REPORT

on the proposal for a directive of the European Parliament and of the Council to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms (COM(2021)0093 – C9-0089/2021 – 2021/0050(COD))

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

Rapporteurs: Kira Marie Peter-Hansen, Samira Rafaela

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

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

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

Amendments to a draft act

Amendments by Parliament set out in two columns

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

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

Amendments by Parliament in the form of a consolidated text

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

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

on the proposal for a directive of the European Parliament and of the Council to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms (COM(2021)0093 – C9-0089/2021 – 2021/0050(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2021)0093),
– having regard to Article 294(2) and Article 157(3) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0089/2021),
– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
– having regard to the opinion of the European Economic and Social Committee of 9 June 2021¹,
– having regard to Rule 59 of its Rules of Procedure,
– having regard to the joint deliberations of the Committee on Employment and Social Affairs and the Committee on Women’s Rights and Gender Equality under Rule 58 of the Rules of Procedure,
– having regard to the report of the Committee on Employment and Social Affairs and the Committee on Women's Rights and Gender Equality (A9-0056/2022),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 341, 24.8.2021, p. 84.
Amendment 1
Proposal for a directive
Recital -1 (new)

Text proposed by the Commission

Amendment

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

Amendment 2
Proposal for a directive
Recital 1

Text proposed by the Commission

Amendment

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

Amendment 3
Proposal for a directive
Recital 2

Text proposed by the Commission

Amendment

(2) Articles 8 and 10 of the Treaty on the Functioning of the European Union (‘TFEU’) provide that the Union shall aim to eliminate inequalities, to promote equality between men and women and to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in all its activities.
Amendment 4
Proposal for a directive
Recital 3

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

Amendment 5
Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission
(3a) The terminology used in Article 157 TFEU dates from 1957. Since then, social and legal changes, as well as research in the medical and biological fields have led to the recognition, in the definition of “sex”, of diversity in addition to women and men. For example, in some Member States it is currently possible for persons to legally register themselves as having a third, often neutral, gender. The
Court of Justice of the European Union (the ‘Court’) has also held that the principle of equal treatment for men and women cannot be limited to the prohibition of discrimination based on the fact that a person is of one or other sex. In view of the purpose and the nature of the rights which the principle of equal treatment seeks to safeguard, it also applies to discrimination arising from the person’s gender identity.

Amendment 6

Proposal for a directive
Recital 3 b (new)

Text proposed by the Commission

(3b) This Directive applies a human rights oriented approach that seeks to protect persons from pay discrimination irrespective of their sex, gender, gender identity, gender expression or sex characteristics and therefore interprets its legal basis, namely discrimination on the grounds of sex, in the broadest and most inclusive way, in order to foster gender equality and encompass people in all their diversity. Employers should take into account workers that do not identify as either female or male in their pay reporting obligations and should mention them in a category separate from female and male workers. When calculating the gender pay gap, those workers’ pay should be compared to the average level of pay of male workers. An employer should only mention workers who do not identify as either female or male in their pay reporting obligations where those workers are legally registered as not identifying as female or male or where that information has been proactively and voluntarily disclosed to the employer.
Amendment 7

Proposal for a directive
Recital 3 c (new)

Text proposed by the Commission

(3c) The principle of equal pay laid down in Article 157 TFEU and as consistently interpreted in the case-law of the Court constitutes an important aspect of the principle of equal treatment of men and women and an essential part of the Union acquis, including the case-law of the Court concerning sex discrimination. However, closing the gender pay gap remains a significant challenge because, across the Union, women’s earnings continue to be proportionately lower than those of men. The Union gender pay gap persists and stood at 14.1% in 2019, with significant variations across Member States, and has decreased only minimally over the last ten years. The degree of pay discrimination is even larger for women who are subject to intersecting forms of discrimination, based, inter alia, on racial, ethnic or social origin, migration status, religion or belief, sexual orientation or disability. In accordance with the settled case-law of the Court, in order to assess whether workers are performing the same work or work of equal value, it should be determined whether, having regard to a range of factors including qualifications, skills, responsibility and working conditions, those workers may be considered to be in a comparable situation.

Amendment 8

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) Article 23 of the Charter of

Amendment

(4) Articles 21 and 23 of the Charter of
Fundamental Rights of the European Union provides that equality between women and men must be ensured in all areas, including employment, work and pay.

Article 23 of the Universal Declaration of Human Rights states that everyone, without any discrimination, has the right to equal pay for equal work, to free choice of employment, to just conditions of work and to just remuneration ensuring an existence worthy of human dignity.

Gender equality remains a real challenge in all of those areas, and that challenge has been exacerbated by the crisis arising from the COVID-19 pandemic.

Amendment 9
Proposal for a directive
Recital 5

Text proposed by the Commission

(5) The European Pillar of Social Rights\textsuperscript{41}, jointly proclaimed by the European Parliament, the Council, and the Commission, incorporates among its principles equality of treatment and opportunities between women and men, and the right to equal pay for work of equal value.

Amendment

(5) The European Pillar of Social Rights\textsuperscript{41}, jointly proclaimed by the European Parliament, the Council, and the Commission, incorporates, in particular in its Principles No 2, 3, 5 and 7, the principles of equality of treatment and opportunities between women and men, regardless of gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation. This includes participation in the labour market, terms and conditions of employment and career progression; the right to equal pay for work of equal value; the right to fair and equal treatment regarding working conditions and access to social protection and training, regardless of the type and duration of the employment relationship; and the right of workers to be informed in writing at the start of employment about their rights and obligations. Principle 8 provides that the social partners are tobe
consulted on the design and implementation of economic, employment and social policies according to national practices, and are to be encouraged to negotiate and conclude collective agreements in matters relevant to them, while respecting their autonomy and the right to collective action.

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Amendment 10

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) Directive 2006/54/EC of the European Parliament and of the Council[42] provides that for the same work or for work of equal value, direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration is to be eliminated. In particular, where a job classification system is used for determining pay, it should be based on the same criteria for both men and women and should be drawn up so as to exclude any discrimination on grounds of sex.

Amendment

(6) Directive 2006/54/EC of the European Parliament and of the Council[42] provides that for the same work or for work of equal value, direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration is to be eliminated. In particular, where a job classification system is used for determining pay, it should be based on the same gender-neutral criteria and should be drawn up so as to exclude any discrimination on grounds of sex.

Amendment 11
Proposal for a directive
Recital 7

Text proposed by the Commission

(7) The 2020 evaluation\(^{43}\) found that the implementation of the *equal pay* principle is hindered by a lack of transparency in pay systems, a lack of legal certainty on the concept of ‘work of equal value’, and by procedural obstacles faced by victims of discrimination. Workers lack the necessary information to make a successful equal pay claim and in particular information about the pay levels for categories of workers who perform the same work or work of equal value. The report found that increased transparency would allow revealing gender bias and discrimination in the pay structures of an undertaking or organisation. It would also enable workers, employers and social partners to take appropriate action to enforce the right to equal pay.

Amendment

(7) *The Commission communication of 20 November 2017 setting out the EU Action Plan 2017-2019 on tackling the gender pay gap notes that the pay gap can be explained by a number of different factors, including, in particular, the segregation of the labour market as well as stereotypes fuelled by inadequate work-life balance policies. The 2020 evaluation\(^{43}\) of the relevant provisions in Directive 2006/54/EC found that the implementation of the principle of *equal pay* is hindered by a lack of transparency in pay systems, a lack of legal certainty on the concept of ‘work of equal value’, and by procedural obstacles faced by victims of discrimination. Workers lack the necessary information to make a successful equal pay claim and in particular information about the pay levels for categories of workers who perform the same work or work of equal value. The report found that increased transparency would allow revealing gender bias and discrimination in the pay structures of an undertaking or organisation. It would also enable workers, employers and social partners to take appropriate action to enforce the right to equal pay for equal work or work of equal value.*

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Amendment 12
Proposal for a directive
Recital 7 a (new)
(7a) Commission Recommendation 2014/124/EU urges Member States to introduce pay transparency measures such as the right to obtain information on pay levels, reporting by companies, pay audits and collective bargaining and, in accordance with the case-law of the Court, to clarify the principle of equal pay for work of equal value in their national law on the basis of objective criteria, such as educational, professional and training requirements, skills, effort and responsibility, work undertaken and the nature of the tasks involved. It sets out a set of core measures to help Member States enhance the principle of equal pay. The Commission report of 20 November 2017 on the implementation of that Recommendation through pay transparency noted that few Member States have adapted their national legal systems to strengthen the principle of equal pay for work of equal value in response to the Recommendation and therefore highlighted the need for further targeted measures at Union level to make pay transparency a reality.


Amendment 13

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Following a thorough evaluation of the existing framework on equal pay for equal work or work of equal value and a
wide-ranging and inclusive consultation process\textsuperscript{45}, the gender equality strategy 2020-2025\textsuperscript{46} announced binding measures on pay transparency. Those measures should focus on criteria and assess objectives in order to ensure that they are non-discriminatory.


Amendment 14

Proposal for a directive
Recital 8 a (new)

\textit{Text proposed by the Commission}

(8a) The economic and social consequences of the COVID-19 pandemic are having a disproportionate impact on women and gender equality, and job losses have been concentrated in low-paid, female-dominated sectors. The effects of the COVID-19 pandemic will therefore further widen gender inequalities and the gender pay gap unless the recovery response is gender sensitive. Those consequences have made it even more pressing to tackle the issue of equal pay for equal work or work of equal value. Strengthening the implementation of the principle of equal pay through further measures is particularly important.
to ensure that the progress which has been made in addressing disparities in pay is not compromised.

Amendment 15
Proposal for a directive
Recital 8 b (new)

Text proposed by the Commission

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

Amendment 16
Proposal for a directive
Recital 9
The gender pay gap is caused by various factors, part of which can be attributed to direct and indirect gender pay discrimination. A general lack of transparency about pay levels within organisations maintains a situation where gender-based pay discrimination and bias can go undetected or, where suspected, are difficult to prove. Binding measures are therefore needed to improve pay transparency, encourage organisations to review their pay structures to ensure equal pay for women and men doing the same work or work of equal value, and enable victims of discrimination to enforce their right to equal pay. This needs to be complemented by provisions clarifying existing legal concepts (such as the concept of ‘pay’ and ‘work of equal value’) and measures improving enforcement mechanisms and access to justice.
The application of the principle of equal pay between men and women should be enhanced by eliminating direct and indirect pay discrimination. This does not preclude employers to pay differently workers doing the same work or work of equal value on the basis of objective, gender-neutral and bias-free criteria such as performance and competence.

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

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

This Directive should apply to all workers in the Union, including those working in non-standard sectors or in zero-hour contracts, part-time workers, fixed-term contract workers and persons with a contract of employment or employment relationship with a temporary agency as defined in Directive 2008/104/EC of the European Parliament and of the Council or with a subcontracting company, who have an employment contract or employment relationship as defined by the law, collective agreements and/or practice in force in each Member State, taking into account the case-law of the Court. In its case law, the Court established criteria for determining the status of a worker. Provided that they fulfil those criteria, domestic workers, on-demand workers, intermittent workers, voucher based-workers, platform workers, workers in sheltered employment, trainees and apprentices should fall within the scope of this Directive. The determination of the existence of an employment relationship...
should be guided by the facts relating to the actual performance of the work and not by the parties’ description of the relationship.

Amendment 20
Proposal for a directive
Recital 13

Text proposed by the Commission

(13) The principle of equal pay for equal work or work of equal value for women and men should be respected with regard to wage or salary and any other consideration, whether in cash or in kind, which the workers receive directly or indirectly, in respect of their employment from their employer. In line with the case-law of the Court\(^{48}\), the concept of ‘pay’ should comprise not only salary, but also additional benefits such as bonuses, overtime compensation, travel facilities (including cars provided by the employer and travel cards), housing and food allowances, compensation for attending training, payments in case of dismissal, statutory sick pay, statutory required compensation and occupational pensions. It should include all elements of remuneration due by law or collective agreement.

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\(^{48}\) For example, Case C-58/81, Commission of the European Communities v Grand Duchy of Luxembourg, ECLI:EU:C:1982:215; Case C-171/88 Rinner-Kulhn v FWW Spezial-Gebaudereinigung GmbH, ECLI:EU:C:1989:328; Case C-147/02 Alabaster v Woolwhich plc and Secretary of State for Social Security, ECLI:EU:C:2004:192; Case C-342/93 - Gillespie and Others ECLI:EU:C:1996:46; Case C-278/93 Freers and Speckmann v Deutsche Bundepost, ECLI:EU:C:1996:83; Case C-12/81, Eileen Garland v British Rail Engineering Limited, ECLI:EU:C:1982:44; Case C-360/90,
Arbeiterwohlfahrt der Stadt Berlin e.V. v Monika Bötel, ECLI:EU:C:1992:246; Case C-33/89, Maria Kowalska v Freie und Hansestadt Hamburg, ECLI: EU:C:1990:265.

Amendment 21

Proposal for a directive
Recital 14

Text proposed by the Commission

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

Amendment

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

An intersectional approach is crucial to understanding, tackling and resolving the multiple forms of discrimination that comprise the gender pay gap. This Directive should also ensure that the specific obstacles experienced by and the needs of workers with disabilities are taken into account, including in relation to its scope, accessibility to information, the right to compensation and data disaggregation, in compliance with the United Nations Convention on the Rights of Persons with Disabilities (CRPD) of 13 December 2006.

Amendment 22

Proposal for a directive
Recital 15

Text proposed by the Commission

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

Amendment

(15) In order to respect the right to equal pay, employers must have pay setting mechanisms, or pay structures in place which could be developed through social dialogue, in cooperation with the social partners, including trade unions, ensuring that there are no gender-based pay differences between workers performing the same work or work of equal value that are not justified by objective and gender-neutral factors. Such pay structures should allow for the comparison of the value of different jobs within the same organisational structure. In line with the European Parliament's resolution of 21 January 2021 on the EU Strategy for Gender Equality, work should be deemed
to be of equal value if, based on a comparison of two groups of workers which have not been formed in an arbitrary manner, the work performed is comparable, taking into account objective, gender-neutral criteria. In accordance with the case-law of the Court, the value of work should be assessed and compared based on objective criteria including educational, professional and training requirements, skills, effort, responsibility and working conditions, without taking into account working hours for the purpose of clarity.

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

Amendment 23
Proposal for a directive
Recital 16

(16) The identification of a valid comparator is an important parameter in determining whether work may be considered of equal value. It enables the worker to show that they were treated less favourably than the comparator of a different sex performing equal work or work of equal value. In situations where no real-life comparator exists, the use of a hypothetical comparator should be allowed, allowing a worker to show that they have not been treated in the same way as a hypothetical comparator of another sex would have been treated. This would lift an
important obstacle for potential victims of gender pay discrimination, especially in highly gender-segregated employment markets where a requirement of finding a comparator of the opposite sex makes it almost impossible to bring an equal pay claim. In addition, workers should not be prevented from using other facts from which an alleged discrimination can be presumed, such as statistics or other available information. This would allow gender-based pay inequalities to be more effectively addressed in gender-segregated sectors and professions.

Amendment 24
Proposal for a directive
Recital 17

Text proposed by the Commission
(17) The Court has clarified that in order to compare whether workers are in a comparable situation, the comparison is not treated in the same way as a hypothetical comparator of another gender would have been treated. This lifts an important obstacle for potential victims of gender pay discrimination, especially in highly gender-segregated employment markets where a requirement of finding a comparator of a different gender makes it almost impossible to bring an equal pay claim.

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

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

Amendment 25

Proposal for a directive
Recital 18

Text proposed by the Commission

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

 Amendmen

(18) Member States should develop specific tools and methodologies, including gender-neutral job evaluation or classification systems, to support and guide the assessment of what constitutes work of equal value and to ensure, where possible, cross-sectoral comparisons. This should facilitate the application of this concept, especially for microenterprises and SMEs. Member States should develop those tools and methodologies in cooperation with the social partners.
Amendment 26

Proposal for a directive
Recital 19

Text proposed by the Commission

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

Amendment

(19) Currently, job evaluation and classification systems are often designed on the basis of the requirements of male-dominated jobs. This undervalues the skills associated with female-dominated jobs, reproduces gender bias, gender discrimination and gender stereotypes and reinforces the gender pay gap across sectors. Job evaluation and classification systems may, if not used in a gender-neutral manner, in particular when they assume traditional gender stereotypes, result in gender-based pay discrimination. In such case, they contribute to and perpetuate the pay gap including the gender pay gap across sectors by evaluating male and female dominated jobs differently in situations where the worth of the work performed is of equal value. Where gender-neutral job evaluation and classification systems are used, however, they are effective in establishing a transparent pay system and are instrumental to ensure that direct or indirect discrimination is excluded and pay equity is reached. They detect indirect pay discrimination related to the undervaluation of jobs typically done by women and may expose discriminatory assumptions and stereotypes. They do so by measuring and comparing jobs including in different sectors whose content is different but of equal value and so support the principle of work of equal value. Where work is not of equal value, a difference in pay which is disproportionate to the difference in value of the work indicates that the job evaluation or classification system is not free from gender bias.
Amendment 27

Proposal for a directive
Recital 19 a (new)

Text proposed by the Commission

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

Amendment 28

Proposal for a directive
Recital 20

Text proposed by the Commission

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

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

Amendment 29
Proposal for a directive
Recital 21

Text proposed by the Commission

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

Amendment

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

Amendment 30
Proposal for a directive
Recital 22

Text proposed by the Commission

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

Amendment

(22) Pay transparency measures should protect workers’ right to equal pay while limiting as much as possible costs and administrative burden for employers, paying specific attention to microenterprises and SMEs. As women are overrepresented in such enterprises, the implementation of this Directive is
necessary to tackle the gender pay gap. Such enterprises would therefore benefit from ensuring equal pay for equal work or work of equal value between workers. Where appropriate, measures should be tailored to the size of employers taking into account employers’ headcount. **Member States should draw up tools and guidelines for microenterprises and SMEs, in order to facilitate abiding by the obligations set out in this Directive.**

**Amendment 31**

**Proposal for a directive**

**Recital 23**

**Text proposed by the Commission**

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

**Amendment**

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

**Amendment 32**

**Proposal for a directive**

**Recital 24**

**Text proposed by the Commission**

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

**Amendment**

(24) All workers, and their representatives should have the right to obtain clear and complete information, upon their request or via their representatives, on their pay and on the
Employers must inform workers of this right on an annual basis. Employers may also, on their own initiative, opt for providing such information without workers needing to request it.

**Amendment 33**

Proposal for a directive

Recital 25

*Text proposed by the Commission*

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

*Amendment*

(25) Employers with at least **50** workers should regularly report on pay, in a suitable and transparent manner, such as including the information in their management report, *where an employer is required to draw up such a report pursuant to* Directive 2013/34/EU of the European Parliament and of the Council52. **The information should be provided in a manner accessible to workers with disabilities upon their request,** in
accordance with Union law, in particular with Directives (EU) 2016/2102 and (EU) 2019/882.


Amendment 34

Proposal for a directive
Recital 26

Text proposed by the Commission

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

Amendment

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

Amendment 35
Proposal for a directive
Recital 27

Text proposed by the Commission

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

Amendment

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

Amendment 36
Proposal for a directive
Recital 28

Text proposed by the Commission

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

Amendment

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

Amendment 37

Proposal for a directive
Recital 29

Text proposed by the Commission

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

Amendment

(29) Joint pay assessments should trigger the review and revision of pay structures in organisations with at least 50 workers that show pay inequalities. The joint pay assessment should be carried out by employers in cooperation with workers’ representatives; if workers’ representatives are absent, they should be designated or democratically elected by the workers of the undertaking or organisation, trade unions or their members, in accordance with provisions of national law or regulations or of collective designated for this purpose. Joint pay assessments should lead, within a reasonable time, to the elimination of gender discrimination in pay in particular through the adoption of remedial measures where relevant.
Amendment 38
Proposal for a directive
Recital 29 a (new)

Text proposed by the Commission

(29a) Member states should ensure employers and workers’ representatives prepare their gender action plan, which provides for concrete measures and aims to close the gender pay gap within the employer to achieve gender equality in terms of pay, non-discrimination and other conditions of employment. The gender action plan should incorporate monitoring tools to assess its progress and be reviewed regularly. A gender pay gap of less than 2.5% that cannot be explained by objective factors cannot be used as proof that the employer complies with the equal pay obligation.

Amendment 39
Proposal for a directive
Recital 30

Text proposed by the Commission

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

Amendment

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

53 Regulation (EU) 2016/679 of the

Amendment 40

Proposal for a directive
Recital 31

Text proposed by the Commission

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

Amendment

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

Amendment 41

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

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

Amendment 42
Proposal for a directive
Recital 33

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

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

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

Amendment 43

Proposal for a directive
Recital 34

Text proposed by the Commission

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

Amendment

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

Amendment 44

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

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

Amendment 45

Proposal for a directive
Recital 36

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

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

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

Amendment 46
Proposal for a directive
Recital 37

Text proposed by the Commission

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

Amendment

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

Amendment 47

Proposal for a directive
Recital 39

Text proposed by the Commission

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

Amendment

(39) Although it is necessary only to establish a presumption of discrimination before the burden of proof shifts to the employer, it is not always easy for victims and courts to know how to establish even that presumption. Pay transparency measures have the potential to support the use of the reversal of the burden of proof, by helping workers determine the average pay levels for workers performing the same work or work of equal value. Enabling workers to provide prima facie evidence which allows discrimination to be presumed would swiftly trigger the reverse burden of proof to the benefit of the
Amendment 48
Proposal for a directive
Recital 40

Text proposed by the Commission

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

Amendment

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

Amendment 49
Proposal for a directive
Recital 41

Text proposed by the Commission

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

Amendment

(41) Litigation costs create a serious disincentive for victims of gender-based pay discrimination to claim their right to equal pay, leading to insufficient protection and enforcement of the right to equal pay. In order to remove this strong procedural obstacle to justice, successful claimants should be allowed to recover their procedural costs, in particular legal costs, from the defendant. Member States should
liable for successful defendant’s proceedings costs unless the claim was brought in bad faith, was clearly frivolous or if the non-recovery by the defendant would be considered unreasonable by the courts or other competent authorities under the specific circumstances of the case, for instance having regard to the financial situation of micro-enterprises.

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

Proposal 50

Proposal for a directive
Recital 42

Text proposed by the Commission

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

Amendment

(42) Member States should provide for effective, proportionate and dissuasive penalties in the event of infringements of national provisions adopted pursuant to this Directive or national provisions that are already in force on the date of entry into force of this Directive and that relate to the right to equal pay for equal work or work of equal value. Such penalties should include fines based, for instance, on the employer’s gross annual turnover or on the employer’s total payroll and should be set at a minimum level having due regard to the gravity and duration of the infringement, to any possible intent to discriminate or serious negligence, and to any other aggravating or mitigating factors that may apply in the circumstances of the case, for instance, where pay discrimination intersects with other grounds of discrimination. Member States should consider allocating amounts recovered as fines to the equality bodies for the purpose of effectively carrying out their functions in regard to the enforcement of the right to equal pay for equal work or work of equal value, including to bring pay discrimination claims or assist and support victims in bringing such claims.
Proposal for a directive
Recital 44

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

Amendment 52

Proposal for a directive
Recital 47

Text proposed by the Commission

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

Amendment

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

Amendment 53

Proposal for a directive
Recital 48

Text proposed by the Commission

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

Amendment

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

**Amendment 54**

**Proposal for a directive**

**Recital 49**

*Text proposed by the Commission*

(49) Compiling wage statistics broken down by gender and providing the Commission (Eurostat) with accurate and complete statistics is essential for analysing and monitoring changes in the gender pay gap at Union level. Council Regulation (EC) No 530/1999 requires Member States to compile four-yearly structural earnings statistics at micro level that provide harmonized data for the calculation of the gender pay gap. Annual high-quality statistics could increase transparency and enhance monitoring and awareness of gender pay inequality. The availability and comparability of such data is instrumental for assessing developments both at national level and throughout the Union.

*Amendment*

(49) Compiling wage statistics broken down by gender, disability and age and providing the Commission (Eurostat) with accurate and complete statistics is essential for analysing and monitoring changes in the gender pay gap at Union level. Council Regulation (EC) No 530/1999 requires Member States to compile four-yearly structural earnings statistics at micro level that provide harmonized data for the calculation of the gender pay gap. Annual high-quality statistics could increase transparency and enhance monitoring and awareness of gender pay inequality. The availability and comparability of such data is instrumental for assessing developments both at national level and throughout the Union.

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Amendment 55
Proposal for a directive
Recital 50

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

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

Amendment 56
Proposal for a directive
Recital 51

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

Amendment
(51) The role of social partners is of key importance in designing the way pay transparency measures are implemented in Member States, especially in those with high collective bargaining coverage. Member States should therefore have the possibility to entrust the social partners with the implementation of all or part of
this Directive, provided that they take all the necessary steps to ensure that the results sought by this Directive are guaranteed at all times.

This Directive is to be interpreted so as to strengthen the role of the social partners in Member States.

Amendment 57
Proposal for a directive
Recital 52

Text proposed by the Commission

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

Amendment

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

Amendment 58
Proposal for a directive
Article 2 – paragraph 2

Text proposed by the Commission

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

Amendment

2. This Directive applies to all workers who have an employment contract or employment relationship as defined by law, collective agreements and/or practice
This Directive applies to workers referred to in the first subparagraph irrespective of their sex, gender, gender identity, gender expression or sex characteristics for the purpose of complying with the prohibition of discrimination laid down in Article 4 of Directive 2006/54/EC.

Amendment 59

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

Text proposed by the Commission

Amendment

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

Amendment 60

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

Text proposed by the Commission

Amendment

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

Amendment 61

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

Text proposed by the Commission

Amendment

(e) ‘median gender pay gap’ means the difference between the median pay level of female and median pay level of male
workers expressed as percentage of the median pay level of male workers;

Amendment 62

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

Text proposed by the Commission

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

Amendment 63

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

Text proposed by the Commission

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

Amendment

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

Amendment 64

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

Text proposed by the Commission

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

Amendment 65
Proposal for a directive
Article 3 – paragraph 1 – point h

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

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

Amendment 66
Proposal for a directive
Article 3 – paragraph 1 – point i

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

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

Amendment 67
Proposal for a directive
Article 3 – paragraph 1 – point i (new)

Text proposed by the Commission

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

Amendment 68

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

Text proposed by the Commission

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

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

Amendment 69

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

Text proposed by the Commission

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

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

Amendment 70

Proposal for a directive
Article 3 – paragraph 2 – point c
Text proposed by the Commission

(c) any less favourable treatment of a woman related to pregnancy or maternity leave within the meaning of Council Directive 92/85/EEC\(^{61}\).

Amendment

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

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Amendment 71

Proposal for a directive

Article 4 – paragraph -1 (new)

Text proposed by the Commission

-1. Member States shall clarify the concept of ‘work of equal value’ in applicable law, collective agreement or other provisions in each Member State, in accordance with the case-law of the Court of Justice and point 10 of Recommendation 2014/124/EU, based on objective, gender-neutral criteria in accordance with paragraph 3 of this Article.
Amendment 72

Proposal for a directive
Article 4 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 73

Proposal for a directive
Article 4 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 74
Proposal for a directive
Article 4 – paragraph 2 a (new)

Text proposed by the Commission

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

Amendment 75
Proposal for a directive
Article 4 – paragraph 3

Text proposed by the Commission

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

Amendment

3. The tools or methodologies referred to in paragraph 2 shall allow for assessing, in regard to the value of work, whether workers are in a comparable situation, on the basis of objective gender-neutral criteria. Those gender-neutral criteria shall be agreed upon with the social partners and shall include at least the following: formal or non-formal educational, professional and training requirements, as well as skills, effort, responsibility, and working conditions. Member States shall take into account the Annex 1 to the Commission Staff Working Document accompanying the Report on the application of Directive 2006/54/EC as a guideline when establishing the gender-neutral criteria.
Amendment 76
Proposal for a directive
Article 4 – paragraph 3 a (new)

*Text proposed by the Commission*

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

Amendment 77
Proposal for a directive
Article 4 – paragraph 3 b (new)

*Text proposed by the Commission*

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

Amendment 78
Proposal for a directive
Article 4 – paragraph 4

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 79**

Proposal for a directive
Article 4 – paragraph 5

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 80**

Proposal for a directive
Article 5 – paragraph 1
1. Applicants for employment shall have the right to receive from the prospective employer information about the initial pay level or its range, based on objective, gender-neutral criteria, to be attributed for the position concerned. Such information shall be indicated in a published job vacancy notice or otherwise provided to the applicant prior to the job interview without the applicant having to request it.

Amendment 81
Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 82
Proposal for a directive
Article 5 – paragraph 2 a (new)

Text proposed by the Commission

2a. Employers shall ensure that vacancy notices, job titles and recruitment processes are gender neutral and that the information is provided in a manner accessible to workers with disabilities,
upon request, in accordance with harmonised legal acts of the Union on accessibility.

Amendment 83
Proposal for a directive
Article 6 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 84
Proposal for a directive
Article 6 – paragraph 1 a (new)

Text proposed by the Commission

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

Amendment

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

Amendment 85
Proposal for a directive
Article 7 – paragraph 1
Workers and their workers’ representatives shall have the right to receive clear and complete information on their individual pay level and the average pay levels, broken down by gender, for categories of workers performing the same work as them or work of equal value to theirs, as well as the gender pay gap and median gender pay gap between of workers employed by the same employer in accordance with paragraphs 3 and 4, but not more frequently than twice a year and provided that that information has not already been communicated to them through their workers’ representatives. Workers’ representatives shall have the right to receive information on how pay for each category of worker is determined. The employer shall also transmit the information given to their workers, and where applicable to the workers’ representatives, to the monitoring body.

Amendment 86

Proposal for a directive
Article 7 – paragraph 2

Amendment 86

Proposal for a directive
Article 7 – paragraph 3

Amendment 87
3. Employers shall provide the information referred to in paragraph 1 within a reasonable period of time upon a worker’s request. The information shall be provided in accessible formats for workers with disabilities upon their request.

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

Amendment 88
Proposal for a directive
Article 7 – paragraph 4

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

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

Amendment 89
Proposal for a directive
Article 7 – paragraph 5

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

Amendment
5. Workers shall not be prevented from disclosing their pay. To that end, Member States shall put in place measures to prohibit contractual terms aiming to restrict workers from disclosing information about their pay, including to
their colleagues or workers’ representatives, or from seeking information about the same or other categories of workers’ pay for the purposes of this Directive and without prejudice to data protection rules.

Amendment 90

Proposal for a directive
Article 7 – paragraph 6

Text proposed by the Commission

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

Amendment

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

Amendment 91

Proposal for a directive
Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Labelling

The Commission shall, after consulting the social partners and the national authorities, create an official label for all employers who do not have a gender pay gap based on the information received by the monitoring bodies on the gender pay gap and median gender pay gap. National competent authorities with the involvement of the monitoring bodies shall ensure the implementation of the labelling at national level.
Amendment 92

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

Text proposed by the Commission

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

Amendment

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

Amendment 93

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

Text proposed by the Commission

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

Amendment

(a) the gender pay gap;

Amendment 94

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

Text proposed by the Commission

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

Amendment

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

Amendment 95

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

Text proposed by the Commission

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

Amendment

(c) the median gender pay gap;
Amendment 96

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

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 97

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

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 98

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

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 99

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

*Text proposed by the Commission*

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

*Amendment*

(g) the *gender* pay gap between
workers by categories of workers broken
down by ordinary basic salary and
complementary or variable components;
Amendment 100
Proposal for a directive
Article 8 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

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

Amendment 101
Proposal for a directive
Article 8 – paragraph 1 – point g b (new)

Text proposed by the Commission

Amendment

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

Amendment 102
Proposal for a directive
Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

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

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

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

(c) for employers with 50 to 250 workers where all elements of pay are bound by a collective agreement, every three years;
Amendment 103
Proposal for a directive
Article 8 – paragraph 1 b (new)

Text proposed by the Commission

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

Amendment 104
Proposal for a directive
Article 8 – paragraph 1 c (new)

Text proposed by the Commission

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

Amendment 105
Proposal for a directive
Article 8 – paragraph 2

Text proposed by the Commission

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

Amendment

2. The accuracy of the information pursuant to paragraph 1 and the methods used to calculate it, shall be confirmed by the employer’s management, following the consultation of workers’ representatives.
Amendment 106
Proposal for a directive
Article 8 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 107
Proposal for a directive
Article 8 – paragraph 4

Text proposed by the Commission

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

Amendment

4. Member States may compile the information set out in paragraph 1, points (a) to (f), on the basis of administrative data such as data provided by employers to the tax or social security authorities. That information shall be made public in accordance with paragraph 6.
Proposal for a directive
Article 8 – paragraph 5

**Text proposed by the Commission**

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

**Amendment**

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

**Amendment 109**

Proposal for a directive
Article 8 – paragraph 7

**Text proposed by the Commission**

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

**Amendment**

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

**Amendment 110**

Proposal for a directive
Article 9 – title
Joint pay assessment and gender action plan

Amendment 111

Proposal for a directive
Article 9 – paragraph 1 – introductory part

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

Amendment 112

Proposal for a directive
Article 9 – paragraph 1 – point a

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

Amendment 113

Proposal for a directive
Article 9 – paragraph 1 – point b a (new)

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

Amendment 114
Proposal for a directive
Article 9 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

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

Amendment 115
Proposal for a directive
Article 9 – paragraph 2 – point a

Text proposed by the Commission

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

Amendment

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

Amendment 116
Proposal for a directive
Article 9 – paragraph 2 – point b

Text proposed by the Commission

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

Amendment

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

Amendment 117
Proposal for a directive
Article 9 – paragraph 2 – point c
(c) identification of any differences in pay levels between female and male workers in each category of workers, broken down by gender;

Amendment 118

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

Text proposed by the Commission

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

Amendment

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

Amendment 119

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

Text proposed by the Commission

2a. Member States shall take appropriate measures to ensure that employers, in cooperation with workers’ representatives and the equality bodies, draw up gender action plans as referred to in paragraph 1, point (e). The gender action plans shall set out concrete measures to achieve equal treatment and opportunities between genders regarding pay equality, non-discrimination and other conditions of employment as laid down in this Directive. The gender action plans shall also include provisions for monitoring those concrete measures and corrective actions. Where applicable, the gender action plans shall be included in the management report drawn up pursuant to Directive 2013/34/EU.
Amendment 120

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

Text proposed by the Commission

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

Amendment 121

Proposal for a directive
Article 9 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 122

Proposal for a directive
Article 9 – paragraph 4

Text proposed by the Commission

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

Amendment

4. If the joint pay assessment reveals differences in average pay for equal work or work of equal value between female and male workers which cannot be justified by objective, gender-neutral criteria, or the monitoring report shows an insufficiency
close cooperation with the workers’ representatives, labour inspectorate, and/or equality body. Such action shall include the establishment of gender-neutral job evaluation and classification to ensure that any direct or indirect pay discrimination on grounds of sex is excluded.

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

Amendment 123
Proposal for a directive
Article 10 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 124
Proposal for a directive
Article 11 – paragraph 1

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Text proposed by the Commission

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

Amendment

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

Amendment 125

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

Text proposed by the Commission

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

Amendment

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

Amendment 126

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

Text proposed by the Commission

Without prejudice to the autonomy of the social partners, Member States shall take measures to guarantee that trade unions can collectively bargain on measures to address pay discrimination and the undervaluation of work predominantly carried out by women, as well as other measures aimed at closing the gender pay gap; Member States shall take appropriate measures to ensure that employers
recognise trade unions and its representation at the workplace, and the right of workers to organise and participate in collective bargaining.

Amendment 127

Proposal for a directive
Article 12 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 128

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

Text proposed by the Commission

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

Amendment

Member States shall promote conciliation measures and shall reduce procedural obstacles to seeking a remedy by means of judicial or administrative proceedings. Recourse to conciliation shall be encouraged and voluntary. Recourse to conciliation shall trigger an interruption or suspension of the limitation period referred to in Article 18.
Amendment 129

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 130

Proposal for a directive
Article 13 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Equality bodies and workers’ representatives, in particular trade unions, shall also have the right to act on behalf or in support of an individual worker or, in the case of several workers, by means of collective redress, in proceedings for the enforcement of rights and obligations related to the principle of equal pay for equal work or work of equal value, with those workers’ approval or upon notification in accordance with national law and practice.
Amendment 131

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

Text proposed by the Commission

Amendment

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

Amendment 132

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission

Amendment

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

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

Amendment 133

Proposal for a directive
Article 14 – paragraph 2

Text proposed by the Commission

Amendment

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

2. The compensation or reparation referred to in paragraph 1 shall ensure real and effective compensation or reparation for the loss and damage sustained, in a way
dissuasive and proportionate to the damage suffered. Which is dissuasive and proportionate to the damage suffered. Where intersectional discrimination has been found, the compensation or reparation shall be adjusted accordingly.

Amendment 134

Proposal for a directive
Article 14 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 135

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

Text proposed by the Commission

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

Amendment

Member States shall ensure that, in legal proceedings aimed at ensuring the enforcement of any right or obligation related to the principle of equal pay for equal work or work of equal value, the courts or other competent authorities may order, at the request of the claimant and at the expense of the defendant:
Amendment 136
Proposal for a directive
Article 15 – paragraph 1 – point a

Text proposed by the Commission

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

Amendment

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

Amendment 137
Proposal for a directive
Article 15 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

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

Amendment 138
Proposal for a directive
Article 15 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

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

Amendment
Amendment 139

Proposal for a directive
Article 16 – paragraph 4

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 140

Proposal for a directive
Article 17 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 141

Proposal for a directive
Article 17 – paragraph 2

*Text proposed by the Commission*

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

Amendment 142

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

Text proposed by the Commission

Amendment

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

Amendment 143

Proposal for a directive
Article 18 – paragraph 1

Text proposed by the Commission

Amendment

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

Amendment 144

Proposal for a directive
Article 18 – paragraph 3
3. Member States shall ensure that the limitation periods for bringing claims are set at three years at least.

Amendment

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

Amendment 145

Proposal for a directive
Article 19 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 146

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

Text proposed by the Commission

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

Amendment

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

Amendment 147
Proposal for a directive
Article 20 – paragraph 2 – point a

Text proposed by the Commission
(a) the gravity and duration of the infringement;

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

Amendment 148
Proposal for a directive
Article 20 – paragraph 2 – point c

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

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

Amendment 149
Proposal for a directive
Article 20 – paragraph 3

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

Amendment
3. Member States shall establish specific penalties to be imposed in the case of repeated or serious infringements of the rights and obligations relating to equal pay between men and women, such as the revocation of public benefits or the exclusion, for a certain period of time, from any award of financial inducements.
Proposal for a directive
Article 21 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 151

Proposal for a directive
Article 21 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Member States shall consider for contracting authorities to introduce, as appropriate, penalties and termination conditions ensuring compliance with the principle of equal pay in the performance of public contracts and concessions. Where Member States’ authorities act in accordance with Article 38(7)(a) of Directive 2014/23/EU, Article 57(4)(a) of Directive 2014/24/EU, or Article 80(1) of Directive 2014/25/EU in conjunction with Article 57(4)(a) of Directive 2014/24/EU, they may exclude or may be required by Member States to exclude any economic operator from participation in a public procurement procedure where they can demonstrate by any appropriate means the infringement of the obligations referred to in paragraph 1 of this Article, related either to a failure to comply with pay transparency obligations or a pay gap of more than 2.5 per cent in accordance with Article 9(1) of this Directive in any category of workers which is not justified
by the employer on the basis of objective, gender-neutral criteria. This is without prejudice to any other rights or obligations set out in Directive 2014/23/EU, Directive 2014/24/EU or Directive 2014/25/EU.

Amendment 152

Proposal for a directive
Article 22 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 153

Proposal for a directive
Article 22 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Member States shall introduce in their national legal systems such measures as necessary to protect workers, including those who are workers' representatives as provided for by national law and/or practice, against dismissal or other adverse treatment by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with any rights or obligations relating to equal pay for equal work or work of equal value.
Proposal for a directive
Article 22a (new)

Text proposed by the Commission

Amendment

Article 22a

Intersectional discrimination

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

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

Amendment 155

Proposal for a directive
Article 23a (new)

Text proposed by the Commission

Amendment

Article 23a
Support for SMEs

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

Amendment 156

Proposal for a directive
Article 25 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 157

Proposal for a directive
Article 25 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 158
Proposal for a directive
Article 25 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 159

Proposal for a directive
Article 26 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 160
Proposal for a directive
Article 26 – paragraph 3 – point a

Text proposed by the Commission

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

Amendment

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

Amendment 161

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

Text proposed by the Commission

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

Amendment

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

Amendment 162

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

Text proposed by the Commission

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

Amendment

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

Amendment 163
Proposal for a directive
Article 26 – paragraph 3 – point e a (new)

Text proposed by the Commission

Amendment

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

Amendment 164
Proposal for a directive
Article 26 – paragraph 3 – point e b (new)

Text proposed by the Commission

Amendment

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

Amendment 165
Proposal for a directive
Article 26 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States may add the tasks to the monitoring body to take the necessary actions, including fines, in the
case of non-compliance of employers with this Directive as laid down in Article 20.

Amendment 166

Proposal for a directive
Article 26 a (new)

Text proposed by the Commission

Amendment

Article 26a

Union Pay Equality Plans

1. The Commission shall create a Union Pay Equality Plan setting out priorities and targets to fill in concrete measures and corrective actions based on data on labour market segregation and the biases in equal pay for equal work or work of equal value in the Union and the single market. The Union Pay Equality Plan shall be presented for a five year period.

2. The Commission shall create guidelines for national pay equality plans, to be established by Member States, setting out concrete measures and corrective actions to address the gender pay gap in the labour market. To that end, Member States shall first assess the situation, based on the collected data on the segregation of labour markets and the biases in equal pay for equal work or work of equal value. Member States shall make those data and analytical tools publicly available.

3. The Commission shall, after consulting the social partners and the national authorities, designate EIGE to create an online interactive pay transparency and equality tool to facilitate the analysis and assessment of gender pay in SMEs. That tool shall be free of charge and easy to use. It shall be based on an accessible methodology. It shall be available in all official languages of the Union. The EIGE shall be provided with adequate financial and human resources for that
Amendment 167

Proposal for a directive
Article 28 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 168

Proposal for a directive
Article 31 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [two years after the entry into force]. Without prejudice to the autonomy of the social partners and in accordance with national law and practice, Member States shall ensure that the rights and obligations under this Directive are transposed. They shall immediately inform the Commission thereof.
Amendment 169

Proposal for a directive
Article 31 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 170

Proposal for a directive
Article 32 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 171

Proposal for a directive
Article 32 – paragraph 2

Text proposed by the Commission

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

Amendment

2. On the basis of the information provided by Member States, the Commission shall, within one year of receiving the information, submit a report to the European Parliament and the Council on the implementation of this Directive, which shall include an impact assessment taking into account the collected data and experiences by the Member States, employers, EIGE, the
social partners, the equality bodies and monitoring bodies and other relevant institutions. Based on this, the Commission shall consider how to lower the amount of workers an employer must have to be bound by Articles 8 and 9 of this Directive, and propose, accordingly, legislative amendments.
**PROCEDURE – COMMITTEE RESPONSIBLE**

| Title | Strengthening the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms |
| Date submitted to Parliament | 4.3.2021 |
| Committees responsible | EMPL 11.3.2021  FEMM 11.3.2021 |
| Rapporteurs | Kira Marie Peter-Hansen 7.6.2021 Samira Rafaela 7.6.2021 |
| Rule 58 – Joint committee procedure | Date announced in plenary 10.6.2021 |
| Discussed in committee | 30.9.2021 15.11.2021 |
| Date adopted | 17.3.2022 |
| Result of final vote | +: 65 --: 16 0: 10 |

**Members present for the final vote**


**Substitutes present for the final vote**

| Barry Andrews, Lefteris Christoforou, Michiel Hoogeveen, Aurore Lalucq, Jeroen Lenaers, Silvia Modig, Irène Tolleret, Véronique Trillet-Lenoir, Pernille Weiss, Anna Zalewska |

| Date tabled | 22.3.2022 |
### FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

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<td>Radan Kanev, Romana Tome, Tomáš Zdechovský</td>
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**Key to symbols:**

- **+**: in favour
- **-**: against
- **0**: abstention