



Plenary sitting

A9-0056/2022

22.3.2022

*****I**
REPORT

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
(COM(2021)0093 – C9-0089/2021 – 2021/0050(COD))

Committee on Employment and Social Affairs
Committee on Women's Rights and Gender Equality

Rapporteurs: Kira Marie Peter-Hansen, Samira Rafaela

(Joint committee procedure – Rule 58 of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT 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 (COM(2021)0093 – C9-0089/2021 – 2021/0050(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2021)0093),
 - having regard to Article 294(2) and Article 157(3) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0089/2021),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 9 June 2021¹,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the joint deliberations of the Committee on Employment and Social Affairs and the Committee on Women's Rights and Gender Equality under Rule 58 of the Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs and the Committee on Women's Rights and Gender Equality (A9-0056/2022),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 341, 24.8.2021, p. 84.

Amendment 1

Proposal for a directive

Recital -1 (new)

Text proposed by the Commission

Amendment

(-1) Article 11 of the United Nations Convention of 18 December 1979 on the Elimination of All Forms of Discrimination against Women (CEDAW) provides the right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work.

Amendment 2

Proposal for a directive

Recital 1

Text proposed by the Commission

Amendment

(1) Articles 2 and 3(3) of the Treaty on European Union enshrine the right to equality between women and men as one of the essential values and tasks of the Union.

(1) Articles 2 and 3(3) of the Treaty on European Union (**TEU**) enshrine the right to equality between women and men as one of the essential values and tasks of the Union.

Amendment 3

Proposal for a directive

Recital 2

Text proposed by the Commission

Amendment

(2) Articles 8 and 10 of the Treaty on the Functioning of the European Union ('TFEU') provide that the Union shall aim to eliminate inequalities, to promote equality between men and women and to combat discrimination based on sex in all its activities.

(2) Articles 8 and 10 of the Treaty on the Functioning of the European Union ('TFEU') provide that the Union shall aim to eliminate inequalities, to promote equality between men and women and to combat discrimination based on sex, **racial or ethnic origin, religion or belief, disability, age or sexual orientation** in all its activities.

Amendment 4

Proposal for a directive Recital 3

Text proposed by the Commission

(3) Article 157(1) **of the** TFEU obliges each Member State to ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

Amendment

(3) Article 157(1) TFEU obliges each Member State to ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied. **Article 157(3) TFEU provides for the adoption of measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value. Article 157(4) TFEU stipulates that Member States may, with a view to ensuring full equality in practice between men and women in working life, maintain or adopt measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.**

Amendment 5

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The terminology used in Article 157 TFEU dates from 1957. Since then, social and legal changes, as well as research in the medical and biological fields have led to the recognition, in the definition of “sex”, of diversity in addition to women and men. For example, in some Member States it is currently possible for persons to legally register themselves as having a third, often neutral, gender. The

Court of Justice of the European Union (the ‘Court’) has also held that the principle of equal treatment for men and women cannot be limited to the prohibition of discrimination based on the fact that a person is of one or other sex. In view of the purpose and the nature of the rights which the principle of equal treatment seeks to safeguard, it also applies to discrimination arising from the person’s gender identity.

Amendment 6

Proposal for a directive Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) This Directive applies a human rights oriented approach that seeks to protect persons from pay discrimination irrespective of their sex, gender, gender identity, gender expression or sex characteristics and therefore interprets its legal basis, namely discrimination on the grounds of sex, in the broadest and most inclusive way, in order to foster gender equality and encompass people in all their diversity. Employers should take into account workers that do not identify as either female or male in their pay reporting obligations and should mention them in a category separate from female and male workers. When calculating the gender pay gap, those workers’ pay should be compared to the average level of pay of male workers. An employer should only mention workers who do not identify as either female or male in their pay reporting obligations where those workers are legally registered as not identifying as female or male or where that information has been proactively and voluntarily disclosed to the employer.

Amendment 7

Proposal for a directive Recital 3 c (new)

Text proposed by the Commission

Amendment

(3c) The principle of equal pay laid down in Article 157 TFEU and as consistently interpreted in the case-law of the Court constitutes an important aspect of the principle of equal treatment of men and women and an essential part of the Union acquis, including the case-law of the Court concerning sex discrimination. However, closing the gender pay gap remains a significant challenge because, across the Union, women's earnings continue to be proportionately lower than those of men. The Union gender pay gap persists and stood at 14,1 % in 2019, with significant variations across Member States, and has decreased only minimally over the last ten years. The degree of pay discrimination is even larger for women who are subject to intersecting forms of discrimination, based, inter alia, on racial, ethnic or social origin, migration status, religion or belief, sexual orientation or disability. In accordance with the settled case-law of the Court, in order to assess whether workers are performing the same work or work of equal value, it should be determined whether, having regard to a range of factors including qualifications, skills, responsibility and working conditions, those workers may be considered to be in a comparable situation.

Amendment 8

Proposal for a directive Recital 4

Text proposed by the Commission

Amendment

(4) ***Article 23*** of the Charter of

(4) ***Articles 21 and 23*** of the Charter of

Fundamental Rights of the European Union *provides* that equality between women and men must be ensured in all areas, including employment, work and pay.

Fundamental Rights of the European Union *(the ‘Charter’) prohibit any discrimination on the grounds of sex, enshrine the right to equal treatment and provide* that equality between women and men must be ensured in all areas, including employment, work and pay. *Article 23 of the Universal Declaration of Human Rights states that everyone, without any discrimination, has the right to equal pay for equal work, to free choice of employment, to just conditions of work and to just remuneration ensuring an existence worthy of human dignity. Gender equality remains a real challenge in all of those areas, and that challenge has been exacerbated by the crisis arising from the COVID-19 pandemic.*

Amendment 9

Proposal for a directive Recital 5

Text proposed by the Commission

(5) The European Pillar of Social Rights⁴¹, jointly proclaimed by the European Parliament, the Council, and the Commission, incorporates *among* its principles equality of treatment and opportunities between women and men, *and* the right to equal pay for work of equal value.

Amendment

(5) The European Pillar of Social Rights⁴¹, jointly proclaimed by the European Parliament, the Council, and the Commission, incorporates, *in particular in its Principles No 2, 3, 5 and 7, the principles of* equality of treatment and opportunities between women and men, *regardless of gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation. This includes participation in the labour market, terms and conditions of employment and career progression;* the right to equal pay for work of equal value; *the right to fair and equal treatment regarding working conditions and access to social protection and training, regardless of the type and duration of the employment relationship; and the right of workers to be informed in writing at the start of employment about their rights and obligations. Principle 8 provides that the social partners are to be*

consulted on the design and implementation of economic, employment and social policies according to national practices, and are to be encouraged to negotiate and conclude collective agreements in matters relevant to them, while respecting their autonomy and the right to collective action.

41

https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_en

41

https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_en

Amendment 10

Proposal for a directive Recital 6

Text proposed by the Commission

(6) Directive 2006/54/EC of the European Parliament and of the Council⁴² provides that for the same work or for work of equal value, direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration is to be eliminated. In particular, where a job classification system is used for determining pay, it should be based on the same criteria **for both men and women** and should be drawn up so as to exclude any discrimination on grounds of sex.

⁴² Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ L 204, 26.7.2006, p. 23).

Amendment

(6) Directive 2006/54/EC of the European Parliament and of the Council⁴² provides that for the same work or for work of equal value, direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration is to be eliminated. In particular, where a job classification system is used for determining pay, it should be based on the same **gender-neutral** criteria and should be drawn up so as to exclude any discrimination on grounds of sex.

⁴² Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ L 204, 26.7.2006, p. 23).

Amendment 11

Proposal for a directive Recital 7

Text proposed by the Commission

(7) The 2020 evaluation⁴³ found that the implementation of the *equal pay* principle is hindered by a lack of transparency in pay systems, a lack of legal certainty on the concept of ‘work of equal value’, and by procedural obstacles faced by victims of discrimination. Workers lack the necessary information to make a successful equal pay claim and in particular information about the pay levels for categories of workers who perform the same work or work of equal value. The report found that increased transparency would allow revealing gender bias and discrimination in the pay structures of an undertaking or organisation. It would also enable workers, employers and social partners to take appropriate action to enforce the right to equal pay.

⁴³ SWD(2020)50. See also the 2013 Report on the implementation of Directive 2006/54/EC to the European Parliament and the Council, COM (2013)861 final.

Amendment 12

Proposal for a directive Recital 7 a (new)

PE693.798v02-00

Amendment

(7) *The Commission communication of 20 November 2017 setting out the EU Action Plan 2017-2019 on tackling the gender pay gap notes that the pay gap can be explained by a number of different factors, including, in particular, the segregation of the labour market as well as stereotypes fuelled by inadequate work-life balance policies.* The 2020 evaluation⁴³ *of the relevant provisions in Directive 2006/54/EC* found that the implementation of the principle *of equal pay* is hindered by a lack of transparency in pay systems, a lack of legal certainty on the concept of ‘work of equal value’, and by procedural obstacles faced by victims of discrimination. Workers lack the necessary information to make a successful equal pay claim and in particular information about the pay levels for categories of workers who perform the same work or work of equal value. The report found that increased transparency would allow revealing gender bias and discrimination in the pay structures of an undertaking or organisation. It would also enable workers, employers and social partners to take appropriate action to enforce the right to equal pay *for equal work or work of equal value.*

⁴³ SWD(2020)50. See also the 2013 Report on the implementation of Directive 2006/54/EC to the European Parliament and the Council, COM (2013)861 final.

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(7a) Commission Recommendation 2014/124/EU^{1a} urges Member States to introduce pay transparency measures such as the right to obtain information on pay levels, reporting by companies, pay audits and collective bargaining and, in accordance with the case-law of the Court, to clarify the principle of equal pay for work of equal value in their national law on the basis of objective criteria, such as educational, professional and training requirements, skills, effort and responsibility, work undertaken and the nature of the tasks involved. It sets out a set of core measures to help Member States enhance the principle of equal pay. The Commission report of 20 November 2017 on the implementation of that Recommendation through pay transparency noted that few Member States have adapted their national legal systems to strengthen the principle of equal pay for work of equal value in response to the Recommendation and therefore highlighted the need for further targeted measures at Union level to make pay transparency a reality.

^{1a} Commission Recommendation 2014/124/EU of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency (OJ L 69, 8.3.2014, p. 112).

Amendment 13

Proposal for a directive Recital 8

Text proposed by the Commission

(8) Following a thorough evaluation of the existing framework on equal pay for equal work or work of equal value⁴⁴ and a

Amendment

(8) Following a thorough evaluation of the existing framework on equal pay for equal work or work of equal value⁴⁴ and a

wide-ranging and inclusive consultation process⁴⁵, the gender equality strategy 2020-2025⁴⁶ announced binding measures on pay transparency.

⁴⁴ Evaluation of the relevant provision in Directive 2006/54/EC implementing the Treaty principle on ‘equal pay for equal work or work of equal value’, SWD(2020)50; Report on the implementation of the EU Action Plan 2017-2019 on tackling the gender pay gap, COM(2020)101.

⁴⁵ https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2020-33490_en

⁴⁶ Communication from the Commission ‘A Union of Equality: Gender Equality Strategy 2020-2025’ of 5 March 2020, COM(2020)152 final.

wide-ranging and inclusive consultation process⁴⁵, the gender equality strategy 2020-2025⁴⁶ announced binding measures on pay transparency. ***Those measures should focus on criteria and assess objectives in order to ensure that they are non-discriminatory.***

⁴⁴ Evaluation of the relevant provision in Directive 2006/54/EC implementing the Treaty principle on ‘equal pay for equal work or work of equal value’, SWD(2020)50; Report on the implementation of the EU Action Plan 2017-2019 on tackling the gender pay gap, COM(2020)101.

⁴⁵ https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2020-33490_en

⁴⁶ Communication from the Commission ‘A Union of Equality: Gender Equality Strategy 2020-2025’ of 5 March 2020, COM(2020)152 final.

Amendment 14

Proposal for a directive Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) The economic and social consequences of the COVID-19 pandemic are having a disproportionate impact on women and gender equality, and job losses have been concentrated in low-paid, female-dominated sectors. The effects of the COVID-19 pandemic will therefore further widen gender inequalities and the gender pay gap unless the recovery response is gender sensitive. Those consequences have made it even more pressing to tackle the issue of equal pay for equal work or work of equal value. Strengthening the implementation of the principle of equal pay through further measures is particularly important

to ensure that the progress which has been made in addressing disparities in pay is not compromised.

Amendment 15

Proposal for a directive Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) Gender stereotypes, the perpetuation of the “glass ceiling” and the “sticky floor” and horizontal segregation, including the over-representation of women in low-paid service jobs, are structural issues that significantly contribute to the gender pay gap and form complex challenges to achieving good quality jobs and the principle of equal pay. Work-life balance policies should contribute to the achievement of gender equality by promoting the participation of women in the labour market. The COVID-19 pandemic has highlighted the continued undervaluing of work predominantly carried out by women and has demonstrated the value, visibility and recognition of women’s work in front-line services, such as health care, cleaning, childcare, social care and residential care for older people and other adult dependants. Complementary measures to tackle the issue need to focus on improving the working conditions and career-prospects of workers with such jobs.

Amendment 16

Proposal for a directive Recital 9

Text proposed by the Commission

(9) The gender pay gap is caused by various factors, part of which can be attributed to direct and indirect gender pay discrimination. A general lack of transparency about pay levels within organisations maintains a situation where gender-based pay discrimination and bias can go undetected or, where suspected, are difficult to prove. Binding measures are therefore needed to improve pay transparency, encourage organisations to review their pay structures *to* ensure equal pay for *women and men doing the same* work or work of equal value, and enable victims of discrimination to enforce their right to equal pay. This needs to be complemented by provisions clarifying existing legal concepts (such as the concept of ‘pay’ and ‘work of equal value’) and measures improving enforcement mechanisms and access to justice.

Amendment

(9) The gender pay gap is caused by various factors, part of which can be attributed to direct and indirect gender pay discrimination. A general lack of transparency about pay levels within organisations maintains a situation where gender-based pay discrimination and bias can go undetected or, where suspected, are difficult to prove. *Various types of* binding measures are therefore needed to improve pay transparency, *to* encourage organisations to review their pay structures *in collaboration with the social partners*, ensure equal pay for *equal* work or work of equal value, *foster the adoption of remedial measures where unjustified differences are identified* and enable victims of discrimination to enforce their right to equal pay. This needs to be complemented by provisions clarifying existing legal concepts (such as the concept of ‘pay’ and ‘work of equal value’) and measures improving enforcement mechanisms and access to justice, *while with respecting Member State models. Pay transparency measures showing gender pay disparities can ensure substantial progress in addressing the gender pay gap and exposing the undervaluation of women’s work and gendered labour market segregation, which is one of the major root causes of the pay gap. Pay transparency alone cannot address structural and existing gender inequalities but is a first step towards tackling those inequalities and should be complemented by additional measures that aim to close the gender pay as well as the pension and care gaps, and to combat the feminisation of poverty.*

Amendment 17

**Proposal for a directive
Recital 10**

Text proposed by the Commission

(10) The application of the principle of equal pay ***between men and women*** should be enhanced by eliminating direct and indirect pay discrimination. This does not preclude employers to pay differently workers doing the same work or work of equal value on the basis of ***objective***, gender-neutral and bias-free criteria such as ***performance and competence***.

Amendment

(10) The application of the principle of equal pay should be enhanced by eliminating direct and indirect pay discrimination ***through transparency and remedial measures***. This does not preclude employers to pay differently workers doing the same work or work of equal value on the basis of gender-neutral and bias-free criteria such as ***educational, professional and training requirements, skills, effort, responsibility, and working conditions***.

Amendment 18

Proposal for a directive Recital 11

Text proposed by the Commission

(11) This Directive should apply to all workers, including part-time workers, fixed-term contract workers ***or*** persons with a contract of employment or employment relationship with a temporary agency, who have an employment contract or employment relationship as defined by the law, collective agreements and/or practice in force in each Member State, taking into account the case-law of the Court ***of Justice of the European Union ('the Court')***. In its case law, the Court established criteria for determining the status of a worker⁴⁷. Provided that they fulfil those criteria, domestic workers, on-demand workers, intermittent workers, voucher based-workers, platform workers, trainees and apprentices should fall within the scope of this Directive. The determination of the existence of an employment relationship should be guided by the facts relating to the actual performance of the work and not by the parties' description of the relationship.

Amendment

(11) This Directive should apply to all workers ***in the Union***, including ***those working in non-standard sectors or in zero-hour contracts***, part-time workers, fixed-term contract workers ***and*** persons with a contract of employment or employment relationship with a temporary agency ***as defined in Directive 2008/104/EC of the European Parliament and of the Council^{46a} or with a subcontracting company***, who have an employment contract or employment relationship as defined by the law, collective agreements and/or practice in force in each Member State, taking into account the case-law of the Court. In its case law, the Court established criteria for determining the status of a worker⁴⁷. Provided that they ***fulfil*** those criteria, domestic workers, on-demand workers, intermittent workers, voucher based-workers, platform workers, ***workers in sheltered employment***, trainees and apprentices should fall within the scope of this Directive. The determination of the existence of an employment relationship

should be guided by the facts relating to the actual performance of the work and not by the parties' description of the relationship.

⁴⁷ Case C-66/85, Deborah Lawrie-Blum v Land Baden-Württemberg, ECLI:EU:C:1986:284; Case C-428/09, Union Syndicale Solidaires Isère v Premier ministre and Others, ECLI:EU:C:2010:612; Case C-229/14, Ender Balkaya v Kiesel Abbruch- und Recycling Technik GmbH, ECLI:EU:C:2015:455; Case C-413/13, FNV Kunsten Informatie en Media v Staat der Nederlanden, ECLI:EU:C:2014:2411; Case C-216/15, Betriebsrat der Ruhrlandklinik gGmbH v Ruhrlandklinik gGmbH, ECLI:EU:C:2016:883; Case C-658/18, UX v Governo della Repubblica italiana, ECLI:EU:C:2020:572.

^{46a} *Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work (OJ L 327, 5.12.2008, p. 9).*

⁴⁷ Case C-66/85, Deborah Lawrie-Blum v Land Baden-Württemberg, ECLI:EU:C:1986:284; Case C-428/09, Union Syndicale Solidaires Isère v Premier ministre and Others, ECLI:EU:C:2010:612; Case C-229/14, Ender Balkaya v Kiesel Abbruch- und Recycling Technik GmbH, ECLI:EU:C:2015:455; Case C-413/13, FNV Kunsten Informatie en Media v Staat der Nederlanden, ECLI:EU:C:2014:2411; Case C-216/15, Betriebsrat der Ruhrlandklinik gGmbH v Ruhrlandklinik gGmbH, ECLI:EU:C:2016:883; Case C-658/18, UX v Governo della Repubblica italiana, ECLI:EU:C:2020:572.

Amendment 19

Proposal for a directive Recital 12

Text proposed by the Commission

(12) In order to remove obstacles for victims of gender pay discrimination to enforce their right to equal pay and guide employers in ensuring respect of this right, the core concepts related to equal pay, such as 'pay' and 'work of equal value', should be clarified in line with the case law of the Court. This should facilitate the application of these concepts, especially for small and medium-sized enterprises.

Amendment

(12) In order to remove obstacles for victims of gender pay discrimination to enforce their right to equal pay and guide employers in ensuring respect of this right, the core concepts related to equal pay, such as 'pay' and 'work of equal value', should be clarified **by Member States in national law** in line with the case law of the Court. This should facilitate the application of these concepts **and avoid unnecessary administrative burden**, especially for **microenterprises and** small and medium-sized enterprises (**SMEs**).

Amendment 20

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The principle of equal pay **for equal work or work of equal value for women and men** should be respected with regard to wage or salary and any other consideration, whether in cash or in kind, which the workers receive directly or indirectly, in respect of their employment from their employer. In line with the case-law of the Court⁴⁸, the concept of ‘pay’ should comprise not only salary, but also additional benefits such as bonuses, overtime compensation, travel facilities (including cars provided by the employer and travel cards), housing allowances, compensation for attending training, payments in case of dismissal, statutory sick pay, statutory required compensation and occupational pensions. It should include all elements of remuneration due by law or collective agreement.

⁴⁸ For example, Case C-58/81, Commission of the European Communities v Grand Duchy of Luxembourg, ECLI:EU:C:1982:215; Case C-171/88 Rinner-Kulhn v FWW Spezial-Gebaudereinigung GmbH, ECLI:EU:C:1989:328; Case C-147/02 Alabaster v Woolwhich plc and Secretary of State for Social Security, ECLI:EU:C:2004:192; Case C-342/93 - Gillespie and Others ECLI:EU:C:1996:46; Case C-278/93 Freers and Speckmann v Deutsche Bundespost, ECLI:EU:C:1996:83; Case C-12/81, Eileen Garland v British Rail Engineering Limited, ECLI:EU:C:1982:44; Case C-360/90,

Amendment

(13) The principle of equal pay should be respected with regard to wage or salary and any other consideration, whether in cash or in kind, which the workers receive directly or indirectly, in respect of their employment from their employer. In line with the case-law of the Court⁴⁸, the concept of ‘pay’ should comprise not only salary, but also additional benefits such as bonuses, overtime compensation, travel facilities (including cars provided by the employer and travel cards), housing **and food** allowances, compensation for attending training, payments in **the** case of dismissal, statutory sick pay, statutory required compensation and occupational pensions. It should include all elements of remuneration due by law or collective agreement. **Reducing the gender pay gap leads to labour market equality and efficiency.**

⁴⁸ For example, Case C-58/81, Commission of the European Communities v Grand Duchy of Luxembourg, ECLI:EU:C:1982:215; Case C-171/88 Rinner-Kulhn v FWW Spezial-Gebaudereinigung GmbH, ECLI:EU:C:1989:328; Case C-147/02 Alabaster v Woolwhich plc and Secretary of State for Social Security, ECLI:EU:C:2004:192; Case C-342/93 - Gillespie and Others ECLI:EU:C:1996:46; Case C-278/93 Freers and Speckmann v Deutsche Bundespost, ECLI:EU:C:1996:83; Case C-12/81, Eileen Garland v British Rail Engineering Limited, ECLI:EU:C:1982:44; Case C-360/90,

Arbeiterwohlfahrt der Stadt Berlin e.V. v
Monika Bötzel, ECLI:EU:C:1992:246; Case
C-33/89, Maria Kowalska v Freie und
Hansestadt Hamburg, ECLI:
EU:C:1990:265.

Arbeiterwohlfahrt der Stadt Berlin e.V. v
Monika Bötzel, ECLI:EU:C:1992:246; Case
C-33/89, Maria Kowalska v Freie und
Hansestadt Hamburg, ECLI:
EU:C:1990:265.

Amendment 21

Proposal for a directive Recital 14

Text proposed by the Commission

(14) Article 10 *of the Treaty on the Functioning of the European Union* provides that, in defining and implementing its policies and activities, the Union *shall* aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Article 4 of Directive 2006/54/EC provides that there *shall* be no direct or indirect discrimination on grounds of sex, notably in relation to pay. Gender-based pay discrimination where a victim's *sex* plays a crucial role can take many different forms in practice. It may involve an intersection of various axes of discrimination or inequality where the worker is a member of one or several groups protected against discrimination on the basis of sex, on the one hand, and racial or ethnic origin, religion or belief, disability, age or sexual orientation (as protected under Directive 2000/43/EC or Directive 2000/78/EC), on the other hand. Migrant women are among groups who face such multiple forms of discrimination. This directive should therefore clarify that, in the context of gender-based pay discrimination, such a combination should be taken into account, thus removing any doubt that may exist in this regard under the existing legal framework. This should ensure that the courts *or* other competent authorities take due account of any situation of disadvantage arising from intersectional discrimination, in particular

Amendment

(14) Article 10 *TFEU* provides that, in defining and implementing its policies and activities, the Union *is to* aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Article 4 of Directive 2006/54/EC provides that there *is to* be no direct or indirect discrimination on grounds of sex, notably in relation to pay. Gender-based pay discrimination where a victim's *gender* plays a crucial role can take many different forms in practice. It may involve an intersection of various axes of discrimination or inequality where the worker is a member of one or several groups protected against discrimination on the basis of sex, on the one hand, and racial or ethnic origin, religion or belief, disability, age or sexual orientation (as protected under *Article 21(1) of the Charter*, Directive 2000/43/EC or Directive 2000/78/EC), on the other hand. Migrant women, *women with disabilities or women of a diverse racial, ethnic or social origin* are among groups who face such multiple forms of discrimination. This Directive should therefore clarify that, in the context of gender-based pay discrimination, such a combination should be taken into account, thus removing any doubt that may exist in this regard under the existing legal framework. This should ensure that the courts, *equality bodies designated pursuant to Article 20 of Directive 2006/54/EC, and* other

for substantive and procedural purposes, including to recognise the existence of discrimination, to decide on the appropriate comparator, to assess the proportionality, and to determine, where relevant, the level of compensation awarded or penalties imposed.

competent authorities take due account of any situation of disadvantage arising from intersectional discrimination, in particular for substantive and procedural purposes, including to recognise the existence of discrimination, to decide on the appropriate comparator, to assess the proportionality, and to determine, where relevant, the level of compensation awarded or penalties imposed. ***An intersectional approach is crucial to understanding, tackling and resolving the multiple forms of discrimination that comprise the gender pay gap. This Directive should also ensure that the specific obstacles experienced by and the needs of workers with disabilities are taken into account, including in relation to its scope, accessibility to information, the right to compensation and data disaggregation, in compliance with the United Nations Convention on the Rights of Persons with Disabilities (CRPD) of 13 December 2006.***

Amendment 22

Proposal for a directive Recital 15

Text proposed by the Commission

(15) In order to respect the right to equal pay ***between men and women***, employers must have pay setting mechanisms or pay structures in place ensuring that there are no pay differences between ***male and female*** workers ***doing*** the same work or work of equal value that are not justified by objective and gender-neutral factors. Such pay structures should allow for the comparison of the value of different jobs within the same organisational structure. In line with the ***case law*** of the Court, the value of work should be assessed and compared based on objective criteria, ***such as*** educational, professional and training requirements, skills, effort ***and*** responsibility, ***work undertaken and the***

Amendment

(15) In order to respect the right to equal pay, employers must have pay setting mechanisms, or pay structures in place ***which could be developed through social dialogue, in cooperation with the social partners, including trade unions***, ensuring that there are no ***gender-based*** pay differences between workers ***performing*** the same work or work of equal value that are not justified by objective and gender-neutral factors. Such pay structures should allow for the comparison of the value of different jobs within the same organisational structure. In line with the ***European Parliament's resolution of 21 January 2021 on the EU Strategy for Gender Equality***, work should be deemed

*nature of the tasks involved.*⁴⁹

*to be of equal value if, based on a comparison of two groups of workers which have not been formed in an arbitrary manner, the work performed is comparable, taking into account objective, gender-neutral criteria. In accordance with the case-law of the Court, the value of work should be assessed and compared based on objective criteria **including** educational, professional and training requirements, skills, effort, responsibility **and working conditions, without taking into account working hours for the purpose of clarity.***

⁴⁹ For example, Case C-400/93, *Royal Copenhagen*, ECLI:EU:C:1995:155; Case C-309/97, *Angestelltenbetriebsrat der Wiener Gebietskrankenkasse*, ECLI:EU:C:1999:241; Case C-381/99, *Brunnhöfer*, ECLI:EU:C:2001:358; Case C-427/11, *Margaret Kenny and Others v Minister for Justice, Equality and Law Reform and Others* [2013] ECLI:EU:C:2013:122, paragraph 28.

Amendment 23

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The identification of a valid comparator is an important parameter in determining whether work may be considered of equal value. It enables the worker to show that they were treated less favourably than the comparator of a different **sex** performing equal work or work of equal value. In situations where no real-life comparator exists, the use of a hypothetical comparator should be **allowed**, allowing a worker to show that they have not been treated in the same way as a hypothetical comparator of another **sex** would have been treated. This **would lift** an

Amendment

(16) The identification of a valid comparator is an important parameter in determining whether work may be considered of equal value. It enables the worker to show that they were treated less favourably than the comparator of a different **gender** performing equal work or work of equal value. **The comparator should be a male performing equal work or work of equal value with the highest pay level.** In situations where no real-life comparator exists, the use of a hypothetical comparator should be **permitted**, allowing a worker to show that they have not been

important obstacle for potential victims of gender pay discrimination, especially in highly gender-segregated employment markets where a requirement of finding a comparator of *the opposite sex* makes it almost impossible to bring an equal pay claim. In addition, workers should not be prevented from using other facts from which an alleged discrimination can be presumed, such as statistics or other available information. This would allow gender-based pay inequalities to be more effectively addressed in gender-segregated sectors and professions.

treated in the same way as a hypothetical comparator of another *gender* would have been treated. This *lifts* an important obstacle for potential victims of gender pay discrimination, especially in highly gender-segregated employment markets where a requirement of finding a comparator of *a different gender* makes it almost impossible to bring an equal pay claim. ***This is for instance the case in the female-dominated care sector, in which it is very difficult for women to claim gender discrimination if the comparison is required to come from the same sector. A hypothetical comparator would facilitate the objective and gender-neutral evaluation of certain jobs and encourage employers and the social partners to identify undervalued sectors and jobs.*** In addition, workers should not be prevented from using other facts from which an alleged discrimination can be presumed, such as statistics or other available information, *pay level and the pay setting criteria, a reference to an existing classification based on social partners' collective agreements. Where no comparison based on a real situation is possible, the existence of a job classification system, which may include pay structures and be potentially part of a collective agreement, can also be used by the worker as a means to demonstrate that there is a case of pay discrimination.* This would allow gender-based pay inequalities to be more effectively addressed in gender-segregated sectors and professions.

Amendment 24

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) The Court has clarified⁵⁰ that in order to compare whether workers are in a comparable situation, the comparison is not

Amendment

(17) The Court has clarified⁵⁰ that in order to compare whether workers are in a comparable situation, the comparison is not

necessarily limited to situations in which **men and women** work for the same employer. Workers may be in a comparable situation even when they do not work for the same employer whenever the pay conditions can be attributed to a single source setting up those conditions. This may be the case when pay conditions are regulated by statutory provisions or collective labour agreements relating to pay applicable to several **companies**, or when such conditions are laid down centrally for more than one organisation or business within a holding company or conglomerate. Furthermore, the Court clarified that the comparison is not limited to workers employed at the same time as the claimant.⁵¹

⁵⁰ Case C-320/00 Lawrence, ECLI:EU:C:2002:498.

⁵¹ Case 129/79 Macarthy, ECLI:EU:C:1980:103.

necessarily limited to situations in which **two workers** work for the same employer, **given that** workers may be in a comparable situation even when they do not work for the same employer whenever the pay conditions can be attributed to a single source setting up those conditions. This may be the case when pay conditions are regulated by statutory provisions or collective labour agreements relating to pay applicable to several **employers**, or when such conditions are laid down centrally for more than one organisation or business within a holding company or conglomerate. Furthermore, the Court clarified that the comparison is not limited to workers employed at the same time as the claimant⁵¹ **or to workers performing their tasks in the same establishment.**

⁵⁰ Case C-320/00 Lawrence, ECLI:EU:C:2002:498.

⁵¹ Case 129/79 Macarthy, ECLI:EU:C:1980:103.

Amendment 25

Proposal for a directive Recital 18

Text proposed by the Commission

(18) Member States should develop specific tools and methodologies to support and guide the assessment of what constitutes work of equal value. This should facilitate the application of this concept, especially for **small and medium-sized enterprises**.

Amendment

(18) Member States should develop specific tools and methodologies, **including gender-neutral job evaluation or classification systems**, to support and guide the assessment of what constitutes work of equal value **and to ensure, where possible, cross-sectoral comparisons** This should facilitate the application of this concept, especially for **microenterprises and SMEs. Member States should develop those tools and methodologies in cooperation with the social partners.**

Amendment 26

Proposal for a directive Recital 19

Text proposed by the Commission

(19) **Job** classification *and* evaluation systems may, if not used in a gender-neutral manner, in particular when they assume traditional gender stereotypes, result in gender-based pay discrimination. In such case, they contribute to and perpetuate the pay gap by evaluating male and female dominated jobs differently in situations where the worth of the work performed is of equal value. Where gender-neutral job evaluation and classification systems are used, however, they are effective in establishing a transparent pay system and are instrumental to ensure that direct or indirect discrimination *on grounds of sex* is excluded. They detect indirect pay discrimination related to the undervaluation of jobs typically done by women. They do so by measuring and comparing jobs whose content is different but of equal value and so support the principle of work of equal value.

Amendment

(19) **Currently, job evaluation and classification systems are often designed on the basis of the requirements of male-dominated jobs. This undervalues the skills associated with female-dominated jobs, reproduces gender bias, gender discrimination and gender stereotypes and reinforces the gender pay gap across sectors. Job evaluation and classification** systems may, if not used in a gender-neutral manner, in particular when they assume traditional gender stereotypes, result in gender-based pay discrimination. In such case, they contribute to and perpetuate the pay gap **including the gender pay gap across sectors** by evaluating male and female dominated jobs differently in situations where the worth of the work performed is of equal value. Where gender-neutral job evaluation and classification systems are used, however, they are effective in establishing a transparent pay system and are instrumental to ensure that direct or indirect discrimination is excluded **and pay equity is reached** . They detect indirect pay discrimination related to the undervaluation of jobs typically done by women **and may expose discriminatory assumptions and stereotypes**. They do so by measuring and comparing jobs **including in different sectors** whose content is different but of equal value and so support the principle of work of equal value. **Where work is not of equal value, a difference in pay which is disproportionate to the difference in value of the work indicates that the job evaluation or classification system is not free from gender bias.**

Amendment 27

Proposal for a directive Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) Member States should ensure the development of actions to provide technical assistance to employers in the form of guidelines, practical tools, training and financial support for the implementation of the measures provided for in this Directive, including for the implementation of objective, gender-neutral job evaluation and classification systems. Member States should ensure the involvement of the social partners in such actions.

Amendment 28

Proposal for a directive Recital 20

Text proposed by the Commission

Amendment

(20) The lack of information on the envisaged pay range of a job position creates an information asymmetry which limits the bargaining power of applicants. Ensuring transparency ***should enable*** prospective workers to make an informed decision about the expected salary without limiting in any way the employer's or worker's bargaining power to negotiate a salary even outside the indicated range. It ***would also ensure*** an explicit and non-gender biased basis for pay setting and ***would disrupt*** the undervaluation of pay compared to skills and experience. This transparency measure ***would*** also address intersectional discrimination where non-transparent pay settings allow for discriminatory practices on several discrimination grounds. The information to be provided to applicants prior to employment, if not published in a job

(20) The lack of information on the envisaged pay range of a job position creates an information asymmetry which limits the bargaining power of applicants. Ensuring transparency ***enables*** prospective workers to make an informed decision about the expected salary without limiting in any way the employer's or worker's bargaining power to negotiate a salary even outside the indicated range. It ***also ensures*** an explicit and non-gender biased basis for pay setting and ***disrupts*** the undervaluation of pay compared to skills and experience. This transparency measure ***should*** also address intersectional discrimination where non-transparent pay settings allow for discriminatory practices on several discrimination grounds. The information to be provided to applicants prior to employment, if not published in a job vacancy notice, ***should*** be provided to the

vacancy notice, *could* be provided to the applicant prior to the job interview by the employer or in a different manner, for instance by the social partners.

applicant prior to the job interview by the employer or in a different manner, for instance by the social partners. ***The information should be provided in a manner accessible to persons with disabilities in accordance with Union law, in particular with Directives (EU) 2016/2102 and (EU) 2019/882.***

Amendment 29

Proposal for a directive Recital 21

Text proposed by the Commission

(21) In order to disrupt the perpetuation of a pay gap ***between female and male workers*** affecting individual workers over time, employers should not be allowed to enquire about the prior pay history of the applicant for a job.

Amendment

(21) In order to disrupt the perpetuation of ***the gender*** pay gap affecting individual workers over time, employers ***should ensure that vacancy notices and job recruitment processes are gender-neutral, and*** should not be allowed to enquire about the prior pay history of the applicant for a job. ***The information on vacancy notices and job recruitment processes should be provided in a manner accessible to people with disabilities upon their request, in accordance with Union law, in particular with Directives (EU) 2016/2102 and (EU) 2019/882.***

Amendment 30

Proposal for a directive Recital 22

Text proposed by the Commission

(22) Pay transparency measures should protect workers' right to equal pay while limiting as much as possible costs and burden for employers, paying specific attention to ***micro and small*** enterprises. Where appropriate, measures should be tailored to the size of employers taking into account employers' headcount.

Amendment

(22) Pay transparency measures should protect workers' right to equal pay while limiting as much as possible costs and ***administrative*** burden for employers, paying specific attention to ***microenterprises and SMEs. As women are overrepresented in such*** enterprises, ***the implementation of this Directive is***

necessary to tackle the gender pay gap. Such enterprises would therefore benefit from ensuring equal pay for equal work or work of equal value between workers. Where appropriate, measures should be tailored to the size of employers taking into account employers' headcount. Member States should draw up tools and guidelines for microenterprises and SMEs, in order to facilitate abiding by the obligations set out in this Directive.

Amendment 31

Proposal for a directive Recital 23

Text proposed by the Commission

(23) Employers should make accessible to workers a description of the criteria used to determine pay levels and career progression. The employer should *have flexibility in the way it complies with this obligation taking into account the size of the organisation.*

Amendment

(23) Employers should make accessible to workers *and workers' representatives* a description of the criteria used to determine pay levels and career progression, *including all elements of pay, that comprise wages or salary and all other benefits paid directly or indirectly in cash or in kind by the employer to the worker. The information should be provided in a manner accessible to workers with disabilities, upon their request, in accordance with Union law, in particular with Directives (EU) 2016/2102 and (EU) 2019/882.*

Amendment 32

Proposal for a directive Recital 24

Text proposed by the Commission

(24) All workers should have the right to obtain information, upon their request, on their pay and on the pay level, broken down by *sex*, for the category of workers *doing* the same work or work of equal

Amendment

(24) All workers, *and their representatives* should have the right to obtain *clear and complete* information, upon their request *or via their representatives*, on their pay and on the

value. Employers must inform workers of this right on an annual basis. Employers may also, on their own initiative, opt for providing such information without workers needing to request it.

individual pay level, and average pay levels, broken down by gender, for the category of workers performing the same work or work of equal value, as well as the gender pay gap and the median gender pay gap between workers employed by the same employer provided that this information has not already been communicated to the workers' representatives. Upon the request of a worker, employers should provide information on how pay levels are determined. The information should be provided in a manner accessible to workers with disabilities, upon their request, in accordance with Union law, in particular with Directives (EU) 2016/2102 and (EU) 2019/882. Employers must inform workers and their representatives of this right on an annual basis. Employers may also, on their own initiative, opt for providing such information without workers needing to request it. Member States should put in place measures to prohibit contractual terms which aim to restrict workers from disclosing information about their pay or to seek information from the same or other categories of workers' pay.

Amendment 33

Proposal for a directive Recital 25

Text proposed by the Commission

(25) Employers with at least **250** workers should regularly report on pay, in a suitable and transparent manner, such as including the information in their management report. **Companies subject to the requirements of** Directive 2013/34/EU of the European Parliament and of the Council⁵² **may also choose to report on pay alongside other worker-related matters in their management report.**

Amendment

(25) Employers with at least **50** workers should regularly report on pay, in a suitable and transparent manner, such as including the information in their management report, **where an employer is required to draw up such a report pursuant to** Directive 2013/34/EU of the European Parliament and of the Council⁵². **The information should be provided in a manner accessible to workers with disabilities upon their request, in**

accordance with Union law, in particular with Directives (EU) 2016/2102 and (EU) 2019/882.

⁵² Directive 2013/34/EU, *as amended by Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 as regards disclosure of non-financial and diversity information by certain large undertakings and groups* (OJ L 330, 15.11.2014, p. 1).

⁵² Directive 2013/34/EU *of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC* (OJ L 182, 29.6.2013, p. 19).

Amendment 34

Proposal for a directive Recital 26

Text proposed by the Commission

(26) Pay reporting should allow employers to evaluate and monitor their pay structures and policies, allowing them to proactively comply with the principle of equal pay. At the same time, the gender-disaggregated data should assist competent public authorities, workers' representatives and other stakeholders to monitor the gender pay gap across sectors (horizontal segregation) and functions (vertical segregation). Employers may wish to accompany the published data by an explanation of any gender pay differences or gaps. In cases where differences in average pay for the same work or work of equal value between *female and male* workers cannot be justified by objective and gender-neutral factors, the employer should take measures to remove the inequalities.

Amendment

(26) Pay reporting should allow employers to evaluate and monitor their pay structures and policies, allowing them to proactively comply with the principle of equal pay. ***Reporting and joint pay assessments contribute to increased awareness of gender bias in pay structures and pay discrimination and addressing them in an effective and systemic way and thereby benefitting all workers employed by the same employer.*** At the same time, the gender-disaggregated data should assist competent public authorities, workers' representatives and other stakeholders to monitor ***and address*** the gender pay gap across sectors (horizontal segregation) and functions (vertical segregation). Employers may wish to accompany the published data by an explanation of any gender pay differences or gaps. In cases where differences in average pay for the same work or work of equal value between workers ***of different genders*** cannot be justified by objective and gender-neutral factors, the employer

should take measures to remove the inequalities.

Amendment 35

Proposal for a directive

Recital 27

Text proposed by the Commission

(27) To reduce the burden on employers, Member States could **decide to** gather and interlink the necessary data through their national administrations allowing for a computation of the pay gap **between female and male workers** per employer. Such data gathering may require interlinking data from several public administrations (such as tax inspectorates and social security offices) and would be possible if administrative data matching employers' (company/organisational level) to workers' (individual level) data, including benefits in cash and in-kind, are available. Member States could **decide to** gather this information not only for those employers covered by the pay reporting obligation under this Directive, but also with regard to **small and medium-sized enterprises**. The publication of the required information by Member States should replace the obligation of pay reporting on those employers covered by the administrative data provided that the result intended by the reporting obligation is achieved.

Amendment

(27) To reduce the burden on employers, Member States could gather and interlink the necessary data through their national administrations allowing for a computation of the **gender** pay gap per employer. Such data gathering may require interlinking data from several public administrations (such as tax inspectorates and social security offices) and would be possible if administrative data matching employers' (company/organisational level) to workers' (individual level) data, including benefits in cash and in-kind, are available. Member States could gather this information not only for those employers covered by the pay reporting obligation under this Directive, but also with regard to **those voluntarily reporting**. The publication of the required information by Member States should replace the obligation of pay reporting on those employers covered by the administrative data provided that the result intended by the reporting obligation is achieved. **Member States should provide support to employers and the social partners, including by providing guidelines, templates, and training with the aim of facilitating the fulfilment of reporting obligations and reducing the burden on employers, in particular SMEs. In the case of microenterprises, such support should be provided on request.**

Amendment 36

Proposal for a directive
Recital 28

Text proposed by the Commission

(28) In order to make the information on the pay gap ***between female and male workers*** at organisational level widely available, Member States should entrust the monitoring body designated pursuant to this Directive to aggregate the data on the pay gap received from employers without putting additional burden on the latter. The monitoring body should make ***these*** data public, allowing to compare the data of individual employers, sectors and regions of the Member State concerned.

Amendment

(28) In order to make the information on the ***gender*** pay gap at organisational level widely available, Member States should entrust the monitoring body designated pursuant to this Directive to aggregate ***in cooperation with the social partners and competent national authorities*** the data on the pay gap received from employers without putting additional burden on the latter. The monitoring body should make ***certain*** data public, ***as specified in this Directive, including by publishing them on an easily accessible website***, allowing to compare the data of individual employers, sectors and regions of the Member State concerned.

Amendment 37

Proposal for a directive
Recital 29

Text proposed by the Commission

(29) Joint pay assessments should trigger the review and revision of pay structures in organisations with at least ***250*** workers that show pay inequalities. The joint pay assessment should be carried out by employers in cooperation with workers' representatives; if workers' representatives are absent, they should be designated for this purpose. Joint pay assessments should lead to the elimination of gender discrimination in pay.

Amendment

(29) Joint pay assessments should trigger the review and revision of pay structures in organisations with at least ***50*** workers that show pay inequalities. The joint pay assessment should be carried out by employers in cooperation with workers' representatives; if workers' representatives are absent, they should be designated ***or democratically elected by the workers of the undertaking or organisation, trade unions or their members, in accordance with provisions of national law or regulations or of collective designated*** for this purpose. Joint pay assessments should lead, ***within a reasonable time***, to the elimination of gender discrimination in pay ***in particular through the adoption of remedial measures where relevant***.

Amendment 38

Proposal for a directive Recital 29 a (new)

Text proposed by the Commission

Amendment

(29a) Member states should ensure employers and workers' representatives prepare their gender action plan, which provides for concrete measures and aims to close the gender pay gap within the employer to achieve gender equality in terms of pay, non-discrimination and other conditions of employment. The gender action plan should incorporate monitoring tools to assess its progress and be reviewed regularly. A gender pay gap of less than 2,5 % that cannot be explained by objective factors cannot be used as proof that the employers complies with the equal pay obligation.

Amendment 39

Proposal for a directive Recital 30

Text proposed by the Commission

Amendment

(30) Any processing or publication of information under this Directive should comply with Regulation (EU) 2016/679 of the European Parliament and of the Council⁵³. Specific safeguards should be added to prevent the direct or indirect disclosure of information of an identifiable co-worker. On the other hand, workers should not be prevented from voluntarily disclosing their pay ***for the purpose of enforcing the principle of equal pay between men and women for equal work or work to which equal value is attributed.***

(30) Any processing or publication of information under this Directive should comply with Regulation (EU) 2016/679 of the European Parliament and of the Council⁵³. Specific safeguards should be added to prevent the direct or indirect disclosure of information of an identifiable co-worker. On the other hand, workers should not be prevented from voluntarily disclosing their pay, ***especially not from sharing it with their trade unions or workers' representatives.***

⁵³ Regulation (EU) 2016/679 of the

⁵³ Regulation (EU) 2016/679 of the

European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119, 4.5.2016, p. 1.

European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119, 4.5.2016, p. 1.

Amendment 40

Proposal for a directive Recital 31

Text proposed by the Commission

(31) It is important that social partners discuss and give particular attention to matters of equal pay in collective bargaining. The different features of national social dialogue and collective bargaining systems across the Union and the autonomy and contractual freedom of social partners as well as their capacity as representatives of workers and employers should be respected. Therefore, Member States, in accordance with their national system and practices, should take appropriate measures, such as programmes supporting social partners, practical guidance as well as an active participation of the government in a social dialogue at national level. Such measures should encourage social partners to pay due attention to equal pay matters, including discussions at the appropriate level of collective bargaining and the development of gender-neutral job evaluation and classification systems.

Amendment 41

Proposal for a directive Recital 32

Amendment

(31) It is important that social partners discuss and give particular attention to matters of equal pay in collective bargaining. The different features of national social dialogue and collective bargaining systems across the Union and the autonomy and contractual freedom of social partners as well as their capacity as representatives of workers and employers should be respected. Therefore, Member States, in accordance with their national system and practices, should take appropriate measures, such as programmes supporting social partners, practical guidance as well as an active participation of the government in a social dialogue at national level ***and removing all restrictions on the use of collective negotiations***. Such measures should encourage social partners to pay due attention to equal pay matters, including discussions at the appropriate level of collective bargaining and the development of gender-neutral job evaluation and classification systems.

Text proposed by the Commission

(32) Workers should have the necessary procedures at their disposal to facilitate the exercise of their right to access justice. National legislation making use of conciliation or the intervention of an equality body compulsory or subject to incentives or penalties should not prevent parties from exercising their right of access to court.

Amendment

(32) ***All*** workers should have the necessary procedures at their disposal to facilitate the exercise of their right to access justice. National legislation making use of conciliation or the intervention of an equality body compulsory or subject to incentives or penalties should not prevent parties from exercising their right of access to court. ***Member States should ensure that women with disabilities, including those under substituted decision-making mechanisms, have access to justice and legal remedies on an equal basis with others.***

Amendment 42

**Proposal for a directive
Recital 33**

Text proposed by the Commission

(33) Involving equality bodies, besides other stakeholders, is instrumental in effectively applying the principle of equal pay. The powers and mandates of the national equality bodies should therefore be adequate to fully cover gender pay discrimination, including any pay transparency or any other rights and obligations laid down in this Directive. In order to overcome the procedural and cost-related obstacles that workers who believe to be discriminated against face when they seek to enforce their right to equal pay, equality bodies, as well as associations, organisations, bodies and workers' representatives or other legal entities with an interest in ensuring equality ***between men and women***, should be able to represent individuals. They should be able to decide to assist workers on their behalf or in their support, which would allow workers who have suffered discrimination to effectively claim their rights and the

Amendment

(33) ***The direct involvement of the social partners in national equality policies is necessary to ensure continuous and coordinated involvement of the social partners.*** Involving equality bodies, besides other stakeholders, is instrumental in effectively applying the principle of equal pay. The powers and mandates of the national equality bodies, ***without prejudice to the role of the social partners and the labour inspectorates or other bodies responsible for enforcing observance of workers' rights***, should therefore be adequate to fully cover gender pay discrimination, including any pay transparency or any other rights and obligations laid down in this Directive. In order to overcome the procedural and cost-related obstacles that workers who believe to be discriminated against face when they seek to enforce their right to equal pay, equality bodies, as well as associations, organisations, bodies and workers'

principle of equal pay to be enforced.

representatives or other legal entities with an interest in ensuring equality, should be able to represent individuals. They should be able to decide to assist workers on their behalf or in their support, which would allow workers who have suffered discrimination to effectively claim their rights and the principle of equal pay to be enforced.

Amendment 43

Proposal for a directive

Recital 34

Text proposed by the Commission

(34) Equality bodies and workers' representatives should also be able to represent one or several workers who believe to be discriminated against **based on sex** in violation of the principle of equal pay **for the same work or work of equal value**. Bringing claims on behalf of or supporting several workers is a way to facilitate proceedings that would not have been brought otherwise because of procedural and financial barriers or a fear of victimisation and also when workers are facing discrimination on multiple grounds which can be difficult to disentangle. Collective claims have the potential to uncover systemic discrimination and create visibility of equal pay and gender equality in society as a whole. The possibility of collective redress would motivate proactive compliance with pay transparency measures, creating peer pressure and increasing employers' awareness and willingness to act preventively.

Amendment

(34) Equality bodies and workers' representatives should also be able to represent one or several workers who believe to be discriminated against in violation of the principle of equal pay. Bringing claims on behalf of or supporting several workers is a way to facilitate proceedings that would not have been brought otherwise because of procedural and financial barriers or a fear of victimisation and also when workers are facing discrimination on multiple grounds which can be difficult to disentangle. Collective claims have the potential to uncover systemic discrimination and create visibility of equal pay and gender equality in society as a whole. The possibility of collective redress would motivate proactive compliance with pay transparency measures, creating peer pressure and increasing employers' awareness and willingness to act preventively **and would address the systemic nature of pay discrimination**.

Amendment 44

Proposal for a directive

Recital 35

Text proposed by the Commission

(35) Member States should ensure **the allocation of sufficient** resources to equality bodies **for the effective and adequate performance of** their tasks related to pay discrimination **based on sex**. Where the tasks are allocated to more than one body, Member States should ensure that they are adequately coordinated.

Amendment

(35) Member States should ensure **that the human, technical and financial** resources of equality bodies **and national bodies and authorities with responsibility for inspection and supervision such as labour inspectorates are used to effectively and adequately perform** their **respective tasks and responsibilities, in particular those** related to **gender** pay discrimination. Where the tasks are allocated to more than one body, Member States should ensure that they are adequately coordinated.

Amendment 45

Proposal for a directive
Recital 36

Text proposed by the Commission

(36) Compensation should cover in full the loss and damage sustained as a result of gender pay discrimination⁵⁴. It should include full recovery of back pay and related bonuses or payments in kind, compensation for lost opportunities and moral prejudice. No prior fixed upper limit for such compensation should be allowed.

Amendment

(36) Compensation should cover in full the loss and damage sustained as a result of gender pay discrimination⁵⁴. It should include full recovery of back pay and related bonuses or payments in kind, **as well as** compensation for lost opportunities and moral prejudice. **The compensation should take into account gender-based pay discrimination that intersects with additional grounds of discrimination**. No prior fixed upper limit for such compensation should be allowed.

⁵⁴ Case C-407/14, María Auxiliadora Arjona Camacho v Securitas Seguridad España SA, ECLI:EU:C:2015:831, para. 45.

⁵⁴ Case C-407/14, María Auxiliadora Arjona Camacho v Securitas Seguridad España SA, ECLI:EU:C:2015:831, para. 45.

Amendment 46

Proposal for a directive
Recital 37

Text proposed by the Commission

(37) In addition to compensation, other remedies should be provided. Courts should, for instance, be able to require an employer to take structural or organisational measures to comply with its obligations regarding equal pay. Such measures may include, for instance, an obligation to review the pay setting mechanism based on a gender-neutral evaluation and classification; to set up **an** action plan to eliminate the discrepancies discovered and to reduce any unjustified gaps in pay; to provide information and raise workers' awareness about their right to equal pay; to establish a mandatory training for human resources staff on equal pay and gender-neutral job evaluation and classification.

Amendment

(37) In addition to compensation, other remedies should be provided. Courts should, for instance, be able to require an employer to take structural or organisational measures to comply with its obligations regarding equal pay. Such measures may include, for instance, an obligation to review the pay setting mechanism based on a gender-neutral evaluation and classification; to set up **or review their gender** action plan to eliminate the discrepancies discovered and to reduce any unjustified gaps in pay; to provide information and raise workers' awareness about their right to equal pay; to establish a mandatory training for human resources staff on equal pay and gender-neutral job evaluation and classification.

Amendment 47

Proposal for a directive
Recital 39

Text proposed by the Commission

(39) Although it is necessary only to establish a presumption of discrimination before the burden of proof shifts to the employer, it is not always easy for victims and courts to know how to establish even that presumption. Pay transparency measures have the potential to support the use of the reversal of the burden of proof, by helping workers determine the average pay levels for **women and men** performing the same work or work of equal value. Enabling workers to provide prima facie evidence which allows discrimination to be presumed would swiftly trigger the reverse burden of proof to the benefit of the

Amendment

(39) Although it is necessary only to establish a presumption of discrimination before the burden of proof shifts to the employer, it is not always easy for victims and courts to know how to establish even that presumption. Pay transparency measures have the potential to support the use of the reversal of the burden of proof, by helping workers determine the average pay levels for **workers** performing the same work or work of equal value. Enabling workers to provide prima facie evidence which allows discrimination to be presumed would swiftly trigger the reverse burden of proof to the benefit of the

worker.

worker.

Amendment 48

Proposal for a directive

Recital 40

Text proposed by the Commission

(40) In accordance with the case-law of the Court, national rules on time limits for the enforcement of rights under this Directive should be such that they cannot be regarded as capable of rendering virtually impossible or excessively difficult the exercise of those rights. Limitation periods create specific obstacles for victims of gender pay discrimination. For that purpose, common minimum standards should be established. Those standards should determine when the limitation period begins to run, the duration thereof and the circumstances under which it is interrupted or suspended and provide that the limitation period for bringing claims is at least **three** years.

Amendment

(40) In accordance with the case-law of the Court, national rules on time limits for the enforcement of rights under this Directive should be such that they cannot be regarded as capable of rendering virtually impossible or excessively difficult the exercise of those rights. Limitation periods create specific obstacles for victims of gender pay discrimination. For that purpose, ***the limitation period should not begin to run before the discrimination has ceased, and additional*** common minimum standards should be established. Those standards should determine when the limitation period begins to run, the duration thereof and the circumstances under which it is interrupted or suspended and provide that the limitation period for bringing claims is at least **five** years.

Amendment 49

Proposal for a directive

Recital 41

Text proposed by the Commission

(41) Litigation costs create a serious disincentive for victims of **gender** pay discrimination to claim their right to equal pay, leading to insufficient protection and enforcement of the right to equal pay. In order to remove this strong procedural obstacle to justice, successful claimants should be allowed to recover their procedural costs from the defendant. ***On the other hand, claimants should not be***

Amendment

(41) Litigation costs create a serious disincentive for victims of **gender-based** pay discrimination to claim their right to equal pay, leading to insufficient protection and enforcement of the right to equal pay. In order to remove this strong procedural obstacle to justice, successful claimants should be allowed to recover their procedural costs, ***in particular legal costs,*** from the defendant. ***Member States*** should

liable for successful defendant's proceedings costs unless the claim was brought in bad faith, was clearly frivolous or if the non-recovery by the defendant would be considered unreasonable by the courts or other competent authorities under the specific circumstances of the case, for instance having regard to the financial situation of micro-enterprises.

give the courts the possibility to assess whether unsuccessful claimants had reasonable grounds for bringing the claim to court and to order that they do not have to bear all or part of their costs. This should in particular apply where a defendant did not comply with the pay transparency obligations set out in this Directive.

Amendment 50

Proposal for a directive Recital 42

Text proposed by the Commission

(42) Member States should provide for effective, proportionate and dissuasive penalties in the event of infringements of national provisions adopted pursuant to this Directive or national provisions that are already in force on the date of entry into force of this Directive and that relate to the right to equal pay ***between men and women for the same*** work or work of equal value. Such penalties should include fines, ***which*** should be set at a minimum level having due regard to the gravity and duration of the infringement, to any possible intent to discriminate or serious negligence, and to any other aggravating or mitigating factors that may apply in the circumstances of the case, for instance, where pay discrimination ***based on sex*** intersects with other grounds of discrimination. Member States should consider allocating amounts recovered as fines to the equality bodies for the purpose of effectively carrying out their functions in regard to the enforcement of the right to equal pay, including to bring pay discrimination claims or assist and support victims in bringing such claims.

Amendment

(42) Member States should provide for effective, proportionate and dissuasive penalties in the event of infringements of national provisions adopted pursuant to this Directive or national provisions that are already in force on the date of entry into force of this Directive and that relate to the right to equal pay ***for equal*** work or work of equal value. Such penalties should include fines ***based, for instance, on the employer's gross annual turnover or on the employer's total payroll and*** should be set at a minimum level having due regard to the gravity and duration of the infringement, to any possible intent to discriminate or serious negligence, and to any other aggravating or mitigating factors that may apply in the circumstances of the case, for instance, where pay discrimination intersects with other grounds of discrimination. Member States should consider allocating amounts recovered as fines to the equality bodies for the purpose of effectively carrying out their functions in regard to the enforcement of the right to equal pay ***for equal work or work of equal value***, including to bring pay discrimination claims or assist and support victims in bringing such claims.

Amendment 51

Proposal for a directive Recital 44

Text proposed by the Commission

(44) Obligations on employers stemming from this Directive are part of the applicable obligations in the fields of environmental, social and labour law whose compliance Member States have to ensure under Directive 2014/23/EU of the European Parliament and of the Council⁵⁶, Directive 2014/24/EU of the European Parliament and of the Council⁵⁷, Directive 2014/25/EU of the European Parliament and of the Council⁵⁸ in regard to participation in public procurement procedures. In order to comply with these obligations as far as the right to equal pay is concerned, Member States should in particular ensure that economic operators, in the performance of a public contract or concession, have pay setting mechanisms that do not lead to a pay gap between **female and male** workers that cannot be justified by gender-neutral factors in any category of workers carrying out equal work or work of equal value. In addition, Member States should consider for contracting authorities to introduce, as appropriate, penalties and termination conditions ensuring compliance with the principle of equal pay in the performance of public contracts and concessions. They may also take into account non-compliance with the principle of equal pay by the bidder or one of his subcontractors when considering the application of exclusion grounds or a decision not to award a contract to the tenderer submitting the most economically advantageous tender.

⁵⁶ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, OJ L 94, 28.3.2014, p. 1.

Amendment

(44) Obligations on employers stemming from this Directive are part of the applicable obligations in the fields of environmental, social and labour law whose compliance Member States have to ensure under Directive 2014/23/EU of the European Parliament and of the Council⁵⁶, Directive 2014/24/EU of the European Parliament and of the Council⁵⁷, Directive 2014/25/EU of the European Parliament and of the Council⁵⁸ in regard to participation in public procurement procedures. In order to comply with these obligations as far as the right to equal pay is concerned, Member States should in particular ensure that economic operators, in the performance of a public contract or concession, have pay setting mechanisms that do not lead to a **gender** pay gap between workers that cannot be justified by gender-neutral factors in any category of workers carrying out equal work or work of equal value. In addition, Member States should consider for contracting authorities to introduce, as appropriate, penalties and termination conditions ensuring compliance with the principle of equal pay in the performance of public contracts and concessions. They may also take into account non-compliance with the principle of equal pay by the bidder or one of his subcontractors when considering the application of exclusion grounds or a decision not to award a contract to the tenderer submitting the most economically advantageous tender.

⁵⁶ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, OJ L 94, 28.3.2014, p. 1.

⁵⁷ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, p. 65.

⁵⁸ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC, OJ L 94, 28.3.2014, p. 243.

⁵⁷ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, p. 65.

⁵⁸ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC, OJ L 94, 28.3.2014, p. 243.

Amendment 52

Proposal for a directive

Recital 47

Text proposed by the Commission

(47) This Directive lays down minimum requirements, thus respecting the Member States' prerogative to introduce and maintain more favourable provisions. Rights acquired under the existing legal framework should continue to apply, unless more favourable provisions are introduced by this Directive. The implementation of this Directive cannot be used to reduce existing rights set out in existing Union or national law in this field, nor can it constitute valid grounds for reducing the rights of workers in regard to equal pay *between men and women for the same* work or work of equal value.

Amendment 53

Proposal for a directive

Recital 48

Text proposed by the Commission

(48) In order to ensure proper monitoring of the implementation of the right to equal pay *between men and*

Amendment

(47) This Directive lays down minimum requirements, thus respecting the Member States' prerogative to introduce and maintain more favourable provisions. Rights acquired under the existing legal framework should continue to apply, unless more favourable provisions are introduced by this Directive. The implementation of this Directive cannot be used to reduce existing rights set out in existing Union or national law in this field, nor can it constitute valid grounds for reducing the rights of workers in regard to equal pay *for equal* work or work of equal value.

Amendment

(48) In order to ensure proper monitoring of the implementation of the right to equal pay *for equal* work or work

women for the same work or work of equal value, Member States should set up or designate a dedicated monitoring body. This body, which may be part of an existing body pursuing similar objectives, should have specific tasks in relation to the implementation of the pay transparency measures foreseen in this Directive and gather certain data to monitor pay inequalities and the impact of the pay transparency measures.

of equal value, Member States should set up or designate a dedicated monitoring body. This body, which may be part of an existing body pursuing similar objectives, ***and which cooperates in particular with the social partners, labour inspectorates and other bodies responsible for the enforcement of workers' rights***, should have specific tasks in relation to the implementation ***and enforcement*** of the pay transparency measures foreseen in this Directive and gather certain data to monitor pay inequalities and the impact of the pay transparency measures. ***Member States should ensure that their monitoring body has adequate resources in order to fulfil its tasks.***

Amendment 54

Proposal for a directive Recital 49

Text proposed by the Commission

(49) Compiling wage statistics broken down by gender and providing the Commission (Eurostat) with accurate and complete statistics is essential for analysing and monitoring changes in the gender pay gap at Union level. Council Regulation (EC) No 530/1999⁵⁹ requires Member States to compile four-yearly structural earnings statistics at micro level that provide harmonized data for the calculation of the gender pay gap. Annual high-quality statistics could increase transparency and enhance monitoring and awareness of gender pay inequality. The availability and comparability of such data is instrumental for assessing developments both at national level and throughout the Union.

⁵⁹ Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and on labour costs

Amendment

(49) Compiling wage statistics broken down by gender, ***disability and age*** and providing the Commission (Eurostat) with accurate and complete statistics is essential for analysing and monitoring changes in the gender pay gap at Union level. Council Regulation (EC) No 530/1999⁵⁹ requires Member States to compile four-yearly structural earnings statistics at micro level that provide harmonized data for the calculation of the gender pay gap. Annual high-quality statistics could increase transparency and enhance monitoring and awareness of gender pay inequality. The availability and comparability of such data is instrumental for assessing developments both at national level and throughout the Union.

⁵⁹ Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and on labour costs

Amendment 55

Proposal for a directive

Recital 50

Text proposed by the Commission

(50) This Directive aims at a better and more effective implementation of the principle of equal pay *for equal work or work to which equal value is attributed between men and women* through the establishment of common minimum requirements which should apply to all undertakings and organisations across the European Union. Since this objective cannot be sufficiently achieved by the Member States and should therefore be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive, which limits itself to setting minimum standards, does not go beyond what is necessary in order to achieve that objective.

Amendment

(50) This Directive aims at a better and more effective implementation of the principle of equal pay through the establishment of common minimum requirements which should apply to all undertakings and organisations across the European Union. Since this objective cannot be sufficiently achieved by the Member States and should therefore be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive, which limits itself to setting minimum standards, does not go beyond what is necessary in order to achieve that objective.

Amendment 56

Proposal for a directive

Recital 51

Text proposed by the Commission

(51) The role of social partners is of key importance in designing the way pay transparency measures are implemented in Member States, especially in those with high collective bargaining coverage. Member States should therefore have the possibility to entrust the social partners with the implementation of all or part of

Amendment

(51) The role of social partners is of key importance in designing the way pay transparency measures are implemented in Member States, especially in those with high collective bargaining coverage. Member States should therefore have the possibility to entrust the social partners with the implementation of all or part of

this Directive, provided that they take all the necessary steps to ensure that the results sought by this Directive are guaranteed at all times.

this Directive, provided that they take all the necessary steps to ensure that the results sought by this Directive are guaranteed at all times. ***This Directive is to be interpreted so as to strengthen the role of the social partners in Member States.***

Amendment 57

Proposal for a directive Recital 52

Text proposed by the Commission

(52) In implementing this Directive Member States should avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of ***micro, small and medium-sized enterprises***. Member States are ***therefore*** invited to assess the impact of their transposition act, on ***small and medium-sized enterprises*** in order to ensure ***that they are not disproportionately affected, giving specific attention to micro-enterprises***, to alleviate the administrative burden, and to publish the results of such assessments.

Amendment

(52) In implementing this Directive Member States should avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of ***microenterprises and SMEs***. Member States are invited to assess the impact of their transposition act, on ***microenterprises and SMEs*** in order to ensure ***its proper implementation while providing necessary support*** to alleviate the administrative burden, and to publish the results of such assessments. ***Member States should include an assessment of the impact of this Directive on female-dominated sectors. Member States shall provide support, technical assistance and training, in particular for microenterprises and SMEs, to comply with those obligations.***

Amendment 58

Proposal for a directive Article 2 – paragraph 2

Text proposed by the Commission

2. This Directive applies to all workers who have an employment contract or employment relationship as defined by law, collective agreements and/or practice

Amendment

2. This Directive applies to all workers who have an employment contract or employment relationship as defined by law, collective agreements and/or practice

in force in each Member State with consideration to the case-law of the Court of Justice.

in force in each Member State with consideration to the case-law of the Court of Justice.

This Directive applies to workers referred to in the first subparagraph irrespective of their sex, gender, gender identity, gender expression or sex characteristics for the purpose of complying with the prohibition of discrimination laid down in Article 4 of Directive 2006/54/EC.

Amendment 59

Proposal for a directive Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. For the purposes of Article 5, this Directive applies to applicants for employment.

Amendment 60

Proposal for a directive Article 3 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) ‘pay gap’ means the difference of average pay levels between female and male workers of the employer, expressed as percentage of the average pay level of male workers;

(c) ‘**gender** pay gap’ means the difference of average pay levels between female and male workers of the employer, expressed as percentage of the average pay level of male workers;

Amendment 61

Proposal for a directive Article 3 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) ‘median pay gap’ means the difference between the median pay level of female and median pay level of male

(e) ‘median **gender** pay gap’ means the difference between the median pay level of female and median pay level of male

workers expressed as percentage of the median pay level of male workers;

workers expressed as percentage of the median pay level of male workers;

Amendment 62

Proposal for a directive Article 3 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) ‘work of equal value’ means work that is determined to be of equal value in accordance with the non-discriminatory and objective gender-neutral criteria provided for in Article 4(3) and is based on a comparison of two groups of workers which have not been formed in an arbitrary manner;

Amendment 63

Proposal for a directive Article 3 – paragraph 1 – point g

Text proposed by the Commission

Amendment

(g) ‘category of workers’ means workers performing the same work or work of equal value grouped by the workers’ employer based on criteria as laid down in Article 4 of this Directive and specified by the employer concerned;

(g) ‘category of workers’ means workers performing the same work or work of equal value grouped by the workers’ employer together with the workers’ representatives on the basis of the criteria provided for in Article 4(3) and in accordance with the applicable law, collective agreements or other provisions in each Member State;

Amendment 64

Proposal for a directive Article 3 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) ‘workers’ representatives’ means representatives of recognised trade unions

or other persons who are freely elected or who are designated by the workers in an organisation to represent them in accordance with national law and practice. The exclusive prerogatives and rights of trade unions, such as the right of trade unions to participate in collective bargaining, and to conclude collective agreements, and workers' right to organise themselves in trade unions, shall be preserved;

Amendment 65

Proposal for a directive

Article 3 – paragraph 1 – point h

Text proposed by the Commission

(h) ‘direct discrimination’ means *the situation where one person is treated less favourably on grounds of sex than another person is, has been or would be treated in a comparable situation;*

Amendment

(h) ‘direct discrimination’ means *direct discrimination as defined in Article 2(1), point (a), of Directive 2006/54/EC;*

Amendment 66

Proposal for a directive

Article 3 – paragraph 1 – point i

Text proposed by the Commission

(i) ‘indirect discrimination’ means *the situation where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary;*

Amendment

(i) ‘indirect discrimination’ means *indirect discrimination as defined in Article 2(1), point (b), of Directive 2006/54/EC;*

Amendment 67

Proposal for a directive
Article 3 – paragraph 1 – point i a (new)

Text proposed by the Commission

Amendment

(ia) 'intersectional discrimination' means a situation in which grounds of discrimination prohibited under Directive 2006/54/EC and one or more grounds of discrimination prohibited under Directive 2000/43/EC or 2000/78/EC interact with each other at the same time in such a way as to be inseparable, producing distinct and specific forms of discrimination;

Amendment 68

Proposal for a directive
Article 3 – paragraph 1 – point j

Text proposed by the Commission

Amendment

(j) 'equality body' means the body or bodies designated pursuant to Article 20 of Directive 2006/54/EC, for the promotion, analysis, monitoring and support of equal treatment of all persons ***without discrimination on grounds of sex;***

(j) 'equality body' means the body or bodies designated pursuant to Article 20 of Directive 2006/54/EC, for the promotion, analysis, monitoring and support of equal treatment of all persons;

Amendment 69

Proposal for a directive
Article 3 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) ***instruction*** to discriminate ***against persons on grounds of sex;***

(b) ***instructions*** to discriminate ***within the meaning of Article 2(2) of Directive 2006/54/EC;***

Amendment 70

Proposal for a directive
Article 3 – paragraph 2 – point c

Text proposed by the Commission

(c) any less favourable treatment **of a woman** related to pregnancy or maternity leave within the meaning of Council Directive 92/85/EEC⁶¹.

⁶¹ Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (OJ L 348, 28.11.1992, p. 1).

Amendment

(c) any less favourable treatment related to pregnancy or maternity leave within the meaning of Council Directive 92/85/EEC⁶¹, **or to paternity leave, parental leave or carers' leave, as defined, respectively, in Article 3(1), points (a), (b) and (c), of Directive (EU) 2019/1158 of the European Parliament and of the Council^{61a}.**

⁶¹ Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (OJ L 348, 28.11.1992, p. 1).

^{61a} **Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU (OJ L 188, 12.7.2019, p. 79).**

Amendment 71

Proposal for a directive Article 4 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. Member States shall clarify the concept of ‘work of equal value’ in applicable law, collective agreement or other provisions in each Member State, in accordance with the case-law of the Court of Justice and point 10 of Recommendation 2014/124/EU, based on objective, gender-neutral criteria in accordance with paragraph 3 of this Article.

Amendment 72

Proposal for a directive Article 4 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure that employers have pay structures in place ensuring ***that women and men are paid equally for the same*** work or work of equal value.

Amendment

1. Member States shall, ***in cooperation with the social partners***, take the necessary measures, ***after consulting the equality bodies***, to ensure that employers have pay structures in place ensuring ***equal pay for equal*** work or work of equal value, ***without discrimination based on grounds of sex, gender, gender identity, gender expression or sex characteristics***.

Amendment 73

Proposal for a directive Article 4 – paragraph 2

Text proposed by the Commission

2. Member States shall take the necessary measures ***ensuring*** that tools or methodologies are established to assess and compare the value of work ***in line*** with the ***criteria set out in this Article***. ***These*** tools or methodologies ***may*** include gender-neutral job evaluation and classification systems.

Amendment

2. Member States shall, ***in cooperation with the social partners***, take the necessary measures, ***after consulting the equality bodies***, ***to ensure*** that tools or methodologies are established ***and are easily accessible to employers and workers for the purpose of assessing and comparing the value of work in accordance with the criteria provided for in paragraph 3 and to encourage the use of such tools or methodologies to determine pay levels***. ***Those tools or methodologies*** to assess and compare the value of work ***shall be implemented*** with the ***involvement of the social partners, who shall be given access to all relevant information***. ***Those*** tools or methodologies ***shall*** include gender-neutral job evaluation and classification systems, ***to be developed in accordance with national law, collective agreements, and other***

provisions applicable in each Member State.

Amendment 74

Proposal for a directive Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Commission shall cooperate with the European Institute for Gender Equality (EIGE) to establish Union-wide guidelines for Member States in the development of job evaluation and classification systems. The EIGE shall be provided with adequate financial and human resources to fulfil that task.

Amendment 75

Proposal for a directive Article 4 – paragraph 3

Text proposed by the Commission

Amendment

3. The tools or methodologies shall allow assessing, in regard to the value of work, whether workers are in a comparable situation, on the basis of objective criteria **which** shall include educational, professional and training requirements, skills, effort **and** responsibility, **work undertaken and the nature of the tasks involved. They shall not contain or be based on criteria which are based, whether directly or indirectly, on workers' sex.**

3. The tools or methodologies **referred to in paragraph 2** shall allow **for** assessing, in regard to the value of work, whether workers are in a comparable situation, on the basis of objective **gender-neutral criteria. Those gender-neutral criteria shall be agreed upon with the social partners and** shall include **at least the following: formal or non-formal** educational, professional and training requirements, **as well as** skills, effort, responsibility, **and working conditions. Member States shall take into account the Annex 1 to the Commission Staff Working Document accompanying the Report on the application of Directive 2006/54/EC as a guideline when establishing the gender-neutral** criteria.

Amendment 76

Proposal for a directive Article 4 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Additional gender-neutral criteria may be developed at the relevant level in Member States in accordance with national practices. The tools or methodologies referred to in paragraph 2 shall apply without taking into account working hours. Where professional experience is taken into account as part of the professional requirements in the determination of work of equal value, the party claiming this as a factor shall demonstrate that the higher professional experience leads to added value for the work actually performed.

Amendment 77

Proposal for a directive Article 4 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. Member States shall provide support to employers and the social partners, including training, tools, and detailed guidance on implementing the objective, gender-neutral criteria referred to in paragraph 3 and the tools or methodologies referred to paragraph 2.

Amendment 78

Proposal for a directive Article 4 – paragraph 4

Text proposed by the Commission

Amendment

4. **Whenever** differences in pay can be attributed to a single source establishing

4. **Where** differences in pay can be attributed to a single source establishing

the pay conditions, the assessment whether workers are carrying out the same work or work of equal value shall not be limited to situations in which **female and male** workers work for the same employer but may be extended to that single source. The assessment shall **also** not be limited to workers employed at the same time as the worker concerned. Where no real comparator can be established, a comparison with a hypothetical comparator or the use of other evidence allowing to presume alleged discrimination shall be permitted.

the pay conditions, the assessment whether workers are carrying out the same work or work of equal value shall not be limited to situations in which workers work for the same employer but may be extended to that single source **including for the purpose of cross-sector comparisons**. The assessment shall **be carried out with the relevant social partners for those sectors and shall** not be limited to workers employed at the same time as the worker concerned. Where no real comparator can be established, a comparison with a hypothetical comparator, **based on the objective and gender-neutral criteria provided for in paragraph 3**, or the use of other evidence allowing to presume alleged discrimination shall be permitted, **by means, for instance, of an existing classification based on social partner's collective agreements at branch or sectoral level. The hypothetical comparator shall facilitate cross-sector comparison where possible.**

Amendment 79

Proposal for a directive Article 4 – paragraph 5

Text proposed by the Commission

5. Where a job evaluation and classification system is used for determining pay, it shall be based on the same criteria for **both men and women and** drawn up so as to exclude any discrimination **on grounds of sex**.

Amendment

5. Where a job evaluation and classification system is used for determining pay, it shall be based on the same **objective and gender-neutral** criteria for **workers in all their diversity and shall be** drawn up so as to exclude any **form of** discrimination, **and to ensure that skills associated with female-dominated jobs are not undervalued**.

Amendment 80

Proposal for a directive Article 5 – paragraph 1

Text proposed by the Commission

1. Applicants for employment shall have the right to receive from the prospective employer information about the initial pay level or *its* range, based on objective, gender-neutral criteria, to be attributed for the position concerned. Such information shall be indicated in a published job vacancy notice or *otherwise* provided to the applicant prior to the job interview without the applicant having to request it.

Amendment

1. Applicants for employment shall have the right to receive from the prospective employer, information about the initial pay level or *the range of an advertised position* based on objective, gender-neutral criteria, to be attributed for the position concerned *and where applicable the collective agreement applied by the company in relation to the job*. Such information shall be indicated in a published job vacancy notice or provided to the applicant prior to the job interview without the applicant having to request it. *Any applicant for employment shall, upon request, have the right to receive information on the gender-neutral criteria on which the average pay level is based.*

Amendment 81

**Proposal for a directive
Article 5 – paragraph 2**

Text proposed by the Commission

2. An employer shall not, orally or in writing, personally or through a representative, ask applicants about their pay history during their previous employment relationships.

Amendment

2. An employer shall not, orally or in writing, personally or through a representative, ask applicants about their pay history during their previous *and current* employment relationships.

Amendment 82

**Proposal for a directive
Article 5 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. Employers shall ensure that vacancy notices, job titles and recruitment processes are gender neutral and that the information is provided in a manner accessible to workers with disabilities,

upon request, in accordance with harmonised legal acts of the Union on accessibility.

Amendment 83

Proposal for a directive Article 6 – paragraph 1

Text proposed by the Commission

The employer shall ***make easily accessible*** to its workers a description of the criteria used to determine pay levels and career progression for workers. These criteria shall be gender-neutral.

Amendment

The employer shall ***provide*** to its workers ***and workers' representatives*** a description of the criteria used to determine pay levels and career progression for workers, ***including all elements of pay that comprise wages or salary and all other benefits paid directly or indirectly in cash or in kind by the employer to the worker for each category of worker including any job evaluation or classification system.*** These criteria shall be gender-neutral ***and shall comply with the non-discriminatory, objective criteria provided for in Article 4(3).***

Amendment 84

Proposal for a directive Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The information referred to in paragraph 1 shall be provided in formats accessible to workers with disabilities, in accordance with harmonised legal acts of the Union on accessibility.

Amendment 85

Proposal for a directive Article 7 – paragraph 1

Text proposed by the Commission

1. Workers shall have the right to receive information on their individual pay level and the average pay levels, broken down by *sex*, for categories of workers **doing** the same work as them or work of equal value to theirs, in accordance with paragraphs 3 and 4.

Amendment

1. Workers **and their workers' representatives** shall have the right to receive **clear and complete** information on their individual pay level and the average pay levels, broken down by **gender**, for categories of workers **performing** the same work as them or work of equal value to theirs, **as well as the gender pay gap and median gender pay gap between of workers employed by the same employer** in accordance with paragraphs 3 and 4, **but not more frequently than twice a year and provided that that information has not already been communicated to them through their workers' representatives. Workers' representatives shall have the right to receive information on how pay for each category of worker is determined. The employer shall also transmit the information given to their workers, and where applicable to the workers' representatives, to the monitoring body.**

Amendment 86

**Proposal for a directive
Article 7 – paragraph 2**

Text proposed by the Commission

2. Employers shall inform all workers, on an annual basis, of their right to receive the information referred to in paragraph 1.

Amendment

2. Employers shall inform all workers, on an annual basis, of their right to receive the information referred to in paragraph 1 **and of the steps that the worker should undertake to exercise that right.**

Amendment 87

**Proposal for a directive
Article 7 – paragraph 3**

Text proposed by the Commission

3. Employers shall provide the information referred to in paragraph 1 within ***a reasonable period of time upon a*** worker's request. The information shall be provided in accessible ***formats for*** workers with disabilities ***upon their request***.

Amendment

3. Employers shall provide the information referred to in paragraph 1 within ***two months of the*** worker's request. The information shall be provided in ***writing and the employer shall retain proof of transmission or receipt, in electronic form and in a manner*** accessible ***to*** workers with disabilities.

Amendment 88

**Proposal for a directive
Article 7 – paragraph 4**

Text proposed by the Commission

4. Workers shall have the ***possibility*** to request the information referred to in paragraph 1 through their representatives ***or an*** equality body.

Amendment

4. Workers shall have the ***right*** to request the information referred to in paragraph 1 through their ***workers'*** representatives, ***or the*** equality body ***in order to guarantee confidentiality and anonymity. If the information is inaccurate or incomplete, the worker shall, personally or through their workers' representatives, have the right to request additional and reasonable clarifications and details regarding any of the data provided and receive a substantiated reply.***

Amendment 89

**Proposal for a directive
Article 7 – paragraph 5**

Text proposed by the Commission

5. Workers shall not be prevented from disclosing their pay for the ***purpose of enforcing the principle of equal pay between men and women for equal work or work of equal value.***

Amendment

5. Workers shall not be prevented from disclosing their pay. ***To that end, Member States shall put in place measures to prohibit contractual terms aiming to restrict workers from disclosing information about their pay, including to***

their colleagues or workers' representatives, or from seeking information about the same or other categories of workers' pay for the purposes of this Directive and without prejudice to data protection rules.

Amendment 90

Proposal for a directive Article 7 – paragraph 6

Text proposed by the Commission

6. Employers **may require that any worker** having obtained information pursuant to this Article **shall not** use that information **for any other purpose than** to defend their right to equal pay for **the same** work or work of equal value **and not disseminate** the information **otherwise**.

Amendment

6. Employers **shall ensure that workers** having obtained information pursuant to this Article use that information to **fulfil the aims of this Directive, and** defend their right to equal pay for **equal** work or work of equal value. **Workers may share** the information **obtained with their workers' representatives and the equality body**.

Amendment 91

Proposal for a directive Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Labelling

The Commission shall, after consulting the social partners and the national authorities, create an official label for all employers who do not have a gender pay gap based on the information received by the monitoring bodies on the gender pay gap and median gender pay gap. National competent authorities with the involvement of the monitoring bodies shall ensure the implementation of the labelling at national level.

Amendment 92

Proposal for a directive Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

1. Employers with at least **250** workers shall provide the following information concerning their organisation, in accordance with paragraphs 2, 3, and 5:

Amendment

1. Employers with at least **50** workers **or lower if defined at a national level**, shall **monitor and** provide the following information concerning their organisation, in accordance with paragraphs 2, 3, and 5:

Amendment 93

Proposal for a directive Article 8 – paragraph 1 – point a

Text proposed by the Commission

(a) the pay gap **between all female and male workers**;

Amendment

(a) the **gender** pay gap;

Amendment 94

Proposal for a directive Article 8 – paragraph 1 – point b

Text proposed by the Commission

(b) the pay gap **between all female and male workers** in complementary or variable components;

Amendment

(b) the **gender** pay gap in complementary or variable components;

Amendment 95

Proposal for a directive Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) the median pay gap **between all female and male workers**;

Amendment

(c) the median **gender** pay gap;

Amendment 96

Proposal for a directive Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) the median pay gap **between all female and male workers** in complementary or variable components;

Amendment

(d) the median **gender** pay gap in complementary or variable components;

Amendment 97

Proposal for a directive Article 8 – paragraph 1 – point e

Text proposed by the Commission

(e) the proportion of female and male workers receiving complementary or variable components;

Amendment

(e) the proportion of female and male workers receiving complementary or variable components, **broken down by gender**;

Amendment 98

Proposal for a directive Article 8 – paragraph 1 – point f

Text proposed by the Commission

(f) the proportion of female and male workers in each quartile pay band;

Amendment

(f) the proportion of female and male workers in each quartile pay band, **broken down by gender**;

Amendment 99

Proposal for a directive Article 8 – paragraph 1 – point g

Text proposed by the Commission

(g) the pay gap between **female and male** workers by categories of workers broken down by ordinary basic salary and complementary or variable components.

Amendment

(g) the **gender** pay gap between workers by categories of workers broken down by ordinary basic salary and complementary or variable components;

Amendment 100

Proposal for a directive Article 8 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) the proportion of workers who benefited from a pay rise following their return from maternity leave, paternity leave, parental leave, and carers leave, broken down by gender;

Amendment 101

Proposal for a directive Article 8 – paragraph 1 – point g b (new)

Text proposed by the Commission

Amendment

(gb) the average pay levels by category of workers, broken down by gender.

Amendment 102

Proposal for a directive Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. From ...[OJ please insert the date of transposition of this Directive], employers shall provide the information referred to in paragraph 1 as follows:

(a) for employers with more than 250 workers, every year ;

(b) for employers with 50 to 250 workers, every two years;

(c) for employers with 50 to 250 workers where all elements of pay are bound by a collective agreement, every three years;

Amendment 103

Proposal for a directive Article 8 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Employers with fewer than 50 workers shall provide the information in paragraph 1 on a voluntary basis, every two years.

Amendment 104

Proposal for a directive Article 8 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. Employers should mention, as part of their pay reporting obligations, workers who do not identify as either female or male as a category separate from female and male workers. When calculating the gender pay gap, those workers' pay should be compared to the average pay level of male workers. Employers should mention those workers only where they are legally registered as not identifying as female or male or where that information has been proactively and voluntarily disclosed to the employer.

Amendment 105

Proposal for a directive Article 8 – paragraph 2

Text proposed by the Commission

Amendment

2. The accuracy of the information shall be confirmed by the employer's management.

2. The accuracy of the information ***pursuant to paragraph 1 and the methods used to calculate it***, shall be confirmed by the employer's management, ***following the consultation of workers' representatives.***

Amendment 106

Proposal for a directive Article 8 – paragraph 3

Text proposed by the Commission

3. The employer shall publish the information referred to in paragraph 1, points (a) to (f) **on an annual basis** in a user-friendly way on its website or shall otherwise make it publicly available. The information from the previous four years, if available, shall also be accessible upon request. In addition, the employer shall share this information with the monitoring body referred to in paragraph 6.

Amendment

3. The employer shall publish the information referred to in paragraph 1, points (a) to (f), **in accordance with paragraph 1a. The employer shall publish that information** in a user-friendly way on its website or shall otherwise make it publicly available **and accessible to persons with disabilities in accordance with harmonised legal acts of the Union on accessibility. Where applicable, employers shall include that information in their management reports drawn up pursuant to Directive 2013/34/EU.** The information from the previous four years, if available, shall also be accessible upon request. In addition, the employer shall share this information with the monitoring body referred to in paragraph 6 **of this Article.**

Amendment 107

Proposal for a directive Article 8 – paragraph 4

Text proposed by the Commission

4. Member States may **decide to** compile the information set out in paragraph 1, points (a) to (f) **themselves**, on the basis of administrative data such as data provided by employers to the tax or social security authorities. **This** information shall be made public in accordance with paragraph 6.

Amendment

4. Member States may compile the information set out in paragraph 1, points (a) to (f), on the basis of administrative data such as data provided by employers to the tax or social security authorities. **That** information shall be made public in accordance with paragraph 6.

Amendment 108

**Proposal for a directive
Article 8 – paragraph 5**

Text proposed by the Commission

5. The employer shall provide the information referred to in paragraph 1, **point (g)** to all workers and **their** representatives, as well as to the monitoring body **referred to in paragraph 6**. It shall provide it to the labour inspectorate **and the equality body** upon their request. The information from the previous four years, if available, shall also be provided upon request.

Amendment 109

**Proposal for a directive
Article 8 – paragraph 7**

Text proposed by the Commission

7. Workers and **their** representatives, labour inspectorates and equality bodies shall have the right to ask the employer for additional clarifications and details regarding any of the data provided, including explanations concerning any gender pay differences. The employer shall respond to such request within a reasonable time by providing a substantiated reply. Where gender pay differences are not justified by objective **and** gender-neutral factors, the employer shall remedy the situation in close cooperation with the workers' representatives, the labour inspectorate **and/or** the equality body.

Amendment 110

**Proposal for a directive
Article 9 – title**

Amendment

5. The employer shall provide the information referred to in paragraph 1 **of this Article**, to all workers and **workers'** representatives, as well as to the **equality body and the** monitoring body **designated pursuant to Article 26**. It shall provide it to the labour inspectorate upon their request. The information from the previous four years, if available, shall also be provided upon request.

Amendment

7. Workers and **workers'** representatives, labour inspectorates and equality bodies shall have the right to ask the employer for additional clarifications and details regarding any of the data provided, including explanations concerning any gender pay differences. The employer shall respond to such request within a reasonable time by providing a substantiated reply. Where gender pay differences are not justified by objective, gender-neutral factors, the employer shall remedy the situation **within a reasonable time** in close cooperation with the workers' representatives, the labour inspectorate **and** the equality body.

Text proposed by the Commission

Joint pay assessment

Amendment

Joint pay assessment ***and gender action plan***

Amendment 111

Proposal for a directive

Article 9 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall take appropriate measures to ensure that employers with at least **250** workers conduct, in cooperation with their workers' representatives, a joint pay assessment where ***both*** of the following conditions are met:

Amendment

1. Member States shall take appropriate measures to ensure that employers with at least **50** workers ***or lower if defined at a national level*** conduct, in cooperation with their workers' representatives, a joint pay assessment ***and a gender action plan*** where ***all*** of the following conditions are met:

Amendment 112

Proposal for a directive

Article 9 – paragraph 1 – point a

Text proposed by the Commission

(a) the pay reporting conducted in accordance with Article 8 demonstrates a ***difference of average pay level between female and male workers*** of at least **5** per cent in any category of workers;

Amendment

(a) the pay reporting conducted in accordance with Article 8 demonstrates a ***gender pay gap*** of at least **2,5** per cent in any category of workers;

Amendment 113

Proposal for a directive

Article 9 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the employer has not corrected such unjustified difference in average pay level within six months of the publication

of the gender pay gap.

Amendment 114

Proposal for a directive

Article 9 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

On ... [eight years after the date of entry into force of this Directive], the percentage referred to in point (a) of the first subparagraph shall be reduced to zero.

Amendment 115

Proposal for a directive

Article 9 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) an analysis of the proportion of female and male workers in each category of workers;

(a) an analysis of the proportion of female and male workers in each category of workers, ***broken down by gender***;

Amendment 116

Proposal for a directive

Article 9 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) detailed information on average female and male workers' pay levels and complementary or variable components for each category of workers;

(b) detailed information on average female and male workers' pay levels and complementary or variable components for each category of workers, ***broken down by gender***;

Amendment 117

Proposal for a directive

Article 9 – paragraph 2 – point c

Text proposed by the Commission

(c) identification of any differences in pay levels between female and male workers in each category of workers;

Amendment

(c) identification of any differences in pay levels between female and male workers in each category of workers, ***broken down by gender***;

Amendment 118

Proposal for a directive Article 9 – paragraph 2 – point e

Text proposed by the Commission

(e) ***measures*** to address such differences if they are not justified on the basis of objective ***and*** gender-neutral criteria;

Amendment

(e) ***a gender action plan*** to address such differences if they are not justified on the basis of objective, gender-neutral criteria;

Amendment 119

Proposal for a directive Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall take appropriate measures to ensure that employers, in cooperation with workers' representatives and the equality bodies, draw up gender action plans as referred to in paragraph 1, point (e). The gender action plans shall set out concrete measures to achieve equal treatment and opportunities between genders regarding pay equality, non-discrimination and other conditions of employment as laid down in this Directive. The gender action plans shall also include provisions for monitoring those concrete measures and corrective actions. Where applicable, the gender action plans shall be included in the management report drawn up pursuant to Directive 2013/34/EU.

Amendment 120

Proposal for a directive Article 9 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Following the joint pay assessment, the employer will draw up a monitoring report following the provisions for monitoring the concrete measures and corrective actions in the gender action plan, to assess the effectiveness of the gender action plan. The gender action plans shall be proportionate, and shall be based on a balanced approach.

Amendment 121

Proposal for a directive Article 9 – paragraph 3

Text proposed by the Commission

Amendment

3. Employers shall make the joint pay assessments available to workers, workers' representatives, the monitoring body designated pursuant to Article 26, the equality body and the labour inspectorate.

3. Employers shall make the joint pay assessments available to workers, workers' representatives, the monitoring body designated pursuant to Article 26, the equality body and the labour inspectorate. ***The joint pay assessments shall be made available in easily accessible formats.***

Amendment 122

Proposal for a directive Article 9 – paragraph 4

Text proposed by the Commission

Amendment

4. If the joint pay assessment reveals differences in average pay for equal work or work of equal value between female and male workers which cannot be justified by objective ***and*** gender-neutral criteria, the employer shall remedy the situation, in

4. If the joint pay assessment reveals differences in average pay for equal work or work of equal value between female and male workers which cannot be justified by objective, gender-neutral criteria, ***or the monitoring report shows an insufficiency***

close cooperation with the workers' representatives, labour inspectorate, and/or equality body. Such action shall include the establishment of gender-neutral job evaluation and classification to ensure that any direct or indirect pay discrimination *on grounds of sex* is excluded.

in the measures adopted, the employer shall remedy the situation *within a reasonable time frame*, in close cooperation with the workers' representatives, labour inspectorate, and/or equality body. Such action shall include *an analysis of the implementation of the criteria set out in the job evaluation or classification system for the purpose of determining pay levels and career progression and* the establishment of gender-neutral job evaluation and classification to ensure that any direct or indirect pay discrimination is excluded.

Amendment 123

Proposal for a directive Article 10 – paragraph 3

Text proposed by the Commission

3. Member States may decide that, where the disclosure of information pursuant to Articles 7, 8 and 9 would lead to the disclosure, either directly or indirectly, of the pay of an identifiable co-worker, only the workers' representatives or the equality body shall have access to that information. The representatives or equality body shall advise workers regarding a possible claim under this Directive without disclosing actual pay levels of individual workers *doing* the same work or work of equal value. The monitoring body *referred to in* Article 26 shall have access to the information without restriction.

Amendment 124

Proposal for a directive Article 11 – paragraph 1

Amendment

3. Member States may decide that, where the disclosure of information pursuant to Articles 7, 8 and 9 would lead to the disclosure, either directly or indirectly, of the pay of an identifiable co-worker, only the workers' representatives or the equality body shall have access to that information. The representatives or equality body shall advise workers regarding a possible claim under this Directive without disclosing actual pay levels of individual workers *performing* the same work or work of equal value. The monitoring body *designated pursuant* Article 26 shall have access to the information without restriction.

Text proposed by the Commission

Without prejudice to the autonomy of social partners and in accordance with national law and practice, Member States shall ensure that the rights and obligations under this Directive are *discussed* with social partners.

Amendment

Without prejudice to the autonomy of social partners and in accordance with national law and practice, Member States shall ensure that the rights and obligations under this Directive are ***implemented and monitored in consultation*** with social partners.

Amendment 125

Proposal for a directive Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall, without prejudice to the autonomy of the social partners, and taking into account the diversity of national practices, strengthen the role of the social partners to promote gender equality and to tackle pay discrimination and the undervaluation of work that is predominantly carried out by women, with the aim of achieving equal pay for work of equal value.

Amendment 126

Proposal for a directive Article 11 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

Without prejudice to the autonomy of the social partners, Member States shall take measures to guarantee that trade unions can collectively bargain on measures to address pay discrimination and the undervaluation of work predominantly carried out by women, as well as other measures aimed at closing the gender pay gap; Member States shall take appropriate measures to ensure that employers

recognise trade unions and its representation at the workplace, and the right of workers to organise and participate in collective bargaining.

Amendment 127

Proposal for a directive Article 12 – paragraph 1

Text proposed by the Commission

Member States shall ensure that, after possible recourse to conciliation, judicial procedures for the enforcement of rights and obligations related to the principle of equal pay *between men and women* for equal work or work of equal value are available to all workers who consider themselves wronged by a failure to apply the principle of equal pay for equal work or work of equal value. Such procedures shall be easily accessible to workers and to those who act on their behalf, even after the labour relationship in which the discrimination is alleged to have occurred has ended.

Amendment

Member States shall ensure that, after possible recourse to conciliation *and dialogue with the social partners*, judicial procedures for the enforcement of rights and obligations related to the principle of equal pay for equal work or work of equal value are available to all workers who consider themselves wronged by a failure to apply the principle of equal pay for equal work or work of equal value. Such procedures shall be easily accessible to workers and to those who act on their behalf, even after the labour relationship in which the discrimination is alleged to have occurred has ended.

Amendment 128

Proposal for a directive Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall promote conciliation measures and shall reduce procedural obstacles to seeking a remedy by means of judicial or administrative proceedings. Recourse to conciliation shall be encouraged and voluntary. Recourse to conciliation shall trigger an interruption or suspension of the limitation period referred to in Article 18.

Amendment 129

Proposal for a directive Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that associations, organisations, equality bodies and workers' representatives or other legal entities which have, ***in accordance with the criteria laid down by national law***, a legitimate interest in ***ensuring equality between men and women***, may engage in any judicial or administrative procedure to enforce any of the rights or obligations related to the principle of equal pay ***between men and women*** for equal work or work of equal value. They may act on behalf or in support of a worker who is victim of an infringement of any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value, with the latter's approval.

Amendment

1. Member States shall, ***in accordance with national law and practice***, ensure that associations, organisations, equality bodies and workers' representatives or other legal entities which have a legitimate interest in ***tackling the gender pay gap***, may engage in any judicial or administrative procedure to enforce any of the rights or obligations related to the principle of equal pay for equal work or work of equal value. They may act on behalf or in support of a worker who is ***the*** victim of an infringement of any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value, with the latter's approval ***or upon notification in accordance with national law and practice***.

Amendment 130

Proposal for a directive Article 13 – paragraph 2

Text proposed by the Commission

2. Equality bodies and workers' representatives shall also have the right to act on behalf or in support of several workers, ***with the latter's*** approval.

Amendment

2. Equality bodies and workers' representatives, ***in particular trade unions***, shall also have the right to act on behalf or in support of ***an individual worker or, in the case of*** several workers, ***by means of collective redress, in proceedings for the enforcement of rights and obligations related to the principle of equal pay for equal work or work of equal value, with those workers' approval or upon notification in accordance with national law and practice***.

Amendment 131

Proposal for a directive Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall, in accordance with national law and practice, ensure that in any judicial or administrative procedure to enforce any of the rights or obligations related to the principle of equal pay for equal work or work of equal value where an employer acts as a defendant employers' representative organisations may act in support of that employer.

Amendment 132

Proposal for a directive Article 14 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that any worker who has suffered harm as a result of an infringement of any right or obligation related to the principle of equal pay **between men and women** for equal work or work of equal value shall have the right to claim and to obtain full compensation or reparation, as determined by the Member State, for that harm.

1. Member States shall ensure that any worker who has suffered harm as a result of an infringement of any right or obligation related to the principle of equal pay for equal work or work of equal value shall have the right to claim and to obtain full compensation or reparation, as determined by the Member State, for that harm.

Amendment 133

Proposal for a directive Article 14 – paragraph 2

Text proposed by the Commission

Amendment

2. The compensation or reparation referred to in paragraph 1 shall ensure real and effective compensation for the loss and damage sustained, in a way which is

2. The compensation or reparation referred to in paragraph 1 shall ensure real and effective compensation **or reparation** for the loss and damage sustained, in a way

dissuasive and proportionate to the damage suffered.

which is dissuasive and proportionate to the damage suffered. ***Where intersectional discrimination has been found, the compensation or reparation shall be adjusted accordingly.***

Amendment 134

Proposal for a directive Article 14 – paragraph 3

Text proposed by the Commission

3. The compensation shall place the worker who has suffered harm in the position in which that person would have been if he or she had not been ***discriminated based on sex*** or if no infringement of any of the rights or obligations relating to equal pay ***between men and women*** for equal work or work of equal value had occurred. It shall include full recovery of back pay and related bonuses or payments in kind, compensation for lost opportunities and moral prejudice. It shall also include the right to interest on arrears.

Amendment

3. The compensation ***or reparation*** shall place the worker who has suffered harm in the position in which that person would have been if he or she had not been ***subject to direct or indirect discrimination as defined in Article 3*** or if no infringement of any of the rights or obligations relating to equal pay for equal work or work of equal value had occurred. It shall include full recovery of back pay and related bonuses or payments in kind, compensation for lost opportunities and moral prejudice. It shall also include the right to interest on arrears.

Amendment 135

Proposal for a directive Article 15 – paragraph 1 – introductory part

Text proposed by the Commission

Member States shall ensure that, in legal proceedings aimed at ensuring the enforcement of any right or obligation related to the principle of equal pay ***between men and women*** for equal work or work of equal value, the courts or other competent authorities may order, at the request of the claimant and at the expense of the defendant:

Amendment

Member States shall ensure that, in legal proceedings aimed at ensuring the enforcement of any right or obligation related to the principle of equal pay for equal work or work of equal value, the courts or other competent authorities may order, at the request of the claimant and at the expense of the defendant:

Amendment 136

Proposal for a directive Article 15 – paragraph 1 – point a

Text proposed by the Commission

(a) an injunction order establishing an infringement of any right or obligation related to the principle of equal pay ***between men and women*** for equal work or work of equal value and stopping the infringement;

Amendment

(a) an injunction order establishing an infringement of any right or obligation related to the principle of equal pay for equal work or work of equal value and stopping the infringement;

Amendment 137

Proposal for a directive Article 15 – paragraph 1 – point b

Text proposed by the Commission

(b) an injunction order ordering the defendant to take structural or organisational measures to comply with any right or obligation related to the principle of equal pay ***between men and women*** for equal work or work of equal value or to stop an infringement thereof.

Amendment

(b) an injunction order ordering the defendant to take structural or organisational measures to comply with any right or obligation related to the principle of equal pay for equal work or work of equal value or to stop an infringement thereof.

Amendment 138

Proposal for a directive Article 15 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The structural or organisational measures referred to in the first paragraph, point (b), may include an obligation to review the pay setting mechanism based on gender-neutral job evaluation or classification systems, the establishment of an action plan to eliminate the discrepancies discovered, and measures to reduce any unjustified gender pay gaps.

Amendment 139

Proposal for a directive Article 16 – paragraph 4

Text proposed by the Commission

4. This Directive does not prevent Member States from introducing evidential rules which are more favourable to the claimant in proceedings instituted to enforce any of the rights or obligations relating to equal pay ***between men and women*** for equal work or work of equal value.

Amendment

4. This Directive does not prevent Member States from introducing evidential rules which are more favourable to the claimant in proceedings instituted to enforce any of the rights or obligations relating to equal pay for equal work or work of equal value.

Amendment 140

Proposal for a directive Article 17 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that in proceedings concerning a claim regarding equal pay ***between men and women*** for equal work or work of equal value, national courts or competent authorities are able to order the defendant to disclose any relevant evidence which lies in their control.

Amendment

1. Member States shall ensure that in proceedings concerning a claim regarding equal pay for equal work or work of equal value, national courts or competent authorities are able to order the defendant to disclose any relevant evidence which lies in their control.

Amendment 141

Proposal for a directive Article 17 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that national courts have the power to order the disclosure of evidence ***containing confidential information*** where they consider it relevant to the claim. They shall ensure that, when ordering the disclosure of such information, national courts have at

Amendment

2. Member States shall ensure that national courts have the power to order the disclosure of evidence where they consider it relevant to the claim. They shall ensure that, when ordering the disclosure of such information, national courts have at their disposal effective measures to protect such

their disposal effective measures to protect such information.

information.

Amendment 142

Proposal for a directive Article 17 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall, without prejudice to national law on the submission and evaluation of evidence, ensure that the final decision of a court confirming an infringement of the right to equal pay may be used, where relevant, as evidence in the context of any other action before their national courts to seek redress measures with regard to direct or indirect discrimination or intersectional discrimination against the same employer.

Amendment 143

Proposal for a directive Article 18 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall lay down rules applicable to limitation periods for bringing claims regarding equal pay ***between men and women*** for equal work or work of equal value. Those rules shall determine when the limitation period begins to run, the duration thereof and the circumstances under which it is interrupted or suspended.

1. Member States shall lay down rules applicable to limitation periods for bringing claims regarding equal pay for equal work or work of equal value. Those rules shall determine when the limitation period begins to run, the duration thereof and the circumstances under which it is interrupted or suspended.

Amendment 144

Proposal for a directive Article 18 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that the limitation periods for bringing claims are set at **three** years at least.

Amendment

3. Member States shall ensure that the limitation periods for bringing claims are set at **five** years at least.

Amendment 145

**Proposal for a directive
Article 19 – paragraph 1**

Text proposed by the Commission

Claimants who prevail on a pay discrimination claim ***shall have the right to recover*** from the ***defendant, in addition to any other damages***, reasonable ***legal and experts' fees and costs***. ***Defendants who prevail on a pay discrimination claim shall not have the right to recover any legal and experts' fees from the claimant(s) and costs, unless the claim was brought in bad faith, was clearly frivolous or where such non-recovery is considered manifestly unreasonable under the specific circumstances of the case.***

Amendment

Member States shall ensure that where a defendant prevails on a pay discrimination claim, ***the court benefits*** from the ***possibility to assess, according to the national law, whether the unsuccessful claimant had reasonable grounds for bringing the claim to court, and order that the unsuccessful claimant does not have to bear its costs.***

Amendment 146

**Proposal for a directive
Article 20 – paragraph 2 – introductory part**

Text proposed by the Commission

2. Member States shall ensure that fines are applied to infringements of the rights and obligations relating to equal pay for ***the same*** work or work of equal value. They shall set a minimum level for such fines ***ensuring*** real deterrent effect. The level of the fines shall take into account:

Amendment

2. Member States shall ensure that fines are applied to infringements of the rights and obligations relating to equal pay for ***equal*** work or work of equal value. They shall set a minimum level for such fines ***based, for instance, on the employer's gross annual turnover or on the employer's total payroll and shall ensure that that minimum level is proportionate and has a*** real deterrent

effect. The level of the fines shall take into account:

Amendment 147

Proposal for a directive Article 20 – paragraph 2 – point a

Text proposed by the Commission

(a) the gravity and duration of the infringement;

Amendment

(a) the gravity and duration of the infringement ***and whether there were repeated infringements***;

Amendment 148

Proposal for a directive Article 20 – paragraph 2 – point c

Text proposed by the Commission

(c) any other aggravating or mitigating factor applicable to the circumstances of the case.

Amendment

(c) any other aggravating ***factor, such as a finding of intersectional discrimination***, or mitigating factor applicable to the circumstances of the case.

Amendment 149

Proposal for a directive Article 20 – paragraph 3

Text proposed by the Commission

3. Member States shall establish specific penalties to be imposed in case of repeated infringements of the rights and obligations relating to equal pay between men and women, such as the revocation of public benefits or the exclusion, for a certain period of time, from any award of financial inducements.

Amendment

3. Member States shall establish specific penalties to be imposed in ***the*** case of repeated ***or serious*** infringements of the rights and obligations relating to equal pay between men and women, such as the revocation of public benefits or the exclusion, for a certain period of time, from any award of financial inducements.

Amendment 150

Proposal for a directive
Article 21 – paragraph 1

Text proposed by the Commission

1. The appropriate measures that the Member States take in accordance with Article 30(3) of Directive 2014/23/EU, Article 18(2) of Directive 2014/24/EU and Article 36(2) of Directive 2014/25/EU, shall include measures to ensure that, in the performance of public contracts or concessions, economic operators comply with the obligations *relating to equal pay between men and women for equal work or work of equal value*.

Amendment 151

Proposal for a directive
Article 21 – paragraph 2

Text proposed by the Commission

2. Member States shall consider for contracting authorities to introduce, as appropriate, penalties and termination conditions ensuring compliance with the principle of equal pay in the performance of public contracts and concessions. Where Member States' authorities act in accordance with Article 38(7)(a) of Directive 2014/23/EU, Article 57(4)(a) of Directive 2014/24/EU, or Article 80(1) of Directive 2014/25/EU in conjunction with Article 57(4)(a) of Directive 2014/24/EU, they may exclude or may be required by Member States to exclude any economic operator from participation in a public procurement procedure where they can demonstrate by any appropriate means the infringement of the obligations referred to in paragraph 1, related either to a failure to comply with pay transparency obligations or a pay gap of more than 5 per cent in any category of workers which is not justified by the employer on the basis of objective, gender-neutral criteria. This is without

Amendment

1. The appropriate measures that the Member States take in accordance with Article 30(3) of Directive 2014/23/EU, Article 18(2) of Directive 2014/24/EU and Article 36(2) of Directive 2014/25/EU, shall include measures to ensure that, in the performance of public contracts or concessions, economic operators comply with the obligations *laid down in this Directive*.

Amendment

2. Member States shall consider for contracting authorities to introduce, as appropriate, penalties and termination conditions ensuring compliance with the principle of equal pay in the performance of public contracts and concessions. Where Member States' authorities act in accordance with Article 38(7)(a) of Directive 2014/23/EU, Article 57(4)(a) of Directive 2014/24/EU, or Article 80(1) of Directive 2014/25/EU in conjunction with Article 57(4)(a) of Directive 2014/24/EU, they may exclude or may be required by Member States to exclude any economic operator from participation in a public procurement procedure where they can demonstrate by any appropriate means the infringement of the obligations referred to in paragraph 1 *of this Article*, related either to a failure to comply with pay transparency obligations or a pay gap of more than 2,5 per cent *in accordance with Article 9(1) of this Directive* in any category of workers which is not justified

prejudice to any other rights or obligations set out in Directive 2014/23/EU, Directive 2014/24/EU or Directive 2014/25/EU.

by the employer on the basis of objective, gender-neutral criteria. This is without prejudice to any other rights or obligations set out in Directive 2014/23/EU, Directive 2014/24/EU or Directive 2014/25/EU.

Amendment 152

Proposal for a directive Article 22 – paragraph 1

Text proposed by the Commission

1. Workers and ***their*** representatives shall not be treated less favourably on the ground that they have exercised their ***rights relating*** to equal pay ***between men and women***.

Amendment

1. Workers and ***workers'*** representatives shall not be treated less favourably on the ground that they have exercised their ***right*** to equal pay ***for equal work or work of equal value as provided for in this Directive or on the ground that they have reported infringements of the right to equal pay for equal work or work of equal value***.

Amendment 153

Proposal for a directive Article 22 – paragraph 2

Text proposed by the Commission

2. Member States shall introduce in their national legal systems such measures as necessary to protect workers, including those who are workers' representatives as provided for by national law and/or practice, against dismissal or other adverse treatment by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with any rights or obligations relating to equal pay ***between men and women***.

Amendment

2. Member States shall introduce in their national legal systems such measures as necessary to protect workers, including those who are workers' representatives as provided for by national law and/or practice, against dismissal or other adverse treatment by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with any rights or obligations relating to equal pay ***for equal work or work of equal value***.

Amendment 154

**Proposal for a directive
Article 22 a (new)**

Text proposed by the Commission

Amendment

Article 22a

Intersectional discrimination

1. Member States, employers, workers' representatives, equality bodies and monitoring bodies designated pursuant to Article 26 shall, without prejudice to national law, take into account the existence of intersectional forms of discrimination and unconscious bias when implementing the rights and obligations laid down in this Directive and reporting on pay transparency measures, including those laid down in Articles 14 and 17, and shall endeavour, develop and implement specific actions to identify and address situations in which pay discrimination based on sex intersects with other grounds of discrimination. They may also analyse and revise any practice or criteria that could be discriminatory and tackle and find solutions for the concerns of workers facing intersecting forms of discrimination within a particular workplace or sector.

2. When collecting data received from employers, the equality and monitoring bodies shall, without prejudice to national law, analyse that data in a way that takes account of multiple and intersectional forms of discrimination.

Amendment 155

**Proposal for a directive
Article 23 a (new)**

Text proposed by the Commission

Amendment

Article 23a

Support for SMEs

In order to limit the costs and administrative burdens on employers, Member states shall provide support, in the form of technical assistance and training, to SMEs and workers' representative organisations to comply with the obligations laid down in this Directive.

Amendment 156

Proposal for a directive Article 25 – paragraph 1

Text proposed by the Commission

1. Without prejudice to the competence of labour inspectorates or other bodies that enforce the rights of workers, including the social partners, national equality bodies established in accordance with Directive 2006/54/EC shall be competent with regard to matters falling within the scope of this Directive.

Amendment

1. Without prejudice to the competence of labour inspectorates or other bodies that enforce the rights of workers, including the social partners, **existing** national equality bodies established in accordance with Directive 2006/54/EC shall be competent with regard to matters falling within the scope of this Directive.

Amendment 157

Proposal for a directive Article 25 – paragraph 2

Text proposed by the Commission

2. Member States shall take active measures to ensure close cooperation and coordination between the **national** equality bodies and other national bodies that have an inspection function in the labour market.

Amendment

2. Member States shall take active measures to ensure close cooperation and coordination between the equality bodies and other national bodies that have an inspection function in the labour market, **including the social partners in accordance with national law and practice.**

Amendment 158

Proposal for a directive
Article 25 – paragraph 3

Text proposed by the Commission

3. Member States shall provide equality bodies with the adequate resources necessary for effectively carrying out their functions with regard to the respect for the right to equal pay ***between men and women for the same*** work or work of equal value. Member States shall consider ***allocating*** amounts recovered as fines pursuant to Article 20 to the equality bodies for that purpose.

Amendment

3. Member States shall provide ***the*** equality bodies ***and labour inspectorates*** with the adequate ***and sufficient or if needed additional*** resources, necessary for effectively carrying out their ***new*** functions with regard to the respect for the right to equal pay ***for equal*** work or work of equal value. Member States shall consider ***on top of the national resources assigned to equality bodies to additionally allocate the*** amounts recovered as fines pursuant to Article 20 to the equality bodies for that purpose.

Amendment 159

Proposal for a directive
Article 26 – paragraph 2

Text proposed by the Commission

2. Each Member State shall designate a body ('monitoring body') for the monitoring and support of the implementation of national legal provisions implementing this Directive and shall make the necessary arrangements for the proper functioning of such body. The monitoring body may be ***part of*** existing ***bodies or structures*** at national level.

Amendment

2. Each Member State shall designate a body ('monitoring body') for the monitoring and support of the implementation of national legal provisions implementing this Directive and shall make the necessary arrangements ***and ensure adequate resources*** for the proper functioning of such body. The monitoring body may be ***an*** existing ***body or structure*** at national level ***depending on the national institutional context for implementing the principle of equal pay. It shall work closely with the social partners involved in the application of the principle of equal pay and may be required to cooperate with the labour inspectorates.***

Amendment 160

Proposal for a directive
Article 26 – paragraph 3 – point a

Text proposed by the Commission

(a) to raise awareness among public and private undertakings and organisations, social partners and the general public to promote the principle of equal pay and the right to pay transparency;

Amendment

(a) to raise awareness among public and private undertakings and organisations, social partners and the general public to promote the principle of equal pay and the right to pay transparency, ***as well as the need to tackle intersectional discrimination, including by communicating and sharing employers' good practices and initiatives for the purpose of equal pay for equal work or work of equal value;***

Amendment 161

Proposal for a directive
Article 26 – paragraph 3 – point b

Text proposed by the Commission

(b) to tackle the causes of the gender pay gap ***and devise tools to help analyse and assess pay inequalities;***

Amendment

(b) ***to devise tools and guidance to help analyse and assess pay inequalities in order to tackle discrimination as defined in Article 3, including*** the causes of the gender pay gap;

Amendment 162

Proposal for a directive
Article 26 – paragraph 3 – point c

Text proposed by the Commission

(c) to aggregate data received from employers ***pursuant to Article 8(6)***, and publish this data in ***a*** user-friendly manner;

Amendment

(c) to aggregate data received from employers ***as laid down by this Directive***, and publish this data in ***an accessible and user-friendly manner in accordance with the harmonised legal acts of the Union on accessibility and, where possible, analyse the data for the purpose of identifying multiple, intersectional or cross-sectoral forms of discrimination, with a particular***

focus on female-dominated sectors;

Amendment 163

Proposal for a directive Article 26 – paragraph 3 – point e a (new)

Text proposed by the Commission

Amendment

(ea) to provide relevant data and information to the relevant institutions such as EIGE and Eurofound in order to allow for the comparability and assessment of that data at Union level;

Amendment 164

Proposal for a directive Article 26 – paragraph 3 – point e b (new)

Text proposed by the Commission

Amendment

(eb) to give warnings and recommendations for fines to the relevant competent authorities designated by Member States to implement Article 20 of this Directive, in the case of non-compliance with the obligations laid down in this Directive in certain companies or sectors, in order for the competent authorities to undertake follow-up actions, such as a revision of the national pay equality plan or penalties.

Amendment 165

Proposal for a directive Article 26 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States may add the tasks to the monitoring body to take the necessary actions, including fines, in the

case of non-compliance of employers with this Directive as laid down in Article 20.

Amendment 166

Proposal for a directive Article 26 a (new)

Text proposed by the Commission

Amendment

Article 26a

Union Pay Equality Plans

- 1. The Commission shall create a Union Pay Equality Plan setting out priorities and targets to fill in concrete measures and corrective actions based on data on labour market segregation and the biases in equal pay for equal work or work of equal value in the Union and the single market. The Union Pay Equality Plan shall be presented for a five year period.*
- 2. The Commission shall create guidelines for national pay equality plans, to be established by Member States, setting out concrete measures and corrective actions to address the gender pay gap in the labour market. To that end, Member States shall first assess the situation, based on the collected data on the segregation of labour markets and the biases in equal pay for equal work or work of equal value. Member States shall make those data and analytical tools publicly available.*
- 3. The Commission shall, after consulting the social partners and the national authorities, designate EIGE to create an online interactive pay transparency and equality tool to facilitate the analysis and assessment of gender pay in SMEs. That tool shall be free of charge and easy to use. It shall be based on an accessible methodology. It shall be available in all official languages of the Union. The EIGE shall be provided with adequate financial and human resources for that*

purpose.

Amendment 167

Proposal for a directive Article 28 – paragraph 1

Text proposed by the Commission

Member States shall provide the Commission (Eurostat) with up-to-date gender pay gap data annually and in a timely manner. These statistics shall be broken down by gender, economic sector, working time (full-time/part-time), economic control (public/private ownership) and age and be calculated on an annual basis.

Amendment

Member States shall provide the Commission (Eurostat) with up-to-date gender pay gap data annually and in a timely manner. These statistics shall be broken down by gender, economic sector, working time (full-time/part-time), ***type of contract (indefinite/temporary/hourly)***, economic control (public/private ownership), ***disability***, and age ***and shall, where possible, include whether the difference was justified by objective and gender-neutral criteria***, and be calculated on an annual basis ***and, where possible, be combined with anonymised data regarding intersectional forms of discrimination.***

Amendment 168

Proposal for a directive Article 31 – paragraph 1

Text proposed by the Commission

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [two years after the entry into force]. They shall immediately inform the Commission thereof.

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [two years after the entry into force]. ***Without prejudice to the autonomy of the social partners and in accordance with national law and practice, Member States shall ensure that the rights and obligations under this Directive are transposed.*** They shall immediately inform the Commission thereof.

Amendment 169

Proposal for a directive Article 31 – paragraph 2

Text proposed by the Commission

2. When informing the Commission, Member States shall also **accompany it with** a summary of the results of their assessment regarding the impact of their transposition **act** on small and medium-sized enterprises and a reference to where such assessment is published.

Amendment

2. When informing the Commission, Member States shall also **provide** a summary of the results of their assessment regarding the impact of their transposition on **workers and employers of** small and medium-sized enterprises **and on female-dominated sectors** and a reference to where such assessment is published.

Amendment 170

Proposal for a directive Article 32 – paragraph 1

Text proposed by the Commission

1. By [**eight** years after the entry into force] Member States shall communicate to the Commission all information on how this Directive has been applied and what has been its impact in practice.

Amendment

1. By [**five** years after the entry into force] Member States shall communicate to the Commission all information on how this Directive has been applied and what has been its impact in practice.

Amendment 171

Proposal for a directive Article 32 – paragraph 2

Text proposed by the Commission

2. On the basis of the information provided by Member States, the Commission shall submit a report to the European Parliament and the Council on the implementation of this Directive and propose, **where appropriate**, legislative amendments.

Amendment

2. On the basis of the information provided by Member States, the Commission shall, **within one year of receiving the information**, submit a report to the European Parliament and the Council on the implementation of this Directive, **which shall include an impact assessment taking into account the collected data and experiences by the Member States, employers, EIGE, the**

social partners, the equality bodies and monitoring bodies and other relevant institutions. Based on this, the Commission shall consider how to lower the amount of workers an employer must have to be bound by Articles 8 and 9 of this Directive, and propose, accordingly, legislative amendments.

>

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Strengthening 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	
References	COM(2021)0093 – C9-0089/2021 – 2021/0050(COD)	
Date submitted to Parliament	4.3.2021	
Committees responsible Date announced in plenary	EMPL 11.3.2021	FEMM 11.3.2021
Rapporteurs Date appointed	Kira Marie Peter-Hansen 7.6.2021	Samira Rafaela 7.6.2021
Rule 58 – Joint committee procedure Date announced in plenary	10.6.2021	
Discussed in committee	30.9.2021	15.11.2021
Date adopted	17.3.2022	
Result of final vote	+: 65 –: 16 0: 10	
Members present for the final vote	Isabella Adinolfi, Atidzhe Alieva-Veli, Marc Angel, Simona Baldassarre, Robert Biedroń, Dominique Bilde, Gabriele Bischoff, Vilija Blinkevičiūtė, Milan Brglez, Annika Bruna, Sylvie Brunet, Jordi Cañas, David Casa, Leila Chaibi, Ilan De Basso, Margarita de la Pisa Carrión, Özlem Demirel, Klára Dobrev, Jarosław Duda, Estrella Durá Ferrandis, Rosa Estaràs Ferragut, Nicolaus Fest, Frances Fitzgerald, Loucas Foulas, Heléne Fritzon, Lina Gálvez Muñoz, Helmut Geuking, Elisabetta Gualmini, Alicia Homs Ginel, France Jamet, Livia Járóka, Agnes Jongerius, Radan Kanev, Arba Kokalari, Ádám Kósa, Alice Kuhnke, Stelios Kypouropoulos, Katrin Langensiepen, Miriam Lexmann, Elena Lizzi, Elżbieta Katarzyna Łukacijewska, Radka Maxová, Giuseppe Milazzo, Andżelika Anna Mozdżanowska, Maria Noichl, Sandra Pereira, Kira Marie Peter-Hansen, Pina Picierno, Sirpa Pietikäinen, Dragoş Pîslaru, Manuel Pizarro, Dennis Radtke, Samira Rafaela, Elżbieta Rafalska, Evelyn Regner, Guido Reil, Terry Reintke, Diana Riba i Giner, Eugenia Rodríguez Palop, María Soraya Rodríguez Ramos, Daniela Rondinelli, Mounir Satouri, Christine Schneider, Monica Semedo, Michal Šimečka, Sylwia Spurek, Jessica Stegrud, Beata Szydło, Eugen Tomac, Romana Tomc, Isabella Tovaglieri, Marie-Pierre Vedrenne, Nikolaj Villumsen, Marianne Vind, Elissavet Vozemberg-Vrionidi, Maria Walsh, Chrysoula Zacharopoulou, Stefania Zambelli, Tatjana Ždanoka, Tomáš Zdechovský, Marco Zullo	
Substitutes present for the final vote	Barry Andrews, Lefteris Christoforou, Michiel Hoogeveen, Aurore Lalucq, Jeroen Lenaers, Silvia Modig, Irène Tolleret, Véronique Trillet-Lenoir, Pernille Weiss, Anna Zalewska	
Date tabled	22.3.2022	

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

65	+
NI	Daniela Rondinelli
PPE	Isabella Adinolfi, David Casa, Lefteris Christoforou, Jarosław Duda, Rosa Estaràs Ferragut, Frances Fitzgerald, Loucas Fourlas, Helmut Geuking, Stelios Kypourououlos, Jeroen Lenaers, Elżbieta Katarzyna Lukacijewska, Sirpa Pietikäinen, Dennis Radtke, Eugen Tomac, Elissavet Vozemberg-Vrionidi, Maria Walsh
Renew	Atidzhe Alieva-Veli, Barry Andrews, Sylvie Brunet, Jordi Cañas, Dragoş Pîslaru, Samira Rafaela, María Soraya Rodríguez Ramos, Monica Semedo, Michal Šimečka, Irène Tolleret, Véronique Trillet-Lenoir, Marie-Pierre Vedrenne, Chrysoula Zacharopoulou, Marco Zullo
S&D	Marc Angel, Robert Biedroń, Gabriele Bischoff, Vilija Blinkevičiūtė, Milan Brglez, Ilan De Basso, Klára Dobrev, Estrella Durá Ferrandis, Helène Fritzon, Lina Gálvez Muñoz, Elisabetta Gualmini, Alicia Homs Ginel, Agnes Jongerius, Aurore Lalucq, Radka Maxová, Maria Noichl, Pina Picierno, Manuel Pizarro, Evelyn Regner, Marianne Vind
The Left	Leila Chaïbi, Özlem Demirel, Silvia Modig, Sandra Pereira, Eugenia Rodríguez Palop, Nikolaj Villumsen
Verts/ALE	Alice Kuhnke, Katrin Langensiepen, Kira Marie Peter-Hansen, Terry Reintke, Diana Riba i Giner, Mounir Satouri, Sylwia Spurek, Tatjana Ždanoka

16	-
ECR	Michiel Hoogeveen, Giuseppe Milazzo, Andżelika Anna Możdżanowska, Margarita de la Pisa Carrión, Elżbieta Rafalska, Jessica Stegrud, Beata Szydło, Anna Zalewska
ID	Nicolaus Fest, Guido Reil
NI	Lívia Járóka, Ádám Kósa
PPE	Arba Kokalari, Miriam Lexmann, Christine Schneider, Pernille Weiss

10	0
ID	Simona Baldassarre, Dominique Bilde, Annika Bruna, France Jamet, Elena Lizzi, Isabella Tovaglieri, Stefania Zambelli
PPE	Radan Kanev, Romana Tomc, Tomáš Zdechovský

Key to symbols:

+ : in favour

- : against

0 : abstention