

# Equal pay for equal work between men and women (pay transparency and enforcement mechanisms)

2021/0050(COD) - 04/03/2021 - Legislative proposal

**PURPOSE:** to establish minimum requirements to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanism.

**PURPOSE:** to set up a European Partnership on Metrology jointly undertaken by several Member States.

**PROPOSED ACT:** Decision of the European Parliament and of the Council.

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

**BACKGROUND:** Articles 2 and 3(3) of the Treaty on European Union enshrine the right to equality between women and men as one of the core values and tasks of the Union. The European pillar of social rights, jointly proclaimed by the European Parliament, the Council and the Commission, includes among its principles equal treatment of women and men and the right to equal pay for work of equal value.

Despite [Directive 2006/54/EC](#), supplemented in 2014 by a Commission [Recommendation](#) on pay transparency, the effective implementation of the principle of equal pay remains problematic in practice in the EU.

The gender pay gap in the EU remains at around 14%. The COVID-19 pandemic and its economic and social consequences on female workers make it even more urgent to address this issue.

The European Parliament has repeatedly called for more action at EU level to improve the implementation of equal pay provisions. The Council has called on both the Member States and the Commission to act. Following the evaluation of the existing framework on equal pay for equal work or work of equal value, [the gender equality strategy 2020-2025](#) announced binding measures on pay transparency.

**CONTENT:** the proposed directive aims to address the persistent inadequacy in the application of the fundamental right to equal pay and to ensure that this right is respected throughout the EU, by setting standards for pay transparency to enable workers to assert their right to equal pay. Member States could provide for a higher level of protection than that guaranteed by the Directive.

## ***Same work and work of equal value***

The proposal requires Member States to establish tools or methodologies to assess and compare the value of work in line with a set of objective criteria which include educational, professional and training requirements, skills, effort and responsibility, work undertaken and the nature of the tasks involved.

The availability of clear criteria at national level will help workers to establish a valid comparator and assess whether they are treated less favourably than the comparator performing the same work or work of equal value.

## ***Pay transparency***

The proposal:

- requires employers to provide, prior to the job interview, information on the initial pay level or a corresponding range (based on objective and gender-neutral criteria) to be paid to the future worker in relation to a specific position or job. Employers would not have the right to ask applicants about their pay history in their former employment relationship;
- requires employers to make available to workers a description of the gender-neutral criteria used to define their pay and career progression;
- gives workers the right to ask their employer for information on their individual pay level and on average pay levels, broken down by sex, for categories of workers performing the same work or work of equal value;
- requires employers with at least 250 workers to make publicly accessible certain information, such as the pay gap between female and male workers in their organisation. On the basis of the information provided, employees and their representatives would have the right to ask the employer for clarification of this information;
- obliges the employers concerned to carry out a pay assessment in cooperation with employee representatives where the pay information indicates a gender pay gap of at least 5%, which the employer cannot justify on the basis of objective and gender-neutral factors.

## ***Better access to justice for victims of pay discrimination***

With regard to redress and enforcement, the proposal:

- requires Member States to ensure that judicial procedures are available to enforce the rights and obligations under the Directive;
- introduces the right for equality bodies and workers' representatives or other legal entities to act on behalf or in support of a worker, and for them to bring collective claims to court;
- obliges Member States to ensure that any worker who is a victim of sex discrimination in pay can obtain full compensation for the harm caused;
- increases the burden of proof on the employer: the employer, not the worker, should prove the absence of discrimination in relation to pay;
- provides that the limitation period for bringing a claim under the proposed Directive should be at least three years;
- requires Member States to establish specific penalties for infringements of the equal pay rule, including minimum fines.