

Negotiating for Equal Pay for Work of Equal Value

ETUC Checklist

*“No matter who she is or what work she does
every woman deserves equal pay.”*

Esther Lynch, ETUC Deputy General Secretary

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CONFEDERATION
**SYNDICAT
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TRADE UNION**

A stylized red graphic element consisting of two curved lines that form a shape resembling a lowercase 'e' or a similar symbol.

Setting the scene: Equal Pay for Work of Equal Value

Although there has been European legislation on equal pay for women and men for over 63 years, the gender pay gap, which measures the difference between the average earnings of women and men in the workforce, remains unacceptably large in the EU: On average, women earn 13 % less per hour than men. At the current rate of “progress”, pay equality will not be achieved across the European Union until the next century (2104) and some Member States will never reach pay equality¹.

Country	2010 pay gap (%)	2018 pay gap (%)	Year pay gap will be eliminated at current rate of change
 EU	15.8	14.8	2104
 Belgium	10.1	6	2028
 Bulgaria	13	13.5	Still rising
 Czechia	21.6	20.1	2121
 Denmark	17.1	14.5	2061
 Germany	22.3	20.9	2121
 Estonia	27.7	22.7	2058
 Ireland	13.9	14.4	Still Rising
 Greece	15	12.5 (2014)	2034
 Spain	16.2	14	2046
 France	15.6	15.5	Over 1000 years
 Croatia	5.7	10.5	Still Rising
 Italy	5.3	5 (2017)	2074
 Cyprus	16.8	13.7	2051
 Latvia	15.5	14.1	Still Rising
 Lithuania	11.9	14	Still Rising
 Luxembourg	8.7	4.6	2027
 Hungary	17.6	11.2	2031
 Malta	7.2	11.7	Still Rising
 Netherlands	17.8	14.8	2051
 Austria	24	19.6	2052
 Poland	4.5	8.8	Still Rising
 Portugal	12.8	16.2	Still Rising
 Romania	8.8	3	2022
 Slovenia	0.9	8.7	Still Rising
 Slovakia	19.6	19.4	2097
 Finland	20.3	16.3	2046
 Sweden	15.4	12.2	2050

¹ Calculations based on gender pay gaps from 2018.

All too often it is incorrectly assumed that because equal pay laws are in place, pay equality exists in every organisation. The reality is very different. Conscious or unconscious bias often leads to an undervaluing of work that is predominantly done by women.

Even if Member States have included the concepts of 'equal/same work', 'work of equal value' or 'equivalent work' in their **legislation**, and despite the guidelines given by the EU Court of Justice that are incorporated in the preamble to the Directive on Equal Pay² and the 2014 Pay Transparency Recommendation, these concepts still are not always and clearly defined in national legislation. Unfortunately, where they are defined, it is not done so uniformly across a given Member State and sectors. This affects the ability of claimants of pay discrimination cases to establish a valid **comparator**. Moreover, it also creates substantially heterogeneous situations in EU Member States. These are some of the reasons why trade unions have such an important role to play in ensuring equal pay for work of equal value.

At a glance: Trade union strategies to fight for equal pay

Trade Unions across Europe adopt different approaches to fight the gender pay gap, the choice of strategy depending on specific circumstances and sectors:

1. Agreeing measures within collective agreements to address the gender pay gap;
2. Targeted / flat rate raises compensating for the concentration of women in low-paid industries;
3. Gender-neutral occupational classification schemes to correct the undervaluation of female-dominated occupations;
4. Measures promoting pay transparency, against wage discrimination (including in discretionary pay);
5. Gender-neutral evaluation criteria for career progress;
6. Combatting gender stereotypes;
7. Encouraging men to enter female dominated occupations and women to enter male dominated occupations.

In March 2021, the European Commission has come forward with a long-awaited proposal for a Directive to address pay transparency with a view to closing the gender pay gap and finally enforcing equal pay for work of equal value. **The longstanding efforts of securing equal pay for work of equal value are gaining momentum!**

Pay transparency measures, linked to collective bargaining are viewed by the ETUC as particularly important for addressing the discriminatory wage gap caused by the undervaluing of work that is predominantly done by women.

The ETUC is calling for more support for trade unions so that they can challenge the hidden bias and to win pay justice for women across all organisations, occupations and sectors.

The **ETUC Equal Pay for Work of Equal Value Checklist** aims to assist trade union negotiators to identify situations of unequal pay for work of equal value as part of the unions collective bargaining and equality strategies.

² A 2006 Directive (Directive 2006/54/EC) on equal treatment of women and men in matters of employment and occupation already requires **employers to ensure equal pay for equal work or work of equal value** between women and men.

Basic concepts

Equal pay for work of equal value

Equal pay for work of equal value means that women and men must be paid the same amount if they do identical or similar jobs. They should also earn equal pay if they do completely different work that can be shown to be of equal value, when based on “objective” criteria. These objective criteria tend to encompass job-related characteristics such as skills, effort, levels of responsibility, working conditions and qualifications. Ensuring “equal pay for work of equal value” helps to tackle the historic undervaluation of female-dominated labour: Men continue to be overrepresented in higher-paid sectors and women in lower-paid ones, despite many female- and male-dominated sectors having similar work-related characteristics and comparable value³.

Pay

The concept of ‘pay’, includes not only salary, but also additional benefits such as bonuses, overtime compensation, travel facilities, compensation for attending training, payments in case of dismissal, statutory sick pay, statutory required compensation and occupational pensions.

Comparator

When examining work of equal value, choosing a comparator means selecting a man or men who carry out work in a comparable situation and of a similar value who are paid more.

In circumstances where a person does not identify as a man or a woman the comparator should always be the highest paid.

Gender neutral job evaluation

Job evaluation and classification schemes are tools to determine the value of jobs by highlighting what they entail. They must be **free from gender bias** and **based on objective criteria** such as:

- **skills**, including education, training, experience, knowledge, interpersonal skills, problem solving, organisational skills;
- **effort**, including physical, mental and psycho-social effort;
- **responsibility**, including accountability, responsibility for people, goods and equipment, information or financial resources;
- **conditions of work**, including the nature of the tasks involved, organisational environment, physical, psychological or emotional environment skills, effort, responsibility and conditions of work.

When designing a gender-neutral job evaluation tool, keep in mind the example of a childcare worker: Their work entails physical effort, such as heavy lifting, exposure to noise, ergonomic hazards or psychosocial risks. A comprehensive set of criteria can highlight all the aspects of work predominantly done by women, that are all too often overlooked.

³ OECD (2021), *Pay Transparency Tools to Close the Gender Wage Gap*, Gender Equality at Work, OECD Publishing, Paris, <https://doi.org/10.1787/eba5b91d-en>.

EPIC (2020): Equal Pay International Coalition (EPIC) brief: Equal pay for work of equal value: <https://www.equalpayinternationalcoalition.org/equal-pay/>

Understanding bias

1) Example: Comparing the work of a warehouse worker who is a man with the work of a clerk, who is a woman.

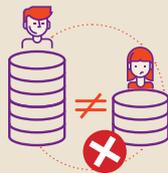


The work of the clerk has been assessed by the organisation using **one single criteria**:

“a completed vocational education or the equivalent gained by practical experience”.



The position of the warehouse worker is evaluated using **five criteria**, namely qualification (previous educational knowledge or job training), conscientiousness, accuracy, demands and responsibility.



The result is that the warehouse worker earns **EURO 150 more than the clerk.**

WHAT IS THE PROBLEM?

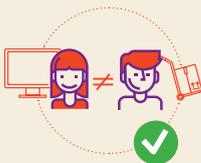


DIFFERENT EVALUATION CRITERIA

The **evaluation criteria** of both positions are not consistent. All jobs should be evaluated using the same criteria.

UNDERVALUATION OF JOBS PREDOMINANTLY DONE BY WOMEN

Is the qualification criterion alone appropriate for describing the range of activity and responsibilities of a clerk? European case law is clear: a single criterion cannot capture the essence of a job. This can only be done by using criteria that encompass all aspects of the activity. The issue boils down to: **what is not specified, is not valued, and usually not compensated.**



A LACK OF TRANSPARENCY

It is **not possible to compare the two positions** as there is not value attached to the criteria used. For the clerk, a vocational education or an equivalent qualification is required. For the job of warehouse worker, only instruction or job training is necessary. Clearly the warehouse worker would need a lower qualification level. **So what is the value of training of the warehouse worker in comparison to the education of the clerk if the warehouse worker earns 150€ more?** Remaining vague can lead to wage discrimination as this case demonstrates.

2) Example: Comparing manufacturing workers in Germany (same age, working full time with a permanent contract in a middle-sized company for a year).



Man – Automotive sector

- ✓ Problem solving skills
- ✓ Mechanical skills
- ✓ Education: vocational training
- ✓ Physical effort
- ✓ Responsibility for goods and equipment
- ✓ Exposed to physical and safety hazards

Monthly salary (gross): 4,381€

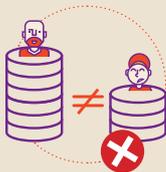


Woman - White goods sector

- ✓ Problem solving skills
- ✓ Mechanical skills
- ✓ Education: vocational training
- ✓ Physical effort
- ✓ Responsibility for goods and equipment
- ✓ Exposed to physical and safety hazards

Monthly salary (gross): 3,516 €

WHAT IS THE PROBLEM?



The examples highlights how deep-seated bias about the value of jobs predominantly done by women results in a pay gap of 865 € (-19,7%) per month.



Negotiating an equal pay for work of equal value clause into the equality policy

Including a commitment to pay transparency and specifically to equal pay for work of equal value in the organisations' equality policy can be a useful way to begin discussions and a first step to challenge the assumption that pay is equal.

A model clause on equal pay for work of equal value

The parties have agreed to take steps to close the Gender Pay Gap and to ensure equal pay for work of equal value throughout the organisation/sector. Therefore, in wage negotiations the parties shall review the pay of men and women and consider the reasons for any differences in pay. Through negotiations the parties shall ensure equal pay for work of equal value. In negotiations the organisation shall:

- provide an overview of the pay (and all components of remuneration) for the various grades and categories of workers broken down by men and women;
- clarify what objective criteria have been used for the classification of the various wage groups;
- jointly assess with the trade union(s) if there is any undervaluing of the work done by women;
- remedy any equal pay gaps and negotiate actions to close the gender pay gap.



How to determine work of equal value? A checklist!

The following **ETUC Equal Pay for Work of Equal Value Checklist** will help shed light on what needs to be taken into account when negotiating for work of equal value in the organisation:

CHECKLIST



- The organisation's equality policy includes a commitment to ensure equal pay for work of equal value.
- The wage system is transparent and broken into components that assist with an assessment of the gender pay gap and the value attributed to the work done by men and the work done by women.
 - Bonus
 - Overtime
 - Extra elements of pay
 - Pensions
 - Training / education
 - Benefits in cash or kind
- Workers are free to discuss both their pay and the content of their work with colleagues and their trade union(s).
 - Are pay secrecy clauses are banned by legislation in your country?
 - Is there a policy in your workplace that prevents workers from discussing their pay?
- Objective criteria, free from gender bias, are used for job classification and pay. The selected criteria correspond to the work actually performed and include at least:
 - Skills** (including education, training, experience, knowledge, interpersonal skills, problem solving, organisational skills);
 - Effort** (including physical, mental and psycho-social effort);
 - Responsibility** (including accountability, responsibility for people, goods and equipment, information or financial resources);
 - Conditions of work** (including the nature of the tasks involved, organisational environment, physical, psychological or emotional environment).
- The organisation conducts regular pay audits and reports on pay gaps between female and male workers.
 - Are the pay audits accessible to workers and their trade unions?
 - Does the organisation put measures in place to remedy the situation, in consultation with workers and their trade unions?
- The organisation has a responsive evaluation system in place.

Good practices



Sweden: a leading example for pushing for pay equity

In Sweden, the employer is required to formulate a pay equity action plan to ensure that pay is fixed on the basis of objective criteria that are common to all jobs. The Swedish legislation addresses both pay disparities between women and men doing the same job and those existing between predominantly female or male jobs that have equal value. The legislation details the factors that must be taken into account in the evaluation and include qualifications, responsibilities, efforts and working conditions.

Pay Transparency in Sweden

Each year, employers are required to carry out a **pay survey** and **analyze** their pay policies and practices, even in cases where there was no disparity identified in the previous year. Following the survey, the employer must develop a **pay equity action plan** which includes the results of the pay survey, an analysis of the pay system and the planned approach to identify and correct pay inequalities in the system. The plan must list:

- the envisaged measures to eliminate the pay differentials;
- an estimate of the related costs;
- a timeframe that cannot exceed three years.

The responsibility for eliminating the discriminatory pay gaps falls on the employers and trade unions during the bargaining of collective agreements or pay increases as well as on other instances.



Belgium: Bargaining for gender neutral job criteria

In Belgium, union confederations and the government jointly formulated gender-neutral job classification criteria and guidelines about how these criteria should be used when negotiating pay scales. Objective criteria (e.g. knowledge and qualifications, responsibilities, type of tasks, and the nature of the working environment) are used to determine “equal value”. Such criteria help to rid pay scales of pre-existing gender bias and install a gender-neutral grading system that reflects the value of the work done. Gender-neutral occupational classification schemes have been introduced in several countries, for example in the health care sector and local government in the United Kingdom, in municipal social and childcare services in Germany, and in the public service in Ontario, Canada⁴.

⁴ For further information, see Pillinger, Schmidt and Wintertour: Collective Bargaining for Gender Equality, 2016. https://www.ilo.org/global/topics/collective-bargaining-labour-relations/publications/WCMS_528947/lang--en/index.htm

Further resources

International examples

Canada:

With the coming into force of the Pay Equity Act on August 31, 2021, the Treasury Board of Canada Secretariat (TBS) is working with bargaining agents and employee representatives to develop a pay equity plan that identifies gaps between the compensation of jobs held mostly by women and those held mostly by men that involve work of equal value.

<https://www.canada.ca/en/treasury-board-secretariat/topics/pay/equitable-compensation.htm>

New Zealand:

Nurses and mental health professional made the case that employees in female dominated occupations have had their work undervalued because that work has traditionally been 'women's work'. A settlement was reached. More information on the steps that PSA took hereunder:

<https://www.psa.org.nz/psa/equal-pay-for-dhb-mental-and-public-health>

Further Resources and bibliography

International Labour Organisation (ILO)

This Guide clarifies the concepts underlying this principle, which is at the heart of the ILO's Equal Remuneration Convention, 1951 (No. 100) and offers insights on how it can be applied in practice.

https://www.ilo.org/global/publications/WCMS_216695/lang--en/index.htm

The Equal Pay Coalition (EPIC)

The Equal Pay International Coalition - EPIC - is an initiative driven by stakeholders committed to reduce the gender pay gap and make equal pay for work of equal value a reality across all countries and sectors. It is led by the ILO, UN Women and OECD.

<https://www.ilo.org/global/topics/equality-and-discrimination/epic/lang--en/index.htm>

European Network of Equality Bodies (EQUINET)

This handbook aims to be a practical and useful tool in your work on equal pay cases, guiding you to existing resources, data, partners and arguments EU that have been successful in the past in all Member States of the EU.

<https://equineteurope.org/equinet-handbook-how-to-build-a-case-on-equal-pay/>

European Trade Union Institute (ETUI)

Publications and policy briefs on and around the issue of equal pay for work of equal value.

<https://www.etui.org/publications/time-close-gender-pay-gap>

European Commission

Provides the most up-to-date data on the pay gap in Europe and further analysis:

https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/equal-pay/gender-pay-gap-situation-eu_en

Explains EU laws, policies and concepts on equal pay:

https://ec.europa.eu/info/sites/default/files/swd-2020-50_en.pdf

European Trade Union Confederation

Outlines in a short and informative way the position and action of the ETUC on pay transparency:

<https://www.etuc.org/en/document/adopted-resolution-etuc-response-eu-commission-proposal-directive-strengthen-application>

ETUC Model Directive for a Pay Transparency Directive.

<https://www.etuc.org/sites/default/files/press-release/file/2020-11/Model%20Proposal%20for%20a%20Directive%20on%20strengthening%20the%20principle%20of%20equal%20pay%20between%20women%20and%20men%20through%20pay%20transparency.pdf>

Samples of clauses on Equal Pay

This website provides a range of proposal on how to phrase equal pay for work of equal value clauses in an agreement.

<https://www.lawinsider.com/clause/equal-pay>

The Public Service Union in the UK, “Delivering on Equal Pay”

This web page brings together resources for getting the best out of job evaluation and negotiating equal pay proofed pay and grading structures.

<https://www.unison.org.uk/at-work/local-government/key-issues/delivering-equal-pay/>





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