



**2021/0050(COD)**

2.9.2021

**\*\*\*I**

## **DRAFT REPORT**

on the proposal for a directive of the European Parliament and of the Council 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

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

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

Rapporteurs: Samira Rafaela, Kira Marie Peter-Hansen

(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 2021<sup>1</sup>,
  - 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 (A9-0000/2021),
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.

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<sup>1</sup> OJ C 341, 24.8.2021, p. 84.

## Amendment 1

### 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) 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. ***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.”***

Or. en

## Amendment 2

### Proposal for a directive Recital 4

#### *Text proposed by the Commission*

(4) ***Article*** 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.

#### *Amendment*

(4) ***Articles 21 and*** 23 of the Charter of Fundamental Rights of the European Union ***(the 'Charter') prohibit any discrimination on the grounds of sex, enshrine the right to equal treatment and provide*** that equality between women and men must be ensured in all areas, including employment, work and pay.

Or. en

### Amendment 3

#### Proposal for a directive Recital 4 a (new)

*Text proposed by the Commission*

*Amendment*

**(4a) The principle of equal pay for men and women is one of the core founding values of the Union, introduced in the Treaty of Rome in 1957. However, closing the gender pay gap remains a significant challenge because, across the Union, women's earnings continue to be disproportionately lower than those of men. The Union gender pay gap stood at 14,1% in 2019<sup>1a</sup>, 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.**

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<sup>1a</sup> [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Gender\\_pay\\_gap\\_statistics#Gender\\_pay\\_gap\\_levels\\_vary\\_significantly\\_across\\_EU](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Gender_pay_gap_statistics#Gender_pay_gap_levels_vary_significantly_across_EU)

Or. en

### Amendment 4

#### Proposal for a directive Recital 4 b (new)

*Text proposed by the Commission*

*Amendment*

**(4b) The principle of equal pay for equal work or work of equal value as laid down in Article 157 TFEU and consistently interpreted in the case-law concerning sex discrimination of the Court of Justice of the European Union**

*(the ‘Court’) constitutes an important aspect of the principle of equal treatment between men and women and an essential part of the Union acquis. Because, nevertheless, the gender pay gap persists, it is appropriate to introduce further provisions for the implementation of Article 157 TFEU.*

Or. en

## Amendment 5

### Proposal for a directive Recital 5

#### *Text proposed by the Commission*

(5) The European Pillar of Social Rights<sup>41</sup>, 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.

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<sup>41</sup>

[https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles\\_en](https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_en)

#### *Amendment*

(5) The European Pillar of Social Rights<sup>41</sup>, jointly proclaimed by the European Parliament, the Council, and the Commission, incorporates, ***in particular in Principles No 2, 5 and 7, the principles of*** equality of treatment and opportunities between women and men, ***including regarding 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.***

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<sup>41</sup>

[https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles\\_en](https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_en)

Or. en



## Amendment 6

### Proposal for a directive Recital 7 a (new)

*Text proposed by the Commission*

*Amendment*

**(7a) Commission Recommendation 2014/124/EU<sup>1a</sup> urges Member States to introduce pay transparency measures and, in line with the case-law of the Court, to clarify the concept 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 and outlined a set of core measures to help Member States enhance the principle. The Commission report of 20 November 2017 on the implementation of Commission Recommendation on strengthening the principle of equal pay between men and women through 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.**

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

Or. en

## Amendment 7

### Proposal for a directive Recital 8 a (new)

*Text proposed by the Commission*

*Amendment*

**(8a) The COVID-19 pandemic and its economic and social consequences have had a disproportionate impact on women and gender equality, job losses have been concentrated in female-dominated sectors<sup>1a</sup> and the effects of the pandemic will further widen gender inequalities and the gender pay gap unless the recovery response is gender sensitive. The effects of the COVID-19 pandemic have therefore made it even more pressing to tackle the issue of equal pay for equal work or work of equal value.**

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<sup>1a</sup> **European Parliament report on the gender perspective in the COVID-19 crisis and post-crisis period (2020/2121(INI)) EIGE report Poverty, gender and intersecting inequalities in the EU: Report, <https://eige.europa.eu/publications/poverty-gender-and-intersecting-inequalities-in-the-eu> European Commission 2021 report on gender equality in the EU. [https://ec.europa.eu/info/sites/default/files/aid\\_development\\_cooperation\\_fundamental\\_rights/annual\\_report\\_ge\\_2021\\_en.pdf](https://ec.europa.eu/info/sites/default/files/aid_development_cooperation_fundamental_rights/annual_report_ge_2021_en.pdf)**

Or. en

## Amendment 8

### Proposal for a directive Recital 8 b (new)

*Text proposed by the Commission*

*Amendment*

**(8b) Horizontal segregation is a structural issue that significantly**

*contributes to the gender pay gap and forms complex challenges in achieving good quality jobs, and the principle of equal pay. The COVID-19 pandemic has also proved 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.*

Or. en

## Amendment 9

### Proposal for a directive Recital 8 c (new)

*Text proposed by the Commission*

*Amendment*

*(8c) The gender pay gap is caused by numerous structural factors, some of which can be attributed to direct and indirect gender pay discrimination. Those factors include gender-segregated labour markets and sectors, the historical undervaluation of women's work, traditional gender stereotypes, such as the expectation that women act as the primary carers of children and adult dependants, a paucity of provision for work-life balance and support services, and unconscious gender bias in the workplace. Unconscious gender bias comprises unintentional and automatic mental associations, based on gender, stemming from tradition, norms, values, culture, stereotypes or experience. Those factors result in career breaks, work interruptions, part-time work, precarious pay and conditions, the persistence of "glass ceilings" and "sticky floors", and gender bias in wage structures and wage-fixing institutions, culminating in a gender pension gap that is more than double the gender pay gap.*

## Amendment 10

### Proposal for a directive

#### Recital 9

##### *Text proposed by the Commission*

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

##### *Amendment*

(9) 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 ***equal*** 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. ***Pay transparency measures showing gender pay disparities can ensure substantial progress in addressing the gender pay gap and expose the undervaluation of women’s work and gendered labour market segmentation. Pay transparency alone cannot address structural and existing gender inequalities but is a first step towards tackling those inequalities and should be complemented by additional measures aiming to close the gender pay and the pension and care gaps and to combat the feminisation of poverty.***

## Amendment 11

### Proposal for a directive Recital 11

#### *Text proposed by the Commission*

(11) This Directive should apply to all workers, including part-time workers, fixed-term contract workers or persons with a contract of employment or employment relationship with a temporary agency, who have an employment contract or employment relationship as defined by the law, collective agreements and/or practice in force in each Member State, taking into account the case-law of the **Court of Justice of the European Union ('the Court')**. In its case law, the Court established criteria for determining the status of a worker<sup>47</sup>. 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.

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

#### *Amendment*

(11) This Directive should apply to all workers, including part-time workers, fixed-term contract workers or persons with a contract of employment or employment relationship with a temporary agency, who have an employment contract or employment relationship as defined by the law, collective agreements and/or practice in force in each Member State, taking into account the case-law of the Court. In its case law, the Court established criteria for determining the status of a worker<sup>47</sup>. Provided that they fulfil those criteria, domestic workers, on-demand workers, intermittent workers, voucher based-workers, platform workers, trainees and apprentices fall within the scope of this Directive. The determination of the existence of an employment relationship **is** guided by the facts relating to the actual performance of the work and not by the parties' description of the relationship.

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

## Amendment 12

### Proposal for a directive Recital 11 a (new)

*Text proposed by the Commission*

*Amendment*

***(11a) This Directive aims to establish pay transparency among employers, in order to end pay discrimination and unjustified disparities between genders. This Directive facilitates the application of key concepts relating to equal pay by protecting the right to information on the pay levels of workers and jobseekers by requiring employers to report pay levels, and provides for enforcement mechanisms and instruments allowing workers to claim their rights for equal pay for equal work and facilitate their access to justice.***

Or. en

## Amendment 13

### Proposal for a directive Recital 12

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 14

### 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<sup>48</sup>, the concept of ‘pay’ should comprise not only salary, but also additional benefits such as bonuses, overtime compensation, travel facilities (including cars provided by the employer and travel cards), housing allowances, compensation for attending training, payments in case of dismissal, statutory sick pay, statutory required compensation and occupational pensions. It should include all elements of remuneration due by law or collective agreement.

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

##### *Amendment*

(13) The principle of equal pay for equal work or work of equal value 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<sup>48</sup>, the concept of ‘pay’ should comprise not only salary, but also additional benefits such as bonuses, overtime compensation, travel facilities (including cars provided by the employer and travel cards), housing allowances, compensation for attending training, payments in case of dismissal, statutory sick pay, statutory required compensation and occupational pensions. It should include all elements of remuneration due by law or collective agreement.

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



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

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

Or. en

## Amendment 15

### 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

#### *Amendment*

(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 **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 **gender**, 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 and 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



authorities take due account of any situation of disadvantage arising from intersectional discrimination, in particular for substantive and procedural purposes, including to recognise the existence of discrimination, to decide on the appropriate comparator, to assess the proportionality, and to determine, where relevant, the level of compensation awarded or penalties imposed.

doubt that may exist in this regard under the existing legal framework. This should ensure that the courts, ***the equality body designated pursuant to Article 20 of Directive 2006/54/EC***, or other competent authorities take due account of any situation of disadvantage arising from intersectional discrimination, in particular for substantive and procedural purposes, including to recognise the existence of discrimination, to decide on the appropriate comparator, to assess the proportionality, and to determine, where relevant, the level of compensation awarded or penalties imposed. ***An intersectional approach is crucial to understanding, tackling and resolving the multiple forms of discrimination that compound the gender pay gap for women in all their diversity.***

Or. en

## Amendment 16

### 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 ensuring that there are no ***gender*** 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 ***accordance 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***

*nature of the tasks involved.*<sup>49</sup>

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<sup>49</sup> 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.

*is comparable, taking into account objective, gender-neutral criteria. In line 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.***<sup>49</sup>

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<sup>49</sup> 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.

Or. en

## Amendment 17

### Proposal for a directive Recital 16

#### *Text proposed by the Commission*

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

#### *Amendment*

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

markets where a requirement of finding a comparator of *a different gender* makes it almost impossible to bring an equal pay claim. *This is for instance the case in the female-dominated care sector, in which for women it is very difficult to claim gender discrimination if the comparison is required to come from the same sector. A hypothetical comparator would facilitate the objective and gender-neutral evaluation of certain jobs and encourage employers and the social partners to identify undervalued sectors and jobs.* In addition, workers should not be prevented from using other facts from which an alleged discrimination can be presumed, such as statistics or other available information. This would allow gender-based pay inequalities to be more effectively addressed in gender-segregated sectors and professions.

Or. en

## Amendment 18

### Proposal for a directive Recital 17

#### *Text proposed by the Commission*

(17) The Court has clarified<sup>50</sup> 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

#### *Amendment*

(17) The Court has clarified<sup>50</sup> that in order to compare whether workers are in a comparable situation, the comparison is not necessarily limited to situations in which **two workers** 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 **employers**, or when such conditions are laid down centrally for more than one organisation or business within a

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.<sup>51</sup>

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

<sup>51</sup> Case 129/79 Macarthys,  
ECLI:EU:C:1980:103.

holding company or conglomerate. Furthermore, the Court clarified that the comparison is not limited to workers employed at the same time as the claimant<sup>51</sup> ***nor to workers performing their tasks in the same establishment***<sup>51a</sup>.

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

<sup>51</sup> Case 129/79 Macarthys,  
ECLI:EU:C:1980:103.

<sup>51a</sup> ***Case C-320/00 Lawrence,  
ECLI:EU:C:2002:498.***

Or. en

## Amendment 19

### Proposal for a directive Recital 18

#### *Text proposed by the Commission*

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

#### *Amendment*

(18) Member States should develop specific tools and methodologies, ***such as gender-neutral job evaluation or classification systems***, to support and guide the assessment of what constitutes work of equal value. This should facilitate the application of this concept, especially for ***microenterprises and*** small and medium-sized enterprises.

Or. en

## Amendment 20

### Proposal for a directive Recital 19

#### *Text proposed by the Commission*

(19) ***Job*** classification ***and*** evaluation

#### *Amendment*

(19) ***Currently, job evaluation and***

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.

classification ***systems methods are often designed on the basis of the requirements of male-dominated jobs, undervalue the skills associated with female-dominated jobs and reproduce gender bias, gender discrimination and gender stereotypes.*** ***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 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 **gender** is excluded. 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 whose content is different but of equal value and so support the principle of work of equal value.

Or. en

## Amendment 21

### Proposal for a directive Recital 19 a (new)

*Text proposed by the Commission*

*Amendment*

***(19a) Member States should ensure the development of actions to provide technical assistance 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 design and***

*implementation of objective, gender-neutral job evaluation systems and ensure the involvement of the social partners in such actions.*

Or. en

## Amendment 22

### 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, *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.

#### *Amendment*

(20) The lack of information on the envisaged pay range of a job position creates an information asymmetry which limits the bargaining power of applicants. Ensuring transparency *enables* prospective workers to make an informed decision about the expected salary without limiting in any way the employer's or worker's bargaining power to negotiate a salary even outside the indicated range. It also *ensures* an explicit and non-gender biased basis for pay setting and *disrupts* the undervaluation of pay compared to skills and experience. This transparency measure *also addresses* 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 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<sup>1a</sup> and (EU) 2019/882<sup>1b</sup> of the European Parliament and of the Council.*

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<sup>1a</sup> *Directive (EU) 2016/2102 of the*

*European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (OJ L 327, 2.12.2016, p. 1).*

*<sup>1b</sup> Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70).*

Or. en

## Amendment 23

### 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 a pay gap between workers ***of different genders*** 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.

Or. en

## Amendment 24

### 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

*Amendment*

(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 ***microenterprises*** and small enterprises. ***Women are overrepresented in microenterprises and small and medium-***



account employers' headcount.

***sized enterprises. The implementation of this Directive in such enterprises 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.

Or. en

## Amendment 25

### 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 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.***

Or. en

## Amendment 26

### 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 value. Employers must inform workers of this right on an annual basis. Employers may also, on their own initiative, opt for

#### *Amendment*

(24) All workers should have the right to obtain information, upon their request, on their pay and on the ***individual*** pay level, ***and average pay levels***, broken down by ***gender***, for the category of workers ***performing*** the same work or work of equal value, ***as well as the gender pay gap and the median gender pay gap. Upon the***



providing such information without workers needing to request it.

*request of a worker, employers should provide information on how pay levels are determined. Workers' representatives, including trade unions (workers' representatives), should have the right to obtain information on behalf of workers.* 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. *Member States should put in place measures to prohibit contractual terms which aim to restrict workers from disclosing information about their pay or to seek information from the same or other categories of workers' pay for the purpose of this Directive.*

Or. en

## Amendment 27

### 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 Council*<sup>52</sup> *may also choose to report on pay* alongside other worker-related matters in their management report.

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

#### *Amendment*

(25) Employers with at least **10** workers should regularly report on pay, in a suitable and transparent manner, such as including the information alongside other worker-related matters 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 Council*<sup>52</sup>.

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

## Amendment 28

### 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 an 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 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 29

### 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 ***microenterprises***. 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 and reducing the burden on employers, in particular small and medium-sized enterprises. In the case of microenterprises, such support should be provided on request.***

Or. en

**Amendment 30**

**Proposal for a directive**  
**Recital 28**

*Text proposed by the Commission*

(28) In order to make the information on

*Amendment*

(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.

the ***gender*** pay gap 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, ***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.

Or. en

## Amendment 31

### 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 ***employers*** with at least ***10*** workers that show pay inequalities. The joint pay assessment should be carried out by employers in cooperation with workers' representatives. ***In the absence of workers' representatives, it should be possible for workers' representatives to be designated or elected by trade unions or by their members, or by the workers of the same undertaking in accordance with national law or collective agreements. Where both trade union representatives and workers' representatives exist in the same undertaking, the existence of workers' representatives should not be used to undermine the position of the trade unions.*** Joint pay assessments should lead to the elimination of gender discrimination in pay.

Or. en

## Amendment 32

### Proposal for a directive Recital 29 a (new)

*Text proposed by the Commission*

*Amendment*

***(29a) Where unjustified pay differences have been found on the basis of objective, gender-neutral criteria, employers with at least 10 workers and workers' representatives, should prepare a Gender Action Plan which provides for concrete measures and aims to close the gender pay gap within the employer. The Gender Action Plan should be reviewed regularly.***

Or. en

## Amendment 33

### Proposal for a directive Recital 30

*Text proposed by the Commission*

*Amendment*

(30) Any processing or publication of information under this Directive should comply with Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>53</sup>. Specific safeguards should be added to prevent the direct or indirect disclosure of information of an identifiable co-worker. On the other hand, workers should not be prevented from voluntarily disclosing their pay for the purpose of enforcing the principle of equal pay ***between men and women*** for equal work or work to which equal value is attributed.

(30) Any processing or publication of information under this Directive should comply with Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>53</sup>. 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 for equal work or work to which equal value is attributed.

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<sup>53</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive

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<sup>53</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive

Or. en

## **Amendment 34**

### **Proposal for a directive Recital 32**

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en

## **Amendment 35**

### **Proposal for a directive Recital 33**

#### *Text proposed by the Commission*

(33) Involving equality bodies, besides other stakeholders, is instrumental in effectively applying the principle of equal pay. The powers and mandates of the national equality bodies should therefore be adequate to fully cover gender pay discrimination, including any pay transparency or any other rights and obligations laid down in this Directive. In order to overcome the procedural and cost-related obstacles that workers who believe to be discriminated against face when they seek to enforce their right to equal pay, equality bodies, as well as associations,

#### *Amendment*

(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 principle of equal pay to be enforced.

organisations, bodies and workers' representatives, or other legal entities with an interest in ensuring equality between **workers of different genders**, 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.

Or. en

## Amendment 36

### Proposal for a directive Recital 34

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en



## Amendment 37

### Proposal for a directive Recital 35

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en

## Amendment 38

### Proposal for a directive Recital 36

#### *Text proposed by the Commission*

(36) Compensation should cover in full the loss and damage sustained as a result of gender pay discrimination<sup>54</sup>. It should include full recovery of back pay and related bonuses or payments in kind, compensation for lost opportunities and moral prejudice. No prior fixed upper limit for such compensation should be allowed.

#### *Amendment*

(36) Compensation should cover in full the loss and damage sustained as a result of gender pay discrimination<sup>54</sup>. 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.  
***The compensation awarded should take into account gender-based pay discrimination that intersects with additional grounds of discrimination.***

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

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

Or. en



## Amendment 39

### 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 worker.

#### *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 of different genders** performing the same work or work of equal value. Enabling workers to provide prima facie evidence which allows discrimination to be presumed would swiftly trigger the reverse burden of proof to the benefit of the worker.

Or. en

## Amendment 40

### 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

#### *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-based** pay discrimination. For that purpose, **the limitation period should not begin to run before the discrimination has ceased, and additional** common

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.

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.

Or. en

## **Amendment 41**

### **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 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.

#### *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 from the defendant. On the other hand, claimants should not be 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.

Or. en

## **Amendment 42**

### **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 between men and women for **equal** 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 **gender** 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.

Or. en

**Amendment 43**

**Proposal for a directive**  
**Recital 44**

*Text proposed by the Commission*

(44) Obligations on employers stemming from this Directive are part of the applicable obligations in the fields of environmental, social and labour law whose compliance Member States have to ensure under Directive 2014/23/EU of the European Parliament and of the Council<sup>56</sup>,

*Amendment*

(44) Obligations on employers stemming from this Directive are part of the applicable obligations in the fields of environmental, social and labour law whose compliance Member States have to ensure under Directive 2014/23/EU of the European Parliament and of the Council<sup>56</sup>,

Directive 2014/24/EU of the European Parliament and of the Council<sup>57</sup>, Directive 2014/25/EU of the European Parliament and of the Council<sup>58</sup> 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.

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

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

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

Directive 2014/24/EU of the European Parliament and of the Council<sup>57</sup>, Directive 2014/25/EU of the European Parliament and of the Council<sup>58</sup> in regard to participation in public procurement procedures. In order to comply with these obligations as far as the right to equal pay is concerned, Member States should in particular ensure that economic operators, in the performance of a public contract or concession, have pay setting mechanisms that do not lead to a **gender** pay gap between workers that cannot be justified by gender-neutral factors in any category of workers carrying out equal work or work of equal value. In addition, Member States should consider for contracting authorities to introduce, as appropriate, penalties and termination conditions ensuring compliance with the principle of equal pay in the performance of public contracts and concessions. They may also take into account non-compliance with the principle of equal pay by the bidder or one of his subcontractors when considering the application of exclusion grounds or a decision not to award a contract to the tenderer submitting the most economically advantageous tender.

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

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

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

## Amendment 44

### 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 45

### 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 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

##### *Amendment*

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

gather certain data to monitor pay inequalities and the impact of the pay transparency measures.

inequalities and the impact of the pay transparency measures.

Or. en

## Amendment 46

### 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<sup>59</sup> 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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<sup>59</sup> Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and on labour costs (OJ L 63, 12.3.1999, p. 6).

#### *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<sup>59</sup> 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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<sup>59</sup> Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and on labour costs (OJ L 63, 12.3.1999, p. 6).

Or. en

## Amendment 47

### 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 for equal work or work to which equal value is attributed ***among workers of all genders*** 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.

Or. en

**Amendment 48**

**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

*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*** small and medium-sized enterprises. Member States are invited to assess the impact of their transposition act, on ***microenterprises***, small and medium-sized enterprises in order to ensure ***its proper implementation while providing necessary support*** to alleviate the administrative burden, and to



burden, and to publish the results of such assessments.

publish the results of such assessments.  
***Member States should include an assessment of the impact of this Directive on female-dominated sectors.***

Or. en

## Amendment 49

### Proposal for a directive Article 1 – paragraph 1

#### *Text proposed by the Commission*

This Directive lays down minimum requirements to strengthen the application of the principle of equal pay ***between men and women*** for equal work or work of equal value enshrined in Article 157 TFEU and the prohibition of discrimination laid down in Article 4 of Directive 2006/54/EC, in particular through pay transparency and reinforced enforcement mechanisms.

#### *Amendment*

This Directive lays down minimum requirements to strengthen the application of the principle of equal pay for equal work or work of equal value enshrined in Article 157 TFEU and the prohibition of discrimination laid down in Article 4 of Directive 2006/54/EC, in particular through pay transparency and reinforced enforcement mechanisms.

Or. en

## Amendment 50

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

#### *Amendment*

2. This Directive applies to all workers who have an employment contract or employment relationship as defined by law, collective agreements and/or practice in force in each Member State, ***including part-time workers, workers on fixed-term contracts and persons with a contract of employment or with an employment relationship with a temporary agency,*** with consideration to the case-law of the Court of Justice.



## Amendment 51

### Proposal for a directive

#### Article 3 – paragraph 1 – point c

*Text proposed by the Commission*

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

*Amendment*

(c) ‘***gender*** pay gap’ means the difference of average pay levels between workers of ***different genders***, expressed as percentage of the average pay level of male workers ***or of workers of another gender***;

Or. en

## Amendment 52

### Proposal for a directive

#### Article 3 – paragraph 1 – point e

*Text proposed by the Commission*

(e) ‘median 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*

(e) ‘median ***gender*** pay gap’ means the difference between the median pay level of workers ***of different genders***, expressed as percentage of the median pay level of male workers ***or of workers of another gender***;

Or. en

## Amendment 53

### 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***

*Amendment*

(g) ‘category of workers’ means workers performing the same work or work of equal value based on ***the*** criteria laid down in Article 4;

*the employer concerned;*

Or. en

## **Amendment 54**

### **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 the situation where one person is treated less favourably on grounds of **gender** than another person is, has been or would be treated in a comparable situation;

Or. en

## **Amendment 55**

### **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 the situation where an apparently neutral provision, criterion or practice would put persons of one **gender** at a particular disadvantage compared with persons of the other **gender**, unless that provision, criterion or practice is objectively justified by a legitimate aim **in accordance with the criteria laid down in Article 4**, and the means of achieving that aim are appropriate and necessary;

Or. en

## Amendment 56

### Proposal for a directive

#### Article 3 – paragraph 1 – point i a (new)

*Text proposed by the Commission*

*Amendment*

**(ia) “intersectional discrimination” refers to discrimination on the basis of two or more grounds or characteristics or identities which operate and interact with each other at the same time in such a way as to be inseparable, producing distinct and specific forms of discrimination;**

Or. en

## Amendment 57

### Proposal for a directive

#### Article 3 – paragraph 1 – point j

*Text proposed by the Commission*

*Amendment*

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

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

Or. en

## Amendment 58

### Proposal for a directive

#### Article 3 – paragraph 2 – point b

*Text proposed by the Commission*

*Amendment*

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

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

Or. en

## Amendment 59

### Proposal for a directive Article 3 – paragraph 3

*Text proposed by the Commission*

3. Pay discrimination under this Directive includes discrimination based on a combination of **sex** and any other ground or grounds of discrimination protected under Directive 2000/43/EC or Directive 2000/78/EC.

*Amendment*

3. Pay discrimination under this Directive includes discrimination based on a combination of **gender** and any other ground or grounds of discrimination protected under Directive 2000/43/EC, or Directive 2000/78/EC.

Or. en

## Amendment 60

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

*Text proposed by the Commission*

*Amendment*

***-1. Member States shall clarify the concept of ‘work of equal value’ in national law, in accordance with the case-law of the Court and point 10 of Recommendation 2014/124/EU, basing the value of work on objective, gender-neutral criteria in accordance with paragraph 3 of this Article.***

Or. en

## Amendment 61

### Proposal for a directive Article 4 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Member States shall take the necessary measures to ensure that employers have pay structures in place

1. Member States shall take the necessary measures, ***after consulting the social partners and the equality bodies***, to

ensuring *that women and men are paid equally for the same* work or work of equal value.

ensure that employers have pay structures in place ensuring *equal pay for equal* work or work of equal value.

Or. en

## Amendment 62

### 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 take the necessary measures, *after consulting the social partners and the equality bodies, to ensure* that tools or methodologies are established *and are easily accessible to workers and employers for the purpose of assessing and comparing* the value of work in *accordance* with the criteria set out in this Article *and to encourage the use of such* tools or methodologies *to determine pay levels. Those tools or methodologies shall be implemented with the involvement of the social partners at employer or sectoral level and shall* include gender-neutral job evaluation and classification systems.

Or. en

## Amendment 63

### 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,

#### *Amendment*

3. The tools or methodologies *referred to in paragraph 2* shall allow 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*

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*.

criteria shall *be agreed with the social partners*. Those criteria shall cover at least the following:

(a) educational, professional and training requirements;

(b) skills, *including the knowledge necessary to meet the requirements of a job, interpersonal skills and problem solving*;

(c) effort, *including mental, psycho-social and physical effort*;

(d) responsibility, *including for people, goods and equipment, information and financial resources*;

(e) working conditions, *including those relating to the working environment (physical, psychological and emotional) and the organisational environment*.

*The tools or methodologies referred to in paragraph 2 shall not contain or be based on criteria which are based, whether directly or indirectly, on workers' gender. Member States shall provide support to employers and the social partners, including training and detailed guidance on establishing the objective, gender-neutral criteria referred to in the first subparagraph of this paragraph and the tools and methodologies referred to paragraph 2.*

Or. en

## Amendment 64

### 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.

the pay conditions, the assessment whether workers are ***performing*** the same work or work of equal value shall not be limited to situations in which workers ***of a different gender*** work for the same employer but may be extended to that single source ***and cross-sector comparisons***. The assessment shall not be limited to workers employed at the same time, ***in the same sector or by the same employer*** as the worker concerned. Where no real comparator can be established, a comparison with a hypothetical comparator, ***on the basis of the criteria referred to in paragraph 3***, or the use of other evidence allowing to presume alleged discrimination shall be permitted. ***The hypothetical comparator shall facilitate cross-sectoral comparisons.***

Or. en

## Amendment 65

### 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. ***Member States shall ensure that employers and the social partners are provided with the necessary tools and guidance to introduce gender-neutral job evaluation and classification systems for determining pay. Such job evaluation and classification systems shall be based on gender-neutral criteria drawn up so as to exclude any form of discrimination, and to ensure that skills associated with female-dominated jobs are not undervalued.***

Or. en

## Amendment 66

### Proposal for a directive Article 5 – paragraph 1

#### *Text proposed by the Commission*

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

#### *Amendment*

1. Applicants for employment shall have the right to receive from the prospective employer information about the initial pay level or range ***of an advertised position***, based on objective, gender-neutral criteria. 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. ***The applicant for employment shall, upon request, receive information on the average pay level for categories of workers performing the same work as the advertised position or work of equal value to that position and the objective, gender-neutral criteria on which the average pay level is based, prior to the job interview.***

Or. en

## Amendment 67

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

#### *Text proposed by the Commission*

#### *Amendment*

***2a. Employers shall ensure that vacancy notices, job titles and recruitment processes are gender neutral.***

Or. en

## Amendment 68

### 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 make easily accessible to its workers ***and workers' representatives, including trade unions (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.*** These criteria shall be gender-neutral ***and in line with the criteria laid down in Article 4.***

Or. en

**Amendment 69**

**Proposal for a directive  
Article 7 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

1. Workers 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 workers employed by the same employer*** in accordance with paragraphs 3 and 4. ***Employers shall provide workers, on request, with information on the methodology used for determining pay levels and pay for each category of worker, including any job evaluation or classification system, as well as the gender pay gap of the employer as a whole.***

Or. en

## Amendment 70

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

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en

## Amendment 71

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

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en

## Amendment 72

### 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 representatives or **the** equality body **in order to guarantee**

*confidentiality and anonymity. Workers shall, personally or through their workers' representatives, have the right to request additional clarifications and details regarding any of the data provided, and receive a substantiated reply.*

Or. en

#### **Amendment 73**

##### **Proposal for a directive Article 7 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a. Workers' representatives shall have the possibility to request information on pay level on behalf of a worker, broken down by gender and category of workers.**

Or. en

#### **Amendment 74**

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

*Text proposed by the Commission*

*Amendment*

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.

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

Or. en

#### **Amendment 75**

##### **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. ***Workers*** having obtained information pursuant to this Article ***may*** use that information for any purpose ***including that of defending*** their right to equal pay for ***equal*** work or work of equal value. ***Workers may share the obtained*** information ***with their workers' representatives***.

Or. en

## Amendment 76

### Proposal for a directive Article 7 – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

6a. ***Member States shall put in place measures to prohibit contractual terms which aim to restrict a worker from disclosing information about their pay or to seek information from the same or other categories of workers' pay for the purposes of this Directive.***

Or. en

## Amendment 77

### Proposal for a directive Article 8 – title

*Text proposed by the Commission*

*Amendment*

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

Reporting on ***the gender*** pay gap

Or. en

## Amendment 78

### 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 **10** workers shall provide the following information concerning their organisation, in accordance with paragraphs 2, 3, and 5:

Or. en

## Amendment 79

### 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 between all workers;

Or. en

## Amendment 80

### 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 between all workers in complementary or variable components;

Or. en

## Amendment 81

### 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 between all workers;

Or. en

**Amendment 82**

**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 between all workers in complementary or variable components;

Or. en

**Amendment 83**

**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.

Or. en

**Amendment 84**

**Proposal for a directive**

**Article 8 – paragraph 1 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

***(ga) the average pay levels by category***

*of workers broken down by gender;*

Or. en

## **Amendment 85**

### **Proposal for a directive**

#### **Article 8 – paragraph 1 – point g b (new)**

*Text proposed by the Commission*

*Amendment*

***(gb) information on the criteria used to determine pay.***

Or. en

## **Amendment 86**

### **Proposal for a directive**

#### **Article 8 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Employers shall provide the information referred to in paragraph 1 by ... [2 years after the entry into force of this Directive] and thereafter as follows:***

***(i) for employers with 10 to 50 workers, every three years;***

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

***(iii) for employers with at least 250 workers, every year.***

Or. en

## **Amendment 87**

### **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 shall be confirmed by the employer's management ***and shall be accessible to workers' representatives and shareholders. Workers' representatives shall have the right to verify the method used by the employer and to check whether the calculations are accurate.***

Or. en

**Amendment 88**

**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, ***by ... [2 years after the date of entry into force of this Directive] and, thereafter, 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 Directive (EU) 2019/882 of the European Parliament and of the Council<sup>1a</sup>. Employers shall include that information in their management report where they are required to draw up such a report 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.

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***<sup>1a</sup> Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services***



Or. en

## Amendment 89

### 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 shall provide support, technical assistance and training, in particular for microenterprises and small and medium-sized enterprises, to comply with the obligations pursuant to this Article.*** Member States may compile the information set out in paragraph 1 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.

Or. en

## Amendment 90

### 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.

Or. en

## Amendment 91

### Proposal for a directive Article 8 – paragraph 6

#### *Text proposed by the Commission*

6. Member States shall entrust the monitoring body designated pursuant to Article 26 to collect the data received from employers pursuant to paragraph 1, **points (a) to (f)** and to ensure that this data is public and allows a comparison between employers, sectors and regions of the Member State concerned in a user-friendly way.

#### *Amendment*

6. Member States shall entrust the monitoring body designated pursuant to Article 26 to collect the data received from employers pursuant to paragraph 1 **of this Article**, and to ensure that this data is public and allows a comparison between employers, sectors and regions of the Member State concerned in a user-friendly way.

Or. en

## Amendment 92

### 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 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. **Employers, workers' representatives and the equality body shall take into account and address any additional forms of discrimination**

*and unconscious bias.*

Or. en

## **Amendment 93**

### **Proposal for a directive**

#### **Article 9 – paragraph 1 – introductory part**

*Text proposed by the Commission*

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

*Amendment*

1. Member States shall take appropriate measures to ensure that employers with at least **10** workers conduct, in cooperation with workers' representatives, a joint pay assessment where both of the following conditions are met:

Or. en

## **Amendment 94**

### **Proposal for a directive**

#### **Article 9 – paragraph 1 – point a**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

## **Amendment 95**

### **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 workers ***of different genders*** in each category of workers;

Or. en

**Amendment 96**

**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 workers' pay levels and complementary or variable components for each category of workers, ***broken down by gender***;

Or. en

**Amendment 97**

**Proposal for a directive  
Article 9 – paragraph 2 – point c**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 98**

**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 and gender-neutral criteria;

Or. en

## **Amendment 99**

### **Proposal for a directive**

#### **Article 9 – paragraph 2 – point f**

*Text proposed by the Commission*

(f) a report on the effectiveness of **any measures mentioned in previous joint pay assessments**.

*Amendment*

(f) a **monitoring** report on the effectiveness of **the Gender Action Plan and review mechanisms**.

Or. en

## **Amendment 100**

### **Proposal for a directive**

#### **Article 9 – paragraph 2 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Employers and workers' representatives, shall jointly draw up and agree on the Gender Action Plan referred to in point (e) of the first subparagraph with concrete measures and goals to close the gender pay gap. Where possible, the Gender Action Plan shall be drawn up in cooperation with the equality body. Where applicable, the Gender Action Plan shall be included in the management report drawn up pursuant to Directive 2013/34/EU.***

Or. en

## Amendment 101

### 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 ***in easily accessible formats*** to workers, workers' representatives, the monitoring body designated pursuant to Article 26, the equality body and the labour inspectorate, ***as appropriate***.

Or. en

## Amendment 102

### 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 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.

#### *Amendment*

4. If the joint pay assessment reveals differences in average pay for equal work or work of equal value between workers ***of different genders*** which cannot be justified by objective and gender-neutral criteria, the employer shall remedy the situation, in close cooperation with the workers' representatives, ***the*** labour inspectorate, and/or ***the*** equality body. Such action shall include ***an analysis of the criteria set out in the job evaluation or classification systems for the purpose of determining pay levels and career progression and*** the establishment of gender-neutral job evaluation and classification ***systems*** to ensure that any direct or indirect pay discrimination on grounds of ***gender*** is excluded.

Or. en

## Amendment 103

### Proposal for a directive Article 10 – paragraph 1

#### *Text proposed by the Commission*

1. To the extent that any information provided pursuant to measures taken under Articles 7, 8, and 9 involves the processing of personal data, it shall be provided in accordance with Regulation (EU) 2016/679.

#### *Amendment*

1. To the extent that any information provided pursuant to measures taken under Articles 7, 8, and 9 involves the processing of personal data, it shall be provided in accordance with Regulation (EU) 2016/679. ***Employers shall not rely on Regulation (EU) 2016/679 as a ground for refusing to provide information to workers exercising their rights and obligations with regard to equal pay for equal work or work of equal value in accordance with this Directive. Workers shall be subject to no restrictions to their right to discuss their pay with workers' representatives.***

Or. en

## Amendment 104

### 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

#### *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 *referred to in* Article 26 shall have access to the information without restriction.

monitoring body *designated pursuant to* Article 26 shall have access to the information without restriction.

Or. en

## Amendment 105

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

*Text proposed by the Commission*

*Amendment*

*Member States shall, without prejudice to the autonomy of the social partners, strengthen the capacity building 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.*

Or. en

## Amendment 106

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

*Text proposed by the Commission*

*Amendment*

*Member States shall, without prejudice to the autonomy of the social partners, ensure that employers provide for equal pay for equal work in a planned and systematic way in the workplace, in accordance with mechanisms laid down in this Directive, including vocational training and career progression. Employers shall provide workers and workers' representatives with appropriate information pursuant to Articles 7, 8 and 9.*



**Amendment 107****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, 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. ***Recourse to conciliation shall be voluntary on the part of the worker.*** 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. ***Recourse to conciliation shall trigger an interruption or suspension of the limitation period referred to in Article 18.***

**Amendment 108****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

*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, in accordance with the criteria laid down by national law, a legitimate interest in ensuring ***gender***

any judicial or administrative procedure to enforce any of the rights or obligations related to the principle of equal pay ***between men and women*** for equal work or work of equal value. They may act on behalf or in support of a worker who is victim of an infringement of any right or obligation related to the principle of equal pay ***between men and women*** for equal work or work of equal value, with the latter's approval.

equality, 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 victim of an infringement of any right or obligation related to the principle of equal pay for equal work or work of equal value, with the latter's approval.

Or. en

## Amendment 109

### 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, shall also have the right to act on behalf or in support of ***individual or groups of*** workers ***by means of collective redress in claims alleging gender-based pay discrimination, with those workers' approval or upon notification in accordance with national law and practice.***

Or. en

## Amendment 110

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

#### *Text proposed by the Commission*

#### *Amendment*

***2a. Member States shall reduce procedural obstacles to the bringing of equal pay cases to the court.***

Or. en

## Amendment 111

### Proposal for a directive Article 14 – paragraph 1

#### *Text proposed by the Commission*

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.

#### *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 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.

Or. en

## Amendment 112

### Proposal for a directive Article 14 – paragraph 2

#### *Text proposed by the Commission*

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 dissuasive and proportionate to the damage suffered.

#### *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 dissuasive and proportionate to the damage suffered. ***Where gender-based pay discrimination intersects with additional grounds of discrimination, the compensation or reparation shall be adjusted accordingly.***

Or. en

## Amendment 113

### 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 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 **gender** 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.

Or. en

**Amendment 114**

**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:

Or. en

**Amendment 115**

**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;

Or. en

**Amendment 116**

**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.

Or. en

**Amendment 117**

**Proposal for a directive**

**Article 15 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

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

## Amendment 118

### Proposal for a directive Article 16 – paragraph 2

#### *Text proposed by the Commission*

2. Member States shall ensure that, in any legal or administrative proceedings concerning direct or indirect discrimination, where an employer failed to comply with any of the rights or obligations related to pay transparency set out in Articles 5 **through** 9 of this Directive, it shall be for the employer to prove that there has been no such discrimination.

#### *Amendment*

2. Member States shall ensure that, in any legal or administrative proceedings concerning direct or indirect discrimination, where an employer failed to comply with any of the rights or obligations related to pay transparency set out in Articles 5 **to** 9 of this Directive, it shall be for the employer to prove that there has been no such discrimination.

## Amendment 119

### 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 120

### 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.

Or. en

**Amendment 121**

**Proposal for a directive  
Article 17 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. 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 gender-based or intersectional discrimination against the same employer.***

Or. en

**Amendment 122**

**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

1. Member States shall lay down rules applicable to limitation periods for bringing claims regarding equal pay for

***between men and women*** for equal work or work of equal value. Those rules shall determine when the limitation period begins to run, the duration thereof and the circumstances under which it is interrupted or suspended.

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.

Or. en

## Amendment 123

### Proposal for a directive Article 18 – paragraph 2

#### *Text proposed by the Commission*

2. Limitation periods shall not begin to run before the violation of the principle of equal pay ***between men and women*** for equal work or for work of equal value or infringement of the rights or obligations under this Directive has ceased and the claimant knows, ***or can reasonably be expected to know***, about the violation or infringement.

#### *Amendment*

2. Limitation periods shall not begin to run before the violation of the principle of equal pay for equal work or for work of equal value or infringement of the rights or obligations under this Directive has ceased and the claimant knows about the violation or infringement.

Or. en

## Amendment 124

### Proposal for a directive Article 18 – paragraph 3

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en



## Amendment 125

### 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 ***percentage based on the employer's gross annual turnover as a*** minimum level for such fines ***and shall ensure that that minimum level is proportionate and has a*** real deterrent effect. The level of the fines shall take into account:

Or. en

## Amendment 126

### 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***;

Or. en

## Amendment 127

### 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 applicable to the circumstances of the case, ***such as where gender-based pay discrimination intersects with other***

*grounds of discrimination, or relevant mitigating factors.*

Or. en

## Amendment 128

### 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.

Or. en

## Amendment 129

### 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.***

Or. en

## Amendment 130

### 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***.

Or. en

## Amendment 131

### 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.

Or. en

## Amendment 132

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

***Article 22a***

***Intersectionality***

- 1. Member States shall ensure that in legal proceedings aiming to enforce the rights and obligations relating to equal pay for equal work or work of equal value, the courts, the equality bodies and other competent authorities duly assess the existence of other grounds of discrimination protected under Directives 2000/43/EC or 2000/78/EC and take due account of such discrimination for substantive and procedural purposes.***
- 2. Member States, employers, workers' representatives, equality bodies and monitoring bodies designated pursuant to Article 26 shall, where possible, take into account the existence of intersectional forms of discrimination when implementing and reporting on pay transparency measures and develop and implement specific actions to identify and address situations in which gender-based pay discrimination 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 women facing intersecting forms of discrimination within a particular workplace or sector.***
- 3. When collecting data received from employers, the equality bodies shall, where possible, analyse that data in a way that takes account of multiple and intersectional forms of discrimination.***

Or. en

## Amendment 133

### Proposal for a directive Article 23 – paragraph 1

#### *Text proposed by the Commission*

Chapter III of this Directive shall apply to proceedings concerning any right or obligation related to the principle of equal pay ***between men and women*** for equal work or work of equal value set out in Article 4 of Directive 2006/54/EC.

#### *Amendment*

Chapter III of this Directive shall apply to proceedings concerning any right or obligation related to the principle of equal pay for equal work or work of equal value set out in Article 4 of Directive 2006/54/EC.

Or. en

## Amendment 134

### 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.

Or. en

## Amendment 135

### 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

#### *Amendment*

2. Member States shall take active measures to ensure close cooperation and coordination between the equality bodies

bodies and other national bodies that have an inspection function in the labour market.

and other national bodies that have an inspection function in the labour market ***and between those bodies and the social partners.***

Or. en

## Amendment 136

### 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 with the adequate 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 allocating amounts recovered as fines pursuant to Article 20 to the equality bodies for that purpose.

Or. en

## Amendment 137

### 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 monitoring 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. ***It shall work closely with the social partners involved in the application of the principle of equal pay.***

## Amendment 138

### 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, ***including by communicating and sharing employers' good practices and initiatives***;

Or. en

## Amendment 139

### 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 the causes of the gender pay gap***;

Or. en

## Amendment 140

### 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 pursuant to Article 8(6), and publish this data in ***an accessible and*** user-friendly manner, ***including with regard to***

*persons with disabilities, in accordance with Directive (EU) 2019/882 and, where possible, analyse that data for the purpose of identifying multiple and intersectional forms of discrimination;*

Or. en

#### **Amendment 141**

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

*Text proposed by the Commission*

*Amendment*

*(ca) to compare the data received from employers pursuant to Article 8(6) with a view to identifying and assessing possible discrimination across different sectors, with a particular focus on female-dominated sectors;*

Or. en

#### **Amendment 142**

**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 European Institute for Gender Equality in order to allow for the comparability and assessment of that data at Union level;*

Or. en

#### **Amendment 143**

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



*Text proposed by the Commission*

*Amendment*

***(eb) to raise awareness of gender-based pay discrimination intersecting with various axes of discrimination such as racial or ethnic origin, religion or belief, disability, age or sexual orientation as protected under Directive 2000/43/EC or 2000/78/EC.***

Or. en

#### **Amendment 144**

##### **Proposal for a directive Article 26 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. The monitoring body shall assist Member States in their efforts to combat the gender pay gap by providing guidance and sharing best practices on policies and methodologies to determine and compare work of equal value, including across sectors with a concrete focus on combating the systemic undervaluation of work in female dominated sectors and making full use, where appropriate, of the data, knowledge and capacities of the European Institute for Gender Equality.***

Or. en

#### **Amendment 145**

##### **Proposal for a directive Article 28 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

Member States shall provide the Commission (Eurostat) with up-to-date gender pay gap data annually and in a

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.

timely manner. These statistics shall be broken down by gender, economic sector, working time (full-time/part-time), economic control (public/private ownership), **disability**, and age and be calculated on an annual basis **and, where possible, combine them with anonymised data regarding intersectional forms of discrimination**.

Or. en

## Amendment 146

### 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 microenterprises and** small and medium-sized enterprises **and on female-dominated sectors** and a reference to where such assessment is published.

Or. en

## Amendment 147

### 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 [**5** 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.

Or. en



## EXPLANATORY STATEMENT

As co-rapporteurs, we both welcomed this awaited initiative to secure equal pay. The principle of equal pay for men and women is one of the core founding values of the Union. However, closing the gender pay gap remains a significant challenge across the Union. It still stands at 14,1% and has decreased only minimally over recent years. Women's earnings continue to be disproportionately lower than those of men.

The report on the implementation of the Commission Recommendation of 2014<sup>1</sup> shows that, despite being part of the EU acquis through the 2006 Directive<sup>2</sup>, the implementation and enforcement of the principle of equal pay between women and men for equal work or work of equal value is still lacking in many Member States. Only a few have adapted their national legal systems to this principle.

Although the gender pay gap is caused by numerous structural factors such as direct and indirect gender pay discrimination, career breaks or part-time work, the lack of pay transparency has been identified as one of the key obstacles to making equal pay for equal work or work of equal value a reality.

Over a lifetime, the accumulation of the gender pay gap can result in a gender pension gap that is more than double the gender pay gap and increases women's vulnerability to poverty. The impact of the COVID-19 crisis has made it even more pressing to further tackle economic inequality affecting women. With economic indicators suggesting that the gender pay gap may widen as a consequence of the pandemic, addressing this issue with further targeted measures at Union level through binding measures is ever more urgent.

### ***Right to information***

This Directive aims to establish pay transparency from employers, guaranteeing workers' right to information on their individual and average pay level for workers doing the same work as them or work of equal value to theirs. This allows them to be aware of and take action in case of pay discrimination. By introducing binding measures on pay reporting, gender-based pay discrimination will no longer go undetected. Moreover, the joint pay assessment further challenges unconscious bias by requiring employers to review the criteria used to determine pay levels, career progression, and the job evaluation and classification systems when unjustified pay differences are found.

The co-rapporteurs have added the possibility for a worker to request how pay levels and pay for each category of worker are determined, including through an existing job evaluation or job classification systems. This can shine light on any pay discrimination affecting them and prove they are being underpaid in equal pay claims. It was of vital importance to the co-rapporteurs to improve the effective use of this right for all workers and that workers are not treated less favourably as a result of exercising this right.

### ***Pay reporting and obligations***

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<sup>1</sup> 2014/124/EU

<sup>2</sup> 2006/54/EC

In order to ensure that as many women as possible are covered by the rights granted through this Directive, the co-rapporteurs have decided to lower the original threshold to 10 workers, in order to include small and medium-sized companies, which make up 70,9 % of EU employers. Consequently, to reduce the burden on smaller companies, especially SMEs, the pay reporting model will be linked to the size of the company, with larger companies having to report more frequently. All employers with 10 or more employees will report on data related to the gender pay gap within their organisation. Larger employers, with more administrative capacity, will have to report on a more frequent basis.

The information provided in the reporting gives an overall picture of gender differences in pay within the organisation. It allows for a certain comparison between employees of the same organisation as well as between employers and sectors. It also creates incentives for employers to prevent potential pay gaps, and stimulates a culture of openness where pay can be widely discussed. The co-rapporteurs insisted on the need for Member States to provide support, technical assistance and trainings in particular for microenterprises and SMEs to comply with this obligation.

The co-rapporteurs have expanded the components of information that employers have to provide under the reporting obligations, such as the criteria they have used to determine pay levels.

To this end, the obligation to report regularly on pay information in itself will not be enough to address the root causes of culturally embedded gender inequalities. This is why the co-rapporteurs propose to introduce a Gender Action Plan (GAP) for companies with at least 10 workers. With this, employers and workers' representatives must jointly draw up and agree on such a GAP with concrete measures and goals to eliminate the discrepancies discovered and to reduce any unjustified gaps in pay.

### ***Gender-neutral job evaluation and classification systems***

As mentioned above, one of the structural causes of pay inequality is the lack of legal clarity of key legal concepts. Even though the concept of 'pay' has been clarified by the Court of Justice of the European Union (CJEU), several national legislators have not adopted the CJEU's clarifications on the concept of "pay" in their national law. To ensure the implementation of the principle of equal pay for work of equal value, Member States will now be required to clarify this principle in their national law.

In addition, job evaluations must be performed using a systematic methodology that is objective, gender-neutral and bias-free, guaranteeing that traditionally female occupations are properly valued and allowing for an analytical evaluation that ensure proper comparisons of different factors and sub factors required to performing different jobs. The co-rapporteurs have defined the possibility to use cross-sector comparison by calling on the Member States to provide the tools and methodologies needed to ensure a gender-neutral job evaluation and classification systems and as result pay levels.

### ***The role of the workers' representatives and the social partners***

Social dialogue and the active cooperation of social partners in particular will be key to

ensure a proper application of the concept of equal pay for equal work or work of equal value. Therefore, Member States need, without prejudice to the autonomy of the social partners, to strengthen social partners' capacity building to promote pay transparency and combat gender pay discrimination.

The role of the social partners will be vital to provide for transparent pay systems and ensure that job evaluation and classification systems are designed in a gender-neutral way, not least by taking into account the experience of female workers working in female-dominated jobs. Involving them is instrumental in understanding and fighting against the undervaluation of the skills required for their job. Workers' representatives are key in providing workers facing discrimination with information, support and assistance. They will be able to ask the employer, on behalf of the worker, for detailed information and data on the application of the principle of equal pay for equal work or work of equal value at the company's level. They will also work together with the employer to design corrective measures in the event of unjustified cases of gender pay discrimination. In addition, workers' representatives will be able to represent workers in judicial or administrative procedures, thus limiting obstacles the claimant might face, including the fear of victimisation.

This Directive will apply to all workers as defined by the law, collective agreements and/or practices in force in each Member State and taking into account the case-law of the CJEU.

### ***Intersectionality***

In order for the Directive to cover all workers regardless of their gender or gender identity, neutral language that moves beyond binary definitions is used in the draft report. The language in European Law is facing a transition from binary to gender neutral language and this draft report is one of the first stepping stones. As pay discrimination is never justifiable or acceptable, the principle of equal pay should not only apply to workers who identify themselves as male or female. Gender-based pay discrimination where a victim's gender plays a crucial role, can take many different forms in practice and 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.

An intersectional approach is crucial to understanding, tackling, and resolving the multiple forms of discrimination that compound the gender pay gap for women. Such an approach is reflected in the legislative content of the draft report as well, where it is stated that compensation or reparation obtained based on this directive, shall recognize and reflect situations where pay discrimination based on gender has intersected with additional grounds of discrimination. Furthermore, it calls on the Member States to ensure that the competent authorities duly assess the existence of discrimination based on a combination of gender and another ground of discrimination when deciding on the level of the fines for infringements.

However, we recognize that, based on the CJEU's case-law, the advantaged party in regards to gender based pay discrimination are male workers. Consequently, we have chosen to use a definition of 'Gender Pay Gap' that takes the male colleagues' average pay level to be the baseline for measuring pay differences.

### ***Equality bodies and Monitoring Bodies***

In the draft report, the co-rapporteurs have sought to specify the roles of the equality bodies and the monitoring bodies. The choice of the relevant body or trade union to take part in enforcing different obligations of the directive has been left up to the Member states, in order to make it compatible with existing national legislation and practices.

However, while the co-rapporteurs are aware that the roles of the European equality bodies differ across Member States, using already existing institutions is to be preferred over introducing new administrative and executive bodies. To this end, Member States should ensure the allocation of sufficient resources to equality bodies for the effective and adequate performance of their tasks related to tackling pay discrimination.

### ***Conclusion***

To prepare this report, the co-rapporteurs have consulted with a wide range of stakeholders, including members of civil society, academia, and non-governmental organisations on a variety of topics, such as cross sector comparisons, equality and monitoring bodies, social partners and analytic tools. In preparation of the initial draft, an expert hearing was conducted with Members of the European Parliament from both leading committees and first thoughts and opinions were exchanged.

In the end, this report aims to bring forward pay transparency as a mean to effectively implement the principle of equal pay for men and women and to close the gender pay gap. It must also be noted that pay transparency alone is not enough to end structural and existing gender inequalities. It is however, a welcomed step forward in tackling those inequalities and should be complemented by additional measures that further aim to close the gender pay, pension and care gaps.