

# Advisory Committee on Equal Opportunities for Women and Men

## Opinion on the role of social dialogue in implementing the principle of equal pay between women and men for the same work or work of equal value

*The Opinion of the Advisory Committee does not necessarily reflect the positions of the Member States and does not bind the Member States*

4 June 2024

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# 1. Introduction

Social partners play a crucial role in promoting the principle of equal pay and enforcing equal pay for work of equal value through collective bargaining and wage setting mechanisms. This should translate into a situation that *“when men and women perform work that is different in content, involving different responsibilities, requiring different skills or qualifications, and is performed under different conditions, but is overall of equal value, they should receive equal remuneration”*<sup>1</sup>.

The new Pay Transparency Directive<sup>2</sup> explicitly recognises the possibility for Member States to entrust social partners with the implementation of relevant provisions of the Directive so they can be actively engaged in implementing the related rights and obligations provided that the results sought by the Directive are guaranteed at all times.

The objective of this Opinion is to provide an inspiration on the role that social partners can play in the effective implementation of the equal pay principle in the EU. It reflects primarily on the role of collective bargaining as well as on different systems of industrial relations in the EU/EEA in terms of wage setting, as well as a definition of pay levels for particular categories of jobs and individual workers, and social partners at different levels. This Opinion also considers the role of social partners in terms of the inspection and control of compliance with the equal pay principle, its enforcement and defence of victims in case of alleged pay discrimination.

The Union recognises and promotes the role of social partners as provided by Art.152 of the TFEU, taking into account the different existing labour market models in the EU. The interpretation of the pay transparency Directive remains a prerogative of the ECJ as for any other EU legislation.

## 2. Equal Pay and Collective Bargaining

### 2.1. The Relevance of Collective Bargaining to Equal Pay

While legislative frameworks<sup>3</sup> are crucial in setting the basic right to equal pay for work of equal value, social partners' good practices and collective agreements are also of paramount importance in implementing existing rights, as well as developing additional measures<sup>4</sup>. Indeed, collective bargaining is a tool that can provide, opportunities and potential for the strengthening of equal pay for work of equal value<sup>5</sup>, as well as contribute to reducing gender wage gaps. This could be done through a number of measures such as the inclusion of gender equality clauses in collective agreements; targeted raises compensating for the concentration of women in low-paid industries; gender-neutral occupational classification schemes to correct the undervaluation of female-dominated occupations; measures promoting pay transparency; and gender-neutral evaluation criteria for career progress<sup>6</sup>.

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<sup>1</sup> ILO, 2013. *Equal Pay. An Introductory Guide*.

<https://ecommons.cornell.edu/server/api/core/bitstreams/cf59cf8d-4225-419c-a19f-c18b6beecf02/content>

<sup>2</sup> Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023 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.

<sup>3</sup> Further information is available in Annex 1 - *Equal Pay: A Legal Background*.

<sup>4</sup> ETUC, 2022. [New Frontiers for Collective Bargaining. Building Capacities in Changing Workplaces – Equal Pay.](#)

<sup>5</sup> [https://www.trapez-frauen-pensionen.at/dam/jcr:9abe59d5-7a7f-4cc4-ba85-87ee07f8ee8f/trapez\\_analyse\\_bericht\\_2020\\_en.pdf](https://www.trapez-frauen-pensionen.at/dam/jcr:9abe59d5-7a7f-4cc4-ba85-87ee07f8ee8f/trapez_analyse_bericht_2020_en.pdf)

<sup>6</sup> OECD, 2020. [Can collective bargaining help close the gender wage gap for women in non-standard jobs?](#)

## 2.2. Putting Equal Pay on the Agenda: Actions and Challenges

Governments, employers' organizations and trade unions around the world increasingly recognize the importance of addressing the gender pay gap as well as the principle of equal pay for work of equal value<sup>7</sup>. Yet, whether equal pay is included or not in the collective bargaining process depends very much on the legal and organisational framework, as well as on potential difficulties of finding a common approach among social partners<sup>8</sup>.

In some countries, the attention of social partners to equal pay has intensified over the past years. In Spain, awareness of gender inequalities has been raised within and by trade unions. This is a result of a stronger feminist movement, and conscience among women workers and an important national legal framework concerning gender equality in the labour market in which social partners and collective bargaining have a main role. France supported collective bargaining on gender equality by introducing, for the first time, an obligation to negotiate on this topic. The French equality model in collective bargaining is enshrined in the Labour Code. Both levels are obliged to negotiate at branch and company level. However, there is no obligation to achieve results, i.e. negotiations do not have to lead to a shared agreement. Bargaining at the company level can provide additional support for agreements set at sectoral level with provisions tailored to address gender equality issues which are specific to the workplace. In addition, the obligation to negotiate job classifications, which make it possible to compare work of equal value, is only rarely implemented and is only a matter for negotiation at branch level, not at company level. In Belgium, the Gender Pay Act introduces the obligation to deal with the gender pay gap on all levels of social dialogue: at the interprofessional, sectoral, and company levels.

Social partners in Poland have been actively engaged in the public debate on the equal pay principle. The draft Act on Combating the gender pay gap was written by the Congress of Women association, the leading women's rights organisation, in collaboration with employers' organisation the Confederation of Employers – Lewiatan. Following a positive opinion from trade unions, it was submitted by a group of Members of Parliament to the Sejm (lower house of the parliament of Poland) in 2021.

Social Partners address equal pay in many ways, including through collective bargaining, discussions in social dialogue bodies, information campaigns, and advocating national governments for the effective implementation of equal pay. Social partners develop toolkits, guides, brochures and websites, as well as surveys, studies, and reports on equal pay and issues related to the gender pay gap. Moreover, awareness campaigns on equal pay are organised mainly to mark the International<sup>9</sup> and the European Equal Pay Day or the International Women's Day. As part of these campaigns, some trade unions called for ensuring gender equality, legislative modifications related to equal pay, and pay transparency obligations for employers<sup>10</sup>. Some trade unions provide training on negotiating and implementing gender equality plans as well as on how to negotiate for equal pay. In some countries, trade unions have an active role in a wider application of gender-neutral job evaluation methodologies<sup>11</sup>. Women's committees or gender equality bureaux in trade unions also advance

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<sup>7</sup> [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---travail/documents/publication/wcms\\_849209.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_849209.pdf)

<sup>8</sup> Annex 2 provides more information on diverse collective bargaining models.

<sup>9</sup> [The Equal Pay International Coalition \(EPIC\)](#) organizes the International Equal Pay Day. [ITUC participated](#) to the commemoration on 18<sup>th</sup> September 2023.

<sup>10</sup> ETUC, 2022. *New Frontiers for Collective Bargaining. Building Capacities in Changing Workplaces – Equal Pay.*

<sup>11</sup> EIGE, 2019. [Tackling the gender pay gap: not without a better work-life balance | European Institute for Gender Equality \(europa.eu\)](#)

foster discussions on gender equality at work and within the unions. For example, the Central Committee for Gender Equality and Equality of affiliated organisations to the Swedish Confederation of Professional Employees within the banking sector runs a project 'Equal Pay', grants a Gender Equality Reward and promotes regular co-operation on equal pay and gender disaggregated pay statistics.

Spanish employers and Spanish trade unions successfully negotiated provisions (articles or a dedicated whole chapter) on equality and non-discrimination at work in collective agreements. These provisions take into account the specific needs of the workforce and the industry concerned. Additionally, these topics are reviewed and updated periodically to adapt to changing circumstances and to reinforce their commitment.

*Recommendation: The Advisory Committee recommends that Member States take effective measures in the context of the Pay Transparency Directive to support social partners to actively engage on matters of equal pay between women and men for work of equal value. This may entail, inter alia: more support for including equal pay in collective bargaining at the appropriate level.*

*Recommendation: The Advisory Committee recommends that in line with the purposes of the Pay Transparency Directive due attention is to be given to the definition of discrimination in that it includes 'intersectional discrimination' namely a combination of sex and any other ground/s of discrimination protected under Directive 2000/43/EC or 2000/78/EC.*

## 3. The Structure of collective agreements – specific provisions on equal pay

Collective agreements may contribute to gender pay equity by promoting inclusive wage setting, preventing and addressing gender-based pay discrimination and ensuring fair valorisation of jobs in sex-segregated sectors and jobs. Specific provisions on equal pay in collective agreements can be structured along three axis:

1. transparency in job classification and pay scales, including supplementary benefits and bonuses, ensuring the use of bias-free and objective factors and conditions
2. revaluation of work in female-dominated occupations or sectors and
3. other measures to address gender pay inequalities<sup>12</sup>, including tools and provisions on equal pay.

### 3.1. Job Evaluation and Classification Systems

Ensuring equal pay for the same work and work of equal value between women and men hinges on challenging the inherent biases in the traditional job classification and evaluation systems, and in

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<sup>12</sup> ILO, 2022. [Social Dialogue Report 2022. Collective bargaining on an inclusive, sustainable and resilient recovery.](#)

creating new ones that are truly gender neutral and bias-free<sup>13</sup>. Also, it should be acknowledged that gender stereotypes and gender segregation in the labour market are complex societal issues and a wider approach, aimed at the same time at tackling educational as well as cultural elements of this issue should always be kept in mind.

Ensuring “equal pay for work of equal value” helps to correct for the historic undervaluation of female-dominated labour. Men continue to be overrepresented in higher-paid sectors or jobs and women in lower-paid ones, despite many female- and male-dominated jobs having similar work-related characteristics and comparable value<sup>14</sup>.

Specifically, female-dominated jobs tend to be analysed into fewer sub-factors, and/or skills required in these jobs are considered as innate or as personal qualities rather than job qualifications and therefore less valued. For instance, the effort required for emotional work when compared to physical work tends to be under-recognised; responsibility is associated solely with the hierarchical placing of the job disregarding responsibility for people; and working conditions, that are taken into account when evaluating production jobs, have been usually disregarded in the evaluation of jobs such as those in administration and care.

Under the Pay Transparency Directive, objective gender-neutral criteria, including skills, effort, responsibility and working conditions, alongside other factors relevant to the specific job or position should be used to assess whether workers are in a comparable situation in regard to the value of work. Similarly, the ILO<sup>15</sup> also proposes skills, responsibility, effort and working conditions as the basic factors for evaluating all tasks performed in an organisation, regardless of the sector to which it belongs. Finally, for each of the factors that are valued, it is important to include examples of jobs in which these factors are relevant, paying special attention to the fact that each factor also includes examples of jobs held mostly by women that are usually not taken into account<sup>16</sup>.

The Swedish Discrimination Act indicates that the ILO criteria above should be used to compare equivalent work. These requirements apply to comparisons within the individual employer's operations and not across different employers.

In Austria, collective agreements contain pay grids that are structured by qualification levels and sometimes also by seniority and which lay out the minimum pay levels required for jobs belonging to the respective category. The employers are required to evaluate the classification of jobs by the requirements of applicable collective agreements and indicate which career bracket is connected to an individual job. This decision can be challenged in individual court cases. The collective agreements and the pay grids normally are re-negotiated annually by the social partners and consequently are under regular observation and adaptation<sup>17</sup>.

Gender-neutral and bias-free factors are not enough. Job classification and evaluation systems should be used in a gender-neutral manner. Tools for bargaining committees and companies on how to carry out jobs assessments that are free of gender bias are crucial. Mutual collaboration between social

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<sup>13</sup> Article 4 of the Gender ‘Recast’ Directive states that “*where a job classification system is used for determining pay, it shall be based on the same criteria for both men and women and so drawn up as to exclude any discrimination on grounds of sex*”. The Pay Transparency Directive elaborates on the implementation of equal pay for work of equal value by giving more detail on how such non-discriminatory classification systems are to be ensured in practice. Among several provisions covering this dimension, the Directive calls on the Member States to ensure that “*tools or methodologies shall allow employers and/or the social partners to easily establish and use gender-neutral job evaluation and classification systems that exclude any pay discrimination on grounds of sex*”.

<sup>14</sup> OECD, 2021. [Can pay transparency tools close the gender wage gap?](#)

<sup>15</sup> ILO, 2008. [Step-by-Step Guide Gender Neutral Job Evaluation for Equal Pay.](#)

<sup>16</sup> *Ibid.*

<sup>17</sup> ETUC, 2022. [New Frontiers for Collective Bargaining. Building Capacities in Changing Workplaces – Equal Pay.](#)

partners in the design, development and testing of jobs assessment guides and tools with a gender perspective will also contribute to facilitate their application.

Negotiators and actors carrying out jobs assessments would benefit from training on gender equality, with a particular focus on jobs assessments from a gender-neutral perspective, on tackling gender biases and on best practices to address such biases. Gender balance in jobs assessment committees and bargaining commissions can also contribute to prevent gender biases.

The job description used to carry out the assessment must be adequate and exhaustive to ensure that none of the characteristics are ignored, particularly for female-dominated sectors and occupations. Repetitions are to be avoided so that equivalent tasks or functions do not appear under different names. Moreover, job titles should be gender-neutral to minimise any biases.

### 3.2. Female-dominated sectors

Discrimination based on gender due to traditional roles, stereotypes, and biases or a systematic undervaluation of jobs or positions usually performed by women can be uncovered and analysed by comparing similar positions in feminised jobs with other entities, sectors or occupations in which men predominate.

Having said this, it is recognised that this issue cannot be solved only by the social partners at the sectoral level alone. It is a societal problem that needs to be addressed by the government in cooperation with social partners. For some sectors (for example the care sector), the impact on the public finances could also be significant, therefore it is key to have a reflection in the society as a whole.

The COVID-19 crisis demonstrated to society the real value of the work carried out by low-paid female workers, who make up the great majority of the caring and cleaning professions. Research<sup>18</sup> found that gender gaps in income losses during the COVID-19 crisis might impact future career prospects and gender gaps in pension entitlements.

In 2015, the ETUC adopted a resolution which encouraged their affiliates to negotiate larger wage increases in the “5 C’s” sectors (cleaning, catering, cashiering, caring and clerical work), noting that *“more efforts should be deployed to overcome occupational segregation, especially by negotiating larger wage increases for lower paid workers, particularly in female dominated sectors”*<sup>19</sup>.

The European Federation of Public Service Unions describes how a cross-sectoral study by the French Confédération Française Démocratique du Travail (CFDT) reveals a gender pay gap between sectors and the results are used to strengthen negotiations for job reclassifications in the health and social care sectors<sup>20</sup>. Also, in France, some trade unions addressed job classifications with the aim to upgrade female-dominated jobs by reviewing the definitions and evaluations of jobs used in professional classifications. A recent study on this subject has been conducted by the Institut de Recherche Économique et Sociale (IRES) which looks at the care sector.<sup>21</sup>

The Swedish Trade Union Confederation works with different types of instruments such as, but not limited to, special raises of salary for female-dominated occupations, raised salary for the employees that are paid the least, demands full-time jobs instead of part-time jobs and negotiations to diminish

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<sup>18</sup> [Gender equality and the socio-economic impact of the COVID-19 pandemic | European Institute for Gender Equality \(europa.eu\)](https://www.europa.eu/press-room/media/30612/en/infographic/equality)

<sup>19</sup> ETUC, 2015. [Collective Bargaining – Our Powerful Tool to Close the Gender Pay Gap.](#)

<sup>20</sup> Pillinger, 2021. [Pay transparency and role of gender-neutral job evaluation and job classification in the public services.](#)

<sup>21</sup> <https://ires.fr/actualites/etudes-des-organisations-syndicales-investir-dans-le-secteur-du-soin-et-du-lien-aux-autres/>

the number of temporary and precarious positions. Trade unions in Denmark sought to obtain higher salaries for predominantly female professions, and in 2018, these efforts resulted in an extra two million euros for early childhood educators as well as enhanced recognition of this profession. In Iceland, the social partners sought to address the undervaluation of women-dominated jobs and the accompanying low pay, particularly in the health care and education sectors, and as a result, the emotional toll of this work is being recognised<sup>22</sup>.

Highlighting additional trade union-led strategies, Pillinger (2014) notes that in order to address pay inequalities at sectoral level, an additional equality budget can be negotiated in a collective agreement. In Sweden and Norway such 'equality allowances' targeted workers' agreements in female dominated jobs<sup>23</sup>. Swedish social partners agreed to provide extra finances in order to increase the salaries for large female dominated groups, such as assistant nurses.

### 3.3. Tools

The development of national tools that can be deployed for the objective evaluation and classification of jobs is particularly important in the context of social dialogue, collective bargaining and collective agreements.

In Spain, three tools have been developed at the technical tripartite social dialogue roundtable between representatives of the Ministry of Labour and Social Economy and the Institute of Women (Ministry of Equality), and the social partners. The 'pay registry tool'<sup>24</sup>, alongside the guide<sup>25</sup>, helps to systematise the pay systems and segregate all the pay-related information by sex to effectively identify the existing gender pay gaps within a company. Moreover, the 'job assessment tool'<sup>26</sup>, alongside the guide<sup>27</sup>, integrates some characteristics that are often made invisible when assessing the tasks and jobs that are predominantly done by women, such as polyvalence or broad definition of obligations, thoroughness, emotional charge, responsibility for people and many others. A technical guide has also been developed for the implementation of remuneration gender-sensitive audits<sup>28</sup>.

The first ever "Comparative Worth Index (CW-Index)" has been developed in Germany. It takes the form of a statistical measuring instrument that can be used to comprehensively and gender-neutrally map the demands and stresses in the workplace and compare them with each other<sup>29</sup>. As Klammer notes, *"the statistical analyses with the data from the Structure of Earnings Survey using the CW Index have confirmed the assumption of a gender-differentiated valuation and remuneration [...] to the disadvantage of female employees"*<sup>30</sup>.

The Icelandic Equal Pay Standard (IEPS) is a job evaluation tool for achieving equal pay for work of equal value in practice. It is based on a certification system which verifies if a company or organisation's equal pay system is fair and non-discriminatory. It includes job evaluation and

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<sup>22</sup> ETUC, 2022. [New Frontiers for Collective Bargaining. Building Capacities in Changing Workplaces – Equal Pay.](#)

<sup>23</sup> Pillinger, 2014. [Bargaining for Equality.](#)

<sup>24</sup> [Herramienta\\_Registro\\_Retributivo.xlsx \(live.com\)](#)

<sup>25</sup> [Remuneration Registration Tool User Guide.pdf \(igualdadenlaempresa.es\)](#)

<sup>26</sup> [SVPT.xlsm \(live.com\)](#)

<sup>27</sup> [Herramienta\\_VPT \(igualdadenlaempresa.es\)](#)

<sup>28</sup> [Audit\\_Retrib\\_GENERO \(igualdadenlaempresa.es\)](#)

<sup>29</sup> ETUC, 2022. [New Frontiers for Collective Bargaining. Building Capacities in Changing Workplaces – Equal Pay.](#)

<sup>30</sup> Klammer, 2018. Comparable Worth: Arbeitsbewertungen als blinder Fleck in der Ursachenanalyse des Gender Pay Gaps. (Nr.014). Wirtschafts- und Sozialwissenschaftliches Institut (WSI) der Hans Böckler Stiftung.



transparency in the performance award system and shifts the burden of proof onto the employer to ensure transparent systems are in place for valuing different jobs<sup>31</sup>.

The Austrian toolbox on income reports includes guidance on work evaluation. It is intended to provide inspiration on how a meaningful income report can be created; analysed and communicated within the company; and how it can be used for further measures<sup>32</sup>.

In Luxembourg, structural elements and enablers, such as equality delegates<sup>33</sup>, "Actions Positives"<sup>34</sup>, and the salary and career advancement tool LOGIB<sup>35</sup>, which objectively correlates salaries to factors like age, sex, responsibility, and seniority, contribute to identifying and rectifying disparities in the workplace.

In Poland, the Ministry of Family and Social Policy developed the application<sup>36</sup> for entrepreneurs, which helps to estimate gender pay gap. It takes into account gender, age, education and other selected features.

In France, the "Index de l'Égalité professionnelle"<sup>37</sup> ("Professional Equality Index"), which is compulsory for all companies of at least 50 employees, is an indicator of gender pay inequalities within the company. This Index covers 26% of employees in the private sector. Made up of 5 criteria, it must be calculated and published each year on the website of the Ministry of Labour and the company (or sent to employees by any other means). The employer must also provide details of the various indicators to the Social and Economic Committee (CSE)<sup>38</sup>. Since its introduction, French trade union organisations have pointed out the limitations of this index. A report by the High Council for Equality between Women and Men (HCE) on this tool has assessed its advantages and identified its shortcomings<sup>39</sup>.

The National Commission for the Promotion of Equality in Malta developed an Equal Pay Tool<sup>40</sup> to facilitate the application of equal pay for same work and work of equal value between women and men in organisations that employ at least 50. The value of work is determined by a scoring system according to six criteria: personal background, task difficulty, influence, interactions, supervision and job risk. This is in line with one of the objectives in Malta's first Gender Equality and Mainstreaming Strategy and Action Plan which aims to guarantee equal pay for work of equal value.

The Swedish Agency for Government Employers elaborated methodological support with guidelines to support the equal pay work at local level.

Moreover, the Irish Human Rights and Equality Commission (IHREC) published a Code of Practice on Equal Pay in 2022. This Code is admissible before a Court or statutory tribunal. As well as laying out the law on equal pay to make it more accessible to employers and workers, it also outlines recommended practices to help employers conduct pay reviews, provide greater pay transparency, and deal with pay disputes.

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<sup>31</sup> ETUC, 2022. [New Frontiers for Collective Bargaining. Building Capacities in Changing Workplaces – Equal Pay.](#)

<sup>32</sup> <https://www.einkommensbericht.gv.at/>

<sup>33</sup> <https://megadelegates.lu/>

<sup>34</sup> <https://actionspositives.lu/>

<sup>35</sup> <https://actionspositives.lu/logib>

<sup>36</sup> <https://www.gov.pl/web/rodzina/aplikacja-do-mierzenia-nierownosci-placowych>

<sup>37</sup> <https://entreprendre.service-public.fr/vosdroits/F35103>

<sup>38</sup> [https://www.cfdt.fr/portail/debats/etudes-cfdt-ires-institut-de-recherches-economiques-et-sociales/evaluation-de-l-index-de-l-egalite-professionnelle-srv2\\_1297587](https://www.cfdt.fr/portail/debats/etudes-cfdt-ires-institut-de-recherches-economiques-et-sociales/evaluation-de-l-index-de-l-egalite-professionnelle-srv2_1297587)

<sup>39</sup> <https://www.haut-conseil-egalite.gouv.fr/egalite-professionnelle/actualites/article/salaires-5-ans-apres-l-index-toujours-pas-d-egalite>

<sup>40</sup> [THE EQUALITY MARK - NCPE \(gov.mt\)](#)

It is important to provide companies with all necessary tools and specific mechanisms in order to implement the principle of equal pay and enable its measurement. Employers (especially small and medium enterprises) might need additional government and social partners' support in this process.

### 3.4. Provisions on equal pay

It is common that collective agreements include specific articles focused on equality and non-discrimination.

In Spain, equal pay for work of equal value is sometimes placed in the same provision referring to discrimination. For example, *“for the same job or for a job to which the same value is attributed, direct or indirect discrimination based on sex will be eliminated in all the elements and conditions of remuneration”* (Article 80.5 of the national and sectorial collective agreement of canned vegetables)<sup>41</sup>. When negotiating collective agreements, trade unions in Spain are giving more importance to how remuneration is established. Apart from the base salary, all the complementary pay bonuses and other pecuniary and non-pecuniary remuneration elements are considered thoroughly because these constitute a key dimension impacting the gender pay gap and equal pay<sup>42</sup>.

The Belgian Collective Labour Agreement (CLA) No 25 on equal pay for males and females states that *“equality of remuneration entails that, for equal work or for work of equal value, all gender-based distinctions be abolished”*. The agreement obliges all sectors and single enterprises to assess and, if necessary, to correct their job evaluation and classification systems to ensure gender neutrality as a condition of equal pay. The national collective labour agreement commits social partners to keeping up efforts to achieve equality between women and men, and the 2012 Gender Pay Act regulates the control and monitoring of the technical and legal correctness of the Collective Labour Agreements<sup>43</sup>.

### 3.5. Employment conditions

The scope of collective agreements extends beyond wages to other employment conditions that have an impact on gender equality as well as on pay equality, such as work-life balance measures and the lack of co-responsibility in their use, mechanisms for career advancement and training opportunities for employees.

In Italy, social partners have introduced provisions aimed at improving job opportunities for women workers, and gender equality at work in general, such as parental support and diversity projects, which can contribute to narrowing the gender pay gap and addressing unequal pay<sup>44</sup>.

The gender pay gap is connected to several structural factors that hamper the position of women in the workplace, such as working part-time and care responsibilities, the gender division of work, and gendered horizontal and vertical segregation. Many of these issues are negotiated in the gender equality plans of companies in Spain according to regulation<sup>45</sup>. Under Spanish legislation, companies with 50 or more employees are obliged to implement gender equality plans negotiated with workers legal representatives or with most representative trade unions in certain cases. These plans have to include an analysis of gender equality in the company, considering, at least: the selection and recruitment processes; professional classification; training; professional promotion; working conditions, including gender pay audit; co-responsible exercise of work-life balance measures and

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<sup>41</sup> ETUC, 2022. [New Frontiers for Collective Bargaining. Building Capacities in Changing Workplaces – Equal Pay.](#)

<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

rights; under-representation of women; salaries; prevention of sexual harassment and harassment based on sex. Moreover, call for grants are available to trade unions in Spain to provide training for workers and their representatives on negotiating gender equality plans and to support and advise trade union negotiators of gender equality plans.

The Swedish social partners conclude collective agreements that regulate cooperation in areas such as working environment, employment promotion, gender equality as well as occupational pension and other collectively agreed insurance schemes that supplement the general statutory social insurance. Collective agreements in Malta promote flexible working arrangements, remote working, as well as parental leave policies. Agreements in Latvia often provide support for workers with young children and deal with health and safety issues<sup>46</sup>.

*Recommendation: The Advisory Committee recommends that Member States fully transpose the Pay Transparency Directive in a way that fully respects and promotes the role of social partners in achieving the application in practice of the Directive's provisions on gender-neutral job evaluation and classification systems, including through collective agreements.*

*Recommendation: The Advisory Committee recommends that Member States support the efforts of social partners to promote gender-balanced committees responsible for job assessments and bargaining, if relevant and in full respect with the autonomy and prerogatives of social partners.*

*Recommendation: The Advisory Committee recommends that the European Commission and Members States, in consultation with equality bodies, support trade unions and their representatives—and employers, with guidance on gender neutral job evaluation schemes, as provided for in the Pay Transparency Directive, Article 4(4) and Article 4(3), specialised guidelines, training and tools that allow them to carry out gender-neutral job assessments.*

*Recommendation: The Advisory Committee recommends that Member States, without prejudice to the prerogatives and the autonomy of social partners, and taking into account the existing labour market models, support and promote the inclusion of gender equality, pay transparency provisions and equal pay provisions in collective agreements. These provisions can include, inter alia, the recognition of the right to equal pay for equal work and work of equal value, the commitment to gender-neutral job classification and evaluation systems, and monitoring and enforcement mechanisms.*

*Recommendation: The Advisory Committee recommends that Member States promote the development and implementation of gender equality plans by social partners – such as in Spain. These plans could include other provisions in collective agreements that, although not directly concerned with pay, are conducive to equality between women and men.*

## 4. Compliance with the equal pay principle

### 4.1. Transparency

Monitoring compliance with the principle of equal pay is only possible through ensuring pay transparency. Pay transparency policies clearly outline the criteria for determining pay. They also help employees to assess their remuneration and compare with co-workers, allowing them to identify any

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<sup>46</sup> Lulle & Ungure, 2019. "Latvia: post-Soviet legacy and the impact of neoliberal ideology on collective bargaining" in *Collective bargaining in Europe: towards an endgame*, MÜLLER, T., VANDAELE, K. & WADDINGTON, J. (eds), vol. 2: 361-380. ISBN 978-2-87452-517-9.

potential pay inequities in comparable jobs. Several provisions within the Pay Transparency Directive detail how pay transparency is to be ensured via both reporting obligations as well as workers' rights to ask for pay information from their employers, also through their workers' representatives, in accordance with national law and/or practice.

In some countries, trade unions have negotiated collective agreements which require disaggregated pay data to be made available to the trade union negotiators, thus providing them with the necessary information to represent the interests of their membership<sup>47</sup>. The European Federation of Public Service Unions points to pay transparency measures introduced through gender responsive pay reporting, pay surveys, and equal pay audits to highlight discriminatory pay setting in the public sector<sup>48</sup>.

The social partners can play an active role in monitoring the equal pay provisions in collective agreements and ensuring the transparency of pay settings at company or other relevant levels, besides competent bodies such as labour inspectorates and national equality bodies.

## 4.2. Pay Reports and Pay Audits

Regular audits and reviews are useful tools to assess the organisation's compensation practices and identify any discrepancies. Over half of OECD national governments (21 of 38) now require private sector employers to report gender disaggregated pay information to stakeholders like workers, their representatives, the government, and/or the public<sup>49</sup>. In Spain, pay records must be developed, on an annual basis, by all companies, regardless of their size, in order to guarantee transparency and promote equal pay. Pay records must include the average values of salaries, supplement wages and extra-salary earnings of employees broken down by sex. In addition, companies with 50 or more employees, are obliged to implement a gender equality plan according to national legislation following consultation with workers representatives, as well as the development of pay audits to detect the needs to prevent or correct existing obstacles or difficulties to guarantee equal pay between women and men, as well as ensuring transparency and monitoring of remuneration systems.

Pay audits can be developed by companies with adequate training and knowledge, in some cases also with the support and/or involvement of the trade unions or by independent experts to ensure impartiality. In Sweden, employers are required to conduct wage surveys to identify any wage disparities between women and men and whether there is a legitimate reason for such disparities. The equality body can audit employers to ensure that they conduct their pay survey correctly and that employers with at least ten employees document this work.

## 4.3. Monitoring

Social partners, via social dialogue and collective bargaining, can set up mechanisms such as a committee, involving employers' and workers' representatives, which takes on an important role in planning and implementing measures, providing support, and monitoring; depending on the type of collective agreement. In Ireland there is an effective social dialogue forum called the Labour Employer Economic Forum where areas of shared concern affecting the economy, employment and the labour

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<sup>47</sup> *Ibid.*

<sup>48</sup> Pillinger, 2021. [Pay transparency and role of gender-neutral job evaluation and job classification in the public services.](#)

<sup>49</sup> [Gender-pay-gap-reporting-and-equal-pay-audits-Policy-Brief.pdf \(oecd.org\)](#)

market can be discussed. In Denmark, the social partners have set up equal pay bodies at sector-level dealing with breaches of collective agreements or interpretation of the equal pay<sup>50</sup>.

The Spanish Labour and Social Security Inspectorate carries out arbitration, conciliation and mediation services and formulates demands ex officio before the Labour Courts and Tribunals. Other independent bodies should have the capacity to carry out such functions as well as information campaigns, technical assistance and general guidance work for companies and workers.

#### 4.4. Disputes

Trade unions have frequently participated in individual and collective litigation to obtain or enforce statutory rights at the national and European Union levels<sup>51</sup>.

The social partners in Denmark agreed to a renewal of the collective agreement in the manufacturing sector in 2020 which included the establishment of an equal pay tribunal, chaired by a labour court judge, to deal with all disputes related to equal pay whereby trade unions and employers' organizations nominate the board members<sup>52</sup>.

In Sweden, disputes can be resolved in the first instance through negotiation between the social partners in accordance with collectively agreed dispute mechanisms. In Malta, trade unions can declare an industrial dispute and ask for conciliation in cases of breaches of collective agreements. A case is then made before the industrial tribunal if conciliation is unsuccessful.

Beyond disputes and litigations, incentives and recognition can be given to companies that comply with equal pay provisions, in view that rewarding organisations that demonstrate a commitment to pay equity can encourage others to follow suit.

*Recommendation: The Advisory Committee recommends that Member States take appropriate measures towards monitoring and enforcement related to equal pay for work of equal value, whilst respecting the autonomy of social partners.*

## 5. Conclusion: Partnering for Equal Pay

While incremental advances in equal pay safeguards have been registered over the years at the European level, pay discrimination and the gender pay gap remain pervasive realities linked to deep-rooted gender biases and inequalities.

Social partners can play a pivotal role in addressing these inequalities. Collective agreements can serve as an important framework for the application of the right to equal pay for work of equal value between women and men, since they can develop gender-sensitive job classification systems, foster work conditions that are conducive to gender equality, and implement effective monitoring and enforcement mechanisms. The role of social dialogue, equality legislation, Codes of Practice, gender pay gap reporting and the work of national actors, employer federations and trade unions, who have overseen the implementation of such legislation have been instrumental in implementing the principle of equal pay.

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<sup>50</sup> ETUC, 2022. [New Frontiers for Collective Bargaining. Building Capacities in Changing Workplaces – Equal Pay.](#)

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.*

However, the effectiveness of social partners in achieving equal pay is also dependent on the overarching social and political structures in which they operate. Collective bargaining as a tool for overcoming unequal pay cannot address all the root causes of unequal pay. It can be most successful when it is supported by a social context that prioritises gender equality, alongside strong regulations and a political commitment to addressing pay discrimination and the gender pay gap, and should be complemented by national social dialogue or cross-sectoral collective bargaining<sup>53</sup>.

*Recommendation: The Advisory Committee recommends that the European Commission and Member States embark on an information and awareness-raising campaign on the rights and obligations resulting from the Pay Transparency Directive once transposed. The campaign should provide accessible and targeted information on how rights are to be exercised and obligations met by all stakeholders.*

*Recommendation: The Advisory Committee recommends that, when informing the European Commission about the implementation of the Pay Transparency Directive and its impact in practice, Member States report on their efforts to promote equal pay, the roles taken by social partners and the steps taken to support collective bargaining to achieving equal pay.*

*Recommendation: The Advisory Committee recommends that the European Commission makes available adequate funding for measures aimed at effectively implementing the Pay Transparency Directive and ensuring the application of the principle of equal pay for work of equal value. Such measures can include specialised training to social partners, sharing of good practices, the development of tools for gender-neutral job classification systems, and information and awareness-raising campaigns.*

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<sup>53</sup> ILO (2023), A Review of Wage Setting through Collective Bargaining  
<[https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---travail/documents/publication/wcms\\_883353.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_883353.pdf)>

## Annex 1 - Equal Pay: A Legal Background

At the international level, various conventions<sup>54</sup> and declarations<sup>55</sup> cover the right to equal pay for work of equal value for women and men. In the European Union, the Treaty of Rome (1957)<sup>56</sup>, and currently the *Treaty on the Functioning of the EU*<sup>57</sup> requires equal pay for equal work or work of equal value. In addition, the Directive on gender equality in employment and occupation matters 'Recast' (2006/54) specifies that “for the same work or for work to which equal value is attributed, direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration shall be eliminated”.

Moreover, the Pay Transparency Directive (2023/970) seeks to improve the implementation of the right to equal pay between women and men and strengthens the employees' rights to access information on pay, improves access to justice, as well as sets reporting obligations on companies. Particularly, this Directive calls on Member States to “take adequate measures to promote the role of the social partners and encourage the exercise of the right to collective bargaining on measures to tackle pay discrimination and its adverse impact on the valuation of jobs predominantly carried out by workers of one sex”.

## Annex 2 - Diversity of collective bargaining models

In January 2023 the European Commission proposed a Council Recommendation to further strengthen social dialogue and collective bargaining at national level<sup>58</sup>. The 2023 *Council Recommendation on Strengthening Social Dialogue in the EU* provides guidance on reinforcing social dialogue and collective bargaining at national level.

Highlighting the basic principles regarding the autonomy of social partners as well as the differing industrial relations systems across Member States is crucial for understanding the diversity of collective bargaining models across the EU Member States. The different levels of collective bargaining is a question that must be decided in negotiations by the social partners at national level. It is crucial that differing industrial relations systems which exist across Member States and the vastly different coverage of collective bargaining are respected in this regard.

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<sup>54</sup> The ILO *Equal Remuneration Convention* (No. 100) lays out the basis for equal remuneration for work of equal value irrespective of the gender of the workers and addressed gender discrimination. The *Convention on the Elimination of All Forms of Discrimination Against Women* safeguards the right to equal remuneration and equality in the evaluation of the quality of work.

<sup>55</sup> The CoE declared the right to equal pay for men and women in the European Social Charter and recognises the right to equal pay between women and men for work of equal value in the *Declaration on equal pay and equal opportunities for women and men in employment*.

<sup>56</sup> Article 119 states that each Member State should ensure and maintain “the application of the principle of equal remuneration for equal work as between men and women workers”.

<sup>57</sup> Article 157 states that each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

<sup>58</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_290](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_290)

Collective agreements tend to reduce direct gender pay discrimination compared to individualised pay systems<sup>59</sup>; the impact though depends on the type of collective bargaining systems and the number of workers that these cover. The legal and organisational environment, as well as political will, are crucial in favouring and supporting social partner action.

Particularly, collective agreements, are a linchpin of the Luxembourgish legislative framework. They include specific provisions addressing equal pay, reinforcing the commitment to fair compensation practices. Indeed, Luxembourg is making significant strides in achieving equal pay, with an impressive gender pay gap of -0.2%<sup>60</sup>.

In countries with widespread collective bargaining processes and high coverage, social partners can have a tangible role in closing the gender pay gap including by addressing unequal pay and unjustified pay differences<sup>61</sup>. The wider the coverage, the greater the impact. In Iceland, the most highly unionised country in the OECD, *“strong unions have contributed to very low inequality, high inclusiveness, and gender balance. Successful social pacts have protected the lowest paid workers during crises, and on occasion helped fight inflation”*<sup>62</sup>.

These models may provide insight into strengthening the collective bargaining models with respect to equal pay. Iceland’s labour relations are based on a tripartite model, which involves members of labour confederations, employers’ association and the government. Collective agreements in Iceland are negotiated at various levels – national, regional, cross-sectoral, firm level, plant level, or by profession/occupation. Most of the collective wage agreements refer to the existing equality legislation and provide for remedial measures<sup>63</sup>. In Belgium, the collective bargaining also happens at different levels: at the interprofessional national level, sectoral levels, and enterprises level. Bipartite joint committees and subcommittees are also established to conclude collective agreements, mediate social conflicts, and advise the Government, the National Labour Council or the Central Economic Council. This model has permitted Belgium to have one of the highest collective bargaining coverage in the world (96 per cent).<sup>64</sup>

In the Swedish labour market model, the social partners are responsible for wage formation and have significant autonomy to regulate the precise conditions through collective agreements. The legislation constitutes a framework that supports this model, for instance, through provisions on association and negotiation rights and the right to take industrial action.

The French model of equality in collective bargaining is based on a principle of complementarity, enshrined in law, between collective bargaining at sector and company level. Both levels have an obligation to negotiate, and company-level bargaining complements industry-level agreements, including provisions tailored to gender equality issues that are specific to the workplace.

Il Patto per la Fabbrica is an agreement signed by Italian social partners, CGIL, CISL, UIL and Confindustria on 9 March 2018. The agreement is aimed at defining the contents and guidelines of industrial relations and collective bargaining. Within these contents and guidelines, the parties pledge to working together to consolidate the favourable conditions for the development of the country’s economic and social system, also in view of the transformation processes that put at the centre of the debate - among others - the reduction of gender pay gaps. This collective agreement has put Italy among the EU countries with the lowest gender pay gap as the pay setting mechanisms included therein are neutral and are based exclusively on the assessment of the worker’s skills.

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<sup>59</sup> [wcms\\_684156.pdf \(ilo.org\)](#)

<sup>60</sup> <https://statistiques.public.lu/en/actualites/2023/stn13-gpg.html>

<sup>61</sup> OECD, 2021. [Pay Transparency Tools to Close the Gender Wage Gap.](#)

<sup>62</sup> OECD. [Collective Bargaining in Iceland: Sharing the spoils without spoiling the shares.](#)

<sup>63</sup> *Ibid.*

<sup>64</sup> ILO (2023), [A Review of Wage Setting through Collective Bargaining](#)



While all collective agreements are gender-neutral in Sweden, the definition of pay may vary between industry or employer in the same industry. In some parts of the labour market employees may occasionally receive bonuses or other kind of monetary incentives that only exist in private sector.

The ETUC remarked that despite gains made through collective bargaining, the greatest success will likely come from a multi-pronged strategy. In a comparative analysis of collective bargaining agendas and structures in Austria, UK, Germany, Sweden and the United States, researchers found that *“collective bargaining is more effective in situations of strong equity legislation, even in countries with centralized bargaining systems”*. In Sweden, during the period when centralized bargaining dominated industrial relations, they concluded that *“it is not centralization that has benefited women but a social policy that has placed [equality] at the centre of national welfare”*<sup>65</sup>.

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<sup>65</sup> ETUC, 2022. [New Frontiers for Collective Bargaining. Building Capacities in Changing Workplaces – Equal Pay.](#)