

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

2021/0050(COD) - 30/03/2023 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 427 votes to 79, with 76 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council 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 mechanisms.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

## *Equal work and work of equal value*

Member States should take the necessary measures to ensure that employers have pay structures ensuring equal pay for equal work or work of equal value. Analytical tools or methodologies should be made available and are easily accessible to support and guide the assessment and comparison of the value of work. These tools or methodologies should allow employers and/or the social partners to easily establish and use **gender-neutral job evaluation and classification systems** that exclude any pay discrimination on grounds of sex.

Pay structures should be such as to enable the assessment of whether workers are in a comparable situation in regard to the value of work on the basis of objective, gender-neutral criteria agreed with workers' representatives where such representatives exist. These criteria should not be based directly or indirectly on workers' sex.

## *Pay transparency prior to employment*

Information should be provided in a manner such as to ensure an informed and transparent negotiation on pay, such as in a published job vacancy notice, prior to the job interview or otherwise. Employers should **ensure that job vacancy notices and job titles are genderneutral** and that recruitment processes are led in a non-discriminatory manner, in order not to undermine the right to equal pay for equal work or work of equal value (the 'right to equal pay').

Employers should make easily accessible to their workers the criteria that are used to determine workers' pay, pay levels and pay progression. Member States may exempt employers with fewer than 50 workers from the obligation related to the pay progression.

## *Right to information*

Workers should have the right to request and receive **in writing** information on their individual pay level and on the average pay levels, broken down by sex, for categories of workers performing the same work as them or work of equal value to theirs. If the information received is inaccurate or incomplete, workers should have the right to request, either personally or through their representatives, reasonable additional details and clarification and to receive a substantiated response.

Employers should provide any information shared with workers or job applicants in a format accessible to people with disabilities.

### ***Reporting on pay gap between female and male workers***

Employers with **250 or more employees** should provide information on the gender pay gap no later than four years after the date of entry into force of the Directive and annually thereafter. Employers with **between 150 and 249 employees** should provide this information no later than four years after the date of entry into force of the Directive and every three years thereafter. Employers with **between 100 and 149 employees** should provide this information no later than eight years after the date of entry into force of the Directive and every three years thereafter.

Member States may require employers with **fewer than 100 employees** to provide information on pay.

### ***Joint assessment of pay***

Employers subject to the obligation to report pay data should carry out a joint pay assessment where the following conditions are met:

- (a) the pay reporting demonstrates a difference in the average pay level between female and male workers of at least 5 % in any category of workers;
- (b) the employer has not justified such a difference in the average pay level on the basis of objective, gender-neutral criteria;
- (c) the employer has not remedied such an unjustified difference in the average pay level within six months of the date of submission of the pay reporting.

### ***Social dialogue***

Member States should take adequate measures to promote the role of the social partners and encourage the exercise of the right to collective bargaining on measures to tackle pay discrimination and its adverse impact on the valuation of jobs predominantly carried out by workers of one sex.

### ***Penalties***

Member States should lay down the rules on **effective, proportionate and dissuasive penalties** applicable to infringements of the rights and obligations relating to the principle of equal pay. These penalties should guarantee a real deterrent effect with regard to infringements of the rights and obligations relating to the principle of equal pay. They should take into account any relevant aggravating or mitigating factor applicable to the circumstances of the infringement, which may include intersectional discrimination.

### ***Statistics***

Member States should, on an annual basis, provide the Commission (Eurostat) with up-to-date national data for the calculation of the gender pay gap in unadjusted form. Those statistics should be broken down by sex, economic sector, working time (full-time/part-time), economic control (public/private ownership) and age and should be calculated on an annual basis. The data should be transmitted **from 31 January 2028** for reference year 2026.