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Key messages from the Peer Review on “Reducing the gender pay gap through pay transparency - legislative measures and digital tools targeted at employers”

15-16 April 2021, online



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1 Introduction

The Peer Review focused on how legislative measures and digital tools targeted at employers can help increase pay transparency and ultimately reduce the gender pay gap. It provided an opportunity to exchange experiences with existing legislative pay transparency measures and digital tools with the aim of supporting future policy discussions in this area.

The Peer Review brought together government representatives and independent experts from the host country (Estonia) and eight peer countries (Czech Republic, Greece, Germany, Latvia, Portugal, Lithuania, Spain and Finland). Representatives of the European Commission, Eurofound, the Estonian Trade Union Confederation and the Confederation of European Business (BusinessEurope) also participated.

1.1 Background and purpose of the Peer Review

Women in the EU are generally less present in the labour market than men as highlighted by the gender employment gap (11.7% in 2019; 67.3% of women across the EU-27 are employed compared to 79% of men). On average, women also spend fewer hours in paid work than men. For example, only 8% of men in the EU in 2019 worked part-time, compared to almost a third of women (30.7%).

On average, women also earn less than men. According to Eurostat, the average gender pay gap in the EU-27 was 14.1% in 2019 and this has only changed minimally over the last decade.

The reasons for the gender pay gap go beyond the simple issue of discrimination. It is a consequence of a number of factors including:

- sectoral segregation (overrepresentation of women in relatively low-paying sectors, such as care and education; overrepresentation of men in better-paid sectors, such as science, technology, engineering and mathematics (STEM));
- work-life balance (women spend fewer hours in paid work than men on average but more hours in unpaid work; this may affect career choices); and
- glass ceiling (women are less likely to be found in management and senior positions; less than 10% of top companies' CEOs are women).

There are considerable differences in the gender pay gap between EU countries. The gender pay gap ranges from 1.3% in Luxembourg to 21.7% in Estonia (in 2019). A lower gender pay gap in some countries does not however automatically mean that gender equality is not an issue in the labour market. A lower gender pay gap can occur in countries with a lower employment rate of women where mostly women with high earning perspectives enter the labour market (e.g. those with higher educational attainment). A high gender pay gap is usually characteristic of a labour market in which:

- women are more concentrated in low-paid sectors; and
- a significant proportion of women work part-time.

1.2 The EU policy context

The principle of equal pay for work of equal value has been enshrined in the EU Treaties (Article 157 of the [Treaty on the Functioning of the European Union](#)) since 1957. In addition, the [Directive on the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation](#) brought together several directives on gender equality to simplify, modernise and improve EU legislation in the area of equal treatment for men and women in employment.

In 2014, the European Commission adopted a [Recommendation on strengthening the principle of equal pay between men and women through transparency](#) to spur Member States into action in relation to pay transparency measures. Following the Recommendation, a number of Member States introduced legislative pay transparency

measures or advanced legal proposals. However, there are still several Member States that have not implemented pay transparency measures and have no plans to do so¹.

As the effective implementation and enforcement of the principle of equal pay between men and women through transparency remains a major challenge in practice across Europe, the European Commission recently published a [Proposal for a directive 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](#).

Within this EU policy context and recognising that the gender pay gap is still significant in many Member States, the Estonian Ministry of Social Affairs took the initiative to organise this Peer Review.

1.3 The Peer Review: key messages and policy implications

The key learning messages from the Peer Review are summarised below:

The principle of 'equal pay for work of equal value' is still not fully implemented

- Despite the legal framework that exists around 'equal pay for work of equal value', it is clear that this principle is not fully implemented and enforced. The gender pay gap, though measuring a larger concept than equal pay, in the EU remains at 14.1%, according to data from Eurostat for 2019.
- Part of this gap may reflect the complexity of the principle of 'equal pay for work of equal value'. There is therefore a need for a clearer definition (e.g. from the European Court of Justice (ECJ)) and clear guidelines on how to apply it in organisations and collective agreements.
- Job classifications and evaluations should be reviewed and revised, as well as collective and company agreements, introducing gender neutral norms. Many job classifications and collective agreements reflect existing gender stereotypes in the description and valuation of male/female occupations. In Spain, guidelines for collective agreements and job evaluations in a gender equality perspective are currently being developed. The 2008 ILO guide (Promoting equity: Gender-neutral job evaluation for equal pay: A step-by-step guide) and the European Commission guidelines (presented as an annex to the implementation report of the 2006 Recast Directive²) were also mentioned as a valuable resource in this regard.
- The potential need for a third party (e.g. state agency or equality body) to assess - in a gender perspective - job classifications and pay systems was highlighted. In this regard, the Icelandic Equal Pay Standard (IEPS) was mentioned as a good practice model³. Portugal is currently working with Norway and Iceland to develop a similar equal pay standard.

Ensuring effective implementation of (legally binding) pay transparency measures requires supportive measures

¹ See, for example, European Commission (SWD(2020) 50 final) Evaluation of the relevant provisions in the Directive 2006/54/EC implementing the Treaty principle on 'equal pay for equal work or work of equal value' https://ec.europa.eu/info/sites/default/files/swd-2020-50_en.pdf; and European Commission (COM(2017) 671 final) Report on the implementation of Commission Recommendation on strengthening the principle of equal pay between men and women through transparency [https://ec.europa.eu/transparency/documents-register/detail?ref=COM\(2017\)671&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=COM(2017)671&lang=en)

² <https://data.consilium.europa.eu/doc/document/ST-17650-2013-ADD-1/en/pdf>

³ The IEPS requires that all organisations with more than 25 employees who are employed full-time with contracts of at least a year prove that they pay men and women equally for the same job by obtaining certification from the centralised IEPS system for their equal pay system.

- The effectiveness of legislative pay transparency measures is reduced if only a small proportion of organisations and workers are covered (e.g. large enterprises with 250 or more employees).
- Clear and precise concepts and definitions are needed in existing and future legislation to ensure that measures are implemented consistently and as intended.
- Legally binding pay transparency measures should be accompanied by supportive measures such as awareness raising actions, training and guidelines for employers (e.g. on how to implement wage reporting and/or pay audits and how these can be tailored for different size organisations) and digital tools. International standards and guidelines (e.g. ILO guidelines) can be useful when designing national guidelines and may increase the chances of approval among social partners and employers.
- The assessment and reporting of companies' wage systems should provide sufficient and manageable information, but it should not be too complex to implement for employers (of different sizes) and to monitor and enforce by government authorities or agencies. Making pay reports mandatory and publicly available (in the case of large enterprises) could also help with the implementation.
- The administrative burden on employers could be reduced by performing an initial pay analysis centrally using registers or administrative data. This could be made available to employers through a digital tool. Such digital tools or centralised reporting could be used to raise awareness among employers and employees.
- Collective agreements could be a useful source of comparison across categories of workers for employers, but should be revised from a gender equality perspective.
- An important element to monitor the effectiveness of applicable measures is to ensure the right and consistent implementation of the law. If a violation on the grounds of discrimination is identified, clear follow-up procedures must be in place to evaluate the actions taken by the employer and to eventually support discriminated workers.
- Effective coordination and collaboration among key stakeholders (such as government authorities and agencies (e.g. tax authority and labour inspectorates), equality bodies, statistical offices and social partners) is a pre-condition for successful implementation of pay transparency measures.
- In countries where there is no legal obligation to implement pay transparency measures (generally or for specific organisations), there are different voluntary measures that can be introduced to promote equal pay for work of equal value. Such voluntary measures include equality marks as in Greece, pay equality awards as in Germany and the creation of networks/communities among companies for mutual learning as in Spain).
- Compliance with data protection regulations and competition law is an issue for pay transparency measures and makes it harder for individuals to take action where they think there is a case for pay discrimination. Providing evidence on pay discrimination is difficult when comparator data cannot be easily obtained.

An effective digital tool must be made available online for free, must be easily accessible/user-friendly and clear follow-up procedures must be established

- There are many digital tools to support employers in fulfilling legal pay transparency obligations or voluntary measures. There are also digital tools that are targeted at raising awareness among workers/citizens.
- Digital tools are based on different types of data, with some requiring specific company data to be imputed and others relying on registers or administrative data

collected by statistical offices or government authorities/agencies. The latter may reduce the administrative burden for employers.

- Digital tools and pay reports/audits can raise awareness, increase knowledge and inspire companies to take action or support a shift in mindset.
- Digital tools need to be user-friendly, available free online and easy-to-understand (particularly for SMEs and workers). They should also be accompanied with supporting activities such as training, guidelines and technical advice.
- Clear follow-up corrective actions must be envisaged after identifying gender pay gaps.
- Ideas vary whether digital tools should be made mandatory or voluntary to the employers, thus further research is needed at national level to identify what can work best for employers. A legal obligation to report is an important pre-condition for incentivising employers to use digital tools.
- A common challenge in Member States is ensuring compliance with general data protection regulation and measures when it comes to disclosing pay information.

A specific approach is required towards pay transparency measures, yet a holistic approach targeting gender (in)equality is equally important

- The issue of the gender pay gap is multi-faceted and complex. Pay transparency measures should therefore have clear aims and objectives.
- Pay transparency cannot on its own eliminate the gender pay gap. It should be seen as being part of a broader package of measures and initiatives that focus on tackling the root causes of the gender pay gap and gender inequalities.
- The gender pay gap can reflect a set of penalising practices rooted within companies (i.e. hiring practices, gender-segregated company culture), as a consequence of gender stereotypes.
- Employers should be invited to holistically consider/reflect on gender inequalities in their company, while pragmatically tackling the most critical issues such as gender pay discrimination.
- Joint initiatives among relevant stakeholders to define strategic gender equality plans is crucial. For example, in Spain employers with 50 or more employees are obliged to design a Gender Equality Plan, including wage audits.

Social partners and social dialogue play an important part in encouraging and supporting organisations

- A continuous and effective dialogue with institutions and stakeholders should be encouraged to raise their interest in the activities and highlight the societal relevance of pay transparency measures and supporting digital tools.
- It is important that social partners place the gender equality issue at the top of their agendas and take the initiative to start a social discussion on the matter. Initiatives may have to focus on specific sectors and have specific aims initially, but good practices can then be shared or implemented across other sectors.
- In countries where collective bargaining and social dialogue is limited, there may be a case for greater intervention by equality bodies/government agencies.
- Another element that needs further attention is amending current collective agreements that discriminate against women by introducing gender neutral norms.

- A strong commitment among senior management and human resources, as well as social partners, is needed to ensure a change in companies' practices.
- Fostering the creation of networks/communities` among companies, sharing experience and encouraging a mutual learning process can be a useful complement to any legislative measures.
- Another key element is for social partners and overall the society to be engaged in the discussion to put pressure to employers. This can be achieved by raising awareness and increasing knowledge to overcome stereotypical practices that lead to gender discrimination.

2 Host country practice

The Estonian labour market is characterised by a relatively high proportion of women in employment (76.3% of women aged 20-64 years in 2019, compared to 84.0% of men), yet the gender pay gap in 2019 in Estonia was at 21.7% - the largest gender pay gap in the EU-27. The gender pay gap is widest in the age groups 25-34 years and 35-44 years which may be indicative of the potentially negative impact that parenthood can have on women's career path. National literature⁴ emphasises that some of the reasons behind the gap are the deeply rooted gender stereotypes, the highly segregated labour market and low awareness of the gender equality laws and measures among employers.

2.1 Legislative and policy measures to support equal pay

Estonia has transposed the provisions on equal pay of Directive 2006/54 through the Gender Equality Act which, among others, defines pay discrimination. Pay discrimination exists if the employer establishes less favourable conditions for remuneration or benefits due to gender for an employee doing the same work or work of equal value. Whilst the law does not establish criteria to determine what is work of equal value, a draft law for introducing such criteria is currently being discussed in the Estonian Parliament and is expected to be implemented in 2022.⁵ The draft law also refers to monitoring and control mechanisms to ensure effective measures to pay disparity by employers. The introduction of the new law, a new governmental action plan for 2021-2023 and the Welfare Development Plan for 2016-2023 all aim to narrow the gender pay gap.

According to the existing Gender Equality Act employers have to provide written explanations when an employee suspects that they are the victim of pay discrimination (Article 7). An employee has the right to demand that the employer explains the basis for the calculation of salaries and obtain other necessary information on the basis of which it is possible to decide whether discrimination has occurred. In principle, this provides a person who suspects that they are the victim of pay discrimination with the necessary data to ground their claim. However, Article 28(13) of the Employment Contracts Act stipulates that the employer has no right to disclose to a third-party information about wages without the employee's consent or without a legal basis. As a result, this provision has led to a widespread misapprehension that wages are a private matter.

In the public sector, and according to Article 65(1) and 65(2) of the Civil Service Act, wages of public servants should be made publically available on the web page of the Ministry of Finance. Also, Article 65(3) of the Civil Service Act provides that the salary

⁴ See, for example, Anspal, S. (2015). Gender wage gap in Estonia: A non-parametric decomposition. *Baltic Journal of Economics*, 15(1), 1-16. <https://doi.org/10.1080/1406099X.2015.1022436>; Anspal, S., Kraut, L., & Room, T. (2010). *Sooline palgalõhe Eestis. Empiirilise analüüs*. Centar, Praxis. http://www.praxis.ee/wp-content/uploads/2014/03/2010_Sooline_palgalohe.pdf; Täht, K. (Ed.). (2019). *Soolise palgalõhe kirjeldamine ja seletamine- tehniline ülevaade*. RASI Toimetised Nr 10, Tallinna Ülikool.

⁵ Vabariigi Valitsuse tegevusprogramm 2021-2023: <https://www.valitsus.ee/valitsuse-moodustamise-kokkulepe-aastateks-2021-2023>

guide of the authority shall be disclosed on the web page of the organisation. Still, wages are published without reference to the average pay broken down by gender.

An additional measure to support equal pay is Article 11 of the Gender Equality Act which requires employers to inform employees on a regular basis of their rights ensured under the Act. However, only a small proportion of employers are aware of the context of the Act and the provisions as they are in force does not discuss pay transparency. Additionally, there is no legal provisions on the duty to conduct pay audits in the private sector in Estonia. This, together with low union memberships, few collective agreements and wages mainly negotiated at individual level, makes pay audits a significant barrier to overcome in Estonia.

In addition to the legally and non-legally binding measures, Estonia has made significant efforts in recent years to support pay transparency through the introduction of digital tools. Digital tools, such as the 'Statistics Estonia wages and salaries application' and the 'Pay mirror – a digital tool for employers', which is currently being developed, aim to enhance pay transparency by ensuring that employers and employees have access to information on gender pay gaps. A brief description of the two digital tools is summarised in Box 1 and Box 2 below.

Box 1: Statistics Estonia wages and salaries application

Implemented in 2020, the application visualises median wages by regions and counties for the 110 most common occupations in Estonia, with the aim of adding transparency and openness to the Estonian labour market.

The main objectives of the application are to give employers the possibility to assess the labour market situation and compare wage levels; and to add greater transparency and knowledge regarding the wages of men and women working in the same occupation and region.

The tool can also be used by employees during salary negotiations.

Statistics Estonia is collaborating with the Estonian Gender Equality and Equal Treatment Commissioner and researchers at the University of Tartu and Tallinn University of Technology to develop and add a gender component to the application.

The tool uses data from the employment register (in Estonian 'Töötamise register', abbreviated TÖR) and the Estonian tax declaration form TSD (Declaration of income and social tax) Annexes 1 and 2. As of 2019, employers are required to enter the job title, workplace location and working hours of employees into the employment register.

Key elements of the tool are the very detailed list of occupations included and its user friendliness and accessible design with a visual accent on gender pay gap. This will enhance accessibility of pay information across occupations and regions; and raise awareness of the issue among employees.

One significant constraint of the tool is the lack of any legal obligation for employers to consult the data when making pay related decisions. Moreover, a potential unintended consequence of the tool is that it may justify and normalise existing gender pay gaps.

Box 2: Pay mirror – a digital tool for employers

Following a request by the Estonian Ministry of Social Affairs, a team at Tallinn University that is studying the factors contributing to the gender pay gap are developing a digital toolbox for employers.

The aim of the tool is to raise the awareness of employers about the gender pay gap within their organisations and to reveal pay inequalities.

The main objective is to provide employers easily accessible information about pay levels and pay gaps in their organisation without any additional administrative burden.

The tool will use existing data from public registers and will mirror the situation of the gender pay gap in an individual organisation and in the respective field of economic activity in the form of a report generated by the digital tool or similar. The use of register data will ensure almost complete coverage of employers/organisations and that the data can be updated continuously (and 'automatically').

The main challenges are ensuring the sustainability of the pay mirror tool, creating an interest for the tool among employers and assessing the type of analysis to be performed for different sizes of organisations.

The prototype of the tool is expected to be finished by the end of 2021.

3 Key Peer Review discussion outcomes

3.1 The implementation of the principles of equal pay for work of equal value and pay transparency remains weak

Despite the principle of equal pay for work of equal value being enshrined in EU Treaties since 1957, its implementation and enforcement are still facing significant obstacles. The 2014 Recommendation and the current European Commission proposal for a directive 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 aim to address the existing gaps in the substantial application of the principle.

The gender pay gap shows high variability among the countries involved in the peer review - ranging from 21.7% (2019) in Estonia to 10.4% (2018, data not available for 2019) in Greece - a variation mainly related to differences in the structure of the labour market and women's labour participation, rather than on the effective implementation of the principle of equal pay for work of equal value. For example, **Greece** - which shows the lowest gender pay gap among the participating countries also shows (according to EIGE data⁶) the second lowest score in the EU for gender equality in the domain of work. The discussion among all the peer countries underlined that horizontal and vertical segregation - still rooted in their labour markets - strongly influence the gender pay gap. In **Finland**, for example, 80% of employees in municipalities are women, and in **Latvia** 88.3% of workers in the health and social protection sector are women. Indeed, all participating countries agree on the need to intervene at different levels to ensure the effective implementation of the principle of equal pay for work of equal value across Europe.

As emerged in the Peer Review discussions, the identification of the main success factors in the equal pay principle's implementation, as well as the main causes and priority areas of intervention in relation to the gender pay gap, is a fundamental step. Moreover, careful attention should be paid to the specificities of the public and private sectors, which may vary across countries. In addition, any interventions to fully implement the equal pay principle should be articulated along a wide range of different actions such as, for example, legislative measures and support and awareness raising actions targeted at employers, workers and social partners.

It was also highlighted that a clearer definition of the equal pay principle (e.g. from the European Court of Justice) would help the implementation process, together with the provision of guidelines on how to apply it in different organisations, in job classifications

⁶ <https://eige.europa.eu/gender-equality-index/2019/domain/work>

and in collective agreements. Indeed, in some countries, as in Latvia and Lithuania, the national legislation does not include the concepts of 'equal pay', 'same work' or 'work of equal value'.

With specific regard to the implementation of the equal pay principle within organisations, the discussion pointed out that the gender pay gap is primarily linked to internal pay discrimination phenomena that reflect penalising practices rooted within companies (i.e. discriminatory hiring and internal career practices), as a consequence of corporate cultures and gender stereotypes. Pay transparency, thus, represents one of the first steps to tackle pay discrimination and reduce the gender pay gap. The need for a strong commitment among high level management in ensuring a change in companies' practices was underlined, as well as the need to complement pay transparency obligations with a broader set of measures and initiatives aimed at reducing gender inequalities within companies.

Pay transparency measures should also be seen as solidifying workers' rights to know in advance how much of their work will be remunerated, as well as to request information on the company pay systems in case of suspected discrimination. In **Lithuania**, and as a result of recent changes to the Labour Code, employers are now required to include the salary range in public job adverts. Some of the peer countries reported specific examples of legislative obligations for employers to make information on pay levels available within their company, as shown in Box 3 for Germany.

Box 3: The Pay Transparency Act, Germany

The Pay Transparency Act (Gesetz zur Förderung der Transparenz von Entgeltstrukturen) came into force on 6 July 2017.

Employees in companies with more than 200 employees have an individual right to wage comparison information; the employee can ask for information relating to a comparable group of up to six employees of the opposite sex.

Companies employing 500 or more employees are encouraged to implement a voluntary monitoring process for equal pay and to prepare an internal report on their pay structure.

In companies bound by collective bargaining agreements, works councils administer this legal entitlement; in companies without works councils, employees have to address the employer themselves.

Incorporated companies with more than 500 employees have to report on equal opportunities measures as well as on equal pay on a regular basis as part of their management report on the economic situation of the company (Lagebericht). This report has to be published on the website of the company.

Source: Peer Country Comments Paper – Germany

Another important aspect that was raised during the discussions is related to the possibility of using job classifications (as used in collective agreements), as clear and shared schemes of reference for pay levels within and across sectors. However, it was highlighted that current job classifications still reflect gender stereotypes and perpetuate biased norms that need to be revised in a more gender-neutral way. To this purpose, the **2008 International Labour Organization (ILO) guide** ("Promoting equity: Gender neutral job evaluation for equal pay: A step by step guide"⁷) was mentioned as a valuable resource.

In a similar way, participants agreed that collective agreements and social partners' internal processes should be revised in order to establish gender-neutral norms. Gender

⁷ https://www.ilo.org/declaration/info/publications/eliminationofdiscrimination/WCMS_122372/lang--en/index.htm

pay discrimination should be addressed in collective bargaining and social partners should take the initiative to activate a social discussion on gender pay discrimination, focussing on specific sectors and sharing examples of good practices across sectors. The debate on the role of social partners was approached differently by peer countries, due to the different roles and coverage of social partners in their respective labour markets (e.g. trade unions may only cover a minor share of workers, often employed in specific gendered sectors). For example, in **Spain** the social partners play a strategic role. Together with the government and the Women's Institute, social partners helped define a shared agreement on introducing the obligation for developing Gender Equality Plans in companies with more than 50 employees, as well as guidelines for collective agreements and job evaluation in a gender equality perspective. In countries where social partners play less of a role in the labour market, focused awareness actions are required, as well as a stronger intervention by public institutions and gender equality bodies.

Another important point underlined in the discussion about the effective implementation of the principle of equal pay for work of equal value regarded the involvement of employers in its application. Firstly, despite the broad acknowledgment of the existence of a gender pay gap issue, only a small share of employers considers this to be a problem for their own company. Often, employers are not aware that they are perpetrating discriminatory practices. In this perspective, employers should be made more aware of the presence of (pay) discrimination in their own organisations. This could be achieved, for example, through the support of informative digital tools. Secondly, it should be assumed that it is in the employers' interest to treat workers fairly, as well as to set clear and transparent criteria for their remuneration. Pursuing pay transparency and eradicating practices of pay discrimination should be seen as a win-win situation for both employers and employees. This happens independently of the size of the organisation. Thirdly, when legal obligations are in place, employers should be made aware of their duties. However, this is often not the case, for example, in **Estonia**, a recent study revealed that whilst nearly half of the employers surveyed (46%) had heard about the Gender Equality Act, only 4% of employers were well aware of the contents of the law⁸. Lastly, employers should be provided with supporting tools and measures for complying with legal requirements.

The potential need for a third party (e.g. state agency or equality body) to assess - in a gender perspective - job classifications and pay systems was also highlighted in the discussion. In this regard, the **Icelandic Equal Pay Standard (IEPS)** was mentioned as a good practice model. **Portugal** is currently working with Norway and Iceland to develop a similar equal pay standard. One of the critical issues underlined is however the cost for companies to access a service provided by a third party. Without legislative obligations, this might prevent some employers, especially SMEs, in performing gender-related quality assessment.

3.2 Paths towards pay transparency: legally binding measures and supportive measures

As mentioned above, the effective implementation of the principle of equal pay for work of equal value remains weak. In addition, as in the case of **Latvia** and **Lithuania**, some peer countries do not have a specific legislation defining what 'equal work of equal value' is, or how to implement the principle of 'equal pay'. In **Greece**, while the concept of 'equal pay for work of equal value' is protected by the Greek Constitution since 1975, the issue of pay transparency has not been addressed in legislation or jurisprudence.

The Peer Review discussion focused on the importance of having legislative measures to introduce pay transparency duties, accompanied by specific measures to support institutions and employers in reducing pay discrimination and the gender pay gap (e.g.

⁸ Turk, P., Anniste, K., Masso, M., Karu, M., & Kriger, T. (2015). Soolise võrdõiguslikkuse seaduse rakendamise ja indikaatorite väljatöötamine seaduse mõjude hindamiseks. Poliitikauuringute Keskus Praxis.

by raising awareness on pay discrimination and contributing to the fulfilment of legal obligations in terms of pay transparency and equal pay for work of equal value).

3.2.1 Legislative measures on employers

All the participants agreed on the necessary introduction at national level of legally binding measures targeting companies to ensure the fulfilment of pay transparency criteria. Pay transparency obligations though represent only the first step towards a more equal pay system. It will allow institutions, companies and workers to detect more precisely where pay discrimination take place and how to intervene to reduce them.

The first critical issue underlined in the debate was about the cultural norm of wage secrecy or confidentiality, due to the shared belief that the salary is a private matter. This leads to a weak awareness among employees on the pay levels and remuneration criteria adopted in the company. In addition, the absence of information on overall pay levels may contribute- to some extent - to perpetrate wage discrimination, leaving the definition of pay levels to individual pay negotiations. This concerns specifically those countries where collective agreements are less prevalent in the labour market. The introduction of pay transparency obligations, also in a gender equality perspective, will contribute to a cultural change in this perspective. This should be paired with a strong legislation against pay discrimination, on which citizens could rely in case a discrimination is detected.

Another point underlined during the discussion was that legislative obligations should not be limited to large enterprises (with 250 or more employees) which cover only a very small share of the total employed population. For example, the European Commission directive proposal addresses only companies with more than 250 employees in relation to pay reports and joint pay assessment. This may not be effective in a country like **Finland** where only 0.2% of companies employs more than 250 workers.

Indeed, some binding measures may also be applied to smaller companies, as in the case of **Spain** (Box 4 below) which recently adopted legislation (the Royal Decree Law (RDL) No. 6/2019, RD 901/2020 and RD902/2020) obliging all companies (independently of their size) to produce wage reports with information on pay levels and remuneration criteria. This new legislation also provides for supportive measures, including guidelines for collective bargaining and job evaluations. As highlighted during the discussion, any company should set up a transparent wage reporting system, making explicit the criteria they use to set compensation for different tasks/skills, and report average/median wage data disaggregated by sex and professional categories of workers. This could also help SMEs in improving their human resources management and in responding to the workers' right to information. Indeed, making pay reports mandatory and, in the case of large enterprises, also publicly available, is crucial for the effective implementation of the pay transparency principle⁹. In **Spain**, for companies with more than 50 employees, it is also mandatory to define Equality Plans and the implementation of pay audits. The differentiated legally binding measures between smaller and larger companies represents an adequate strategy to guarantee the fulfilment of legal obligations, without imposing excessive administrative burdens on small companies.

Box 4: The new legislation on equal pay between women and men in Spain

Royal Decree 902/2020 on equal pay between women and men, in force since 14 April 2021, complements a former 2019 RD in that it defines the principle of pay transparency and develops five tools to support pay transparency:

⁹ Defined in Spain as "the guarantee of obtaining relevant and sufficient information about the value of the remunerations of workers and the factors underlying these remunerations" (RD 902/2020).

Wage record: as stated in RDL 6/2019, all companies shall keep record of the average (arithmetic wage and median value) wages and wage complements disaggregated by sex and professional category.

Wage audits: companies obliged to have an Equality Plan (over 50 employees by March 2022) shall implement a wage audit whose aim is to retrieve all necessary information to assess whether the wage policy of the company complies with gender equality. The wage audit shall include an evaluation of all jobs, regarding the remuneration and promotion, an assessment of the initial situation and of the reasons behind gender-based differences (if any). An Action Plan should also be included. The Women's Institute, in cooperation with social partners, is in the process of preparing Technical Guidance for carrying out wage audits.

System for job evaluation by the professional classification used in the company or in the respective sector collective agreement. The Decree includes the criteria of adequacy, completeness and objectivity to assess jobs, and promotes the development of a specific procedure to assess jobs by the Ministry for Equality, the Ministry for Labour and the Social Economy, and the social partners. In addition, the RD states that collective bargaining committees must ensure that the criteria for an adequate evaluation of jobs are respected.

The right of workers to information, with different provisions depending on the presence of a legal representation of workers and considering the requirements of the General Regulation on Data Protection (GRDP) on small companies.

Guidelines for collective bargaining. The Decree provides that the Ministry for Labour and the Social Economy, the Ministry for Equality, and the social partners create and disseminate among workers and companies a guide or protocol with examples of good practices for collective bargaining. In addition, the Women's Institute with the social partners will carry out information and awareness raising campaigns targeting negotiators of collective agreements or Equality Plans.

Source: Peer Country Comments Paper – Spain

In a similar way, in **Finland**, the Finnish Act on Equality between Women and Men, since 1986 establishes duties for companies to ensure gender equality, and the Pay Audit Duty (Box 5) covers companies with more than 30 employees.

Box 5: Pay Audit Duty, Finland

The Pay Audit (palkkakartoitus) Duty is based on the Act on Equality between Women and Men. Since 1995 employers with more than 30 employees are obligated to take measures for promoting gender equality, defining an Equality Plan every second year. The Plan is not submitted to an authority, but the Equality Ombudsman may monitor equality plans, and does so usually by going through one sector of employment at the time. The Plan must be drafted in cooperation with an employee representative and made public in the workplace.

In 2005 Pay Audits became an obligatory part of Equality Plans in companies. Pay audits often do not compare groups of employees under different collective agreements, especially if the comparison tries to establish that the groups in question does work of equal value. In establishing whether equal work or work of equal value is paid equally, attention is paid to job classifications used in the relevant collective agreement, provided the classification is not discriminatory. There is, however, no legal clarification as to how such classifications should be assessed, and indeed, the issue of job assessments remains a contested issue among the social partners.

Source: Peer Country Comments Paper – Finland

By contrast, in **Germany**, there is no legislative obligations in place for companies under 500 employees (see previous Box 3). This implies that a large share of organisations and workers are not included in the legally binding measure.

Another critical issue addressed in the Peer Review was whether it is better to protect the individual entitlement to access the information on pay levels rather than obtain information at company level. In fact, individual access to data might require solid follow-up legal procedures if pay discrimination is detected. Indeed, the individual entitlement may imply for the employee to take up the burden of a litigation and eventually suffer from the consequences (i.e. job loss). On the other hand, introducing a legally binding measure to report the aggregated information at company level might be sufficient to make the company management aware if pay discrimination is present, thus triggering corrective actions by the company. Nonetheless, the shared opinion was that an important element to monitor the effectiveness of applicable measures is to ensure the right and consistent implementation of the law.

Compliance with data protection regulations and competition law is another issue for pay transparency measures that makes it harder to take action. Providing evidence on pay discrimination is difficult when comparable data cannot be easily obtained.

The introduction of legislative measures requires favourable pre-existing conditions as well as a support system for companies to comply with their duties. Effective coordination and collaboration among key stakeholders, such as government authorities and agencies (e.g. tax authority and labour inspectorates), equality bodies and statistical offices is considered a pre-condition for the successful implementation of pay transparency measures. A crucial factor is also the dialogue with social partners. In addition, clear and precise concepts and definitions are needed in existing and future legislation to ensure that measures are implemented consistently and as intended. Indeed, a system for the enforcement of planned measures should be designed and made clear to the companies.

In summary, and as emerged from the Peer Review, the introduction of legally binding norms on pay transparency should provide employers with:

- A clear definition of what is requested by legislative measure, in terms of pay transparency duties or wage reporting activities;
- Supporting tools (e.g. digital tools, guidelines, training and capacity building, consultancy services, etc.) to facilitate the effective implementation of legally binding measures, according to the size of the company;
- Transparent follow-up procedures supporting discriminated workers in the case of a violation of the law, or if a pay discrimination is detected.

3.2.2 Supportive measures targeted at employers

Legally binding pay transparency measures should be accompanied by supportive measures. Examples include awareness raising actions (like the Barometer on Pay Disparities in **Portugal**, described in Box 6 below), training measures (for example training actions targeting companies, as in **Lithuania**) and guidelines for employers and collective agreements (as in the **Spanish** case described in Box 5) as well as digital tools (as illustrated in section 3.3 below) and incentives for companies. These measures are important also when legally binding obligations are not in place.

Box 6: Barometer on Pay Disparities between Women and Men, Portugal

Law n. 60/201810 on Equal Pay, published on 21 August 2018 and in force since 22 February 2019, launched the Barometer on Pay Disparities between Women and Men.

The law requires that the Strategy and Planning Office of the Ministry of Labour, Solidarity and Social Security (GEP/MTSSS) shall make available on an annual basis statistical information about pay disparities, in general and by economic activity.

The Barometer, a reporting tool published periodically, is aimed to improve the statistical data publicly available, raise awareness and promote a wide-ranging debate on equal pay among key stakeholders. It includes general and sector-level data on the factor-weighted gender pay gap, providing an innovative source of information on this subject.

It contributes to increase knowledge, providing the general public with more detailed and accessible information about the situation and evolution of the gender pay gap in Portugal.

Source: Peer Country Comments Paper – Portugal

International standards and guidelines (e.g. the ILO guidelines) can be useful when designing national guidelines and may increase the chances of approval among social partners and employers.

In addition, the assessment and reporting of companies' wage systems should provide sufficient and manageable information (not too complex to be implemented by employers of different sizes) and should be monitored by government authorities or agencies. For example, the administrative burden on employers should be taken into account, as well as the balance between the costs and the benefit for the company. The former could be reduced by performing an initial pay analysis using centralised registers based on administrative data. Despite the critical issue related to individual data protection and treatment, this approach may represent a way to facilitate the implementation of pay transparency measures in companies. This information could be made available to employers through digital tools. Such digital tools or centralised reporting could be also used to raise awareness among employers and employees.

Whilst recognising that the introduction of legislative measures to enforce pay transparency are needed, the Peer Review discussion also reported that some incentives might induce employers to reduce the gender pay gap. In **Germany**, for example, a specific award for gender equality within companies was designed, including the issue of pay equality into a broader set of companies' good practices aimed to create a more equal and inclusive company environment. Similarly, in **Greece**, the use of equality mark awards was recently adopted by Greek law but has not yet been activated in practice. The awards will be awarded to companies in the public and private sector who excel in the implementation of policies aiming at the equal treatment for workers in a gender-equality perspective. Other types of incentives, especially for companies without legal obligations, were mentioned in the discussion, such as easier access to public procurement.

3.3 Digital tools to support employers and to pursue pay transparency

The Peer Review also discussed evidence on the use of digital tools to raise awareness among employees and employers on pay discrimination and to support organisations in fulfilling their pay report duties (where foreseen by the law) or implementing voluntary measures for pay transparency. These two objectives may require different types of digital tools, as discussed during the event.

Concerning the use of digital tools for awareness raising, the Peer Review discussed the 'Wage and salary calculator', used in **Czech Republic**, a digital wage calculator similar to the one developed in Estonia. One of the objectives of the 'Wage and salary calculator' is to provide workers with information and comparable data when they need to renegotiate their salary. This might help especially non-unionised workers in their individual pay bargaining. The tool is user-friendly and it is easy-to-access by the large majority of citizens. The Czech digital tool uses data from the national statistics office, but the process of involving and obtaining data from the national statistics office can be complex and time-consuming. However, once the data obtained, it is possible to calculate national wages disaggregated by sex and job category, and consequently the gender pay gap on an annual basis. A potential risk with the tool is that the information provided might reflect the existing discrimination and gender segregation within the

labour market, providing employers with grounds to justify lower salaries for women in specific job positions. There are three main lessons learnt from the experience of the 'Wage and salary calculator': (i) to involve statisticians and technical profiles from statistical institutes in the development and implementation of the tool; (ii) to ensure that the tool is user-friendly; and (iii) to provide publicly accessible and comparable results.

Box 7: Wage and salary calculator, Czech Republic

The ministerial project *22% TOWARDS EQUALITY* developed a digital tool called Wage and Salary Calculator.

The Wage and Salary Calculator calculates average earnings for individuals with given characteristics and the percentage difference in earnings between women and men based on these parameters.

The calculator distinguishes between private and public sectors, and within each sector, across economic activities and professions.

Other monitored characteristics include basic socio-demographic characteristics, e.g. the highest educational attainment, age and region.

The calculator works on the basis of a linear regression model. The dependent variable, i.e. the explained variable, is the gross monthly wage/salary. Independent variables, i.e. explanatory variables, are the monitored characteristics mentioned above.

Source: Peer Country Comments Paper – Czech Republic

The discussion also considered the source of data to be used to 'feed' digital tools. Indeed, digital tools are based on different types of data, with some requiring specific company data and others relying on registers of administrative data collected by statistical offices or government authorities/agencies. As mentioned in the previous section, the latter may reduce the administrative burden for employers. However, the involvement of national statistical institutes or administrative authorities might be a difficult process, as shown by the Czech case. On the other hand, accessing company data might raise privacy concerns. And indeed, a common challenge in Member States is ensuring compliance with general data protection regulation and measures when it comes to disclosing pay information.

In terms of supporting companies to fulfil their pay reporting duties or to implement voluntary self-assessment actions to improve gender equality in pay levels, different types of digital tools were discussed. In **Portugal**, an Excel tool for pay level reporting based on information provided by companies, is accessible to all companies. It reports the pay levels disaggregated by regions, sectors and level of qualifications. In **Spain**, a set of tools are being developed to support organisations in the implementation of the legally binding measures introduced by the Gender Equality Act. These include guidelines, technical assistance services, free online training and guidelines on how to correctly assess gender equality within the company. In addition, a pay record tool will be available, consisting of a mandatory and voluntary section that the employer can fill in using company data. The tool will report results on company pay levels and salaries.

In the **Czech Republic**, the project '22% TOWARDS EQUALITY' also supported the implementation of a Swiss digital tool called Logib. At the moment, a first module of the tool has been introduced, targeted at companies with more than 50 employees. The implementation of the second module, targeted at small companies, is foreseen after a pilot trial. As emerged in the discussion, the absence of legally binding measures for providing pay reports or pay audits has resulted in only a low number of companies in Czech Republic accessing and using the tool.

Despite different opinions on whether digital tools should be made mandatory or voluntary for employers, a legal obligation to report is considered an important precondition for incentivising employers to use digital tools. Further research is needed at national level to identify what can work best for employers.

Together with the design and implementation of digital tools, clear follow-up corrective actions must be required from companies after identifying gender pay gaps.

3.4 Joint multi-stakeholders initiatives, social dialogue and mutual learning play an important role in encouraging and supporting pay transparency

A central theme of the Peer Review was the role played by social partners and other stakeholders in supporting companies to effectively implement gender equality measures and pay transparency arrangements. The **Spanish** case highlighted the importance of joint initiatives among relevant stakeholders to define strategic Gender Equality Plans in companies. In the Spanish context, a key role has been taken by the Women's Institute, promoting a gender perspective in companies' practices and providing technical expertise and support services to companies as well as guidelines and training activities to fulfil their legal obligations. The involvement of social partners and the judiciary system has also proven effective. Similarly, in the **Czech** case the involvement of the national statistical institute was key in supporting the creation of the 'Wage and salary calculator'.

Overall, social partners might significantly contribute to the definition of actions for pay equality and pay transparency, starting with the revision of collective agreements and jobs classification systems. Indeed, collective agreements could be a useful source of comparison across categories of workers for employers, although they might themselves reflect gender discrimination and segregation attitudes.

In countries where social partners do not represent a large proportion of the labour market, awareness raising and advocacy actions should be provided to influence the public debate and raise the topic of pay discrimination and pay transparency among citizens. In addition, the creation of networks and communities among companies, promoted by the social partners, might represent a good strategy to trigger pay transparency and equality practices through mutual learning, as currently happens in **Spain**.

4 Conclusions and next steps

The focus of the Peer Review was on identifying the most effective (legally binding) measures to increase pay transparency in companies of different sizes and how to ensure successful implementation, without placing excessive administrative and financial burdens on private and public sector organisations.

Despite wide differences across the participating countries in the institutional and regulatory contexts and in the implementation of the principles of equal pay for equal work and pay transparency, all countries are dealing with challenges related to the complexity of these principles and in involving employers, especially micro and small enterprises who are usually not covered by legally binding regulations.

Whilst some of the measures and approaches presented in the Peer Review have proven effective and could be adapted to different contexts, the discussion pointed out that there is no one-size-fits-all solution.

The main conclusions emerging from the Peer Review are follows:

- Legally binding legislation on pay transparency measures are necessary and should be extended as much as possible to SMEs with targeted requirements in order to cover a significant share of employers and workers.
- However, legislation is not sufficient by itself. To ensure its effective implementation, it has to be accompanied with targeted support measures ensuring the commitment of employers and managers of organisations of different sizes and sectors, including clear guidelines, counselling services and training, user-friendly digital tools

facilitating wage reporting systems, positive incentives, awareness raising measures and sharing of good practices.

- Monitoring and follow-up procedures also need to be in place to support workers to exercise of their right to information and non-discrimination, and to assess the actions taken by employers to address pay discrimination.
- Another pre-condition for the effective implementation of pay transparency is to ensure the involvement and commitment of the social partners and other key stakeholders (e.g. equality bodies, labour inspectorates and tax authorities, the judicial system and statistical offices).
- There are some challenges to be addressed in order to improve the implementation of pay transparency, including the need for clear and precise definitions of the principle of equal pay for work of equal value and comparators; the need to revise collective and company agreements and job classifications and descriptions from a gender equality perspective; and the need to address the problem of how to ensure compliance with general data protection regulation and respecting the privacy of employees when disclosing information on pay levels.
- The Peer Review discussion also acknowledged that the reduction of the gender pay gap requires the implementation of more comprehensive gender equality strategies both at the company and society level. In this respect, a general concern is the reduced attention to gender equality issues and the gender pay gap during the COVID-19 pandemic. This calls for an even stronger commitment from policy makers and social partners on gender equality and anti-discrimination both in the workplace and in society overall.

