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Pay transparency in the EU + 3

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“Right it”: but how?

The need for pay transparency

- Individual rights strategy
 - how to find a suitable comparator?
 - what does he earn (basic pay and components)?
 - does he perform work of equal value?
- Proactive approach by institutional actors
 - gender pay levels at company level?
 - but just raw data: do pay gaps flow from objective grounds or gender discrimination?

To secure the right to equal pay, information is needed to be able to draw comparisons between comparable groups/individuals

Furthering pay transparency

Commission recommendations 2014, encouraging the member states to implement in the least one of the following measures:

- 1) a right of employees to obtain information on pay levels;*
- 2) reporting duty on gender pay levels at company level;*
- 3) pay auditing duty at company level and*
- 4) making equal pay, including pay audits, part of the collective bargaining process at the appropriate level.*

Research questions

- (i) Which pay transparency measures are in place at national level?*
- (ii) What kind of information on equal pay do they provide?*
- (iii) Is the kind of information targeted by the pay transparency measure, capable of furthering individual or systemic actions?*



OVERALL RESULTS

N=31

10 countries (32%) implemented at least one pay transparency measure

pay information right

3 countries (9,7%)*

pay reporting

5 countries (16,1%)**

pay auditing

3 countries (9,7%) ***

collective bargaining on equal pay 5 countries (16,1%)****

Multiple instruments:

Belgium; Finland, France and Sweden

Plans or drafts:

Germany, Ireland, Italy, Lithuania, the Netherlands and the United Kingdom

* Finland, Ireland and Norway

** Austria, Belgium, Denmark, France, Italy

*** Finland, France and Sweden

**** Belgium, Finland, France, Germany and Sweden



Employee's pay information right

'Member States should put in place appropriate and proportionate measures to ensure that employees can request information on pay levels, broken down by gender, for categories of employees doing the same work or work of equal value'

Pay information right on individual pay data of comparators in:

Ireland

- material information necessary to bring an equal pay claim
- but needs consent of the comparator
- employer is not required to respond

Finland

- needs consent of the comparator

Norway

- most elaborate right
- received data must be kept confidential
- comparators must be informed; however, do not have to consent to disclosure
- trade union representatives may seek information in support of the individual

Pay reporting

'Member States should put in place measures that ensure that employers in undertakings and organisations with at least 50 employees regularly inform employees, workers' representatives and social partners of the average remuneration by category of employee or position, broken down by gender.'

AT, BE, DK, FR, IT:

- ✓ meet requirements as recommended?
- ✓ size of company to which it applies?
- ✓ confidentiality of / access to reports?
- ✓ effectiveness?



Pay audits

	Finland	Sweden	France
Responsibility of	Employer but employees' representatives are to cooperate	Employer in cooperation with workers' organisations	Employer
Limitation to size of company	> 30	> 25 (wage action plan); 2017: >10 (pay audits)	>50; >300 more elaborate report
Frequency of audits	Every 2-3 years	Every 3 years; 2017: every year	Yearly
Enforceability	No data provided	Yes	Yes
Analysis of gender segregation required	No	Yes	No
Analysis of job evaluation required	No	No	No
Detailed information on gender pay gap required	On aggregated level comparable groups must be composed on the basis of the job requirements, if necessary across collective agreements	Assessments must compare gender pay difference for 1) equal work; 2) female-dominated and other work of equal value. As of 2017: 3) female-dominated work and other work better paid but with working requirements being deemed lower	No
Conducted by experts	Not necessarily	Not necessarily	Not necessarily
Available on request to works councils and social partners	Employees' representatives involved; Equality Ombudsman may monitor pay audit documents	Trade union bound to the applicable collective agreement and Equality Ombudsman	Part of reporting duty to works council. Social partners have access
Obstacles	Measures are not very effective because they are premised on the formal pay conditions; employers are unwilling to reveal the actual wages paid	-	Despite modest progress, implementation is not satisfactory in respect of data collection by firms and lack of diagnosis of data reported

Equal pay bargaining incentives

	Strong incentive	Soft incentive
High impact	-	Sweden
Low impact	Belgium	-
Intermediate impact	-	Finland, Germany
Impact unknown	France	-

Obstacles to pay transparency measures

Type of obstacle	n	Relevant countries
Data protection law	6	HR PT RO SK SL EE PL
Standard contractual non-disclosure clauses	9	HR HU EE LV PT SK MT LI PL
Cultural sensitivity of pay data among all stakeholders	10	BE FI LT RO MT SL MT LU DE EE PL
Poor HR administration at company level	2	HR EE
Economic (avoiding administrative burdens and costs)	5	UK CY ES HU DE
No problem awareness	7	CZ EL HU EE LT BG LI
No priority for trade unions; fear of levelling down	2	ES PL
General preference for other types of transparency measures	2	IT NL

Conclusions

Countries in which wages are predominantly set by individual negotiations only

- Formalise wage-setting procedures generally by introducing objective pay systems
- Allow employees by law to disclose their wages to others; ban on contractual 'gagging' clauses (examples Great Britain and Iceland)

Countries with developed company pay systems and structures

- Employees' information rights meet relatively more resistance. They are helpful but do not appear to take away all hurdles for individual employees to take action
- Focus primarily on institutional actors to provide gender pay information (reports; audits)
- Prevent reporting duties from becoming a bureaucratic formality:
 - lift confidential status / allow access to individual employees
 - provide more guidance to employers and employees' representatives on how to proceed once gender pay differentials are found