



International
Labour
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► Pay transparency legislation: Implications for employers' and workers' organizations



▶ **Pay transparency legislation:
Implications for employers'
and workers' organizations**

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► Foreword

The full implication of the COVID-19 pandemic will not be known for some time; however, it is clear that the pandemic has caused significant losses in employment for both women and men. It is also clear that the pandemic's impact has been uneven, with women being among the worst affected in terms of their income security, representation in sectors hard hit by COVID-19, and gendered division of family responsibilities. All of these have led to a negative impact on women's employment, threatening to reverse decades of progress made towards gender equality.

Even before the pandemic, women faced numerous challenges in their labour market participation. Symptomatic of these many challenges is the gender pay gap, which stands at 20 per cent worldwide. While individual characteristics such as education, skills or experience explain part of the gender pay gap, a large part of the gender pay gap can still be attributed purely to discrimination based on one's gender or sex.

The need to close the global gender pay gap is now more than ever recognized by governments, employers' organizations and workers' organizations. The goal to close the gender pay gap is set out in the ILO Constitution, in the Equal Remuneration Convention, 1951 (No. 100), and in the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The 1998 Declaration on Fundamental Principles and Rights at Work declared equal pay a fundamental principle to be promoted, respected and realized by all ILO Member States. Most recently, the importance of achieving equal pay for women and men for equally valued work was reflected in the ILO's Centenary Declaration (2019) and the Global call to action for a human centred recovery from the COVID-19 crisis (2021), which reiterate the importance of public policy and enterprise practices to ensure equal pay for work of equal value, supported inter alia by pay transparency. The ILO Resolution concerning inequalities and the world of work (2021) further underlines that "measures for equal pay for work of equal value and pay transparency, among other measures, including in supply chains, are key for fair distribution of the fruits of economic progress" (para. 23(c)).

To support commitments and efforts made by ILO constituents to attain the principle of equal pay for work of equal value, this paper provides an overview of pay transparency legislations within the wider context of addressing the gender pay gap and gender inequalities in the labour market. Although pay transparency legislations can be considered a more recent and innovative development, they are increasingly being debated and discussed by ILO Member States to accelerate progress towards equal pay for work of equal value. As such, this paper offers a detailed mapping of existing legislations in countries that have enacted pay transparency legislations, and assesses the impacts of these legislations. In doing so, the paper pays particular attention to the views of employers' and workers' organizations and arguments both in favour and against pay transparency legislations.

This paper is a joint collaboration among the ILO's Bureau for Workers' Activities (ACTRAV), Bureau for Employers' Activities (ACT/EMP) and Conditions of Work and Equality Department (WORKQUALITY), and has been developed to stimulate discussions on pay transparency legislations, policies and programmes among ILO constituents and members of the Equal Pay International Coalition, a multi-stakeholder partnership led by the ILO, UN Women and the Organisation for Economic Co-operation and Development. We wish you an insightful read of *Pay Transparency Legislation: Implications for Employers' and Workers' Organizations* and hope the paper will support constituents' efforts in creating equitable, inclusive and productive workplaces.

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Dr Annick Masselot, a professor at the School of Law, University of Canterbury (New Zealand), with expertise on gender equality and equal treatment, employment law and social policy, is the lead author of the paper. Dr Martha Ceballos, researcher at the School of Law, University of Canterbury, is a co-author of the paper. Together, they conducted an extensive literature review on country-level practices on pay transparency legislation, designed the survey questionnaire for social partners and co-analysed the survey findings, and conducted interviews with social partner representatives.

Finally, the contributions of representative organizations of employers and workers were essential, so that the paper could reflect their voices. The paper would not have been possible without their commitment and time taken to participate in the surveys and interviews.

► Abbreviations

CITE	Commission for Equality in Labour and Employment (Portugal)
COVID-19	Coronavirus disease
EHRC	Equality and Human Rights Commission (United Kingdom)
EPIC	Equal Pay International Coalition
ERT	Equity Review Tribunal (Canada)
EU	European Union
GIGB	Federal Equal Treatment Act for the Private Sector (Austria)
ILC	International Labour Conference
ILO	International Labour Organization
MEGA	Ministry of Equality between Women and Men (Luxembourg)
OECD	Organisation for Economic Co-operation and Development
SME	small and medium-sized enterprise
WGEA	Workplace Gender Equality Agency (Australia)



Executive summary

► Executive summary

The COVID-19 pandemic has had devastating impacts on the world of work at an unprecedented scale and exposed and deepened existing inequalities in many countries. Among the many inequalities exposed and deepened in most countries are gender inequalities. The impacts of the COVID-19 pandemic have fallen differently on men and women and risk reversing decades of progress made on gender equality. Taking action to address these setbacks on gender equality as countries emerge from the pandemic is not only relevant and timely but also critical for an inclusive, sustainable and resilient recovery.

At the 109th Session of International Labour Conference (2021), ILO constituents adopted the Resolution concerning inequalities and the world of work, which calls upon Members to ensure gender equality and non-discrimination and to promote equality, diversity and inclusion, which requires an integrated and comprehensive approach that puts people at the centre; takes into account the impact of intersecting personal identities, as well as conditions of vulnerability; and addresses equality through the entire life cycle. This entails, among others, closing gender pay gaps.

The urgent need to tackle the gender pay gap is no longer a debate – but rather the question is how. Pay transparency measures, depending on how they are put in place, can serve as an effective tool in identifying existing pay differences between men and women, and as such can be vehicles to address the gender pay gap and reduce broader gender inequalities in the labour market.

This paper offers a detailed mapping of existing equal pay legislations in countries worldwide. Furthermore, it assesses the impacts of these legislations and discusses arguments both in favour and against pay transparency legislations, while paying particular attention to the role of employers' and workers' organizations. In particular, the paper presents the findings of an online survey conducted with social partner organizations between July and September 2021 and semi-structured interviews carried out between October and November 2021. The survey and interviews offer social partners' understanding of how pay transparency measures are implemented in practice and assess the effectiveness of pay transparency legislation in promoting equitable pay policies.

The diversity in approaches used by countries worldwide show that there is no “one-size fits all” solution. In addition, many countries have only recently introduced pay transparency legislations. Hence, more time is needed to assess their actual impacts and effectiveness.

From the perspective of workers, pay transparency may provide workers with the relevant information and evidence that they require to negotiate pay rates and also provide them with the means to challenge potential pay discrimination. From the perspective of employers, pay transparency legislations may provide an opportunity to identify and address discrimination in pay that might otherwise negatively affect the good functioning of the enterprise.

Pay transparency measures embody a rather diverse set of tools, encompassing periodic pay disclosure, regular gender pay gap reports or audits, and workers' right to access pay data or digital tools. This paper finds that pay transparency reports are one of the most commonly implemented measures at the country level. Generally, employers are asked to report information about their workforce and differences in remuneration between men and women on a periodic basis. Equal pay audits, in turn, require employers to analyse and understand identified pay gaps and to take steps to address them. An increasing number of countries have implemented measures to enable employees' right to request information on pay differences. A common characteristic of the countries that have adopted the right to request information on pay is that this right is generally exercised through a workers' representative. The consultation of pay transparency measures between employers and workers' representatives is a feature that is part of transparency legislations in most countries. More recently, some countries have been using online digital tools to assist employers to fulfil legislative requirements on pay transparency. What these various measures and approaches have in common is that they are all designed to enable and facilitate the realization of equal pay for work of equal value, through enhanced access to information.

Survey responses of social partners regarding the impact of pay transparency legislations tend to vary depending on the country or the characteristics of the legislation in place. In nearly all countries, worker and employer representatives report some or frequent consultation on equal pay-related matters. Responses on the inclusion of gender pay clauses in collective bargaining differs among countries. Workers' main concerns around enhance implementation differed significantly from employers' concerns, suggesting that in order to ensure effective implementation, pay transparency legislations will need to consider a wide range of issues that cater equally to the challenges faced by both employers and workers.

Overall, this paper finds that equal pay transparency legislations offer a potentially useful avenue to address the gender pay gap – and accordingly, broader gender inequalities in the labour market. Active social partnership is crucial in delivering the results intended by legislative undertakings and – most importantly – to eliminate pay discrimination in the world of work.



1

Introduction: A renewed focus on addressing the gender pay gap



► 1. Introduction: A renewed focus on addressing the gender pay gap

The COVID-19 pandemic has been unprecedented in its global reach and scale of economic and social disruptions, which has had devastating impacts on the world of work. Among the many inequalities exposed and deepened in most countries are gender inequalities. The impacts of the COVID-19 pandemic have fallen differently on men and women, with larger proportions of women working in the hardest-hit sectors and relying on informal employment. Consequentially, men and women have differently experienced job and income losses during the crisis. According to the ILO's *Global Wage Report 2020–21*, the crisis has disproportionately affected the total wages of women compared to men. This greater wage reduction for women means that the already extant gender pay gap risks being widened.

Despite some progress in previous decades, the gender pay gap remains persistent and pervasive. Research shows that on average women tend to earn less than men, with the latest estimate indicating a global gender pay gap in mean hourly earnings of approximately 20 per cent (ILO 2018). The gender pay gap is a reflection of gender bias in wage determination and wage structures, as well as gender differences in the hours devoted to paid employment and their distribution across sectors and occupations. The gender pay gap is a composite indicator that mirrors various types of inequalities that women face in the labour market. The on-going impact of COVID-19 and recovery efforts made by Member States underscore the need for gender-responsive policies that effectively address the gender-specific effects of the crisis and that support the creation of full and productive employment for women and men.

At the 2021 International Labour Conference of the ILO, governments, employers' organizations and workers' organizations adopted the Resolution concerning inequalities and the world of work. The Resolution calls upon ILO Members to ensure gender equality and non-discrimination and to promote equality, diversity and inclusion through:

- an integrated and comprehensive approach that puts people at the centre, takes into account the impact of intersecting personal identities, as well as conditions of vulnerability, and addresses equality through the entire life cycle. This entails removing barriers preventing women from accessing, remaining and progressing in the labour market, such as stereotypes, discriminatory laws and practices, the unfair division of unpaid care work and the lack of flexible working arrangements. This involves ensuring access to quality and affordable long term and child care; strengthening actions and policies to end racial and all other forms of discrimination and to achieve equality of opportunity and treatment for all. This also means closing gender pay and pension gaps, and further realizing equal remuneration for work of equal value for all; tackling occupational segregation; and increasing the availability of data disaggregated by sex, age, disability, race, ethnicity, migrant status and geographic location (ILO 2021a, para. 23(e)).

Furthermore, the Resolution calls for accelerating the "implementation of a transformative agenda for gender equality and a transformative agenda for equality, diversity and inclusion, in accordance with the ILO Centenary Declaration and the Global Call to Action" (ILO 2021a, para. 24(h)).

The ILO Global call to action for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient (hereafter referred to as the "Global Call to Action") highlights that: "Women have suffered disproportionate job and income losses, including because of their over-representation in the hardest-hit sectors, and many continue to work on the front line, sustaining care systems, economies and societies, while often also doing the majority of unpaid care work, which underscores the need for a gender-responsive recovery" (ILO 2021b, para. 4). It calls for:

- a transformative agenda for gender equality by:
 - i. ensuring equal pay for work of equal value, supported inter alia by pay transparency;
 - ii. expanding policies providing adequate paid care leave and promoting a more balanced sharing of work and family responsibilities;

- iii. promoting employment creation and lifelong learning policies that close gender skills gaps;
- iv. investing in education, healthcare, social work, the care economy and other sectors, addressing understaffing and improving working conditions;
- v. removing legal and other types of barriers to entry to and advancement in education, training, employment and careers, including by combating gender stereotypes; and
- vi. preventing and protecting against gender-based violence and harassment in the world of work (ILO 2021b, para. 11(B)(g)).

The Global Call to Action renews and expands commitments made on the occasion of the ILO's centenary (2019), when ILO constituents adopted the Centenary Declaration for the Future of Work. The Centenary Declaration calls for:

- achieving gender equality at work through a transformative agenda, with regular evaluation of progress made, which:
 - ensures equal opportunities, equal participation and equal treatment, including equal remuneration for women and men for work of equal value;
 - enables a more balanced sharing of family responsibilities;
 - provides scope for achieving better work-life balance by enabling workers and employers to agree on solutions, including on working time, that consider their respective needs and benefits; and
 - promotes investment in the care economy (ILO 2019, para. II(A)(vii)).

Whereas each of these key ILO documents applies a different entry point – such as overall inequality, the COVID-19 crisis, or the future of work – they all put challenges related to equal pay at their centre. However, it is also clear that the gender pay gap is only one form of the wider gender inequalities found in the world of work.

Box 1. ILO standards and instruments

The principle of “equal remuneration for men and women for work of equal value” is set out in the Constitution of the ILO. Equal remuneration for equal work is also set out in the [Equal Remuneration Convention, 1951 \(No. 100\)](#), and in the [Discrimination \(Employment and Occupation\) Convention, 1958 \(No. 111\)](#), which are aimed at eliminating discriminatory practices, including discriminatory pay practices, in labour markets. Within a broader framework of non-discrimination, the [Violence and Harassment Convention, 2019 \(No. 190\)](#), addresses gender-based violence and harassment. The 1998 [ILO Declaration on Fundamental Principles and Rights at Work](#) declared non-discrimination and equal pay for work of equal value to be fundamental principles to be promoted, respected and realized by all ILO Member States.

The most comprehensive and widely used approach to assessing existing pay differentials between men and women is through the concept of “equal pay for work of equal value”. This is set out in ILO's Equal Remuneration Convention, 1951 (No. 100), which is a fundamental Convention (see box 1). Equal pay for work of equal value is a necessary condition to closing the gender pay gap. This is because the primary driver of the gender pay gap in modern economies is the very undervaluation of women's work, rather than women receiving less pay than men for the same work (Meyersson Milgrom, Petersen and Snartland 2001). This is an important distinction, and means in plain language that women are not only paid less for the same jobs as men, but that jobs that are disproportionately female (such as those in “feminized sectors”) are often valued less.¹ This means that jobs can be different but still be considered to be of equal value when the educational, professional and training requirements; skills; effort and responsibility; work

¹ See ILO 2018 for an extensive discussion on the matter.

undertaken or the nature of tasks involved are in reality equivalent. In such cases, both jobs should receive the same pay (European Commission 2019). This is challenging, as detecting unequal pay for work of equal value is not straightforward. It requires a careful job evaluation that applies objective and common criteria, such as relevant skills, education, relevant work experience and working conditions. This is also set out in ILO Convention No. 100.²

Governments, employers' organizations and workers' organizations around the world increasingly recognize the importance of addressing the gender pay gap as well as the principle of equal pay for work of equal value. To confront the gender pay gap, governments have explored a number of different policy measures. The emphasis of this paper is on one particular measure: that is, pay transparency legislations and policies. Although equal pay transparency legislations can be considered a more recent and innovative policy development and vehicle to address the gender pay gap, it is increasingly being discussed in international, regional and national policy forums.

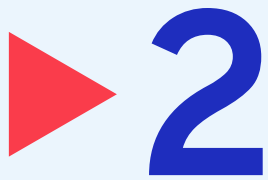
Today, multiple countries around the world, including France, Lithuania, Iceland and the United States of America, have transparency legislations or policies in place. The European Union (EU) is currently in the process of adopting a Pay Transparency Directive (European Commission 2021). Other international organizations, such as UN Women, the Organisation for Economic Co-operation and Development (OECD) or Eurofound have also increasingly advanced their agendas on the issue (UN Women 2020; OECD 2021; Aumayr-Pintar 2021).

Developed in the framework of the Equal Pay International Coalition (EPIC) – a multi-stakeholder partnership led by the ILO, UN Women and the OECD aimed at reducing the gender pay gap at the global, regional and national levels³ – this paper provides an overview of pay transparency legislations within the wider set of policies to reduce the gender pay gap. The paper offers a detailed mapping of existing legislations in those countries that have enacted pay transparency legislations. Furthermore, the study assesses the impacts of these legislations on the gender pay gap and on broader labour market considerations. It also analyses the costs and benefits of pay transparency legislations. The study looks at the views of workers' and employers' organizations and arguments both in favour and against pay transparency legislations, while illustrating the role of employers' and workers' organizations based on an online ILO survey conducted with representative employers' and workers' organizations.⁴

2 This is confirmed by the Committee of Experts on the Application of Conventions and Recommendations (CEACR), which asserts that "some form of objective appraisal of jobs on the basis of the work to be performed is the only method set forth in the Convention [No. 100] for differentiating wages in conformity with the principle of equality" (ILO 1986, para. 21).

3 For more information about EPIC, see: <https://www.equalpayinternationalcoalition.org/> and https://www.equalpayinternationalcoalition.org/whats_new/pay-transparency-the-not-so-hidden-road-to-equality/.

4 The survey was conducted in the period June–September 2021.



2

Pay transparency legislation: An emerging and innovative policy instrument

▶ 2. Pay transparency legislation: An emerging and innovative policy instrument

Although pay transparency is a rather new and innovative policy instrument to address the gender pay gap, an increasing number of countries worldwide have adopted, or are in the process of adopting, pay transparency legislations or policies. Many European countries already have pay transparency legislations in place, with an EU-wide Pay Transparency Directive pending adoption.⁵ Non-European countries, such as Canada, Chile, Iceland and the United States, have also adopted or are in the process of adopting pay transparency legislations, and these are discussed later in this paper.

Pay transparency legislations and policies have the aim of narrowing the gender pay gap by enhancing access to information and by tackling potential information asymmetries. From the perspective of workers, pay transparency may provide workers with the relevant information and evidence that they require to negotiate pay rates and provide them with the means to challenge potential pay discrimination. From the perspective of employers, pay transparency legislations may provide an opportunity to identify and address discrimination in pay that otherwise might negatively affect the good functioning of their enterprises.

2.1. What is equal pay transparency legislation?

Pay transparency measures embody a rather diverse set of tools, encompassing periodic pay disclosure, regular gender pay gap reports or enterprise pay assessments. These are all designed to enable and facilitate the application of equal pay for work of equal value through enhanced access to information. As such, pay transparency measures aim to reveal gender bias or discrimination in pay practices, in the belief that these revelations may trigger other actions to actually address and correct potentially existing gender pay gaps. Current practices on pay transparency legislations are typically structured around several approaches:

- ▶ Allowing employees to request and access information on pay levels in their enterprise.
- ▶ Requiring employers to disclose individual pay information to employees.
- ▶ Requiring employers to disclose an advertised position's salary to prospective employees, either during the interview process or in job advertisements.
- ▶ Prohibiting employers from requesting an employee's or prospective employee's salary history.
- ▶ Creating an independent body to provide employers with equal pay certification if they meet certain requirements around gender-neutral pay.
- ▶ Obliging enterprises with a certain threshold level of employees (for example, 50) to publish information on gender and pay within their organization.
- ▶ Carrying out regular audits on gender and pay in enterprises with a minimum threshold level of employees.
- ▶ Undertaking regular pay assessments in enterprises with the involvement of employee representatives.
- ▶ Promoting the discussion of equal pay and pay audits during collective bargaining.

⁵ At the time of writing this paper, the European Commission is discussing a new directive on pay transparency policies with the aim of making such policies mandatory in the EU. For more information see European Commission 2021, and 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](https://eur-lex.europa.eu/legal-content/EN/HIS/?uri=COM:2021:93:FIN). To follow the ordinary legislative procedure on the proposal see: <https://eur-lex.europa.eu/legal-content/EN/HIS/?uri=COM:2021:93:FIN>.

2.2. Arguments for and against equal pay transparency regulations

This section gives an overview of the various arguments both in favour and against introducing pay transparency legislations based on a literature review.⁶ In Chapter 5, these arguments in favour and against are complemented with the views of social partners based on an online survey conducted with employers' and workers' organizations in countries that have transparency legislations in place. While this section attempts to provide a comprehensive overview of the potential benefits and pitfalls of pay transparency legislations, the body of evidence indicates that, on balance, they do reduce the gender pay gap and generate economic benefits.

2.2.1. Arguments in favour

As a general rule, greater information is considered helpful in economic decision-making. Since pay transparency offers a direct improvement in the information available to the labour market, it positively affects the ability of all actors to inform their choices and decision-making. Importantly, pay transparency reduces the information asymmetry that would otherwise exist between different actors in the labour market.

Box 2. The economic benefits of pay transparency measures

Pay transparency is widely documented to be effective in closing the gender pay gap. A 2020 study by the European Parliament argues that reductions in the gender pay gap "can be expected to result in an increase in labour force participation and working hours for women (since incentives are stronger where pay is higher)". Furthermore, binding pay transparency measures can lead to "better use of women's skills and increased productivity" (Hofman et al. 2020, 16).

A 2014 study by the European Commission estimated regular mandatory reporting of enterprises on pay levels would generate an EU-wide annual net economic benefit of €18 billion, and annual compliance costs of only €108 million. Using those figures, the total net surplus of the enactment of pay transparency measures based on regular pay reporting would be as much as €17.892 billion annually, indicating the significant welfare benefits of pay transparency legislation.

Source: Hofman et al. 2020; European Commission 2014.

For workers, pay transparency enables them to make more informed and better decisions, allowing hiring and pay negotiations to take place on a level playing field. It further helps workers to identify potential discriminatory pay practices and to initiate potential corrective actions, which would lead to positive developments in eliminating enterprise-level gender pay gaps.

Box 3. The benefits of pay transparency measures in reducing the gender pay gap

The European Commission's 2014 study offers several estimates concerning pay transparency measures reducing the gender pay gap. These include (among others):

- Providing workers an entitlement to obtain pay information within their enterprises would reduce the gender pay gap by between 0.33 and 0.5 per cent.
- Regular pay transparency reporting by enterprises on pay levels would reduce the gender pay gap by between 0.66 and 1.5 per cent.

⁶ Most of the arguments presented in this section are discussed in Hofman et al. (2020).

Box 3. (continued)

- ▶ Equal pay audits conducted by employers would reduce the gender pay gap by between 0.66 and 2 per cent.
- ▶ Considering the concept of equal pay in collective bargaining processes would reduce the gender pay gap by between 0 and 0.33 per cent.

Overall, a comprehensive approach to pay transparency that encompasses all four approaches – workers' right to obtain pay information, pay transparency reporting, equal pay audits, and integrating equal pay in collective bargaining – could have a cumulative effect of reducing the gender pay gap by between 1.65 per cent and 4.33 per cent.

Source: European Commission 2014.

2.2.2. Arguments against

The most mentioned critique of pay transparency legislation is that it implies compliance costs and administrative burdens for employers. Any system that implies costs that are not offset by gains of at least equal value may typically result in some form of shirking, or essentially cost minimizing behaviour.⁷ In the case of pay transparency, the fact that enterprises would face compliance and administrative costs with little or no known direct benefit to themselves – or that they may even face plausible negative impacts – suggests the likelihood of some enterprises attempting to comply but at the lowest possible cost to themselves, leading to what would be at best murky or insufficient information.⁸

The privacy of individual contracting or a person's pay being private information between that person and their employer has also been an expressed concern. The respect for the right of privacy implies that full pay information cannot be openly provided. To address this challenge, some countries require enterprises to provide aggregated or averaged pay figures across a given professional category, or to anonymize the information provided. However, if there are too few individuals at any given occupational category or carrying out a given particular set of identified tasks, even averaged information could be revealing of individual and private information. For instance, Germany requires a minimum of six employees to enforce the right to provide information to an employee. This being the case, enterprises would need to average pay over a wider range of professional categories, which, naturally, could limit the granularity of the information, thereby reducing the overall value of the entire exercise of pay transparency.⁹

Box 4. Can pay transparency measures lower wages?

Academics in the United States have constructed a theoretical model in which they propose an explanation for why pay transparency might lower wages rather than raise them. The model predicts that pay transparency may reduce the individual bargaining power of workers, leading to lower average wages. Under this model, an increase in pay transparency would lower wages generally, but would also reduce wage dispersion across employees (that is, it would close a gender pay gap). Thus, lowering the gender pay gap comes at a cost to workers of lower wages generally (and a corresponding increase in enterprise profits). Furthermore, the model carries a warning that if pay transparency measures are not sufficiently robust, then they can lead to increased pay dispersion.

Source: Cullen 2021.

7 Such cost minimizing behaviour could also include a voluntary choice to suffer noncompliance fines rather than paying the administrative costs of compliance if the latter would outweigh the former.

8 After statutory pay reporting was introduced in Denmark, only 30 per cent of relevant enterprises compiled a pay report (Eurofound 2018).

9 Notwithstanding the private nature of pay, Smit and Montag-Smit (2019) find that employees may have an incentive to voluntarily share pay information among themselves anyway.

There are also some claims that pay transparency can correct the gender pay gap but by reducing men's wages rather than increasing women's wages. Bennedsen et al. (2019) and Duchini, Simion, and Turrell (2020) both find the relative benefits to women's earnings come predominantly from slower wage growth among men. In comparison, however, Böheim and Gust (2021) find that among new hires at large enterprises, the gender pay gap declined as a result of a large boost in female wages with no statistically significant effect on male wages.

Other concerns identified include that pay transparency could incentivize employers to negotiate more aggressively with employees, because one worker's salary may affect negotiations with many other workers (Cullen and Pakzad-Hurson 2019). Additionally, pay transparency could lower morale and harmony among work colleagues, as workers may become discouraged by knowing others earn more than they do – even if the reasons for the pay difference are legitimate (Canales 2018).



3

Diverse practices and common approaches to enhance pay transparency



▶ 3. Diverse practices and common approaches to enhance pay transparency

Pay transparency legislations consist of diverse approaches. Whereas Chapter 4 examines in detail the many approaches that are applied by various countries, this chapter offers an overview of some of the most common approaches taken by countries that have enacted pay transparency legislations to enhance equal pay for work of equal value. These common approaches include:

- ▶ pay transparency reports;
- ▶ equal pay audits;
- ▶ employee's rights to request information on pay;
- ▶ engagement/consultation between employers and workers on the measures taken; and
- ▶ digital tools to enhance pay transparency.

3.1. Pay transparency reports

Pay transparency reports are one of the most commonly implemented measures at the country level. Generally, employers are asked to periodically report information about their workforce and differences in remuneration between men and women. The objective of these reports is to promote dialogue between employers and workers about existing compensation and business practices, especially relating to gender. Employers can then decide to implement workplace-specific policies to address any gender gaps.

Employers are usually required to submit their pay transparency reports to employee representatives (such as work councils or trade unions) and/or to a government agency. Reporting requirements are typically associated with the size of the enterprise and vary from country to country. For instance, in Denmark enterprises with more than 35 employees must report on certain salary statistics. The duty to report covers enterprises with 50 or more employees in Belgium and France; whereas Germany and the United Kingdom of Great Britain and Northern Ireland have set the boundary at 501 and 251 employees, respectively.

3.2. Equal pay audits

Equal pay audits require employers to analyse and understand identified pay gaps and to take steps to address them (Veldman 2017). One could argue that this is a step further than the previously mentioned equal pay reporting, as it entails an assessment of the reported data. Equal pay audits largely include an analysis of the proportion of women and men for each occupational category or position, the job evaluation and classification system used, and detailed information on pay and pay differentials on grounds of gender.¹⁰ Finland, Germany, Spain, Sweden and Switzerland have all implemented pay audits.

3.3. Employee's right to request information on pay

An increasing number of countries have implemented measures to enable the right of employees to request information on pay. A common characteristic of the countries that have adopted the right to request information on pay is that the right is generally exercised through a workers' representative. In Norway, employees have the right to request information directly, but trade union representatives can assist workers. In Germany and Spain, direct requests by employees are allowed only if there is no workers' representation in the enterprise. Furthermore, in Germany, the information is required to be provided only if there are at least six comparators of the opposite sex employed in the same establishment. In Spain, if an employee

¹⁰ European Commission Recommendation on strengthening the principle of equal pay between men and women through transparency (2014/124/EU).

exercises the right to request information directly, due to a lack of workers’ representatives, the information that must be provided is limited to the pay gap between men and women. On the other hand, in Finland and Ireland employers must have the consent of the employee affected by the request (that is, the worker whose pay information would be disclosed as a result of the request) before disclosing any information.

3.4. Engagement between employers and workers

The consultation of pay transparency measures between employers and employees’ representatives is a feature that is part of transparency legislations in most countries presented in this paper (summary available in table 1).

In relations to pay transparency reporting, in Belgium, works councils or union delegates examine the pay analysis report to assess whether the enterprise has a gender-neutral salary policy. In addition, workers’ councils may suggest appointing a workers’ mediator. In Denmark, the pay reporting duty entails compiling wage statistics in conjunction with the employers’ organizations involved in the process. The pay reports are then discussed with employees’ representatives.

Concerning equal pay audits, employers in Germany inform Workers’ Councils of the pay audit and provide documents regarding the evaluation. Employees are informed of the final pay evaluation. Enterprises with collective agreements can refer workers to the terms of the agreement when exercising their right to obtain information regarding pay levels. Consequently, trade unions form a part of the transparency scheme, as a provider of information and also by ensuring collective agreements are gender-neutral and that job classifications are defined according to objective criteria. In Sweden, pay audits are executed in collaboration with workers’ representatives.

In Portugal, workers’ representatives and trade unions can request an external authority in the area of gender equality (the Commission for Equality in Labour and Employment) to issue an opinion on any pay discrimination for equal work or work of equal value that is claimed on the grounds of sex. The applicant must indicate the group of workers of the opposite sex that serves as the comparator.

► **Table 1. Summary: Engagement between employers and workers to implement pay transparency measures by country**

Country	Type of engagement between employers and workers
Australia	Enterprises with more than 100 employees submit a pay transparency report. Workers’ organizations may request access to the report. Consultation with employees on issues concerning gender equality in the workplace is part of the indicators to be addressed in periodic reporting.
Austria	A pay transparency report must be presented to the central Workers’ Council or Works Committees. The employees’ representative bodies can require information on the report and are in charge of providing relevant information to workers.
Belgium	The pay analysis report must be communicated to the Works Council or, in the absence of a Works Council, to a union delegation, which examines the enterprise report to determine, together with the employer, whether or not the enterprise has a neutral gender salary policy. At the request of the workers’ representative, a mediator can be appointed. Belgian regulations establish the duty to introduce the gender pay gap in all levels of social dialogue (inter-professional, sectoral and enterprise level).
Canada	Each employer should inform their employees of the measures taken, or scheduled to take place, to implement the enterprise’s employment equity plan. The employer is also obliged to consult with employees’ representatives or bargaining agents about the assistance that they can provide in the implementation of the plan, in communicating it to the employees, or in the development of the plan. Employers and employees should collaborate throughout the entire process of carrying out the equity plan.
Chile	n/a
Denmark	The equal pay report and statistics are presented to the employees and are required to be considered in the enterprise’s collective agreement.
Germany	The right to request information is exercised through a Workers’ Council, except when this does not exist, in which case employees can apply directly to the employer. The Workers’ Council also has the duty of promoting the implementation of equal pay between women and men and is tasked with evaluating the payroll showing the gross wages and salaries of the employees. Enterprises with more than 500 employees that carry out a pay audit should consult the Worker’s Council on the audit report.

► Table 1. (continued)

Country	Type of engagement between employers and workers
Finland	The law provides for workers' right to obtain information on pay and terms of employment through a worker's representative or local union representative. The equity plan is prepared in collaboration with local trade unions and other representatives appointed by workers. Employers' organizations and trade unions can assist their members in carrying out the pay audits. The equal pay obligation is discussed within tripartite social dialogue settings. There is gender impact evaluation of collective agreements.
Iceland	Employees' representatives are not involved in the equal pay certification process, except if the enterprise fails the certification, in which case they may have access to the equality body report.
Italy	Enterprises have to accomplish an equal pay report that is shared with the Works Council.
France	Enterprises with 50 or more employees must negotiate with trade unions on professional equality between men and women, including measures to close the gender pay gap in the enterprise. Workers councils have access to the data related to pay equity, the pay index and the results of the social and economic database.
Lithuania	Enterprises with more than 20 employees must discuss the equal opportunity programme with a Workers' Council.
Luxembourg	Pay transparency is embedded in social dialogue at the enterprise level. The Labour Code establishes that the enterprise manager is required to inform and consult with the workers' representative and the equality representative. It must provide workers' representatives with data disaggregated by sex on recruitments, promotions, transfers, layoffs, remuneration and training of employees.
Netherlands	n/a
Norway	In collaboration with the workers' representative, employers need to undertake a regular assessment to determine whether there is a risk of discrimination, or to expose any other hurdles to achieving equality, including a pay review by gender. Employers in the private sector with a workforce between 20 and 50 employees are required to comply with the pay transparency measures if requested by one of the social partners. Employees and employees' representatives, among others, have the right to examine the enterprise's pay transparency report.
Portugal	Workers' representatives and unions can ask for a binding opinion from the Commission for Equality in Labour and Employment (CITE) concerning an alleged discriminatory practice related to gender and pay in an enterprise. If the opinion finds the practice to be discriminatory, the enterprise is required to take measures to eliminate it.
Spain	Pay equality is part of the collective bargaining process. Equality plans should be negotiated within the enterprise by the Joint Committee, which is made up of workers' representatives and enterprise representatives. The Joint Committee is in charge of following up on the implementation of the negotiated plan. Furthermore, workers have the right to access the register through a workers' representative or a union member.
Sweden	The law mandates employers and employees to collaborate in carrying out the pay audit. Specifically, employers need to provide the trade union to which the employer is bound by a collective agreement with the information necessary to collaborate in the survey and in the analysis of the wage setting. Based on research, more than 70 per cent of workers' representatives indicate that they are involved in the pay mapping and analysis, and a majority are satisfied with the information they have received.
United Kingdom	n/a
United States	n/a

n/a = not applicable.

Note: More details about country-level pay transparency measures are available in Chapter 4. Many countries use the term "pay equity" in their law and practice to describe "equal pay for work of equal value".

3.5. Digital tools to enhance pay transparency

More recently, some countries are using online digital tools to assist employers to fulfil legislative requirements on pay transparency. Switzerland was the first country to introduce a digital tool, called Logib, enabling employers to self-conduct an equal pay analysis (European Commission, n.d.). Switzerland has two different Logib modules depending on the size of the enterprise, which includes a specific module for small enterprises with less than 50 employees (Switzerland, n.d.). Austria and Germany provide a similar tool to enterprises in their respective countries, although the use of the tool in these countries is voluntary. Luxembourg also offers a digital tool to enterprises to check their wage structures, which allows an enterprise to identify unjustified wages differences and their causes (Luxembourg, MEGA, n.d.-a).

A digital tool makes it easier for enterprises to fulfil the reporting task by eliminating some of the burden that reporting places upon them. It introduces a format and criteria that are uniform, thereby facilitating monitoring. Likewise, a digital tool improves the possibility of comparing data in order to evaluate whether a gender-neutral policy has been implemented at the enterprise level. Furthermore, the use of digital tools could give small employers easier access to the application of transparency measures, allowing the extension of pay transparency to cover all employees without excessive burdens for small employers. Consequently, workers and small employers alike could perceive the benefit of pay transparency in the workplace.



▶ 4

Country-level mapping of legislations on pay transparency

► 4. Country-level mapping of legislations on pay transparency

This chapter maps legislative developments on pay transparency around the world. The implementation of pay transparency measures has been carried out in most European countries, Australia, Canada (Federal Canada, Ontario and Quebec) and the United States (at the state level), and a bill is currently in the legislative process in Chile. Chapter 4 presents a country-by-country analysis of the relevant legislation with special attention paid to countries that have enacted or modified legislation recently. Where impact assessments or evaluations of the enacted pay transparency legislation are available, an analysis of these is also included.

4.1. State-of-play: Pay transparency legislations

Table 2 provides a list of countries that have implemented pay transparency legislation as well as the names of the actual legislation.

► Table 2. Overview of pay transparency legislation by country

Countries	Legislation
Australia	Workplace Gender Equality Act, 2012
Austria	Private sector: Equal Treatment Act, 1979; Public sector: Federal Equal Treatment Act, 1993
Belgium	Gender Pay Gap Act, 2012
Canada	Employment Equity Act, 1995; Pay Equity Act, 2021
Chile	Pending
Denmark	Consolidated Act on Equal Pay Between Men and Women, 2019
Finland	Act on Equality between Women and Men (No. 609/1986), as amended in 2016
France	Law on Gender Pay Equality Index, 2018 (Loi n° 2018-771); Decree 2019-15 of 8 January 2019
Germany	Transparency in Wage Structures Act, 2017
Iceland	Act on Equal Status and Equal Rights of Women and Men, 2008 and 2020
Italy	Code of Equal Opportunities (Legislative Decree No. 198/2006)
Lithuania	Labour Code, 2016
Luxembourg	Labour Code, 2016
Netherlands	Equal Treatment of Men and Women Act, 1980, as potentially amended via a 2019 bill (in process)
Norway	Act Relating to Equality and Prohibition Against Discrimination, 2019
Portugal	Equal Pay Law (No. 60/2018)
Spain	Royal Decree-Law 6/2019; Royal Decree 902/2020; Royal Decree 901/2020
Sweden	Discrimination Act, 2008

► **Table 2. (continued)**

Countries	Legislation
Switzerland	Federal Act on Gender Equality, 1995, as amended in December 2018
United Kingdom	Private and not-for-profit sectors: Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 Public sector: Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017
United States	Equal Pay Act, 1963 (federal level); Equal Pay for Equal Work Act, 2021 (Colorado); California Equal Pay Act, 2018; Equal Pay for Equal Work Law, 2020 (Maryland); Act Concerning the Disclosure of Salary Range for a Vacant Position (Connecticut, 2021); Equal Pay Opportunities Act, 2021 (Washington State)

4.2. Summary of pay transparency measures

This section provides a summary of pay transparency measures that have been implemented by countries worldwide. Each country is assessed on:

- i. the dimensions of the scope of reach (that is, private and/or public enterprises);
- ii. enterprise size (that is, the number of employees);
- iii. the particular transparency measures in place (such as pay transparency reports, equal pay audits, employee's right to request for information on pay)¹¹; and
- iv. compliance (such as the possibility of sanctions, fines).

► **Table 3. Summary of pay transparency measures by country, global**

Country	Scope	Enterprise size (no. of employees)	Transparency measures			Compliance
			Pay transparency report	Equal pay audits	Employee's right to request for information on pay	
Australia	Private	100+/500+	Private employers with 100+ employees must prepare a report on 6 Gender Equality Indicators. Employers should inform workers, shareholders or members, and workers' organizations, and give access to the report. Employers with 500+ employees must have a formal policy or strategy to achieve equal remuneration between the genders.	n/a	n/a	The Workplace Gender Equality Agency (WGEA) may publicly disclose an enterprise's failure to meet the obligations of the Workplace Gender Equality Act 2012.

¹¹ These three types of measures are considered the main categories that tend to be seen across countries and legislations. However, the detailed country cases in section 4.3 present a fuller picture of potential measures, some of which are not necessarily reflected in table 3. Furthermore, in reality, these separate categories may be less clearly distinguished and have certain overlaps.

► Table 3. (continued)

Country	Scope	Enterprise size (no. of employees)	Transparency measures			Compliance
			Pay transparency report	Equal pay audits	Employee's right to request for information on pay	
Austria	Public and Private	150+	Enterprises should report gender-disaggregated statistics by job classification, including the number of people and the wages received.	n/a	Employee representatives can view information on the report and oversee providing the relevant information to workers.	No penalty for failure to comply. Additionally, there is no action that must be taken when a gender pay gap is identified.
Belgium	Private	50+/100+	Enterprises should indicate in their annual accounts (their "social balance") information disaggregated by gender, including average working hours, average labour costs, averaged contract data and training opportunities. The National Bank of Belgium makes this information publicly available.	Enterprises with more than 50 employees should carry out an analysis of their wage structures every two years. The Belgian Institute for the Equality of Women and Men supplies a gender-neutral checklist for job assessments and classifications which serves as a benchmark to assess the gender neutrality of job classifications.	n/a	Allows for sanctions.
Canada	Private and public	10+/100+/500+	The report contains mandatory data fields, including: the industrial sector where employees work, professional category, employee salary ranges, and the degree of representation of disadvantaged workers. Employers are required to prepare an equity plan, including the establishment of a timetable for the implementation of the activities and policies.	n/a	Employers must inform employees of measures taken to implement the employment equity plan. The employer is also under an obligation to consult with employees' representatives about the assistance that they can provide in the implementation of the plan, in communicating it to the employees, or in the development of the plan.	Failure to comply with the requirements can lead to a monetary penalty; complaint with the pay equity commissioner.
Chile	Private	50+/200+	Publish, every six months, an anonymized wage record by job position, broken down by gender. The information must be published on the enterprise's website and be sent to the Labour Directorate.	n/a	n/a	Possibility of fines. In case of sanction, the enterprise may be excluded from public contracts.

► Table 3. (continued)

Country	Scope	Enterprise size (no. of employees)	Transparency measures			Compliance
			Pay transparency report	Equal pay audits	Employee's right to request for information on pay	
Denmark	Private	35+	Publication of annual gender-disaggregated pay statistics or gender pay reports every three years. The report should have a description of the terms and conditions that are relevant for determining the wages of men and women, indicate specific initiatives regarding equal pay, and determine the follow-up actions of the initiatives or plans.	n/a	Employees have the right to obtain information about their occupational classification code.	Monetary fine for not submitting report and potential criminal liability.
Finland	Private and Public	30+	Gender equality plan to work out pay and other terms of employment. The report must include pay data broken down by gender across similar groups of employees.	Employers have the obligation to make a pay audit or survey (included in the equality plan) with the purpose of making sure there are no unjustified gender pay differences. In case of pay differences between women and men, the employer must analyse the cause and basis for those divergences. The law requires enterprises to take positive actions to remedy any gender pay gap that is detected in the pay audits.	Guarantees workers the right to obtain information on pay and terms of employment, through a workers' representative or local union representative.	There are no specific sanctions for non-compliance with the equality plan or pay audit or survey; however, there are sanctions for discriminatory practices.
France	Private and Public	50+/250+	Enterprises must create an annual report that outlines some statistics on the gender pay gap and promotion gap, as outlined by the Law. This must be published on their websites. Enterprises must also have an annual gender equality action plan.	The employer is required to publish, every year, their equal pay index along with the measures adopted to eliminate the pay gap, according to an agreed methodology.	n/a	Enterprises which do not reach an equal pay index score of 75 points over a period of three years might be fined up to 1 per cent of their payroll.

► Table 3. (continued)

Country	Scope	Enterprise size (no. of employees)	Transparency measures			Compliance
			Pay transparency report	Equal pay audits	Employee's right to request for information on pay	
Germany	Private and Public	200+/500+	<p>Enterprises with 500+ employees must file a report, disaggregated by gender, with: total number of employees, number of full-time and part-time employees, and measures taken.</p> <p>The report should describe the measures taken to promote equality between women and men, as well as the measures to create equal pay for women and men. Failure to apply the measures should be explained in the report.</p>	<p>Voluntary pay audits for enterprises with 500+ employees are encouraged. Enterprises themselves can determine the evaluation method.</p> <p>If the pay audit discovers pay discrimination, the employer in question should take actions to remove such discrimination.</p>	<p>Employees in enterprises with 200+ employees can request information on: their wage, the criteria applied for establishing salary, and pay of a task of equal or comparable value performed by workers of the opposite sex in the same enterprise.</p> <p>The right to request information is exercised through a Workers' Council, except when this does not exist, in which case employees can apply directly to the employer.</p>	<p>If an employer fails to provide the information requested by an employee exercising their right to obtain information, the burden of proof in any posterior court case related to the requested information shifts to the employer to demonstrate that there is no pay discrimination. No additional consequences or sanctions are stipulated in the law for non-compliance with the reporting.</p>
Iceland	Private and Public	25+	<p>Equal pay policy plan on how equality policies will be achieved by the organization. Should be reviewed every 3 years.</p>	<p>Must obtain equal pay certification, based on common rules and guidance (Equal Pay Standard) from an independent government body. The certification body's report is made available if the certification audit is failed.</p>	<p>Whereas usually, the employee must present evidence of inequality in the workplace; in Iceland, the employer is responsible for providing evidence that employees receive equal pay for work of equal value.</p> <p>Employees have the right to ask the employer to inform them of wages and the terms under which they are employed.</p>	<p>Fines to be levied against enterprises that do not comply with gender equality obligations, including certification.</p>
Italy	Private and Public	50+	<p>Enterprises should report on their workforce gender pay gap and employment conditions, such as recruitment, training, promotion, redundancy, retirement, and other parameters.</p> <p>The report is filled in following a template available on the Ministry of Labour and Social Policies website.</p>	<p>National bodies inspect the gender pay reports for validity. Enterprises can also voluntarily apply for a "gender equality certificate", which involves an assessment to ensure they meet certain criteria.</p>	n/a	<p>In the case of non-compliance with the reporting requirement, fines apply.</p> <p>In the most serious cases, the suspension for one year of the social benefit enjoyed by the enterprise may be ordered.</p> <p>Also, incentives apply (that is, for voluntary certification), such as tax deduction.</p>

► Table 3. (continued)

Country	Scope	Enterprise size (no. of employees)	Transparency measures			Compliance
			Pay transparency report	Equal pay audits	Employee's right to request for information on pay	
Lithuania	Private	20+/50+	<p>Employers with more than 20 employees are required to provide, in anonymized form, the average employee wages by occupational group, broken down by gender.</p> <p>An employer with more than 50 employees must adopt and publish the equal opportunity programme or policy. The specific details or content are not regulated by the law.</p>	n/a	n/a	No sanctions are explicitly stipulated in the law for cases when an employer does not comply. However, a collective labour dispute concerning rights can be brought to the Labour Dispute Commission, or another dispute resolution body, which could eventually impose a fine for non-compliance.
Luxembourg	Private	50+	Enterprises are required to report to employee representatives statistics, disaggregated by sex, on recruitments, promotions, transfers, layoffs, remuneration and training of employees.	The Ministry of Equality between Women and Men (MEGA) provides a tool for employers to identify the causes of a pay gap in their wage structure, as well as to facilitate the elaboration of an action plan to remedy such gaps.	n/a	When a salary difference cannot be justified by objective reasons, and is based on gender considerations, the employer may be fined.
Netherlands	Private	50+/250+	Enterprises must file a report that includes the differences in pay between women and men performing work within equal value categories in the enterprise. Differences must be justified and measures taken to correct any gaps must be detailed.	Enterprises with 200 or more employees must acquire a certificate certifying that they conform with equal pay requirements. The exact criteria are still to be decided.	Workers in enterprises with 50+ employees have the right to ask employers for anonymized wages of other employees performing work of similar value.	<p>The certificate of conformity may be revoked when the enterprise no longer fulfils the conditions required to be granted the certificate.</p> <p>Up to €250,000 fine for infringement of pay transparency. If multiple infringements occur fines can double or triple.</p>

► Table 3. (continued)

Country	Scope	Enterprise size (no. of employees)	Transparency measures			Compliance
			Pay transparency report	Equal pay audits	Employee's right to request for information on pay	
Norway	Public and Private	20+/50+	Organizations that must carry out the regular assessment should include a statement in the enterprise's annual report, or some other public document, regarding the state of equality in their enterprise and the work they have undertaken regarding anti-discrimination.	All public enterprises, private enterprises with 50+ employees, or private enterprises with 20+ employees that have been asked by a social partner must complete an assessment to determine whether there is risk of discrimination or any other hurdles for achieving equality. If a risk of discrimination exists, the enterprise should analyse the causes and implement measures directed at both addressing discrimination and fostering equality. If discrimination is detected, the enterprise needs to take actions and monitor the measures to correct the pay discrimination.	Workers have the right to request information regarding co-workers' pay levels and the criteria used to determine their wages.	No specific provisions related to sanctions for violations. However, the Anti-discrimination Tribunal makes decisions on specific complaints of discrimination and harassment submitted to the body.
Portugal	Public and Private	n/a	State-owned and publicly traded enterprises must prepare an annual equality plan, with the objective of achieving equal treatment and opportunities between women and men. The equality plans should be sent to the Commission for Citizenship and Gender Equality and the Commission for Equality in Labour and Employment (CITE). The latter Commission may issue recommendations on the enterprises' equality plans and publish them on its website.	After receiving enterprises' evaluations of pay differences between men and women by profession and qualification level, the Inspectorate Service of the Ministry of Labour, Solidarity and Social Security requires the enterprise to present a plan to assess any pay differences based on the particular tasks of the job, applying objective criteria so as to exclude any possible discrimination on the grounds of sex. The plan should be implemented by the enterprise over the course of the following year, and after that period the enterprise must communicate to the Inspectorate Service the results of the plan, demonstrating justified pay differences and amending any unjustified pay differences.	The workers' representative can request CITE to issue an opinion concerning pay discrimination on the grounds of sex, related to equal work or work of equal value within an enterprise. Once notified of the application, the employer must provide the enterprise pay policy and the criteria used to determine the remuneration of both the applicant and the comparator.	The Equal Pay Law sets out sanctions for lack of non-compliance, including fines. In cases of claims on discrimination, the Labour Code stipulates that the burden of proof shifts to the employer. It further establishes that maintaining discriminatory pay practices constitutes a serious offense. Additionally, a non-compliant enterprise might be forbidden to participate in public bids or procurement contests for a period of up to two years.

► Table 3. (continued)

Country	Scope	Enterprise size (no. of employees)	Transparency measures			Compliance
			Pay transparency report	Equal pay audits	Employee's right to request for information on pay	
Spain	Private	50+	After conducting a pay review, enterprises must set out a plan to address any gender gaps.	Enterprises must include an equal pay audit with their equality plans. This means the enterprise must conduct a review of wage policy according to the criteria in the legislation, and subsequently set out a plan to redress any wage gaps revealed during the review process.	Spain's Royal Decree on Equal Pay between Women and Men, establishes workers' right to information. Enterprises must establish a pay registry that records wages and other remuneration of all employees. Workers can access this data through a worker representative or union member.	The absence of pay information as required by the Royal Decree may lead to administrative and judicial actions, either at the individual or class level. Failure to comply with the obligation regarding equality plans and measures can lead to a fine.
Sweden	Private	10+	n/a	Employers with more than 10 workers must survey and analyse the criteria for wage setting and any differences in pay between women and men performing work that is to be regarded as equal or equivalent. All relevant employers need to document the survey and the result of the pay analysis, as well as the planned salary adjustments for the next three years to address any gender pay differences detected.	n/a	The Equality Ombudsman is in charge of supervising compliance with the Discrimination Act and can require additional information from employers. Failure to fulfil the requirements of the Ombudsman or to carry out the pay audit, may result in the imposition of a fine.
Switzerland	Private and Public	100+	n/a	Private and public employers with more than 100 employees must conduct an internal equal pay analysis and audit every four years. The equal pay analysis shall be conducted according to a scientific method and in accordance with the law. The standard analysis tool (called Logib) is provided by the Confederation. Private sector employers need to have their equal pay analysis audited by an independent body.	n/a	In order to be able to apply for public contracts or subsidies, an enterprise must first have had their equal pay compliance audited within the previous four years. No penalty for non-compliance. Compliance has a positive impact on the reputation of the enterprise.

► Table 3. (continued)

Country	Scope	Enterprise size (no. of employees)	Transparency measures			Compliance
			Pay transparency report	Equal pay audits	Employee's right to request for information on pay	
United Kingdom	Public and Private	250+	Enterprises are required to complete a report and publish it on their website. The report must contain general statistics about the distribution of men's and women's wages in the enterprise.	n/a	n/a	There are no specific measures or sanctions for non-compliance with the regulation, although the Equality Act confers powers to the Secretary of State. The Equality Act 2010 granted the Equality and Human Rights Commission (EHRC) the powers to conduct investigations, issue unlawful act notices, develop action plans, conduct public sector duty assessments and issue public sector duty compliance notices. As a measure of last resort, non-compliance could result in fines.
United States	Private and public	n/a	n/a	Colorado: an employer may be considered to have been acting "in good faith" if they had undertaken a complete pay audit of their workforce. Consequently, although pay audits are not mandatory, this provision indirectly promotes the implementation of pay audits.	The California Labor Code gives a prospective employee the right to request the salary paid for the job position or pay scale.	Colorado: possibility of fines. The Equal Pay for Equal Work Act creates a right for employees to sue their employers in case of violation of the Act.

4.3. Country practices

Australia

Pay transparency report

Australia's Workplace Gender Equality Act 2012 stipulates that private employers with 100 or more employees "must prepare a public report containing information relating to the employer and to the gender equality indicators".¹² The report should be submitted annually to the Workplace Gender Equality Agency (WGEA), the Australian statutory agency responsible for promoting and improving gender equality in Australian workplaces.¹³ The six gender equality indicators employers need to report on are the following:¹⁴

- gender composition of the workforce;
- gender composition of governing bodies;

¹² Workplace Gender Equality Act 2012, section 13.

¹³ In the public sector, civil servants are on a pay scale that is publicly known.

¹⁴ Workplace Gender Equality Act 2012, section 3.1.

- ▶ equal remuneration between women and men;
- ▶ availability and utility of employment terms, conditions and practices relating to flexible working arrangements for employees and to working arrangements supporting employees with family or caring responsibilities;
- ▶ consultation with employees on issues concerning gender equality in the workplace; and
- ▶ any other matter specified by the Minister, including sex-based harassment and discrimination.

Information that is personal or related to wages that could identify the earner is not published, unless the individual concerned gives consent in writing. In this respect, when submitting the report, the relevant employer must, in writing, indicate to the WGEA which information is personal.¹⁵

Pay transparency policies and strategies

Employers with 500 or more employees must meet a set minimum standard to demonstrate their commitment to gender equality. Specifically, large employers are required to have a formal policy or strategy in at least one of the following areas:

- ▶ workforce composition (gender equality in recruitment, retention, performance management, promotions, succession planning, training and development, and so on);
- ▶ actions to achieve equal remuneration between women and men;
- ▶ support for workers with family or caring responsibilities;
- ▶ sex-based harassment and discrimination (Australia, WGEA, n.d.-a).¹⁶

The WGEA website offers resources on how to satisfy the reporting obligations, such as a salary calculator, reporting questionnaire, workplace profile, and so on (Australia, WGEA, n.d.-b). The Agency also provides each relevant employer with a competitor analysis benchmark report on their gender equality performance, which allows the employer to realize which areas related to gender equality could be improved upon in their enterprise. The strength of Australia's pay transparency system is in the comparison of analysis benchmark reports, which is a mechanism to allow employers to compare their gender report to that of other enterprises in the same or similar industries, and other enterprises of the same or similar size.

Box 5. Enhanced effectiveness through benchmark reports, Australia

According to information available through the WGEA, comparison of analysis benchmark reports encourages enterprises to act and address the results of their own analyses. In 2018, more than half of the enterprises that conducted a pay gap analysis and detected a pay gap reported their findings to the executive and board level.

"Improved gender pay outcomes are far stronger for companies that combine specific pay equity actions, reinforcing the effectiveness of those actions with accountability through reporting to company Executives and Board" (Australia, WGEA and BCEC 2018).

Engagement with workers' representatives

Employers should inform and provide access to the report for workers and their representative organizations, who can provide comments on the report to the agency or the employer.

Consultation with employees on issues concerning gender equality in the workplace is also part of the indicators to be addressed in the periodic reporting itself.

¹⁵ Workplace Gender Equality Act 2012, section 13C.

¹⁶ See also Section 5 of the [Workplace Gender Equality \(Minimum Standards\) Instrument 2014](#).

Compliance

The WGEA may publicly disclose an enterprise's failure to meet the obligations of the Act on the WGEA website or in a newspaper. Prior to revealing the information, the WGEA must give written notice indicating the reason for the disclosure and invite the employer to reply with a written statement.¹⁷

Austria

Pay transparency report

In the case of Austria, the [Federal Equal Treatment Act for the Private Sector \(GIBG\)](#) establishes an obligation related to equality and pay transparency in the private sector. The public sector is regulated by the [Federal Act on Equal Treatment in the Federal Area \(B-GIBG\)](#), which establishes equal pay reporting similar to that stipulated for the private sector.

The GIBG sets down that enterprises that have a workforce of more than 150 employees are required to publish a report on the pay distribution between males and females every two years.¹⁸ The pay levels are classified by gender and qualification, following the pay levels in the applicable collective agreement. The report should include the following:

- ▶ The number of women and men in the different job classifications, groups or categories established in the collective agreement or in the enterprise class group.
- ▶ The number of women and men in the different job classifications or categories, as above, but taking into account seniority.
- ▶ The annual average or median wages of employees in the classification groups, broken down by gender.

The information provided in the report is anonymized and the report itself is confidential. The report must be presented to the central Workers' Council or Works Committees. The employees' representative bodies can require information on the report and are in charge of providing relevant information to the workers.

Box 6. Online wage calculator, Austria

In 2019, the Federal Ministry for Social Affairs updated their online wage calculator to support enterprises in filing their pay reports and to provide information on wages at the regional or sectoral level.¹ The online wage calculator works out average gross monthly payments and the average pay gap. The data is sourced from payroll taxes, associations of social security institutions, and a micro census.

¹ Wage calculator available at: <https://www.gehaltsrechner.gv.at/>.

Impact assessment

According to research conducted by Eurofound in 2018, many Austrian enterprises provided the minimum information required by the law in their pay transparency report, although some enterprises did go beyond that (Eurofound 2018). Out of all pay transparency reports, 55 per cent did not distinguish between full-time and part-time employment, but after a request from an employee representative, 16 per cent of enterprises added this information. Similarly, disaggregation to the level of function areas was only initially provided by 39 per cent of enterprises, but this rose to 50 per cent after specific requests were made. According to a survey of employee representatives, 54 per cent said that their employer reacted positively to the compilation of the pay transparency report, 23 per cent showed willingness to deal with or analyse the gender pay gap, and 21 per cent of employers were willing to take concrete measures (AK and ÖGB 2014).

¹⁷ Workplace Gender Equality Act 2012, section 19D, paras 2–4.

¹⁸ GIBG, section 11a.

A discussion paper released in 2020 by the Collaborative Research Center finds that pay transparency in Austria had no effect on either male or female pay, and therefore was ineffective in closing the gender pay gap (Gulyas, Seitz and Sinha 2020). Since research conducted in other countries generally find that pay transparency legislations lowered the gender pay gap, the authors note that Austria's policy of keeping the pay transparency report confidential could have had an effect. Additionally, Austria's policy of not requiring enterprises to correct pay imbalances between men and women was also brought into question.

Compliance

Austria takes a soft approach to the regulation of pay transparency. The law does not set out penalties or sanctions for non-compliance nor does it establish a mechanism of oversight of the process or take action when the report reveals a gender pay gap. Interestingly, Eurostat (n.d.) finds that Austria has one of the EU's highest gender pay gaps, at 18.9 per cent of the average gross hourly wage compared to the average of 13 per cent for the EU-27.

However, the law establishes that if, due to a violation of the right of equal treatment – that is, discrimination on the basis of gender – an employee of the opposite sex performing equal work or work being recognized as equal were to receive lower wages, that employee has the right to receive the wage difference, as well as a compensation for personal damages.¹⁹

Belgium

Pay transparency report

Belgium's Gender Pay Gap Act (2012) requires private sector enterprises to indicate in their annual accounts "social balance" information disaggregated by gender, including average working hours, average labour costs, average contract information and training opportunities. The annual accounts are submitted through the "central balance" application ("app") of the National Bank of Belgium,²⁰ which makes this data publicly available.²¹ The information covers:

- the average number of workers employed full-time and part-time and the total workforce, expressed in full-time equivalents;
- the number of hours worked by full-time and part-time workers and the total number of hours worked;
- staff costs for full-time and part-time workers and total staff costs;
- the total of the benefits granted in addition to the salary.

The Belgian Institute for the Equality of Women and Men supplies a gender-neutral checklist for job assessments and classifications that serves as a benchmark to assess the gender neutrality of job classifications. Pay analysis reports are designed to serve as a basis for social dialogue within an enterprise without presenting individualized data (Belgium, CNT 2020). Wage information provided by the employer is confidential and must be protected. Enterprises with a workforce between 50 and 100 employees use a short-form model, whereas enterprises with more than 100 employees need to use the full form.²²

19 GIBG, section 12.2.

20 The National Bank of Belgium created an app called "Centrale des bilans", and enterprises are able to fill in the template in the app, which is available at: <https://www.nbb.be/fr/centrale-des-bilans/la-centrale-des-bilans-fait-peau-neuve-cbso-2022/informations-generales-et>. In the standard template for filling in the annual accounts, section C6 refers to the "social balance". A copy of the standard template is available at: https://www.nbb.be/doc/ba/models/ent/histo/2007_c_2007-04-01.pdf.

21 Article 4 of the [Gender Pay Gap Law, 2012](#), supplementing Article 91, point B "Social report", I, paragraph 2, 1°, of the Royal Decree of 30 January 2001 implementing the Companies Code.

22 The ministerial decree setting the model serves as a basis for the analysis report on worker's pay structures. These models were published by Ministerial Decree in the Gazette of 15 May 2014: [Arrêté ministériel fixant les modèles de formulaires devant servir de base au rapport d'analyse sur la structure de rémunération des travailleurs](#).

Wage information, broken down according to the sex of the workers, is communicated according to a distribution based on the following:

- ▶ the job level, broken down according to the job classes mentioned in the job classification system applicable to the enterprise or, failing that, according to the residual classifications of operational staff, executive managerial staff and management staff;
- ▶ the seniority acquired by the worker within the enterprise;
- ▶ the level of qualification or training of the worker, depending on the level of education/diploma held;
- ▶ direct salaries and benefits (for part-time workers, these are expressed in full-time equivalents);
- ▶ employer contributions for extra-legal insurance;
- ▶ the total of the other extra benefits, in addition to the salary, which were granted to the workers or to a sub-set of the workers (Belgium, FPS Employment, Labour and Social Dialogue, n.d.).

In the report, the employer must also mention whether the gender-neutral checklist in job evaluation and classification was used when elaborating the wage structure.²³

Works Council

The pay analysis report must be communicated to the Works Council or, in the absence of a Works Council, to a union delegation, which examines the enterprise report to determine, together with the employer, whether or not the enterprise has a gender-neutral salary policy. If the enterprise is found not to have a gender-neutral salary policy, an action plan is implemented to achieve such a policy.

At the request of the Workers' Council or, failing that, the trade union delegation, any enterprise that employs on average at least 50 workers can appoint a mediator from among the staff members to develop an action plan for the application of a gender-neutral pay structure within the enterprise.

Box 7. Duty to introduce the gender pay gap in all levels of social dialogue, Belgium

Belgian regulations establish the duty to introduce the topic of the gender pay gap at all levels of social dialogue (inter-professional, sectoral and enterprise level). The pay gap, its evolution and measures to combat it must be included in the agenda of the biannual negotiations of the Inter-Professional Agreement (IPA).¹

At the sectoral level, the law mandates that joint committees consisting of employers and workers representatives make gender neutral the job classification systems included in collective bargaining agreements. Once the joint committee has reached a collective agreement concerning job classifications, the agreement should be submitted to the Federal Public Service Employment, Labour and Social Dialogue, which then has 18 months to assess whether the classifications are gender neutral. If a classification system is deemed not to be gender neutral, the relevant actors have 24 months from the date of notification to address the issue.²

¹ Every two years, social partners from the private sector in Belgium negotiate at the national level an IPA on the evolution of wages, reductions in employers' contributions and the level of social benefits. See Belgium, Institute for the Equality of Women and Men (2021).

² Article 6.1 of the Gender Pay Gap Law, 2012. See also Belgium, Institute for the Equality of Women and Men (n.d.).

Compliance

In 2013, Belgium introduced a section into the Social Penal Code that allows for level 2 sanctions as punishment for failing to provide an analysis report on the structures of workers' wages as well as for

²³ The Ministerial Decree Arrete Salarial 2014, in Annexe II, provides the following web address for filling out the checklist: http://igvmiefh.belgium.be/fr/binaries/39%20-%20Checklist_FR_tcm337-99427.pdf. However, the current web address is actually: https://igvm-iefh.belgium.be/sites/default/files/downloads/39%20-%20Checklist_FR.pdf.

failing to communicate the report to the Workers Council or trade union delegation.²⁴ The Social Penal Code sets out that a level 2 sanction consists either of a criminal fine of €50 to €500, or an administrative fine of €25 to €250.²⁵

Box 8. The status of pay analysis reports before sanctions were imposed, Belgium

Prior to 2013, Belgium's law did not impose any penalties on enterprises that were non-compliant with the pay analysis reporting requirements. According to Belgium's Institute for the Equality of Women and Men, the lack of sanctions was felt in several areas of the law. For example, a quarter of all social balance sheets were filled in poorly, incompletely or with deliberately incorrect information disaggregated by sex. Data was often presented as if the gender pay gap did not exist, which in practice was deemed unrealistic. Furthermore, while the National Bank signalled errors to the employers in question and excluded the poor-quality data from their statistics, they had no additional power to apply sanctions to achieve corrective action.

Source: Belgium, Institute for the Equality of Women and Men 2021.

Canada

Employment equity report and pay equity plan

Canada's [Employment Equity Act, 1995](#), applies to federally regulated workplaces, including the federal public and private sectors.²⁶ The Act aims to promote equality in the workplace, and targets four groups of disadvantaged workers, referred to as the "designated groups", namely aboriginals, people with disabilities, women and visible minorities²⁷.

Employers are required to prepare an equity plan that includes: activities that the employers will undertake to promote equality; policies that apply to hiring, promotion and retention of persons in the four designated groups; and the establishment of a timetable for the implementation of the activities and policies.²⁸ Each employer should inform the employees of the measures taken, or scheduled to take place, to implement the employment equity plan. The employer is also obliged to consult with employees' representatives or bargaining agents about the assistance that they can provide in the development of the plan, the implementation of the plan and/or in communicating the plan to the employees.²⁹ Employers and employees should collaborate throughout the entire process of carrying out the equity plan.

Every private sector employer is required to submit to the Ministry of Labour an annual employment equity report, which must include an analysis of the four designated groups. The report needs to contain information on: the industrial sector where employees are employed; the professional categories of employees; employee salary ranges; the degree of representation of workers, including among the designated groups; and the numbers of employees hired, promoted or terminated.³⁰ To facilitate this obligation, the Canadian Government created an online tool called the Workplace Equity Information Management System (WEIMS).³¹

In January 2021, a legislative amendment to the Employment Equity Act came into force, which requires employers to include aggregated wage gap information in their annual reporting on employment equity

24 [Law of 12 July 2013 Modifying Legislation Related to Combating the Pay Gap between Men and Women](#), article 12.

25 [Social Penal Code, 2010](#), article 101.

26 Sections 4–6 of the Act define the scope of the Act.

27 In Canada, a visible minority refers to persons, other than aboriginals, who are non-Caucasian in race or non-white in colour.

28 [Employment Equity Act](#), section 10.

29 [Employment Equity Act](#), section 15.

30 [Employment Equity Act](#), section 18.

31 Available at: <https://equity.esdc.gc.ca/sgiemt-weims/emp/WeimsMaintLogin.jsp?lang=eng>.

with specific attention paid to the four designated groups. These measures apply to federally regulated, private sector employers with 100 or more employees (Canada, ESDC 2020).

In August 2021, the [Pay Equity Act](#) came into force. The [Pay Equity Regulations](#) support the implementation of the Pay Equity Act, and together they ensure that workers in federally regulated workplaces of 10 or more employees achieve equal pay for work of equal value (Canada, ESDC 2021). Specifically, employers are required to establish and periodically update a pay equity plan. In developing the plan, employers need to:

- ▶ identify the different job classes made up of positions in their workplace;
- ▶ determine whether each job class is predominately male or female, or gender neutral;
- ▶ determine the value of work of each predominately female or male job class;
- ▶ calculate the compensation of each predominately female or male job class; and
- ▶ compare the compensation between predominately female or male job classes doing work of equal or comparable value (Canada, Government of Canada, n.d.).

Once the plan is established, employers have to increase the compensation of any predominately female job classes that are receiving less pay than their male counterparts and must update their plan every five years.

Box 9. Compliance audits by the Human Rights Commission, Canada

The Canadian Human Rights Commission, which conducts compliance audits, is in charge of enforcing the obligation imposed upon the employers by the Employment Equity Act.¹ The Commission selects the employers to be audited according to their potential impact on employment equity results, targeting mainly enterprises with more than 500 employees. Employers selected to carry out the audit are notified in writing and are required to supply a copy of their latest workforce analysis. Once the Commission has assessed the workforce analysis, they can either issue an employment equity status report, or they can continue the assessment by requiring more information if the result of the evaluation was not positive. The Commission may issue directions in case of non-compliance. The Commission can request the chairperson to establish an employment Equity Review Tribunal (ERT) that can enforce the Commission's decisions if the ERT is in agreement with them. In accordance with Employment Equity Act, an order of the ERT has the same force as an order of the Federal Court, and it is enforceable in the same manner.²

In relations with the Pay Equity Act, the Pay Equity Commissioner has the authority to conduct a compliance audit and make orders requiring employers to comply. Penalties of up to 50,000 Canadian dollars may be imposed. Employees, bargaining agents and employers may also file a complaint with the pay equity commissioner, who may refer the matter to the Canadian Human Rights Tribunal (Kirkness 2021).

¹ Section 22.1 of the Employment Equity Act.

² Section 31.1 of the Employment Equity Act.

Chile

Disclosure of pay data

In Chile, a bill is currently being discussed in Parliament³² that aims to establish transparency measures to ensure that enterprises comply with pay equity. The bill contains an article stipulating that private enterprises with more than 200 workers must publish, every six months, an anonymized wage record by job position broken down by gender; while enterprises with 50 or more workers must survey the gender

32 [Proyecto de ley busca fijar medidas de transparencia para que las empresas cumplan con la igualdad de remuneraciones](#), Boletín 11629-13.

wage gap on an annual basis. The information must be published on the enterprise's website and be sent by electronic means to the Labour Directorate.

Compliance

Failure to comply with the law will be sanctioned with a fine of 100 to 1,000 monthly tax units. Furthermore, until corrective actions are taken to achieve pay equity, the sanctioned enterprise may be excluded from contracting with the State Administration, under the terms established in the Law of Bases on Administrative Contracts for Supplies and Provision of Services.

Denmark

Pay transparency report or disclosure of pay data

The Danish pay transparency legislation is focused on private sector enterprises with 35 or more employees.³³ Enterprises in the field of farming, gardening, forestry and fisheries are exempted from the obligations related to statistical information or reports.

Employers in Denmark are allowed to choose between providing annual gender-disaggregated pay statistics according to occupational classification codes, or entering into an agreement with the employees to prepare a pay report every three years.³⁴ Most enterprises choose to present the wage statistics broken down by gender, rather than conduct a report. After having submitted the wage statistics, employers receive a summary of the gender pay gap from Statistics Denmark. Employees have the right to obtain information about their occupational classification code. (NIKK 2020, 7).

The report should have a description of the terms and conditions that are relevant for determining the wages of men and women, indicate specific initiatives regarding equal pay, and determine follow-up actions for the initiatives or plans. The report and statistics are presented to the employees and are required to be considered in the enterprise's collective agreement.

Box 10. Measuring the impact on pay transparency measures, Denmark

According to a Danish National Centre for Social Research study, only about 30 per cent of the 740 enterprises surveyed compiled gender-specific pay statistics or produced pay transparency reports. About 50 per cent of non-compliant enterprises said that they were not aware of their obligations; while another 25 per cent were unaware that they were in fact included in the set of enterprises that should report on pay. Most survey respondents indicated that there was no gender pay gap in their enterprise. The enterprises that complied and provided reports mainly limited the information provided to the minimum legal requirements. The definitions of pay used by the enterprises varied considerably by the wage period (hourly wage, daily wage, and so on), inclusion or not of absenteeism, and other factors.

Source: Holt and Larsen 2011.

Compliance

Enterprises that do not comply with the wage transparency obligation may be punished with a fine and may be criminally liable under the rules of the Criminal Code.³⁵

³³ Consolidated Act No.156/2019 on Equal Pay for Men and Women.

³⁴ Consolidated Act No. 899/2008 on Equal Pay to Men and Women, section 5(a)(4).

³⁵ Consolidated Act on Equal Pay between Men and Women., section 6b.

Finland

Equal pay audit

Finland's Act on Equality Between Women and Men (No. 609/1986), amended in 2016, applies to private and public employers, and guarantees workers the right to obtain information on pay and terms of employment, through a workers' representative or local union representative. If the information refers to only a single individual, disclosure requires the personal consent of that individual. The workers' representative or local union representative is authorized to access the pay information of a group of employees "if there is reason to suspect pay discrimination on the ground of gender."³⁶

The right to obtain information is not problematic in Finland given that pay transparency is embedded within the legal system, and information regarding taxes is published annually and made public. Consequently, that information is indirectly already disclosed (Whiting 2018).

Employers with 30 or more employees have the duty to prepare a gender equality plan to work out pay and other terms of employment, and which serves as the basis upon which to implement gender equality measures. The plan is prepared with the collaboration of workers' elected representatives, health representatives or other representatives appointed by the workers.³⁷

Employers have the obligation to make a pay audit or survey (included in the equality plan) with the purpose of making sure there are no unjustified gender pay differences. This implies analysing pay data broken down by gender across similar groups of employees. If the analysis of the different employee groups, which are classified using objective criteria, exposes pay differences between women and men, the employer must analyse the cause and basis for those divergences.³⁸ The equality plan must include an assessment of the working situation in the workplace, measures aimed at promoting gender equality, and a review of the prior equality plan to determine its level of implementation and achievement.

Retaliation against employees who exercise their rights under the Act is prohibited and is considered to constitute discrimination.³⁹ If, in a court of law, a person can substantiate discrimination, because there is prima facie evidence from the facts, the burden of proof shifts to the defendant (that is, the employer).

Box 11. Measuring the impact on pay transparency measures, Finland

According to Eurofound (2018), the compliance rate by Finnish employers with the Act on Equality Between Women and Men is between 50 to 67 per cent, with public sector enterprises being more compliant than private sector enterprises (77 per cent versus 60 per cent, respectively).

The Ministry of Social Affairs and Health conducted a survey with 800 human resource managers and employee representatives to assess the impact of the Equality Act. About 73 per cent of human resource respondents noted that equal pay audits were useful for achieving workplace equality. In addition, 56 per cent of human resource managers noted that differences in pay between men and women were detected through the audits. The Finnish law requires enterprises to take positive actions to remedy any gender pay gap that is detected in the pay audits. Around 25 per cent of enterprises used the audit information to review job descriptions and/or adjust wages; while around 20 per cent further investigated the gender pay gap; and less than 10 per cent reformed their wage system (Uosukainen 2010).

³⁶ [Act on Equality between Women and Men \(No. 609/1986\), as amended by Law No. 915/2016](#), section 9.

³⁷ Act on Equality between Women and Men (No. 609/1986), as enacted by Law No. 1329/2014, section 6a.

³⁸ Act No. 609/1986, section 6b.

³⁹ Act No. 609/1986, section 8a.

Compliance

Finland's Act on Equality Between Women and Men deals with discrimination generally, and is not just restricted to the workplace. There are no specific sanctions for non-compliance with the equality plan or the pay audit or survey; however, there are sanctions for discriminatory practices.

France

Pay transparency report

The French Government adopted the Freedom to Choose your Professional Future Act, 2018,⁴⁰ which includes measures directed at eliminating the pay gap between women and men in the workplace. A similar regulation in the public sector was introduced in August 2019.⁴¹ The 2018 Act establishes that enterprises must set down an objective to eliminate the pay gap between women and men.

Box 12. The Equal Pay Index, France

In private enterprises with 50 or more employees and in all public enterprises, the employer is required to publish, every year, their equal pay index along with the measures adopted to eliminate any pay gap, according to modalities and a methodology defined by a 2019 Decree.¹

The Decree², issued by the Ministry of Labour, Employment and Economic Inclusion in January 2019, establishes a point system to calculate an enterprise's score within the Equal Pay Index, which is composed of the following indicators:³

- the pay gap between women and men, considering average remuneration of women and men by age group and equivalent job category;
- the differences in individual wage increase rates between women and men;
- the gaps in promotion rates between women and men;
- the percentage of employees who received salary increases within the year following their return from maternity leave; and
- the number of employees of the underrepresented gender among the top ten earners in the enterprise.

Enterprises that have between 50 to 250 employees should address only four of the five indicators, excluding the third one; whereas enterprises with more than 250 employees must take all five indicators into account.

The Ministry of Labour, Employment and Economic Inclusion (n.d.) has set up a support system for enterprises, with a calculator tool to measure the score and other additional resources. The index must be published on the enterprise's website, integrated into the Economic and Social Database and communicated to the Social and Economic Committee. It must also be sent to the workers' representative and to the Minister of Labour.⁴

¹ Loi n° 2018-771, article 104, which modifies chapter II *bis* and other provisions of the French Labour Code.

² [Décret n° 2019-15 du 8 janvier 2019 portant application des dispositions visant à supprimer les écarts de rémunération entre les femmes et les hommes dans l'entreprise et relatives à la lutte contre les violences sexuelles et les agissements sexistes au travail.](#)

³ Article 1 of Décret no 2019-15, which adds article D.1142-2 to the Labour Code.

⁴ Article 1 of Décret no 2019-15, which adds articles D.1142-4 to D.1142-6 to the Labour Code.

40 [Loi n° 2018-771 du 5 septembre 2018 pour la liberté de choisir son avenir professionnel.](#)

41 [Loi n° 2019-828 du 6 août 2019 de transformation de la fonction publique.](#)

Compliance

The Equal Pay Index works on a scale from 0 to 100 points, with 100 points representing the absence of a gender pay gap within an enterprise. Enterprises that do not reach the threshold of 75 points have a period of three years to reach that minimum point requirement. Upon expiry of the grace-period, the enterprise may be subject to a penalty of up to 1 per cent of the enterprise's payroll.

A Decree introduced in 2021 has imposed upon enterprises an additional obligation to publish on their websites not only the overall score obtained, but also the results obtained for each indicator.⁴² Furthermore, enterprises benefiting from the economic stimulus plan implemented to address the consequences of the COVID-19 pandemic and having a score less than 75 points on the Index will have to set and publish their targets as well as their correction and salary catch-up measures (Smith-Vidal and de Pelet 2021).

Germany

Disclosure of pay data

Germany's [Transparency in Wage Structures Act, 2017](#), aims to implement the right of equal pay for equal work and work of equal value.

An employee working in a public or private enterprise with a workforce of more than 200 people has the right to obtain information regarding:

- ▶ his/her wage;
- ▶ the criteria and practices applied for establishing the salary; and
- ▶ the pay of a task of equal or comparable value performed by workers of the opposite sex in the same establishment.

Employers are bound to provide information only if there is a list of at least six comparators of the opposite sex in the establishment. This caveat aims at avoiding personal identification of the comparator, given that consent of the employees affected is not required.

The right to request information is exercised through a Workers' Council, except when this does not exist, in which case employees can apply directly to the employer.⁴³ The Workers' Council also has the duty of promoting the implementation of equal pay between women and men and is tasked with evaluating the payroll, which shows the gross wages and salaries of the employees.⁴⁴

Equal pay audits

Private enterprises with more than 500 employees are requested to implement a pay evaluation (voluntary internal pay audits) to assess wages, the components of wages, and the way in which these components are implemented into the pay structures to determine compliance with the principle of equal pay between men and women.⁴⁵ Enterprises can freely select the evaluation method. To facilitate pay evaluations, the Government offers a digital application known as Logib-D, which was adapted from the Swiss model (European Commission, n.d.).

If the pay audit discovers pay discrimination, the employer in question should take actions to remove such discrimination.⁴⁶ Workers' Councils are kept informed and they are provided with necessary documentation during the audit. Once the evaluation is done, the employees should be informed of the result.

42 [Décret n° 2021-265 du 10 mars 2021 relatif aux mesures visant à supprimer les écarts de rémunération entre les femmes et les hommes dans l'entreprise et portant application de l'article 244 de la loi n° 2020-1721 du 29 décembre 2020 de finances pour 2021.](#)

43 Transparency in Wage Structures Act, section 15(2).

44 Transparency in Wage Structures Act, section 13(2).

45 Transparency in Wage Structures Act, section 17.

46 Transparency in Wage Structures Act, section 19.

Pay transparency report

Enterprises with more than 500 employees, which already have a duty to file an annual managing report in conformity with the German Commercial Code, must file a separate report on gender equality and equal pay. This report should describe the measures taken to promote equality between women and men, as well as the measures to create equal pay for women and men.⁴⁷ Failure to apply these measures should be explained in the report.

The report should contain statistics, disaggregated by gender, on the average total number of employees, as well as the average number of full-time and part-time employees.⁴⁸ It is not required for the report to reflect salary amounts or figures.

Employers that are bound by collective wage agreements, or who apply collective wage agreements, file the report every five years. All other employers should file the report every three years. The reports are published in the Federal Gazette and are available at the Gazette's official website.⁴⁹ The law prohibits victimization or retaliation by the enterprise as a result of workers exercising their rights under the law.

Box 13. Impact assessment of the Transparency of Pay Structures Act, Germany

In May of 2018, only about ten months after the Transparency of Pay Structures Act entered into force, the Federal Government produced a report on the effectiveness of the Act in promoting pay transparency. In its official statement to the report, the Federal Government concluded that the evaluation can "only offer initial pointers regarding the impact and effectiveness of the Act", and that a view on the longer-term trends and impacts will be the focus of the next evaluation.¹

A selected summary of the results from the impact assessment includes the following:

- only a small fraction of employees filed a request for disclosure: 2 per cent in enterprises with less than 200 workers, 4 per cent in enterprises with more than 200 workers;
- 45 per cent of enterprises with more than 500 employees and 43 per cent of enterprises with between 201 and 500 employees conducted a review of pay structures, although the majority of those enterprises indicated that the Act did not trigger that review;
- 25 per cent of public sector enterprises had reviewed their pay structure even though the Act does not legally require them to do so;
- among enterprises required to report on gender equality and equal pay, 44 per cent stated that they had done so, and another 40 per cent indicated their plan to do so;
- 16 per cent of surveyed enterprises indicated that they have no plans to report in the future despite their legal obligation;
- 80 per cent of DAX-30 enterprises claimed to have produced reports, but only 23 per cent of non-DAX-30 enterprises had done so.²

In June 2018, Keinbaum, an human resources and management consultancy, conducted an independent survey of enterprises that fall under the jurisdiction of the Act in order to gauge their opinions on the importance of equal pay issues.³ The survey found that approximately 40 per cent of enterprises saw equal pay as a relevant topic for their enterprise, while 60 per cent did not.

47 Transparency in Wage Structures Act, section 21.

48 Transparency in Wage Structures Act, section 21(2).

49 Available at: <https://www.transparenzregister.de/treg/de/start;jsessionid=3CD0B723993BFEF679D615FA4660C698.app31?0>.

Box 13. (continued)

Overall, most employees perceive their rights and wage transparency to have been strengthened by the Act. On the other hand, employers generally viewed the Act with greater reservation and cited the added administrative burden as a significant challenge.

¹ Germany, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (2020). Further information on the report can be found in Germany, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, *The Road to Equal Pay for Women and Men: Facts, Causes, Measures*, 2020.

² DAX is a stock market index consisting of the 40 major German blue-chip enterprises trading on the Frankfurt Stock Exchange.

³ The Keinbaum report is only available in German. See: <https://www.kienbaum.com/en/publications/six-months-duty/>.

Compliance

If an employer fails to provide the information requested by an employee exercising their right to obtain such information, the burden of proof in any posterior court case related to the requested information shifts to the employer to demonstrate that there is no pay discrimination.⁵⁰ This presumption only operates within cases related to employment. No additional consequences or sanctions are stipulated in the law for non-compliance with reporting.

Iceland**Equal pay certification**

Iceland's [Act on Equal Status and Equal Rights of Women and Men, No. 10/2008](#), which applies to both the private and the public sectors, sets out that organizations must be able to demonstrate gender equality in salaries and must implement equal pay policies in the workplace. Enterprises with 25 or more employees must develop an equal pay policy plan and an action plan on how equality policies are to be achieved by the organization.⁵¹ The equal pay policy plan should be reviewed by the enterprise at three-year intervals.

Enterprises with 25 or more employees are also required to obtain an annual equal pay certification, and to accomplish the Equal Pay Standard (IWRA, n.d.). The Equal Pay Standard, created by the national standard body (that is, Icelandic Standards), offers a set of rules and guidance to establish and maintain gender equality in wages and to eradicate gender-based discrimination at work. The equal pay certification is issued by a certification body once an audit has been carried out in the organization.⁵² A copy of the certification is sent to the Directorate of Equality, which is in charge of enforcing the Act and which keeps a record of the certificates. During the certification process, the certification body notes any failures as well as any modifications that can be made by the enterprise to better implement its equal pay policies. The Directorate of Equality is authorized to grant workers' and employers' organizations access to the certification body's report on the outcome of an equal pay system audit of an enterprise or institution if the audit does not lead to certification.⁵³

Box 14. A unique approach to pay transparency, Iceland

Typically, it is employees that must present evidence of inequality in their workplace, but in Iceland, the employer is responsible for providing evidence that employees receive equal pay for work of equal value. Icelandic employers do this using a two-step job evaluation system to disassociate work tasks from skills. The Equal Pay Standard obliges employers to obtain certification from an accredited body to evaluate whether their equal pay scheme meets the Standard's requirements. Furthermore, employees have the right to ask the employer to inform them of wages and the terms under which they are employed.

Source: Wagner 2021.

⁵⁰ Section 15, para 5.

⁵¹ Act on Equal Status, article 18, para. 2.

⁵² Act on Equal Status, article 19.

⁵³ Act on Equal Status, article 19.

Compliance

The Act allows for fines to be levied against enterprises that do not comply with gender equality obligations, including certification. Fines may be as much as 50,000 Icelandic króna (approximately US\$400) per day. When determining the fine, factors such as the number of employees in the organization and the scope of the business involved are taken into account.⁵⁴

Italy

Pay transparency report

According to Italy's National Code of Equal Opportunities between Women and Men, 2006, public and private enterprises with more than 50 employees should report on their workforce gender pay gap and employment conditions, such as recruitment, training, promotion, redundancy, retirement and other parameters.⁵⁵

The report is sent to the Works Council and the Councillor for Equality as well as the National Equality Councillor, the National Labour Inspectorate, the Minister of Labour and Social Policies, and other institutions.

The report should include: the numbers of female and male workers employed and hired during the year; the initial salary gap between female and male workers; the numbers of pregnant workers; the contractual classifications and functions performed by each worker; and the remuneration, which includes bonuses, allowances or any other benefit in kind and any other benefit paid to the worker.⁵⁶

Box 15. Economic incentives to obtain equal pay certification, Italy

Enterprises that fill in the report and meet certain objectives related to gender equality can ask for a gender equality certificate. The criteria for obtaining certification include the growth opportunities for women within the enterprise, equal pay for work of equal value, the presence of gender diversity policies and the protection of maternity. Enterprises that obtain the certification receive a 1 per cent point reduction in their social contribution rate.

Source: Italy, Presidency of the Council of Ministers, n.d.

Compliance

If false or incomplete information is provided in the report, the National Labour Inspectorate may impose an administrative fine of between €1,000 and €5,000.⁵⁷

An enterprise that fails to meet the reporting deadline, is given a further 60 days to present their report. In the case of non-compliance with the reporting requirement, the sanctions range from €515 to €2,580. In the most serious cases, the suspension for one year of the social benefits enjoyed by the enterprise may be ordered.⁵⁸

⁵⁴ Act on Equal Status, article 18.

⁵⁵ National Code of Equal Opportunities, section 46(1).

⁵⁶ National Code of Equal Opportunities, section 46(3).

⁵⁷ National Code of Equal Opportunities, section 46(4) bis.

⁵⁸ Recommendation of the Committee of Ministers No. CM/RecChS(2021)10, adopted 17 March 2021.

Lithuania

Pay transparency report

The Lithuanian [Labour Code, 2016](#), highlights that the employer must pay the same remuneration for the same work or work of the same value. It provides two means to make wages more transparent to employees. Employers with more than 20 employees are required to provide, in anonymized form, the average employee wages by occupational group broken down by gender, so long as there are more than two employees in the occupational group. This excludes managerial positions.⁵⁹ Furthermore, an employer with more than 50 employees must adopt and publish an equal opportunity programme or policy, the specific details or content of which is not regulated by the law. The silence of the law in this regard allows social partners the opportunity to accommodate the equal opportunities policy to the circumstances of the enterprise and to open up a conversation about the best way to implement equal opportunities in the workplace.⁶⁰ In this regard, the law requires enterprises with more than 20 employees to elect a Workers' Council.⁶¹

Compliance

No sanctions are explicitly stipulated in the law for cases when an employer does not comply with Labour Code in regard to wage transparency. However, a collective labour dispute concerning rights can be brought to the Labour Dispute Commission, or another dispute resolution body, which could eventually impose a fine for non-compliance.⁶²

Luxembourg

Disclosure of pay data

In 2016, Luxembourg's Pay Equity Act was enacted to implement the principle of equal pay for equal work or work of equal value for men and women, and to introduce that principle into the [Labour Code](#).⁶³ To guarantee the principle of gender equality, any provision in an employment contract, a collective labour agreement or an enterprise internal regulation that contradicts this principle is deemed null and void.⁶⁴

The Labour Code sets out that it is prohibited to discriminate on the grounds of sex, and it defines both direct and indirect discrimination. It is forbidden to publish an employment offer that infringes the principle of equality.

The Ministry of Equality between Women and Men (MEGA) provides a tool for employers to identify the causes of a pay gap in their wage structure, as well as to facilitate the elaboration of an action plan to remedy any such pay gaps. The Logib-Lux programme⁶⁵ specifically targets enterprises with more than 50 employees (Luxembourg, MEGA, n.d.-a). Employers are not compelled to use the tool, or to communicate their results to the MEGA.

59 Lithuanian Labour Code, article 23(2)(1).

60 Labour Code, article 26(5).

61 Labour Code, article 10.

62 Labour Code, article 217(2).

63 Luxembourg Labour Code, article 225(1).

64 Labour Code, article 225(4).

65 It is noted that the same programme is used by several European countries, such as Germany and Sweden. The programme is available at: <https://mega-public.lu/fr/travail/genre-ecart-salaire/mesures/logib.html>.

Box 16. Involvement of workers' representatives, Luxembourg

The Labour Code stipulates that employees' representatives have the duty to safeguard and defend the interests of employees regarding working conditions, job security and social status (article 4142(3)). The enterprise manager is required to provide the necessary information to the employees' representatives, and let them know about recent and planned developments of the enterprise and its economic situation (article 414-2(4)).

As part of this obligation, the Labour Code (article 414-3(2)) establishes:

- ▶ The company manager is required to inform and consult the worker's representative and the equality representative on the situation, the structure and probable development of employment within the company as well as any anticipatory measures considered, especially in the event of a threat to employment; in particular, for this purpose, it must provide the delegation of the staff and the equality officer for statistics disaggregated by sex on recruitments, promotions, transfers, layoffs, remuneration and training of company employees.

In short, statistics on remuneration that are disaggregated by sex – a measure that is considered to imply pay transparency – are embedded within social dialogue at the enterprise level.

Compliance

According to information on the MEGA's website, if a salary difference cannot be justified by objective reasons and is based on gender considerations, the employer may be fined between €251 and €25,000 (Luxembourg, MEGA, n.d.-b).

Netherlands

Equal pay certification

Every two years, Statistics Netherlands (CBS) publishes a study on gender wage disparities in the job market. There are no pay transparency provisions under the Equal Treatment of Men and Women Act, 1980. However, a [new pay transparency bill](#), which was submitted to Parliament in 2019, would make it mandatory for enterprises with 250 or more employees to acquire a certificate of conformity with equal pay for equal work. The certificate of conformity may be revoked when the enterprise no longer fulfills the conditions required to be granted the certificate.

Once the bill is approved, employees working in enterprises with more than 50 employees would have the right to ask their employer for the anonymized wages of other employees performing work of equal value to themselves.⁶⁶ The report should include information regarding the differences in pay between women and men performing work within an equal value category in the enterprise. If there are any such differences, the enterprise should justify them and state the measures that have been taken to foster equal pay.⁶⁷

Compliance

Under the bill, fines of up to €250,000 would be imposed for infringement of the pay transparency provisions. The amount of the fine would be increased by 100 per cent if the enterprise commits a second infringement within a period of five years. A third infringement during the same five-year period may result in increases in the fine of 200 per cent.

⁶⁶ Equal Pay for Women and Men Bill, article 11b.

⁶⁷ Equal Pay for Women and Men Bill, Article II.

Norway

Pay transparency report

Norway's [Act Relating to Equality and a Prohibition Against Discrimination, 2017](#) (also known as the Equality and Anti-Discrimination Act), covers the duty of employers to promote equality and prevent discrimination on any grounds. All public sector employers, irrespective of their size, and private sector employers with more than 50 employees should comply with the pay transparency measures. Employers in the private sector with a workforce between 20 and 50 employees are required to do so if requested by one of the social partners.

In collaboration with the workers' representative, employers need to undertake a regular assessment to determine whether there is a risk of discrimination, or to expose any other hurdles for achieving equality, including a pay review by gender. If a discrimination risk exists, the enterprise should analyse the causes and implement measures directed both at addressing discrimination and at fostering equality. If discrimination is detected, the enterprise needs to take actions and monitor the measures used to correct the pay discrimination.

The Act further notes that employers should include a statement in the enterprise's annual report, or some other public document, regarding the state of equality in their enterprise, as well as the work they have undertaken within their duties regarding anti-discrimination.⁶⁸ In other words, employers have to conduct a pay review to detect any pay differences between female and male employees doing the same work or work of equal value within the organization.

The Act also covers the worker's right to request information regarding co-workers' pay levels and pay criteria, so as to be able to draw a comparison. The worker has the obligation to keep this information confidential.

Employees, employees' representatives, the Anti-discrimination Tribunal, the Equality and Anti-Discrimination Ombud, and researchers have the right to examine the pay review, even when the information cannot be anonymized. Persons authorized to examine the information have the duty of maintaining confidentiality and must sign a confidentiality declaration.⁶⁹

Compliance

The Act does not contain specific provisions related to sanctions for violations. However, the Anti-Discrimination Tribunal makes decisions on specific complaints of discrimination and harassment submitted to the body (Norway, LDO, n.d.).

Portugal

Disclosure of pay data

Portugal's [Labour Code \(No. 7/2009\)](#) enshrines the right of equal pay for equal work or work of equal value, which applies to the public and private sector alike.⁷⁰ However, the concept of remuneration for purposes of equal pay in Portuguese law is broader than the definition in the Labour Code. The [Equal Pay Law \(No. 60/2018\)](#) also includes bonus benefits and other indirect payments that are excluded from the concept of remuneration in the Labour Code. The Equal Pay Law asserts that employers must implement a transparent pay policy, based on an assessment of job tasks and applying shared objective criteria to both men and women.⁷¹ In cases based on a claim of discrimination, once the employee has provided comparators in the same position but with differences in payment, the Labour Code stipulates that

⁶⁸ Equality and Anti-Discrimination Act, section 26a.

⁶⁹ Equality and Anti-Discrimination Act, section 26a.

⁷⁰ Labour Code, article 270.

⁷¹ Equal Pay Law, article 4.

the burden of proof shifts to the employer to show that the differences in treatment are not due to the application of discriminatory factors in job evaluation.⁷²

State-owned and publicly traded enterprises are required to prepare an annual equality plan, with the objective of achieving equal treatment and opportunities between women and men and promoting the eradication of gender discrimination.⁷³ The equality plan should be sent to the Commission for Citizenship and Gender Equality and the Commission for Equality in Labour and Employment (CITE). The CITE may issue recommendations on enterprises' equality plans and publish them on its website.

The Ministry of Labour, Solidarity and Social Security, which is in charge of statistical calculations, publishes the following statistical information every year based on an annual balance sheets provided by enterprises:⁷⁴

- the pay gap between women and men; and
- reports of pay differences between men and women by enterprise, profession and qualification level.

After receiving enterprises' evaluations of pay differences between men and women according to profession and qualification level, the Inspectorate Service of the Ministry of Labour, Solidarity and Social Security requires the enterprise to present a plan to assess any pay differences based on the particular tasks of the job. The plan should apply objective criteria so as to exclude any possible discrimination on the grounds of sex. The plan should be implemented by the enterprise over the course of the following year, and after that period the enterprise must communicate to the Inspectorate Service the results of the plan, demonstrating justifications for any remaining pay differences and evidence of having amended all unjustified pay differences.⁷⁵ Any pay differences that the employer cannot justify are deemed to be discriminatory.

The workers' representative can request the CITE to issue an opinion concerning pay discrimination on the grounds of sex, related to equal work or work of equal value within an enterprise. The applicant must provide a comparator, indicating the group of workers of the opposite sex that will serve this function. Once notified of the application, the employer must provide the enterprise pay policy and the criteria used to determine the remuneration of both the applicant and the comparator. Failure by the enterprise to provide the information amounts to a lack of justification of the pay differences, and in such a case the difference is deemed to be discriminatory.

Compliance

The Equal Pay Law sets out sanctions for: lack of compliance with providing the plan to tackle pay differences; failure to implement the plan; and failure to provide the results of the plan implementation and justification of remaining pay differences. The Law further establishes that maintaining discriminatory pay practices constitutes a serious offense. Additionally, a non-compliant enterprise might be forbidden to participate in public bids or procurement contests for a period of up to two years.

The Portugal Labour Code sets out that the fines that can be levied depend on the enterprise's turnover and the considered degree of non-compliance. A serious administrative offense could incur a fine of between 6 UC up and 95 UC.⁷⁶ A UC (unidade de conta, or unit of account) is currently equal to €102, however, the UC value can be changed by the Government.

⁷² Labour Code, article 25(5).

⁷³ Law No. 68/2017, Regime da representação equilibrada entre mulheres e homens nos órgãos de administração e de fiscalização das entidades do setor público empresarial e das empresas cotadas em bolsa.

⁷⁴ The latest data available refers to 2019.

⁷⁵ Equal Pay Law, article 5.

⁷⁶ Labour Code, article 554(3).

Spain

Disclosure of pay data and equal pay audits

Spain's [Royal Decree on Equal Pay between Women and Men \(902/2020\)](#), regulates gender pay equality in the private sector. The principle of pay transparency is realized through the implementation of four transparency mechanisms, namely:

- ▶ pay registry or remuneration records;
- ▶ job assessments or evaluation of the classifications within the enterprise, or as set out in the collective agreement;
- ▶ equal pay audits; and
- ▶ workers' rights to information.

All enterprises must implement the principle of equal pay. In order to assess the job and determine which positions have the same value, the Royal Decree establishes that equal value is measured by taking into account several aspects, such as: the nature of the task performed; professional, educational and qualification training requirements; and the factors related to performance of the job and the working conditions in which the job is carried out. When all of the factors are equivalent, the jobs are considered to be of equal value in conformity with the Worker's Statute Act.⁷⁷

The Royal Decree-Law on Urgent Measures to Guarantee Equal Opportunities for Women and Men in Employment and Occupations (6/2019) introduced an obligation for enterprises with more than 50 employees to implement an equality plan.⁷⁸ These enterprises must include an equal pay audit within their equality plans. The equal pay audit requires conducting a review of the wage policy in the enterprise, and subsequently setting out a plan to redress any wage gaps revealed during the review process.⁷⁹ The audit contributes to pay transparency and monitoring the enterprise's pay policy.

The audit is also done with the participation of employees' representatives and trade unions. Equality plans should be negotiated within the enterprise by the Joint Committee, which is made up of workers' and enterprise representatives. The Joint Committee is in charge of following up on the implementation of the negotiated plan. Pay differences of 25 per cent or above must be justified by a reason other than gender.⁸⁰

The Royal Decree (902/2020) mandates enterprises to establish a pay registry that records gross salaries, premiums, bonuses and fringe benefits granted to all employees,⁸¹ including senior managers and executives. The registry must include the median and average salary values, salary supplements and extra salary benefits, broken down by sex and distributed according to professional group or category as established in the collective bargaining agreement, as well as by job title or function, or any other occupational grouping used by the enterprise.⁸² Workers have the right to access the register through a workers' representative or a union member.

A separate Royal Decree (901/2020) regulates the registering of equality plans, which must be filed with the Register of Collective Bargaining Agreements and Equality Plans. The Joint Committee that negotiates the equality plan has the right to access all relevant information or documents necessary to carry out the job assessment for the enterprise.

⁷⁷ Worker's Statute Act, article 28, as modified by article 2.7 of Royal Decree-Law 6/2019.

⁷⁸ [Real Decreto-ley 6/2019, de 1 de marzo, de medidas urgentes para garantía de la igualdad de trato y de oportunidades entre mujeres y hombres en el empleo y la ocupación.](#)

⁷⁹ Royal Decree 902/2020, article 7.

⁸⁰ Royal Decree 902/2020, article 6(b).

⁸¹ Royal Decree 902/2020, article 5(2).

⁸² Royal Decree-Law 6/2019, article 28.

Box 17. Collective bargaining for equal pay, Spain

Workers' representatives must be consulted 10 days prior to the publication or amendment of the registry.¹ The negotiation between enterprises and workers' representatives regarding equal payment between women and men must take place every four years as an integral part of the collective bargaining negotiations.²

¹ Royal Decree 902/2020, article 5(6).

² Royal Decree 901/2020, article 9(1).

Compliance

The failure to create an adequate pay registry as required by the Royal Decree (902/2020) may lead to administrative and judicial actions, either at the individual or class level, in accordance with the Law of Infractions and Sanctions of the Social Order.⁸³ Failure to comply with the obligation regarding equality plans and measures can lead to a fine of between €626 and €6,250; however, the exact amount of the fines will depend on the case at hand.

Sweden

Equal pay audits

Provisions regarding pay equity are embedded in the [Discrimination Act, 2008](#). Employers with more than ten workers must survey and analyse the criteria for wage setting and differences in pay between women and men performing work that is to be regarded as equal or equivalent.⁸⁴ These pay audits are to focus on discovering differences based on gender. In particular, the analysis should refer to pay differences between:⁸⁵

- women and men who perform work that is to be regarded as being equal;
- a group of workers who perform work that is or is usually considered to be female-dominated and a group of workers who perform work that is to be regarded as equivalent to such work but that is not or is not usually considered to be female-dominated; and
- a group of workers who perform work that is or is usually considered to be female-dominated and a group of workers who perform work that is not usually considered female-dominated but gives higher wages despite the fact that the requirements for the work have been judged to be lower.

The law mandates employers and employees to collaborate in carrying out the pay audit. Specifically, employers need to provide the trade union to which the employer is bound by a collective agreement with the information necessary to collaborate in the survey and the analysis of the wage setting.⁸⁶

All relevant employers need to document the survey and the result of the pay analysis, as well as the planned salary adjustments for the next three years to address any gender pay differences detected.⁸⁷

⁸³ Royal Decree 902/2020, article 10.

⁸⁴ Discrimination Act, chapter 3, section 8.

⁸⁵ Discrimination Act, chapter 3, section 9.

⁸⁶ Discrimination Act, chapter 3, section 11.

⁸⁷ Discrimination Act, chapter 3, sections 13–14.

Box 18. Impact assessment of equal pay auditing, Sweden

Research from Eurofound (2018) documents that only 10 per cent of pay audits in Sweden met the legal standard during the first evaluation on equal pay auditing in 2008; whereas 48 per cent were compliant when the second evaluation was conducted in 2016. Since 2016, the focus of pay transparency impact assessments has remained on assessing the quality of the information provided by employers rather than examining the quantities of pay audits.

According to 2018 research conducted by the market research enterprise Ipsos, which surveyed 1,000 workers' representatives, 45 per cent of respondents believed that employers' attitudes towards equal pay audits are positive. Furthermore, about 60 per cent of employers have conducted the equal pay audit in accordance with the Discrimination Act. More than 70 per cent of workers' representatives indicate that they are involved in the pay mapping and analysis, and a majority are satisfied with the information they have received (Unionen 2017).

Compliance

The Equality Ombudsman is in charge of supervising compliance with the Discrimination Act and can require additional information from employers. Employers are required to give the Ombudsman access to workplaces or other premises.⁸⁸ Failure to fulfil the requirements of the Ombudsman, or to carry out the pay audit, may result in the imposition of a fine.⁸⁹

Switzerland**Equal pay analysis and pay audit**

Switzerland represents a new approach to pay transparency legislation, with the Government providing enterprises with a digital software application to analyse enterprise data related to employee salaries. According to the [Federal Act on Gender Equality, 1995](#), private and public employers with more than 100 employees must conduct an internal equal pay analysis and audit every four years through the digital tool, unless they can show that they have a better lawful method to analyse the wage data. The Act lays down that “the equal pay analysis shall be conducted according to a scientific method and in accordance with the Law”.⁹⁰ The standard analysis tool – called Logib – has been provided by the Confederation since July 2020 free of charge.⁹¹ Within one year of concluding the audit, employers are required to inform their employees in writing of the result of the equal pay analysis.⁹²

Private sector employers need to have their equal pay analysis audited by an independent body.⁹³ The audit can be carried out by a specialist enterprise or by an organization in charge of promotion of gender equality. In order to be able to apply for public contracts or subsidies, an enterprise must first have had their equal pay compliance audited within the previous four years.

Compliance

There are no provisions regarding sanctions against employers for non-compliance with their obligations. However, compliance has a positive impact on the reputation of the enterprise.

88 Discrimination Act, chapter 4, section 1.

89 Discrimination Act, chapter 4, sections 4–5.

90 Federal Act on Gender Equality, article 13

91 For more information, see: <https://www.ebg.admin.ch/ebg/en/home/services/logib-triage.html>.

92 Federal Act on Gender Equality, article 13(g).

93 Federal Act on Gender Equality, article 13(d).

United Kingdom

Pay transparency report

The legal ability to make regulations regarding pay transparency is conferred by the [Equality Act, 2010](#).⁹⁴ Initially, the United Kingdom implemented a voluntary scheme to report on gender pay gaps. However, the initiative failed, given that only 11 enterprises out of the 300 that were signatories of the initiative published gender pay gap information (Feikert-Ahalt 2015). The objective of the legislation was to elicit an examination of the pay gap by the enterprises – namely, of the causes of the pay gap – and to trigger a self-enquiry on whether their policies might have contributed to the gender pay gap. The features of the legislation include the obligation of the relevant employer or officer to sign off on the information and to vouch for its accuracy, in order to guarantee reliability and accountability.⁹⁵

In 2017, the Government introduced regulations requiring public and private sector employers with over 250 employees to conduct mandatory gender pay gap reporting through the [Equality Act 2010 \(Gender Pay Gap Information\) Regulations](#) and the [Equality Act 2010 \(Specific Duties and Public Authorities\) Regulations](#). These enterprises are also required to publish average wages on their own websites. It is expected that reporting on a platform will allow enterprises to come to realize their own practices and take measures to reduce or close any gaps.

In the report, the enterprise must publish the following annual data, broken down by gender:

- mean and median of the gender pay gap (hourly rate of pay of males and females);
- mean and median of gender gap in bonus payments; and
- the proportion of full-time employees included in the bottom, lower-middle, upper-middle and top quartile pay bands of the organization's pay structure.

The obligation to report on bonus payments introduces an additional layer to detect recompenses that are not classified as a wage but can still contribute to the gender gap.

There is neither a right for workers to request information about the pay of workers in similar positions, nor are pay audits required. The right of workers to request information through a questionnaire was initially established under the Equality Act, but it was repealed in April 2014 out of concern by the Government that the questionnaire had not contributed to boosting prehearing settlements in order to lighten the loads upon courts, while entailing additional costs to enterprises (United Kingdom, House of Commons 2016).

In March 2020, the Government Equalities Office and the Equality and Human Rights Commission decided that, due to COVID-19, enterprises would not need to report information for the period of 2019 to 2020 (United Kingdom, Government Equalities Office 2020). However, reporting was resumed in late 2021 (Webber 2021).

Compliance

There are no specific measures or sanctions for non-compliance with the regulation, although the Equality Act confers powers to the Secretary of State. The Equality and Human Rights Commission (EHRC) laid down the powers they have to enforce compliance under the Equality Act, and when and how they have used them, under the [Our Litigation and Enforcement Policy 2019–22](#). The Equality Act 2006 granted the EHRC the powers to conduct investigations, issue unlawful act notices, develop action plans, conduct public sector duty assessments, and issue public sector duty compliance notices (United Kingdom, Equality and Human Rights Commission 2019, 14). In deciding where to use its legal powers, the EHRC takes into account the scale of the problem. If an organization does not comply with an action plan, the EHRC can apply to the County Court in England and Wales for an order requiring the enterprise to comply with the action plan. If the enterprise disregards the court order without a reasonable excuse, it commits an offense and “will be

⁹⁴ Equality Act, section 78 refers to the private sector and section 153 to public authorities, respectively.

⁹⁵ The relevant employer in a corporation is the director. In a limited liability partnership, it is a designated partner, while in a partnership of any other type, it is the partner. In an unincorporated body other than a partnership, the relevant employer is a member of the governing body. Lastly, in any other kind of body, that function is carried out by a senior employee.

liable to a ‘level 5’ fine, which means that there is no maximum limit on the amount that it may be fined” (United Kingdom, Equality and Human Rights Commission 2019, 17).

Box 19. Measuring the impact on pay transparency measures, United Kingdom

Compliance with the Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 has been somewhat uneven. In a survey carried out by CIPHR, a payroll and recruitment provider, with over 1,000 employees in September 2021, 51 per cent of respondents indicated that their employer is transparent about its promotion, pay and reward processes and policies. However, 37 per cent of respondents said that they were actively discouraged from discussing their salaries with colleagues and co-workers, and only 26 per cent reported that their employers were fully transparent with pay information.

Source: CIPHR 2021.

United States

The Equal Pay Act of 1963 prohibits employers from paying employees at a lower rate than that at which they pay employees of the opposite sex. In addition to precluding pay differentials on the grounds of sex, the Act enshrined the principle of equal pay for work of equal value, setting out the criteria with which to value job positions, such as skills, effort, responsibility and working conditions.⁹⁶

The number of US states enacting pay transparency legislation is increasing. At the federal level, the proposed Paycheck Fairness Act,⁹⁷ which included measures directed at collecting pay and employment data from employers that would serve as a basis for eliminating the gender pay gap, passed the House of Representatives in April 2021, but failed to pass in the Senate in June 2021. If it had passed, the Act would have mandated the Equal Employment Opportunity Commission to regulate the data collection from employers. Furthermore, the Act would have banned employers from asking job candidates their previous salary, guaranteed employees the right to discuss their salaries without fear of retaliation, and extended the remedies available to victims of discrimination on race or ethnicity grounds to gender discrimination cases, among other provisions.

Several states have enacted pay transparency laws or are considering pay transparency laws. The legislations commonly cover the following measures:

- ▶ precluding employers from asking for the salary history of a job candidate;
- ▶ obliging employers to publish salary ranges in the job offer; and
- ▶ allowing disclosure of salaries and salary histories among employees (Follett and Hentze 2021).

Box 20. The California Equal Pay Act, United States

The California Equal Pay Act prohibits an employer from paying its employees less than employees of the opposite sex for equal work. Amendments were brought to the Act throughout 2016 and 2018 to:

- ▶ replace the comparison of “equal work” with a comparison of “substantially similar work”;
- ▶ make it more difficult for employers to justify unequal pay based on sex, race or ethnicity;
- ▶ make it illegal for employers to prohibit workers from disclosing their wages, discussing the wages of others, or inquiring about others’ wages; and
- ▶ prohibit employers from relying on an employee’s prior salary to justify a sex, race or ethnicity-based pay difference.

Source: United States, California Department of Industrial Relations, n.d.

⁹⁶ Section 206(d)(1) of the Federal Labor Act.

⁹⁷ The text of the bill is available at: <https://www.congress.gov/bills/117/congress/house-bills/7/text>.

States that have enacted a version of the above pay transparency measures include Maryland, which amended provisions in its Equal Pay for Equal Work Law in 2020 to prohibit employers from relying on the wage history of an applicant to determine pay for an employment position, except if, after the employer makes an initial offer of employment, the wage history is used to support a wage offer that is higher than the initial wage offered by the employer.⁹⁸ Connecticut enacted a similar provision in 2021 requiring employers to disclose to applicants and employees the salary ranges for positions.⁹⁹ The state of Washington published the Equal Pay Opportunities Act in 2021, which prohibits employers from inquiring about an applicant's salary history and requires that employers with more than 15 employees provide the minimum wage or salary range information upon request (United States, Washington State Department of Labor and Industries, n.d.).

In focus: Colorado's Equal Pay for Equal Work Act

Colorado's [Equal Pay for Equal Work Act](#)¹⁰⁰ entered into force in January 2021. The Act prohibits employers from paying employees different wages for "substantially similar work".¹⁰¹ The factors that are used to measure if one job position is similar to another are: "composite of skills; efforts, which may include consideration of shift work; and responsibility".¹⁰² However, wage rate differences may be based on objective criteria, using others measures such as a seniority, merit, quantity or quality of production, geographical location, travel or education, and training or experience required to perform the job.

The Act creates a right for employees to sue their employers via a civil action, within two years from an occurrence of discrimination or a violation of the Act. The employee may receive the pay difference for the time from when the infringement occurred and up to three years, as well as liquidated damages. Employers may not be liable to pay liquidated damages if they demonstrate that they were acting in good faith. An employer may be considered to have been acting in good faith if they had undertaken a complete pay audit of their workforce aimed at identifying and remedying unlawful pay disparities within two years prior to the initiation of the civil action.¹⁰³ Consequently, although pay audits are not mandatory, this provision indirectly promotes the implementation of pay audits within an enterprise as a way to protect employers from paying liquidated damages.

Employers are forbidden from seeking or relying on the wage rate history of prospective employees to establish a wage rate.¹⁰⁴ The Act mandates employers to disclose in each job advertisement either the exact hourly and salary compensation or a range of it, along with a description of all benefits and other kinds of compensation offered for the position.¹⁰⁵ Employers should also make known to current employees all opportunities for promotion prior to making a promotion decision, and also keep records of job descriptions and wage rate histories for each position.

Following the passage of the Act, the Colorado Department of Labor and Employment issued the [Equal Pay Transparency Rules](#) to enforce and implement the Act. The Rules regulate the procedure to follow if a discrimination complaint arises in the course of an employment relationship. The Rules set out that employers must include in each position announcement the hourly rate or salary compensation; a description of all bonuses, commissions or other kinds of compensation included in the job position; and a general description of all employment benefits, including benefits related to healthcare, retirement, paid days off and any other benefits that must be reported for federal tax purposes.

Employers are required to keep records of job descriptions and wage rates for each employee during the duration of the relationship, and for up to two years after the employee ceases working.¹⁰⁶

98 The text of the amendments is available at: <https://law.justia.com/codes/maryland/2020/labor-and-employment/title-3/subtitle-3/section-3-304-2/>.

99 [An Act Concerning the Disclosure of Salary Range for a Vacant Position, House Bill No. 6380](#).

100 The Equal Pay for Equal Work Act modifies sections of the Colorado Revised Statutes.

101 Equal Pay for Equal Work Act, section 4.

102 Equal Pay for Equal Work Act, section 4.

103 Equal Pay for Equal Work Act, section 6.

104 Colorado Revised Statutes, section 8-5-102 (2).

105 Colorado Revised Statutes, section 8-5-201 (2).

106 Colorado Revised Statutes, section 8-5-203.

The Department of Labor and Employment may impose fines upon employers who infringe the pay discrimination measures or who violate measures related to the posting, promotion or keeping of records in amounts ranging from US\$500 to US\$10,000.¹⁰⁷ If an employee takes legal action against the employer for pay discrimination, the lack of having kept records can be considered evidence that the violation was not made in good faith.

¹⁰⁷ Colorado Revised Statutes, section 8-5-203 (4).



5

Pay transparency legislation: Views of employers and workers

► 5. Pay transparency legislation: Views of employers and workers

The ILO conducted an online survey of representative employers' and workers' organizations on the topic of pay transparency legislations during the period July–September 2021. The survey was limited to those countries covered in Chapter 4 that have pay transparency legislation in place. The survey enabled a deeper understanding of how pay transparency measures are implemented in practice and provided detailed documentation of the perceptions of employers' and workers' organizations regarding the effectiveness of pay transparency legislation in promoting equitable pay policies. In addition to the survey, a series of qualitative interviews with employers' and workers' organizations were conducted in the period October–November 2021 to better understand the qualitative nuance behind the overall statistics.¹⁰⁸

5.1. Effective pay transparency measures to address the gender pay gap

The survey asked respondents to indicate pay transparency measures they viewed as most effective in addressing the gender pay gap in their respective countries. Aggregating responses for all countries among worker representatives show that “specific policies aimed at addressing identified pay gaps” are favoured by 54 per cent of worker representatives as the most effective approach. This is interesting, as it highlights the need for a comprehensive approach, where enhancing transparency is only part of or an enabling factor of a broader policy response. Pay audits, pay transparency reports and workers' right to request information on pay polled moderately, at between 10 and 16 per cent among workers' respondents. Furthermore, the most common response in the “Other” category for worker representatives was enhancing compliance (for example, sanctions against businesses that fail to address gender imbalances). This goes in line with the previous comment.

A strong majority of employer representatives also agreed with the view that specific policies are most effective at addressing the gender pay gap. In contrast to workers' representatives, employers selecting “Other” did not favour sanctions against non-compliance, but rather expressed the need for government support for policies that addressed gender imbalances in the types of jobs that men and women pursue.

Box 21. A complementary action plan developed by employers to support the implementation of pay transparency legislations

A representative from the Confederation of British Industries noted that reporting on the gender pay gap only does not make sense, and expressed the need for enterprises to introduce an action plan to address the gender pay gap and to be accountable for that action plan.

Employers' positions on pay transparency measures in United Kingdom have largely shifted from defensiveness prior to the enactment of the legislation towards being supportive post-enactment. While pay transparency reporting was seen as somewhat burdensome for employers initially, businesses have seen the benefit of pay transparency on levels of satisfaction in the recruitment process.

Source: ILO interview with social partners on pay transparency, 2021.

¹⁰⁸ The survey reached 97 worker representatives at either the national or sectoral level from 15 countries. Furthermore, the survey was sent out to 17 employers' organizations, and a response rate of around 60 per cent was achieved, covering 10 countries.

Country-level analysis of the worker representatives' responses shows differences in preferred pay transparency measures. Respondents in Austria, Denmark, Germany, Switzerland and Norway indicated soft policies as being more effective rather than the stricter corrective policies. On the other hand, worker representatives in Canada, France, Italy and Spain indicated that corrective policies are more effective than soft ones.

Box 22. Impact assessments of pay transparency legislations and more practical support

A representative from the French Democratic Confederation of Labour (CFTD) stressed that more should be done to close the gender pay gap. Despite many years of pay transparency reporting, some workers are still not covered by law, such as those in small enterprises. Trade unions and workers' representatives would like to see more impact assessments or evaluations of pay transparency measures to see what is working and what is not. The effectiveness of pay transparency measures could be enhanced by introducing the obligation to engage in collective bargaining on gender equality. Practical tools for employers that facilitate drawing job comparisons across different sectors would further help level the playing field.

Source: ILO interview with social partners on pay transparency, 2021.

5.2. Impacts of pay transparency legislations

Survey respondents were asked if they thought enterprises in their country changed their gender-related pay policies as a result of pay transparency legislations. Among worker representatives, responses varied significantly by country. In other words, the perceived effect of pay transparency is volatile among countries and depends on their legal systems.

The majority of worker respondents from Belgium, Denmark, France, Italy and the United Kingdom said that enterprises had not changed their gender-related policies in response to pay transparency legislations. On the other hand, a majority of worker representatives from Germany, Norway, Sweden, and Switzerland confirmed that pay transparency legislations had led to changes among enterprises. A large majority of Canadian worker representatives (67 per cent) responded that they did not know or were not aware of any pay transparency legislations. This response can be explained, as Canada only enacted its Pay Equity Act in August 2021 (that is, during the time of the survey).

Among employer representatives, most respondents were neutral in their view of the impact of pay transparency legislations, with the majority selecting "neither agree or disagree". This suggests that changes made are difficult to attribute to a single change in legislation.

5.3. Consultation between employers and workers

Survey respondents were asked the extent to which employee representatives are consulted by employers concerning pay policies or gender-related measures. In nearly all countries, worker representatives report being consulted by employers on gender-related matters "frequently" or "sometimes". In fact, only three countries (Austria, Canada and Italy) had responses indicating that to their knowledge gender-related consultations never occurred.

The views among employer representatives paint a similar picture. All employer representatives surveyed indicated that employee representatives were "sometimes" or "frequently" consulted on pay policies or gender-related measures. It is notable that no employer representatives selected "never" concerning consultation practices.

5.4. Challenges in implementing pay transparency legislations

The survey asked respondents to list what they believed to be the three biggest challenges to implementing pay transparency legislations. Among worker representatives, their dominant concerns were with "cultural

norms and social mindsets”, “the role of management” and the “lack of a level playing field”. Notably, “additional administrative costs” and “cumbersome processes” were the least cited challenges by worker representatives.

In contrast, the most cited challenges among employer representatives were “additional administrative costs”, “cumbersome processes” and “employee privacy concerns”. The selection of “cultural norms and social mindsets” was among the least cited barriers among employer representatives.

The survey results show directly opposing views of employers and workers on the most significant challenges with regard to implementing pay transparency legislations. This suggests that in order to ensure their effective implementation, pay transparency legislations will need to consider a wide range of issues that cater equally to the challenges faced by employers and workers.

Box 23. The challenge of identifying comparators in pay transparency reporting

A “comparator” refers to a worker whose pay is used as a reference for another person who is in a comparable working situation. Most countries with pay transparency legislations require employers to report on the pay differences for jobs of equal value in order to identify the existence of a gender pay gap.

An interview with the Confederation of Norwegian Enterprises revealed that there are observed difficulties with the pay transparency legislation as it requires employers to categorize jobs and draw meaningful comparisons between jobs. This is not always straightforward, as within each job category, different types of jobs and different levels of seniority are likely to exist. Additionally, in order to enhance the quality of pay transparency reports, the periodic submission could be extended from one to two years.

Source: ILO interview with social partners on pay transparency, 2021.

In a follow-up question, the survey asked participants to identify the types of support measures representative organizations needed to better manage their obligations under pay transparency legislations. Over 45 per cent of worker representatives responded that better relationships with employer representatives would help them manage their obligations under pay transparency legislations.

A large number of employer representatives selected “other” and detailed a wide range of concerns. One employer representative noted that there are legal liability concerns with voluntary reporting; while another indicated that the removal of the legislation would be more effective, as the standard collective agreement bargaining process was deemed a more suitable framework to address pay transparency. In general, “closer relationships with worker representatives” was not cited as a useful support measure; whereas “tax benefits to offset compliance costs” and “better information from authorities” were selected in several employers’ responses.

Employer representatives were further asked about the cost to implement pay transparency legislations. Forty per cent responded that implementation was “relatively costly”, and 20 per cent answered that “the process is costly, but the cost is relatively small”.

Box 24. The need for heightened awareness on pay transparency legislations

A representative from Confederação Empresarial de Portugal (CIP) stressed that the sheer quantity of micro-enterprises in Portugal (accounting for over 99 per cent of all enterprises) and their low awareness about Portugal’s pay transparency legislation makes implementation difficult. Many employers do not understand their obligations, and frequently ask for help to comply. The CIP highlights the need to simplify the process, clarify legal obligations and run educational campaigns among stakeholders regarding pay transparency measures. In addition, the CIP emphasized the necessity for a cultural shift towards women’s participation in the labour market,

Box 24. (continued)

as it would address gender stereotypes and labour-market segregation, and ultimately enable more women to shift from low-paid to higher-paid jobs. Education plays a key role in achieving structural changes.

Source: ILO interview with social partners on pay transparency, 2021.

5.5. Pay equity in collective agreements

The survey asked whether enterprises in their country had included pay equity in collective bargaining agreements. The vast majority of worker representatives mentioned that gender pay clauses were featured in their collective pay agreements at least “sometimes”. However, over half of worker representatives from Belgium, Italy and Norway mentioned they had not yet seen gender pay clauses enter into collective pay agreements. By contrast, a majority of respondents from Sweden and Austria indicated that gender pay was a common part of their collective bargaining agreements.

Among employer representatives, responses were spread out: half the respondents selected “I don't know or not applicable”, and the other half answered “always”, “frequently” or “sometimes”.



6

Conclusions and the way forward



► 6. Conclusions and the way forward

The need to address the gender pay gap is no longer a debate – but rather the question is rather how. Pay transparency measures, depending on how they are put into place, can be effective in identifying existing pay differences between men and women, and as such be vehicles to address the gender pay gap.

Pay transparency legislations are one of many means to address the gender pay gap and to achieve gender equality. The diversity in approaches used by countries to enact pay transparency legislations show that there is no “one-size fits all” solution. Some countries require employers to develop pay transparency reports, while others require certification following audits by accredited bodies. Many countries embed a consultation process between employers and workers and provide employees with the right to inquire about or discuss pay. Furthermore, the majority of countries rely on combinations of measures to increase pay transparency rather than a single solution: pay transparency reporting may be a first step towards equal pay auditing; equal pay auditing may be linked to incentives such as tax deductions or sanctions such as fines; and information gathered through equal pay reporting may be discussed with workers’ representatives and feed into collective negotiations.

In many countries, pay transparency legislations have been introduced only recently. Hence, more time is needed to assess the impact and effectiveness of the measures adopted. Regardless of the route taken, the role that representative employers’ and workers’ organizations play is paramount, both in the negotiations leading up to the enactment of pay transparency legislations and during the stages of implementation.

Additionally, the proactive role of government in taking the necessary steps to engage employers’ and workers’ organizations during negotiations for and the design of pay transparency legislations is important. Governments further play a key role in providing needed support – including easy-to-access and pragmatic information and guidance on legislated pay transparency measures – to employers’ and workers’ organizations and their members so that employers not only comply with statutory obligations but also reap the benefits of enhanced enterprise-level pay transparency, and so that workers are able to understand and exercise their rights.

As countries consider pay transparency as a means to achieve equal pay for work of equal value, employers’ organizations need to actively participate in debates regarding pay transparency and the gender pay gap and more broadly on workplace gender equality in order to have foresight and anticipate legislative action. Employers’ organizations are well positioned to collect an evidence-base of enterprise concerns and challenges, to assess the effectiveness of pay transparency measures introduced in enterprises, and to communicate enterprise efforts already in place to narrow the gender pay gap. Furthermore, representative employers can ensure that designed measures take into account the specific challenges that some enterprises, such as small- and medium-sized ones, may face in complying with potentially complex and administratively burdensome legislative requirements.

Workers’ organizations play an equally critical role in the design, implementation and enhancement of pay transparency measures. Through mechanisms of social dialogue, including collective bargaining, key points for workers can be addressed, such as targeting pay discrimination, promoting inclusive wage setting processes, and pursuing specific pay transparency measures. Workers’ organizations are well placed to incorporate equal pay into the collective bargaining process, to engage in the development of pay transparency reports or pay audits together with employers’ representatives, and in particular, to monitor the implementation of pay transparency measures. They are also the first contact for workers who have concerns regarding the gender pay gap or who want to have more information on pay practices in their enterprises.

Overall, active social partnership is crucial in delivering the results intended by legislative undertakings and, most importantly, to eliminate pay discrimination in the world of work.



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