
EU PAY TRANSPARENCY PROPOSAL:

SECTORAL EMPLOYERS' ORGANISATIONS SUGGEST A MORE BALANCED APPROACH

BRUSSELS, 09 MARCH 2022

- The European employers' organisations, **Ceemet** (MET industries), **Geopa** (agriculture), **Hotrec** (hospitality), **ECEG** (chemical, pharmaceutical, plastic and rubber industries), **EFCI** (cleaning and facility services) and **EuroCommerce** (retail and wholesale) strongly support the principle of equal pay for equal work or work of equal value, as stated in the European Treaties. Employers consider pay discrimination unacceptable and they are fully committed to **promoting equal opportunities and equal remuneration**.

Despite this, the sectors fear that the **Commission's proposal on pay transparency** does not address the **root causes of the gender pay gap**. Instead, it challenges social partners' autonomy, businesses' competitiveness, and the role of the Member States.

4 CONCRETE PROPOSALS FROM THE SECTORS

To make the Directive workable in practice, we request that the EU institutions consider the following proposals in the upcoming negotiations:

- The inclusion of a **presumption of appropriateness/adequacy** under the scope of the Directive (Art. 2) and a provision which leaves room for the national social partners to deviate from the directive by means of collective agreement.¹ This would enable national adaptation so that the rules can function appropriately in the different legal and labour market systems within the European Union. Collective bargaining agreements already contribute to gender neutral, transparent, and activity-based remuneration².
- To clarify that the objective criteria to determine what **"equal work and equal work of equal value"** (Art. 4) shall build on the development brought by this definition in Directive 2006/54/EC with consideration to the case-law of the Court of Justice. In this sense, we welcome the Council's

¹ The presumption of appropriateness has been introduced in the Parliament's amendments 468-470, 590, 677-8, 821-2. A derogation by means of collective agreements has been introduced in the Parliament's amendment 1071-2.

² According to the IAB Research Report 3/2018 "Equal pay between women and men in medium-sized and large companies", "The relationship between collective bargaining coverage and the gender pay gap has already been examined in some research papers, since companies in Germany do not differentiate between union members and non-union members when it comes to pay. Therefore, all female and male employees of a company covered by a collective agreement benefit equally from a successful negotiation. Studies show that female employees who are covered by a collective agreement have higher earnings than their colleagues who are not" (18 June 2018).

proposal, specifying that assessments should be based on comparable situations based on **gender-neutrality**³.

- An exception for companies with less than 250 employees when it comes to the **reporting** obligation (Art. 8) and the **joint pay assessment** (Art. 9), as stated in the Commission's proposal and in the Council's general approach. If this exception is not included, **SMEs** will have to bear heavy administrative burden and financial costs, with little effect on reducing pay differences⁴. To reflect the realities of the workplace, a **reference to the collective agreements** should also be considered sufficient when it comes to the reporting obligation. Finally, a **gradual approach** would be more appropriate to cover different sizes of companies over time, considering the fragile situation into which micro, small and medium enterprises will be left out after the pandemic.
- To leave to the **Member States** the **prerogative** to regulate the issues of compensation, legal proceedings, legal and judicial costs, and penalties. The sectors strongly believe that victims of discrimination must be supported in the enforcement of their rights. However, provisions contained in Art. 14 to 20 of the Commission's proposal risk to increase court cases and to promote litigation and tensions at company level, putting **employers implicitly into fault** (Art. 16).

IN CONCLUSION

The sectors are fully committed to **reducing the unadjusted gender pay gap** and they are willing to engage with the EU institutions in a **constructive** dialogue with the aim of finding a feasible compromise and a **balanced approach**. They demand that the institutions take into consideration the above-mentioned proposals and urge them to consider the allocation of **funding to activities** focused on:

- increasing **women's participation in the labour market**, and specifically in **STEM** disciplines;
- improving the quality and availability of **(child-)care facilities and facilities for the elderly people**;
- promoting **education programmes fighting gender stereotypes** and changing mindsets.

The sectors believe that only a flexible approach, which includes **awareness-raising campaigns** and **exchange of good practices** will effectively address the root causes of the gender pay gap and pay discrimination.

³ [Arts. 4 and 16 of the Council General Approach](#)

⁴ According to the NAO's report "[The Discrimination Act's equal pay survey requirement](#)" (2019) in Sweden the obligation for employers to produce a documented pay survey and analysis on an annual basis imposes a heavy administrative burden. The report also expresses some reservations on the effectiveness of the implemented measures, and it shows that the obligations have rarely led to the discovery of unfair pay differences between men and women.