analyzing the wage structure by gender on the basis of the legal equal pay principles "equal pay for equal work and for work of equal value". The tool-box was developed by two researchers – Karin Tondorf and Andrea Jochmann-Döll – with financial support of the union-related Hans Böckler foundation (Hans Böckler Stiftung) and in strict accordance to the German and European statutory provisions and case law. Because of this European statutory basis, the tool-box is applicable in every European country after some country-specific adaptations.

With this tool-box, employers, employee representatives, collective bargaining parties and – as far as data is provided – employees themselves can check pay regulations and pay practices in order to identify possible direct and indirect pay discrimination.

Although originally sponsored by the Hans Böckler Foundation, application of the tool-box is not centrally monitored or coordinated. Since several years, application is supported by the German Federal Anti-Discrimination Agency (Antidiskriminierungsstelle des Bundes, ADS).

The tools of the tool-box can be used one by one or in combination, depending on the subject and aim of the test. They all can be downloaded freely on the web-site www.eg-check.de, pitifully only in German.

2. The set of tools in the tool-box

The following pay components can be examined:

- basic pay (factor-based)
- pay levels (experience-based)
- performance pay

- overtime pay
- hardship allowances.

For each of these pay components eg-check.de provides a statistical scheme that shows which data should be collected in which way in order to identify potential discrimination. In addition, for each pay component there is a check of regulations ("Regelungs-Check") with which discriminatory regulations in collective agreements (either at company level or at branch level) can be found. A third set of instruments is called pair comparisons ("Paarvergleiche"). With these, one woman respectively a female-dominated job and one man respectively a male-dominated job can be compared in particular at individual level. The following figure 1 shows an overview over the tools of the tool-box. Their use will be explained by the example of basic pay.

Figure 1: The tools of the tool-box eg-check.de

Pay components	Statistics	Check of regulations	Pair Comparisons
	<i>Which data? How to present?</i>	<i>Testing collective agreements</i>	<i>Woman vs. man female vs. male dominated job</i>
Basic pay (factor-based)	Statistics Basic Pay	Check of regulations Basic Pay	- Pair Comparison Basic Pay - Pair Comparison Equal Value
Pay levels (experience-based)	Statistics Pay levels	Check of regulations Pay levels	Pair Comparison Pay levels
Performance pay	Statistics Performance pay	Check of regulations Performance pay	Pair Comparison Performance pay
Overtime pay	Statistics Overtime pay	Check of regulations Overtime pay	Pair Comparison Overtime pay
Hardship allowances	Statistics Hardship allowances	Check of regulations Hardship allowances	Pair Comparison Hardship allowances

3. Use of eg-check.de by the example of basic pay

You might start the pay equality check for basic pay with a statistic overview on which jobs there are in the company, on their male resp. female domination and their pay grade. In addition, the statistic should show which personal allowances are paid to whom. This gives a possibility for identifying individual payments that are being paid rather because of individual bargaining results than by the value of the job done.

The following table 1 shows an extract of a possible statistic in a geriatric home. Geriatric nurses and janitors resp. craftsmen are graded equally in pay grade 7, as the underlying collective agreement might prescribe. No personal allowances are paid. Being aware of the duties of geriatric nurses which are of high responsibility and the physical burdens of their jobs, the question might arise if the grading of both jobs is just and free of discrimination. In

other words: Are both jobs of equal value, so that their equal pay grades are in accordance with the principle of equal pay for work of equal value?

Table 1: Statistic Basic Pay, Example

Work women/men			Pay women/men			
Jobs	Number of employees in the job		Percentage of women in %	Pay grade	Number of employees with personal allowance	
	male	female			male	female
...						
Geriatric nurse	9	50	85%	VII		0
Janitor/Craftsman	4		0%	VII	0	

To answer this question, eg-check.de offers two possible ways which are not subsidiary but supplementary:

1. The check of regulations basic pay can point to discriminatory potential of the job classification system that is underlying the grading scheme.
2. The pair comparison equal value with which the value of two comparable jobs can be determined in order to justify equal pay - or not.

The check of regulations basic pay consists of 14 questions that have been derived from statutory provisions and case-law of the European Court of Justice, EJC, on discrimination-free job classification and job grading systems. Each question can be answered by either yes or no, and one of the answers always points to a discriminatory potential of the job classification and grading system. Each question is accompanied by explanations and legal background that helps to interpret the answer and find measures to establish pay equality. The following figure 2 gives an example of one question in order to show the formal structure of the check of regulations.

Figure 2: Check of regulations Basic Pay, extract (1 of 14 questions)

Question	Explanation and background
<p>5. Concerning the factors</p> <p>Does the job classification (evaluation) system ensure, that all the characteristic demands and strains of jobs of women and men are included?</p> <p><input type="checkbox"/> yes <input type="checkbox"/> no</p>	<p><i>In it's judgement „Rummler“, the ECJ establishes the principle, „that the work actually carried out must be remunerated in accordance with its nature“ (C-237/85, no. 23). It is to be tested, “whether a job classification system as a whole allows proper account to be taken of the criteria necessary for adjusting pay rates” (C-237/85, no. 16).</i></p> <p><i>Especially, there have to be included criteria, which are characteristic for female-dominated jobs, such as responsibility for people, monotonous movements, communicative demands.</i></p> <p>.....</p>

The pair comparison equal value is the second way of checking whether two jobs of equal value are being paid equally and among all the tools of eg-check.de it turned out to be of specific importance and interest. In principle, this is a discrimination-free job evaluation scheme comprising of 19 factors in 4 areas (knowledge, psycho-social demands, responsibilities and physical demands), that enable to determine the value of a job free of discrimination.

The pair comparison equal value is based on other discrimination-free job evaluation schemes like:

- the Swiss Abakaba (**A**nalytische **B**ewertung von **A**rbeitstätigkeiten nach **K**atz und **B**aitsch). This job evaluation scheme was one of the first to be developed for the German speaking region. It has been applied in several equal pay projects in Switzerland, Austria and Germany. It uses four areas: intellectual area, psycho-social area, physical area and responsibility. Each area comprises of four demand factors, e.g. specialized knowledge, communicative skills, precision of movements, responsibility for human life (Katz & Baitsch 1996).
- the Swedish System by Anita Harriman and Carin Holm (Harriman & Holm 2000). These two researchers developed a simple and quick method for determining the demands and the value of a job. This method seems to be quite practical especially for small companies in order to prove pay equality. It differentiates between three sectors (knowledge and skills, responsibility, working conditions) and eight factors.
- the British NJC-Schemes (**N**ational **J**oint **C**ommission). These two different but very similar job evaluation schemes have been developed in the United Kingdom in the late 1990ies by joint commissions of union and employers' representatives in order to re-evaluate the jobs in the local governments and the British Health Service. These schemes include three areas (knowledge and skills, responsibilities, effort and environment) and 13 resp. 16 factors (Hastings 2002).
- the recommendations of the International Labour Office (ILO). The ILO has published a practical and comprehensive guidebook for gender-neutral job evaluation. It covers the whole range from establishing a pay equity committee over job evaluation methods to estimating wage gaps and making pay adjustments and is illustrated with examples and checklists (Chicha 2008).

The factors and areas of the pair comparison equal value of eg-check.de are presented in the following figure 3.

Figure 3: Demands in the pair comparison equal value

1. Knowledge	3. Responsibilities
1.1 Specialized knowledge and skills 1.2 Specialized additional qualifications 1.3 multidisciplinary knowledge and skills 1.4 Required practical specialized experience 1.5 Planning and organizing 1.6 Management of work interruptions 1.7 Continuous attention and concentration	3.1 Responsibility for money and goods 3.2 Responsibility for the physical and psychological health and data security 3.3 Responsibility for the work of others and leadership 3.4 Responsibility for the environment
2. Psycho-social demands	4. Physical demands
2.1 Communicative skills 2.2 Cooperative skills 2.3 Empathy and power of persuasion 2.4 Loading psycho-social conditions	4.1 Physical strength 4.2 Demands on body posture, body movements and sensory organs 4.3 Loading working-time conditions 4.4 Loading working conditions

The results of the job evaluation with the pair comparison are summarized in a result sheet. For the two jobs of the former example, geriatric nurse and janitor/craftsman, the results of a confidential testing project had been 28 points for the geriatric nurse and 18 points for the janitor, as shown in the following table 2. As both jobs are in pay grade 7, these results lead to the conclusion that the job of the geriatric nurse had been undervalued in the past and is therefore underpaid. An upgrading of this job should be discussed and planned as a measure to obtain pay equality.

Table 2: Results of an application of the pair comparison equal value

Demands/Strains	Geriatric nurse	Craftsman/janitor
1. Knowledge	9	9
2. Psycho-social demands	9	4
3. Responsibility	3	3
4. Physical demands	7	2
Total points, unweighted	28	18

Source: confidential data from a testing project

4. Previous applications of eg-check.de

Since its development in 2010, eg-check.de has been widely used in seminars, workshops and presentations as a means of sensibilisation and awareness-rising for pay discrimination in the legal sense.

Above that it has been applied in a number of testing projects in public and private companies. These projects have partly been financed by the Federal Anti-Discrimination Agency ("ADS") who also supports the application of eg-check.de by awarding a certificate

for the application of eg-check.de and by doing so facing the issue of equal pay for women and men. It is important to keep in mind that the certificate is not for having realised pay equality already. Up to 2015 twelve institutions have been awarded a certificate. With eg-check.de several discriminatory regulations of collective agreements and pay practices could be identified.

During their testing project, some of the companies recognized the advantages of systematic and analytical job evaluation and found this method useful for their pay related goals and strategies. Therefore some of the companies used the pair comparison equal value as the basis for their job classification and grading system.

Tests of collective agreements on sectoral or company level have been undertaken either by us as developers of the tool-box, by unions as collective parties or by equal opportunities representatives.

Some research projects used parts of the tool-box as a basis for their own scientific purposes.

5. Experiences with and results of the application

In term of sensibilisation previous applications showed that knowledge about legal provisions and forms of discrimination are not always present and not by everybody. Thus, awareness- and knowledge-rising is still a reasonable aim of the application of eg-check.de.

As already mentioned above, we frequently, but not always, observed a growing appreciation for systematic and analytical job evaluation, inspired by the application of the pair comparison equal value.

With a view on different pay components, the experiences could summarized as follows:

- Basic pay: There have been different results, we found equal as well as unequal pay for work of equal value.
- Pay levels: We found large large differences in the pay amounts and a large discriminatory potential because of non-binding regulations of this pay component.
- Performance pay: The largest bias we found was between full-time and part-time which put mostly female part-timers in great disadvantage.
- Hardship allowances: They provide a large discriminatory potential, as old regulations are still in force, mostly favouring „hard“ male-dominated blue-collar work.

Concerning the concept of the testing projects we have to face the fact that they have all been done voluntarily by the companies, had not more than a sample character, so that results are not sufficiently valid. Therefore, what is needed are more extensive tests which include more jobs and more pay components.

The crucial point of testing equal pay is: What happens with the results? Which modifications are going to be made? And which effect on equality pay can be observed? Sustainability is

the keyword. In our testing projects we were often confronted with the phenomenon of „bound hands“. That means that company level parties, when facing discriminatory regulations or practices, pointed to the sectoral level bargaining parties, saying that they could not act in a different manner because the collective agreement would bind them to do so. Very often, they were not aware of the statutory principle that discriminatory regulations must not be applied. On the sectoral level, although, it can be observed (by the examples of recent new bargaining agreements in large German sectors) that changes in sectoral collective bargaining agreements or job classification systems are slow, long-term oriented and do not always have the desired effect, even if some actors have the aim of discrimination-free job classification and grading systems. A further limiting factor to sustainability is that the publication of results of testing projects is not compulsory, so that they have to be kept confidential and must not be used publicly for whatever purposes.

Keeping all this in mind, it is to be said, that in spite of its inspiring results and awareness-raising effects, the direct impact of the application of eg-check.de on the gender pay gap is nevertheless quite small (even at company level). Since there exists no Equal Pay Enforcement Law in Germany a direct reaction to the retrieved discriminating factors can hardly be enforced. Up to now, the larger benefit of eg-check.de lies in the increasing awareness of the legal principle of equal pay for equal work and for work of equal value, the potential of indirect discrimination by collective agreements and the disclosure of ways to stop the undervaluation of female-dominated jobs through job evaluation schemes without gender bias. What is needed in Germany and surely in all other countries that do not already have one, is a strong equal pay law which

- 1) makes pay equality tests and the publication of their results compulsory and which
- 2) ensures that the applied tests are really capable of testing the principle of equal pay for equal work and for work of equal value.

Further information, references and links:

www.eg-check.de and www.antidiskriminierungsstelle.de

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