



European network of legal experts in gender equality and non-discrimination

FLASH REPORT

Country:	Netherlands
Title:	Law proposal on equal pay for women and men
Date:	18 March 2019
Expert:	Marlies Vegter
<u>Context</u>	
Issue at stake:	Law proposal to introduce measures to reduce the gender pay gap
Grounds of discrimination:	Sex, gender
Field of application:	Equal pay
Source:	Legislation
Applicable law:	Equal Treatment Act

Content

Policy development: On 07 March 2019 a law proposal with the title "Act on Equal Pay of women and men" was submitted to the Parliament by four opposition parties. The most important articles that are proposed are the following:

- Reversal of the burden of proof. Employers with 50 or more employees should apply for a certificate which shows that they apply the standard for equal pay. If they do not have such a certificate and a person states that he or she is not paid equally, the assumption is that this is indeed the case. The employer may try to refute this assumption.
- Any employer with 50 or more employees will have to provide information in its annual report about differences in pay between employees who carry out work of (almost) equal value. If unequal pay exists, this must be reported in the annual report together with information on the way in which these differences will be eliminated.
- The Labour Inspectorate will be given the task of monitoring the application of the law and of imposing fines in case of non-compliance.
- Employees in companies of 50 or more employees will get the right to ask for (anonymised) information about the salary of colleagues who do the same work or work of (almost) equal value.

Key points of analysis: This is an important law proposal, because the gender pay gap in the Netherlands is only decreasing very slowly and the existing legislation and policies appear to have little effect. Besides there is almost no case law and almost no cases before the Equality Body. There are also problems with respect to transparency and the burden of proof. At present an employee who thinks she might be paid unequally first has to find out what her colleagues earn and then must prove in a court case that she does equal work or work of equal value compared to her colleague(s). Only then does the burden of proof shift to the employer. The law proposal aims to amend this situation. Moreover, at present the Labour Inspectorate has no role in the field of pay discrimination. The law proposal addresses this problem as well. In addition a reporting requirement will be introduced.

In the expert's view the proposal addresses the most important problems in the field of equal pay. The question is, however, whether it is wise to try to address all these problems all at once – the burden of proof, the transparency, the reporting requirement and the enforcement of the legislation – or if it would be better to focus on one or two areas. As the law proposal has been submitted by opposition parties, it is not at all certain that it will be supported by the governing parties as well.

Internet link source: <https://zoek.officielebekendmakingen.nl/dossier/35157>