

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

2021/0050(COD) - 17/05/2023 - Final act

**PURPOSE:** to improve and make more effective the application of the principle of equal pay by establishing common minimum requirements which should apply to all companies and organisations throughout the Union.

**LEGISLATIVE ACT:** Directive (EU) 2023/970 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.

**CONTENT:** this Directive lays down minimum requirements to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women and the prohibition of discrimination laid down in Article 4 of Directive 2006/54/EC, in particular through pay transparency and reinforced enforcement mechanisms.

## Equal work and work of equal value

Member States will 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 will be made available and will be 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.

## Accessing information

The new rules will make it compulsory for employers to inform job seekers about the starting salary or pay range of advertised positions, whether in the vacancy notice or ahead of the interview. Employers will also be prevented from asking candidates about their pay history.

Once in the role, workers will be entitled to ask their employers for information about average pay levels, broken down by sex, for categories of employees doing the same work or work of equal value. They will also have access to the criteria used to determine pay and career progression, which must be objective and gender neutral.

## Communication of data on the gender pay gap

Employers with 250 or more employees will be required to provide the competent national authority with information on the gender pay gap within their organisation by 7 June 2027 and annually thereafter. For organisations with between 150 and 249 employees, the reporting obligation will apply every three years. For employers with between 100 and 149 employees, the reporting obligation will apply every three years from 7 June 2031.

If the data reported reveals a pay gap of more than 5% that cannot be justified by objective, gender-neutral criteria, companies will be required to take action in the form of a joint pay review carried out in cooperation with employee representatives.

## Remedies and right to compensation

Member States will ensure that, after possible recourse to conciliation, court proceedings for the enforcement of rights and obligations relating to the principle of equal pay are available to all workers who consider themselves wronged by a failure to apply the principle of equal pay. Such proceedings will be easily accessible to workers and to persons who act on their behalf, even after the end of the employment relationship in which the discrimination is alleged to have occurred.

## Shift of burden of proof

Member States will take the appropriate measures, in accordance with their national judicial systems, to ensure that, when workers who consider themselves wronged because the principle of equal pay has not been applied to them establish before a competent authority or national court facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no direct or indirect discrimination in relation to pay.

Penalties for breaches must be effective, proportionate and dissuasive and will include fines.

## Broadening the scope

Women with disabilities, women of different racial or ethnic origin, including Roma women, and young or elderly women are among the groups likely to face intersectional discrimination. This Directive specifies that, in the context of gender-based pay discrimination, it will be possible to take account of such a combination, so as to enable the courts and other competent authorities at national level to take account of any situation of intersectional discrimination.

## Report and review

No later than 7 June 2031, Member States will report to the Commission on the implementation of this Directive and its effects in practice. No later than 7 June 2033, the Commission will present a report on the implementation of the Directive. The Commission will propose any legislative amendments it considers necessary on the basis of this report.

**ENTRY INTO FORCE:** 6.6.2023.

**TRANSPOSITION:** 7.6.2026 at the latest.