



NEW FRONTIERS FOR COLLECTIVE BARGAINING

BUILDING CAPACITIES TO BARGAIN IN CHANGING WORKPLACES

EQUAL PAY

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Brussels, October 2022
European Trade Union Confederation (ETUC)

ISBN:978-2-931229-00-2

EAN:978293122900Z



**With the financial support of
the European Union**

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Foreword



When women join together in their trade union they can bargain for a better deal, increased pay, more security, training, health and safety, a say over working hours, fairer promotions, more paid leave and a decent pension.

While the fight for equal pay is certainly an uphill battle, it is also a longstanding priority of the European Trade Union movement, that has gained clear momentum at European level.

We are on the verge of adopting an EU Directive that has the potential to enforce equal pay for work of equal value, guaranteeing women workers' and their unions' right to collectively bargain to finally close the gender pay gap.

The following report makes the case for placing equal pay high on our bargaining agendas, drawing the right lessons from the COVID-19 pandemic:

"No matter who she is or what work she does every woman deserves equal pay."

Esther Lynch, ETUC Deputy General Secretary

Table of contents

	Foreword	4
1	Introduction	6
2	Methodology	8
2.1.	Literature review and analysis of existing data	8
2.2.	Survey: quantitative data and first qualitative information	8
2.3.	Interviews with trade unions, country by country	10
3	Equal pay in context	11
3.1.	Equal pay in the international context	11
3.2.	Equal pay in the European context	11
4	The role of trade unions in promoting fair pay: collective bargaining holds the key to equal pay	14
4.1.	Strategies by trade unions to address equal pay for work of equal value through collective bargaining	14
4.2.	Trade unions' strategies beyond collective bargaining	18
5	Good practices at national level in Europe	20
5.1.	AUSTRIA	20
5.2.	BELGIUM	23
5.3.	DENMARK	27
5.4.	FRANCE	33
5.5.	GERMANY	40
5.6.	ICELAND	43
5.7.	ITALY	48
5.8.	LATVIA	54
5.9.	POLAND	59
5.10.	SPAIN	63
5.11.	UNITED KINGDOM	72
6	Lessons learned: opportunities and obstacles	77
7	Conclusions	79
8	Recommendations	81
9	Bibliography	83



INTRODUCTION

1

Collective bargaining is a crucial tool for unions to negotiate a better deal for workers and to deliver increased pay, more security, training, health and safety, a say over working hours, fairer promotions, more paid leave and a decent pension.

The COVID-19 pandemic has triggered important shifts in the world of work, that must be placed at the core of collective bargaining agendas. The return to work and the shifting working practices imply that collective agreements will need to take account of the new work practices. These new frontiers for collective bargaining also require a deeper understanding of persisting gender inequalities. It is vital at this stage that new work practices and the return to work do not exacerbate the existing gender inequalities in the labour market.

Collective bargaining is a powerful means to achieve gender equality in the world of work and beyond, including to reduce the gender pay gap, combat low pay, end the undervaluation of work done by women, ensure workplaces free from gender-based violence and harassment, as well as to provide work arrangements that allow for a better reconciliation of work and family life (ETUC, 2022).

The gendered segregation of the labour market contributes in no small measure to the persisting gender pay gap. The COVID-19 crisis has demonstrated that low-paid female workers, who make up the great majority of the caring and cleaning professions demonstrate the real value of their work for society as a whole.

ETUC project: New Frontiers for Collective Bargaining – Building capacities to bargain in changing workplaces

The ETUC project “New Frontiers for Collective Bargaining - Building capacities to bargain in changing workplaces” places collective bargaining at the core of the post COVID-19 recovery by exploring how emerging issues in the world of work are addressed through collective bargaining.

The project is organised around two topical clusters:

The first track deals with the issue of equal pay for work of equal value and trade unions’ strategies to tackle gender inequalities via collective bargaining.

The second track explores how collective bargaining strategies have responded to working time reductions, privacy and surveillance of workers, as well as the fight against the far-right.

The project aims to give concrete and accessible tools to negotiators to support them in placing emerging issues, as well as persisting inequalities, high on their collective bargaining agenda.

The principle of equal pay on the grounds of sex with regard to all aspects and conditions of remuneration for the same work or for work of equal value is included in the Equal Pay Directive (Council Directive 75/117/EEC) and enshrined in the European Treaties since 1957. Yet, governments have been so far amiss of enforcing equal pay for work of equal value. As this report will illustrate, there is also room for improvement for trade unions' uptake of the issue, that is, however, well underway.

Research on the gender pay gap tends to emphasise the importance of ensuring equal pay for work of equal value, rather than simply equal pay for equal work.

“In practice, equal pay for work of equal value means that women and men, as well persons identifying differently, should be paid the same amount if they do identical or similar jobs – but that 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 correct for 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 value”¹ (OECD, 2021).

While European and national legislation are key to set out the basic rights and framework for addressing equal pay for work of equal value, social partners' good practices and most importantly collective agreements have and will be of paramount importance in implementing existing rights as well as providing much-needed additional rights and practices. Without the active engagement of trade unions around equal pay for equal work, the goal post remains an elusive wish.

This study aims to assess the uptake of the issue on trade unions' policy and bargaining strategies. It identifies good practices in eleven European countries² which serve as a guide for treading “new frontiers” for collective bargaining: future policies and actions in relation to equal pay for work of equal value. It also wants to contribute towards raising awareness on the issue of equal pay for work of equal value among trade unions, as well as the general public.

The study is divided into six chapters. Chapter 2 highlights the methodology used for the study which started in June 2021 with a survey among members of the ETUC on the issue of equal pay for work of equal value and how it is addressed it at national or sectoral union levels. The study then continues to assess the legislative and policy background, looking both at European and national levels in Chapter 3. Chapter 4 captures the role of trade unions in enforcing equal pay and equal pay for work of equal value. It highlights collective agreements and other actions and tools that trade unions have used and are using to close the gender pay gap by focussing on work of equal value. Chapter 5 features eleven country profiles on and around the national social dialogue and good practices aimed at addressing the problem of equal pay for work of equal value. Chapter 6, *Lessons Learned*, draws some key conclusions, and presents the findings focussing both on opportunities and obstacles. Finally, Chapter 7 presents recommendations for social partners.

¹ For more information, consult the OECD website: <https://www.oecd-ilibrary.org/sites/eba5b91d-en/index.html?itemId=/content/publication/eba5b91d-en>

² Austria, Belgium, Denmark, France, Germany, Iceland, Italy, Latvia, Poland, Spain and the United Kingdom.



METHODOLOGY

2

This study has used a rich and varied methodology: 1) It has reviewed the relevant literature and analysed the already existing data on equal pay and collective bargaining; 2) it started with an online survey to gather the first quantitative and qualitative data in order to select the countries to be analysed, and finally; 3) it is based on interviews with trade unions' representatives whose expertise lie in the field of collective bargaining and/or gender equality (e.g. members of Women's Committees).

The countries of the country profile studies were selected on the basis of the survey results, taking account of existing good practices, while respecting geographical balance and size among ETUC affiliates. The eleven participating European countries represent a balanced mix of different models of legislation, collective bargaining structures, and practices. As this report shows, good practices were found in each country and sector.

2.1

LITERATURE REVIEW AND ANALYSIS OF EXISTING DATA

The study reviews literature and evidence, including research and data from the International Labour Organisation (ILO), the Organisation for Economic Co-operation and Development (OECD), the European Trade Union Institute (ETUI), and EU Institutions, including EU agencies such as EIGE and EUROFOUND as well as publications by the ETUC and its affiliates. Desk research also took account of national studies.

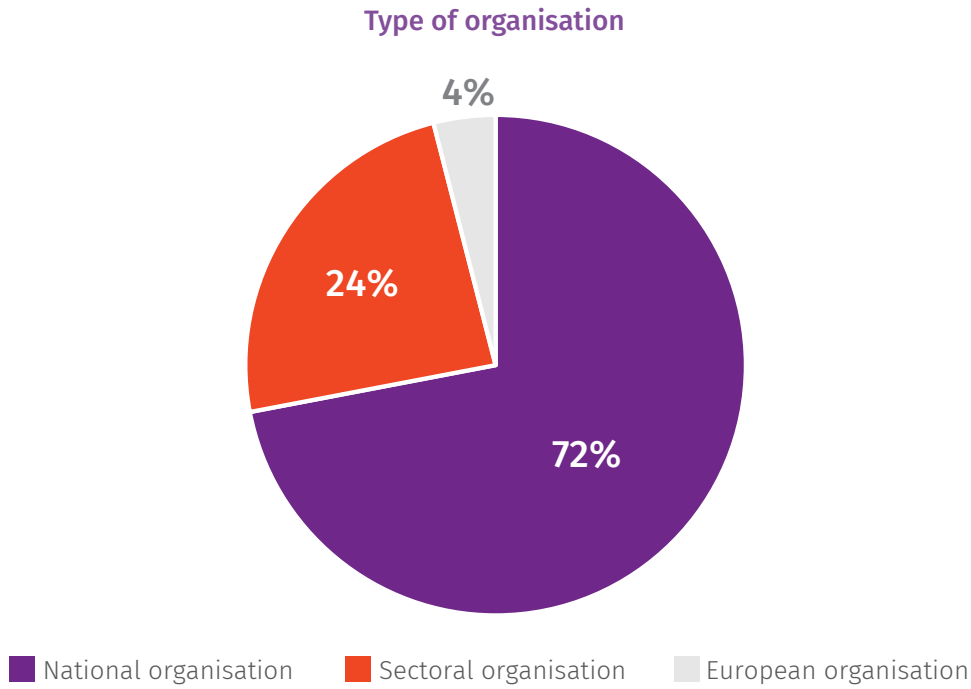
2.2

SURVEY: QUANTITATIVE DATA AND FIRST QUALITATIVE INFORMATION

The initial survey was developed together with the ETUC secretariat. The questions focussed on key issues of collective bargaining, the gender pay gap, and equal pay for work of equal value. One of the main objectives was to help the external experts and the ETUC project team better understand how the issue of equal pay for work of equal value had been addressed by trade unions organisations, as well as the obstacles they might encountered. Survey respondents were asked, for example, about their engagement and activities to close the gender pay gap and where and how the issue, specifically the topic of equal pay for work of equal value, was placed on collective bargaining agendas. Other questions referred to how trade unions had addressed the issue of equal pay for work of equal value in general and the challenges and obstacles found when negotiating for equal pay.

16 countries responded to the questionnaire: Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, the Netherlands, Portugal, Romania, Serbia, Spain, and the UK, and comprising the following sectors: building and wood; education; finance; health and social care; trade, tourism, and services; metal; energy and chemical; extractive & TCLF industries; textile and energy.

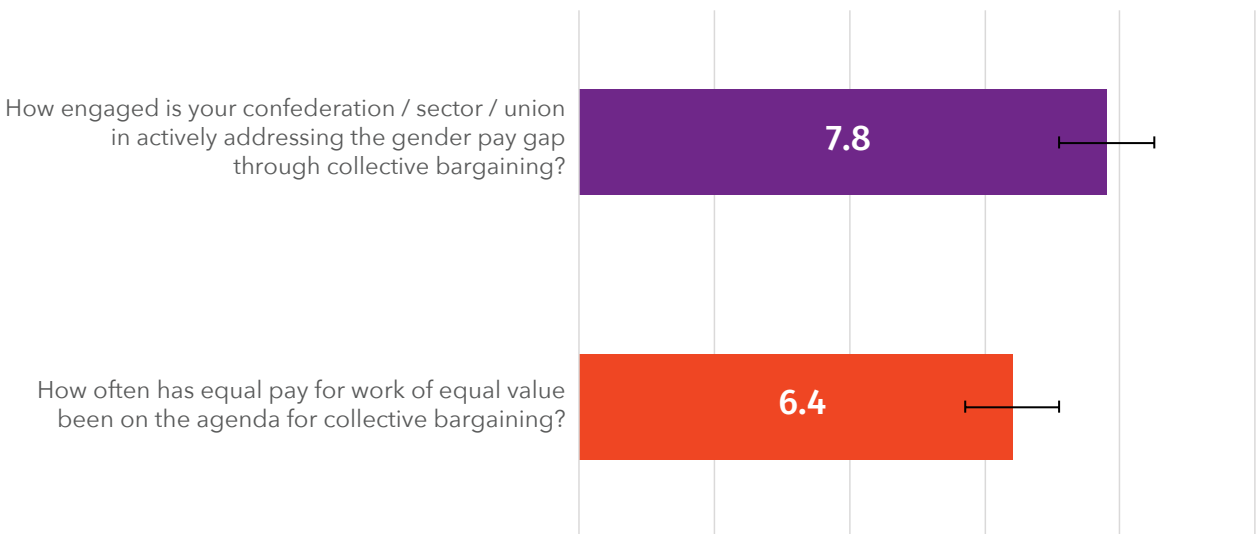
Respondents belonged to different types of trade union’s organisations:



Although respondents rated the engagement of their trade union organisation relatively high (7.8/10) in actively addressing the gender pay gap through collective bargaining, the rating dropped (6.4/10) when asked about the importance of equal pay for work of equal value on the collective bargaining agenda.

“Equal pay for work of equal value is not often part of wage negotiations, and when it is, it is mostly through measures to address overall wage inequality, rather than through gender-specific measures.” (IndustriALL, 2019).

Consideration of the gender pay gap & equal pay for work of equal value in collective bargaining



These numbers, together with the written answers by the respondents, already suggest that addressing equal pay for work of equal value has not been among the highest priorities of trade unions in terms of collective bargaining. While addressing the gender pay gap and equal pay in collective bargaining is already challenging, the survey suggests it to be even harder for the issue of equal pay for work of equal value in particular.

According to 64% of survey respondents, the **resistance of employers** was identified as the first critical factor hindering bargaining for fair pay³. The second critical factor pertains to a lack of available information across sectors (56%). Survey respondents mentioned additional obstacles to addressing equal pay for work of equal value, such as the way data is collected and presented (i.e., gender equality index), pay secrecy or the systemic under-evaluation of work predominantly done by women. Trade union organisations noted that the most common ways in which equal pay was addressed was by way of collective bargaining, discussions in social dialogue bodies, information campaigns, and lobbying national governments. Data gathering and research were used to a lesser extent as ways of addressing equal pay. However, some trade unions effectively identified specific factors related to equal pay for work of equal value and have worked specifically on them, with actions such as job evaluation systems and pay-reporting strategies, also including information on gender, ethnicity, and disability.

2.3

INTERVIEWS WITH TRADE UNIONS, COUNTRY BY COUNTRY

Based on the results of the survey, and the contacts provided by the ETUC secretariat, interviews were arranged with representatives of the trade unions involved in gender equality and/or collective bargaining at the national or sectoral level. The aim was to gather specific information on good practice, the political context, the process, and the drivers of trade unions' strategies on equal pay and bargaining itself. Interviews were also carried out with relevant European trade union federations.⁴

³ The concept of fair pay encompasses both equal pay and equal pay for work of equal value.

⁴ A total of 33 interviews were carried out for this study: Two in Belgium, four in Italy, two in Latvia, three in Poland, four in Spain, three in France, one in Iceland, three in the U.K, one in Turkey, two in Austria, two in Germany, and one in Denmark and five interviews with European Federations.



EQUAL PAY IN CONTEXT

3

3.1

EQUAL PAY IN THE INTERNATIONAL CONTEXT

The right to equal pay for work of equal value has its origins on the International Labour's Organisation (ILO) *Equal Remuneration Convention (No. 100)* adopted in 1951 and in force since 1953. It lays out the basis for equal remuneration for work of equal value independent of whether it is performed by men or women and addresses gender discrimination in employment. To achieve equal pay, parties to the Convention are required to implement domestic laws, regulations on wage determination and support collective agreements between workers' and employers' organisations (GPSHub, 2022).

In 1979, the General Assembly of the United Nations adopted the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*. Article 11 establishes that parties should take appropriate measure to eliminate discrimination against women in the field of employment, and particularly ensure "the right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work"⁵.

Both the ILO 100 Convention and CEDAW remain today key international legal texts to address discrimination against women in employment, protect women worker's rights, address the gender pay gap, and of course, provide of a strong legal basis to the principle of equal pay for work of equal value.

Notably, the creation the Equal Pay International Coalition (EPIC), led by the ILO, UN Women, and the OECD, has helped to progress the commitment towards equal pay for work of equal value within the 2030 Agenda for Sustainable Development (Goal 8.5). These commitments are supported by ILO's international labour standards (ILS), most prominently by the Convention 100 on Equal Remuneration, and by the ILO 1998 Declaration on Fundamental Principles and Rights at Work that focuses attention on the commitment to eliminate discrimination in the world of work (ILO, 2019)

3.2

EQUAL PAY IN THE EUROPEAN CONTEXT

The European Union (EU) has shown concern for equal pay since its origins. Article 119 of the Treaty of Rome (1957) called for equal pay for equal work⁶, although it was motivated by the fear of unfair competitiveness among members states, rather than by a genuine commitment to gender equality. The interpretation that the Court of Justice of the EU (CJEU) offered on Article 119 -on the well-known *Defrenne II* case of 1976⁷- was key to integrating gender equality more broadly, as a founding principle of the EU. The role that the CJEU has played in understanding and extending the scope of equal pay for work of equal value is considerable. The landmark CJEU case *Sievers and Schrage* of 2000 affirmed

⁵ Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979

⁶ Article 119 referred 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" and defined what remuneration and equal remuneration without discrimination based on sex meant.

⁷ *Defrenne v. SABENA* of 1976 (C-43/75 [ECR 455]).

that the provision containing equal pay had a social aim which constituted “the expression of a fundamental right”⁸. Following this line⁹, some years later, the *Charter of Fundamental Rights of the EU* included in Article 23 that “equality between women and men must be ensured in all areas, including employment, work and pay”.

Currently, Article 157 of the *Treaty on the Functioning of the EU (TFEU)* establishes equal pay for equal work or work of equal value for male and female workers. It also provides that measures to ensure the application of the principle should be adopted (157.3 TFEU). The EU has also adopted specific legislative instruments addressing gender equality and equal pay, such as the ‘Recast’ Directive, on equal opportunities and treatment of men and women in matters of employment and occupation¹⁰. Article 4 of this Directive further elaborates on the implementation of equal pay for work of equal value, stating 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. In particular, 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”.

In 2014, the European Commission (EC) issued a recommendation on equal pay between women and men through transparency¹¹ that provided specific guidance to Member States for a better and more effective implementation of equal pay, combat pay discrimination, and contribute to tackling the persistent gender pay gap. However, the 2014 Recommendation has not achieved these objectives due to its non-binding nature, resulting in limited actions undertaken by Member States.

In terms of political and public policy tools, the European Pillar of Social Rights (2017) includes gender equality and the right to equal pay principles. More recently, the European Commission undertook a public consultation on the gender pay gap (from January to April 2019). Its aim was to gather information, views, and experiences from a broad range of stakeholders on pay transparency and enforcement measures including public authorities and administrations, professional and business associations, trade unions and trade union associations, companies, women’s associations, national equality bodies, labour inspectorates, other national bodies, citizens, civil society and non-governmental organisations, academics and research funding and performing organisations. The survey concluded that 44 % of respondents felt that men and women were not paid equally for the same work or work of equal value in their countries, 23 % of respondents believed that men and women were paid equally. The lack of dissuasive penalties imposed on employers, lack of awareness among employees about equal pay rules and the lack of job evaluation systems and their effective application were identified as the main obstacles to effective implementation of the principle of equal pay for women and men (EC, 2019).

In her political guidelines, European Commission President Ursula von der Leyen committed to including the “principle of equal pay for equal work” as a founding principle of the at the time upcoming Gender Equality Strategy 2020-2025, published in March 2020. In addition, President Von der Leyen vowed to put forward “binding pay transparency measures” within the first 100 days of her mandate. In March 2021, the long-awaited proposal for a *Directive 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* was published¹².

At the time of finalizing this report, the Directive is yet to be adopted. Alongside the ETUC’s efforts to introduce important amendments to the draft Directive, this research sustains the ETUC’s key demands for the Directive

⁸ Joined Cases C-270 and C-270/97 *Deutsche Post v Sievers and Schrage*, ECLI:EU:C:2000:76.

⁹ The CJEU has also referred to the interpretation of the concept of pay included in Article 157 TFEU in the following caselaw: 12/81 *Garland* (Travel benefits for workers and family members); 171/88 *Rinner-Kuehn* (Continued payment of wages in the event of illness); C-218/98 *Abdoulaye* (Maternity benefit); C-281/97 *Krueger* (Christmas bonus); C-360/90 *Bötel* (Compensation for attendance of training courses of staff councils); C-262/88 *Barber* (Redundancy benefits); C-109/91 *Ten Oever* (Survivors pension based on collective bargaining agreement); C-19/02 *Hlozek* (Bridging allowance provided for by a work agreement) and others, such as company cars and homes, loans, shares, etc.

¹⁰ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

¹¹ Commission Recommendation 2014/124/EU of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency.

¹² Proposal for a Directive 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. European Commission, 4 March 2021.

with fact-based information, advancing the enforcement of equal pay for work of equal value¹³.

Beyond the EU, the Council of Europe declared the right to equal pay for men and women in Article 4.3 of the European Social Charter (1961)¹⁴ and has since then adopted several instruments on this matter. On 21 March 2021, the Committee of Ministers of the Council of Europe adopted a Declaration on equal pay and equal opportunities for women and men in employment, where the need to recognise the right to equal pay between women and men for work of equal value in law is declared¹⁵.

Despite considerable efforts by European trade unions, backed by this strong international and European framework, progress in addressing equal pay for work of equal value has been slow. The European Institute for Gender Equality (EIGE) described the overall progress on gender equality in the EU terms of a “snails’ pace” (EIGE, 2017).

¹³ The ETUC has also prepared a *Model proposal for a Directive on strengthening the principle of equal pay between women and men through pay transparency*, as well as released a Briefing Note with its response to the EC’s proposed Directive.

¹⁴ The *European Convention of Human Rights* (1950) previously had established in Article 14 that all rights enshrined in the Convention should be secured without discrimination on any ground, such as sex, race, and others. Protocol 12 (2005) provided for a general prohibition of discrimination, as the mentioned non-discrimination provision was of a limited kind because it only prohibited discrimination in the enjoyment of one or the other rights guaranteed by the Convention. The Protocol removes this limitation and guarantees that no one shall be discriminated against on any ground by any public authority.

¹⁵ Declaration of the Committee of Ministers of the Council of Europe of 21 March 2021 on equal pay and equal opportunities for women and men.



THE ROLE OF TRADE UNIONS IN PROMOTING FAIR PAY: COLLECTIVE BARGAINING HOLDS THE KEY TO EQUAL PAY

4

A strong and favourable regulatory framework on gender equality, tackling pay inequalities via collective bargaining, is important as it stimulates a climate of equality awareness within social dialogue, as well as ensuring that employers take gender equality seriously.

In other words, collective bargaining has been known to have great potential for promoting gender equality.

According to the ILO, **collective bargaining** has the potential to close gender wage gaps through four instruments: “1) targeted raises compensating for the concentration of women in low-paid industries; 2) gender-neutral occupational classification schemes to correct the undervaluation of female-dominated occupations; 3) measures promoting pay transparency, against wage discrimination (including in discretionary pay); 4) gender-neutral evaluation criteria for career progress” (ILO, 2019).

The ILO ACTRAV survey on the role of trade unions in wage setting for gender equality found that “trade unions have given a particular focus to improving wages for low-paid workers and to efforts to unionize or extend coverage of legal minimum wages or collective agreements to, groups of workers traditionally in vulnerable types of employment. In addition, some trade unions focused on improving pay in female-dominated sectors (21%), the use of gender-neutral job classifications and evaluations (23%) and improving transparency in pay by developing equal pay audits and gender equality plans (23%)” (ILO, 2019).

The ILO (2018), ETUC (2019) and ETUI (2021) refer to collective bargaining as an effective lever for fair pay. Studies have also shown that “if trade unions are present or companies have a structured workers’ representation or companies are tied to collective agreements, pay gaps tend to be smaller than without these measures” (Rubery, 2014).

If done properly, collective agreements can be key to establishing neutral job evaluation.

Apart from **collective bargaining**, trade unions have used a variety of strategies which address equal pay and equal pay for work of equal value. These include **awareness-raising campaigns** such as Equal Pay Day to inform and draw attention to equal pay, **training** and **toolkits** for trade union negotiators, studies, and surveys such as the ETUC’s survey on equal pay for work of equal value or the most recent TUC survey (2021)¹⁶, **collective actions** and most importantly, **collective agreements** with specific clauses on equal pay for work of equal value. In addition, in specific contexts, **legal action** brought about by trade unions to enforce European and national legislation has proven to be very successful.

4.1

STRATEGIES BY TRADE UNIONS TO ADDRESS EQUAL PAY FOR WORK OF EQUAL VALUE THROUGH COLLECTIVE BARGAINING

Trade unions are using various strategies to push for fair pay for women. In this context, the European Federation of Public Service Unions (EPSU) 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 (EPSU, 2021). Such pay audits and surveys are important tools to put the spotlight on the problem of equal pay for work of equal value being indispensable for developing further strategies” (EPSU, 2021).

¹⁶ For more info, see: <https://www.tuc.org.uk/EqualityAudit2021>



The strategies of the trade union organisations which participated in this study have included **negotiating for extra pay increases for low paid workers in predominately female occupations and/ or flat rate increases** (e.g., Germany, Denmark, France). Another set of strategies aims at establishing **gender neutral job classification systems** to ensure non-discriminatory pay and grading systems, and that different wage groups are treated equally and in a streamlined way. These schemes aim to implement the concept of “work of equal value” by redressing the chronic undervaluation of tasks typically performed by women in existing occupational classifications. In this context, unions are also pushing for **gender-neutral job evaluation schemes**, through the development and application of non-discriminatory job factors that aim to increase the value and pay of jobs predominantly done by women (EPSU, 2021). **Strategies of litigation** have also shown to be very successful as the case of the United Kingdom demonstrates.

The use of litigation, however, remains limited by trade unions while they focus more on collective bargaining or industrial disputes. Factors, such as the high financial and emotional costs for plaintiffs and their trade union reps, the risk of movement fragmentation linked to the claim for individual rights, the necessary reliance on lawyers and the feeling that the law provides only limited (individual) remedies have traditionally deterred union activists from going to the courts.

Yet trade unions have frequently participated in individual and collective litigation to obtain or enforce statutory rights at the national and European Union (EU) levels as the case of the UK demonstrates so clearly.¹⁷ It has delivered tangible gains for some highly disadvantaged groups – white women from the 1970s to the 1990s and Black, Asian, and minority ethnic women in the 2000s – who are over-represented in presumably “low-skilled” jobs in the public sector and whose interests had been prioritised by trade unions. It has also helped to secure bargaining outcomes by forcing employers to negotiate large-scale grading and pay agreements in the public sector.

If collective bargaining is to be fully effective, a favourable political climate is indispensable. In this context, inclusive labour markets, strong unions and strong gender equality legislation can help to successfully address equal pay for work of equal value. The success of collective bargaining does not only depend on the negotiations and willingness of the social partners to find agreements, but that the legal and organisational environ-

¹⁷ C. Guillaume, “Organizing Women: A Study of Gender Equality Policies in French and British Trade Unions”.(2022). OI: 10.1111/jols.12356. This study points to the importance of the second wave of feminism in pushing equal pay for equal work action within the trade unions movement.



ment is also crucial in favouring and supporting social partner action. Cases in point, which are discussed in more detail later, are both Poland and Latvia where unions have been struggling to bring gender equality and equal pay to the negotiating table. As for Latvia, the issue of generally low pay appears to be a major obstacle to focus on equal pay for work of equal value. In the context of Poland, collective bargaining structures are weak and added to this a general attitude that gender equality is not an important issue. Women's committees of trade unions in such contexts have been able to raise the bar but continue to struggle for equality bargaining.

In 2015, the ETUC adopted a resolution stressing the role of collective bargaining in reducing the gender pay gap and to indicate successful bargaining practices aimed at closing the gap (ETUC, 2015)¹⁸. It also 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” (ETUC, 2015). Highlighting additional trade union-led strategies, Dr. Jane Pillinger notes that “some social partners also negotiate “equality budgets” to fund “equality allowances” distributed to women on top of general wage increases (e.g., Denmark). Sectoral agreements in the 2012-14 bargaining round in Finland included a budget equivalent to 0.5% of the total wage costs to reduce wage inequalities between men and women. Equality funds are also negotiated in Sweden since 2007, with the size of the fund depending on the number of low-paid women in the sector” (Pillinger, 2014).

Gender-neutral occupational classification schemes were the means of choice of **Belgian trade unions**, for example. Together with the government, Belgian confederations developed gender-neutral job classification criteria, and guidelines about how these criteria should be used when negotiating pay scales. They included knowledge and qualifications, responsibilities, type of tasks, and the nature of the working environment to determine what was meant by equal value. Belgian confederations were not the only ones using such measurements, as “such systems have been introduced in several countries, for example in the health care sector and local government in the United Kingdom, and in municipal social and childcare services in Germany” (Pillinger, Schmidt and Wintour, 2016). In Spain, in the framework of social dialogue, trade unions and employer organisations have agreed on different tools to advance equal pay: the pay registry tool; and the tool to assess

¹⁸ For the full resolution, please see: <https://www.etuc.org/en/document/resolution-collective-bargaining-our-powerful-tool-close-gender-pay-gap>

jobs neutrally. The tool to evaluate jobs neutrally has been adopted recently (April 2022)¹⁹, and it focuses more thoroughly on the dimension of work of equal value. It is a key tool at the negotiating committees of gender equality plans and it is expected to serve as a basis for collective bargaining commissions in the formulation of wage scales. There are also other examples from Austria and different sectors in Germany, such as the metal industry which recently introduced a gender-neutral job classification system.

In France, the CGT and CDTF, among others, have focussed their work on equal pay for work of equal value by addressing **job classifications** with the aim to upgrade female-dominated jobs reviewing the definitions and evaluations of jobs used in professional classifications.

Gender-neutral job evaluation schemes are also the means of choice in Iceland to address equal pay for work of equal value. **The Icelandic Equal Pay Standard (IEPS)** is an example of the systematic integration of job evaluation as a tool for achieving equal pay for work of equal value in practice and is one of the best examples from across Europe. 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 both job evaluation and 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. The measures introduced under the IEPS, including a legal duty to implement gender-neutral job evaluation (and (re-)classification if necessary), are deemed as being essential to end the undervaluation of work predominantly carried out by women (The Icelandic Confederation of Labour (ASI), 2021).

As for the UK, the development and use of gender-neutral job evaluations as part of collective agreements have been widely used strategies. These initiatives have led to the successful development of simple classification systems in the form of single pay spines in local government, health, and higher education. The application of gender-neutral evaluation schemes, designed with union representatives, helped to bring about substantial pay rises for workers, specifically in heavily feminised sectors such as cleaning and care. Unions were at the forefront in working with the government to use gender-job evaluation schemes.

Another strategy to fight the gender pay gap by addressing equal pay for work of equal value is the negotiation for a raise in pay in female dominated sectors. Good, albeit controversial examples are found in France and Denmark.

In Denmark, BUPL (Danish Union of Early Childhood and Youth Educators) has collaborated with other trade unions in collective bargaining with a view to obtaining **higher salaries for predominantly female professions**. In 2018, these efforts paid off resulting in an extra two million euros for early childhood educators as well as enhanced recognition of the early childhood education profession. More ambitious collective bargaining has been announced for 2021 involving bargaining with public employers and dialogue with the Danish government (ETUCE, 2019).

Although not part of this study, Swedish trade unions have been highly engaged in addressing the gender pay gap. Social partners retain considerable autonomy in Sweden and union coverage is high. Therefore, unions' initiatives are paramount to ensuring equal pay for work of equal value. Although equal pay for work of equal value is enshrined in the Swedish legislation, financial penalties are not necessarily imposed when employers do not fulfil their reporting obligations, leaving such a decision to the regulatory board of the Equality Ombudsman. The recent initiative by public sector unions to push for the so-called "wage spread"- a term that denotes the difference in pay within an occupational group at a given workplace comparing, for example, presumably "low-skilled" jobs with administrative jobs, may point to new ways to addressing the pay gap in Sweden. The way this can be done is open and could take the form of collective agreements, salary scales or job description. Furthermore, unions have also been pushing the obligation to ensure full-time jobs at hiring, but also when returning to work after, for example, a maternity leave.

At European level, agreements such as the European Agreement regarding professional equality between women and men, between the Group ENGIE SA, the French multi-utility company, IndustriALL, the European Federation of Public Service Unions (EPSU) and the European Federation of Building and Woodworkers (EFBWW) address equal pay for work of equal value. Their impact should not be underestimated. Signed in 2017, the agreement includes a gender equality action plan of the Group which requires monitoring and analysis of pay

¹⁹ It is accessible online at the website of the Work Ministry. The job assessment tool is composed by a "user guide" document and an "excel sheet": https://www.mites.gob.es/es/portada/herramienta_valoracion_puesto/index.htm



differentials between women and men with a view to tackle equal pay for work of equal value. Article 9 of the agreement includes a commitment by the social partners to “reduce gender pay gaps found, for equivalent levels of responsibility in the same job or a job with the same value”. In this context, the inclusion of the development of appropriate indicators and yearly reviews by the social partners as well as the requirement in Article 13 that all suppliers and contractors also have to comply, may just help to bring the much-needed attention to the issue.²⁰

Already in 2012, a transnational company agreement was signed between European trade union federations and management of GdfSuez²¹ (which became ENGIE SA in 2015), with the aim to define unjustified differences between women and men and remove these to achieve pay equality between women and men and taking account of all salary elements (EPSU, 2012).

One of the key elements of that agreement was that companies with more than 150 employees had to develop annual equality plans, which included inter alia tackling equal pay for work of equal value as well as mechanisms to monitor the implementation of the agreement including grievance procedures.

On 5 November 2021, the autonomous European Social Partners’ Agreement “**Women in the Railway Sector**” was officially signed²². Companies in the railway sector now have 12 months to **develop an equality and diversity strategy** and 24 months to implement it. This includes measures to ensure equal pay. Companies subject to this agreement are asked to reassess their remuneration policy (frequency to be determined, also depending on the size and resources of the company) and include in the assessment antidiscrimination and equality aspects. They also should assess and compare the value of work on objective criteria such as educational, professional, and training requirements, skills, effort and responsibility, work undertaken, and the nature of tasks involved to prevent or identify and tackle possible pay discrimination based on gender-biased pay scales. Finally, employers shall monitor the level of wages for men and women in comparable positions.

²⁰ The agreement is accessible at: https://ec.europa.eu/employment_social/empl_portal/transnational_agreements/engie_egalite_2017_EN.pdf

²¹ GdfSuez employed at the time close to 220,000 workers in activities such as water, waste, energy, and energy services. It is active in several European countries such as Austria, Belgium, Czech Republic, Finland, France, Germany, Hungary, Italy, Luxembourg, Netherlands, Norway, Poland, Romania, Spain, Sweden, UK.

²² The agreement is accessible at: <https://cer.be/publications/latest-publications/european-social-partner-agreement-women-rail>

4.2

TRADE UNIONS' STRATEGIES BEYOND COLLECTIVE BARGAINING

Trade unions are also involved in lobbying and campaigns to promote gender equality, and specifically the struggle for equal pay. The strategy of choice remains upward wage convergence and **reducing overall wage inequality**. (ILO, 2019).

Apart from collective bargaining, trade unions have used a variety of strategies which address equal pay and equal pay for work of equal value. These include **awareness-raising campaigns** such as Equal Pay Day to inform and draw attention to the issue of fair pay, training and toolkits for trade union negotiators, **studies**, and **surveys** such as the ETUC's survey on equal pay for work of equal value or the most recent TUC survey (2021), **collective actions** and most importantly, **collective agreements** with specific clauses on equal pay for work of equal value. In addition, in specific contexts, **legal action** brought about by trade unions to enforce European and national legislation has shown to be very successful.

An additional element is to consider how action at international, national, sector and company levels can contribute towards reducing gender pay gaps focussing on equal pay for work of equal value. Implementing action at each level also **requires trade unions to undertake internal actions to promote gender equality within trade union structures and policies**.

“Women’s representation in union leadership and collective bargaining teams has a significant impact on the extent to which negotiated outcomes benefit women workers” (ETUC Survey, 2021).

This is not to say that gender issues have not been taken up in the social partner framework agreements of the European Union, in the sectoral social dialogue arenas via the European Trade Union Federations (ETUFs), and at the company level through joint agreements negotiated via the European Works Councils (EWCs). In some cases, however, implementation of these agreements remains challenging.

GOOD PRACTICES AT NATIONAL LEVEL IN EUROPE

5

National social partners play a crucial role in equal pay and pay transparency. Examples include policies to raise pay in female-dominated occupations or sectors, establishing gender-sensitive job grading, and implementing action plans to remedy gender pay gaps revealed by company-level gender pay audits (European Commission, 2020b).

This study has analysed the following countries (11): Austria, Belgium, Denmark, France, Germany, Iceland, Italy, Latvia, Poland, Spain and the United Kingdom.

5.1

AUSTRIA

Introduction

Austria has one of the highest gender pay gaps in the EU (18,9%) and is thus much above the EU average of 13%. In 2018, full-time women workers faced an income loss of around 20% compared to their male colleagues for work of equal (value). If one includes part-time and atypical workers, the difference is even double. Very often there are no factual reasons for this, it is simply discrimination (ÖGB, 2019).

“The demand for equal pay for equal work of equal value has lost none of its validity” (ÖGB, 2019).

Austrian trade union have fought hard for equal pay for equal work and have been instrumental in pushing for the equal pay legislation of 2014, which specifically addresses equal pay for work of equal value and provides for more transparency of salaries and wages.

State of play with equal pay and legislation

Equal pay legislation is in force since 2014. Viewed systematically, the relevant provisions comply with the concept of Article 157 of the TFEU.

Paragraph 11 of the Equal Treatment Act for the Private Sector obliges all parties at every level of collective bargaining to follow the principle of equal pay for equal work or work of equal value and to ensure that no discriminatory criteria for job evaluation processes are implemented at the collective bargaining level, which effectively constitute legal minimum wage levels in all sectors.

“The equivalence of a job within the meaning of Chapter V. (§ 11 para 1) shall be assessed within the framework of an analytical job evaluation procedure, taking into account in particular the following criteria: - qualifications and knowledge, - responsibility, - burdens, - working conditions. Within the framework of these criteria, sub-criteria may be formed if this is necessary for a gender-neutral assessment of the work”²³.

²³ More information on equal treatment can be consulted on the following website of the Republic of Austria (Labour): <https://www.bma.gv.at/en/Topics/Labour-Law/Equal-Treatment.html>

Pay levels for federal civil servants are regulated by the Federal Civil Servants' Salary Act, They, like any other pay structures across Europe, contain no distinction in pay between the sexes.

By law, collective agreements cover all employees of a sector, irrespective of their union membership. Collective remuneration levels are also an important guideline for establishing the amount of adequate pay in areas without collective wage norms.

In 2011, **pay transparency** became a legal requirement. It was further developed in 2014 requiring companies with 150 employees or more to produce biannual income reports. Additionally, an online **wage calculator**²⁴ is in place to provide accessible information on wages commonly paid in a sector or region.

The Equal Treatment Act requires that **job-grading systems** at the enterprise level must **respect the principle of equal remuneration for the same work or work of equal value**²⁵.

In order to define pay criteria, company classification schemes and requirements of collective labour legislation have to comply with the principle of equal pay for equal work (and also of equal value) and may not set out separate criteria for the work of men and women which leads to discrimination.

The law provides for the **implementation of the transparency measures through regular reporting**. In these income reports, the pay levels of the company's staff must be anonymised and then detailed by gender and then by qualifications and by correlation to existing pay schemes in the applicable collective agreement. Income reports are confidential but may be used as collateral evidence by claimants in equal pay court cases in order to substantiate prima facie proof of pay discrimination.

Wage policies in the private sector are regulated to a very large degree by **sectoral collective agreements**. These are required to contain **gender-neutral pay schemes** that structure minimum pay levels according to material and temporal qualification levels.

There is **well-established case law** by the Supreme Court that obliges employers to eliminate gender-specific criteria from the hiring process and from wage negotiations. In accordance with established case law, pay differences on the grounds of sex are not permissible and can be made grounds for individual labour law claims in the civil court (Mayr, 2019).

From 2016 to 2017 the project Fair Wages²⁶ developed a toolbox supporting companies in drafting, analysing, communicating, and using the internal income reports. In addition, company testimonials and best practice examples offer a business case for more income transparency and fair salaries.

Collective Bargaining & Equal Pay

Collective agreements can contain work evaluation systems. Implementation at company level mostly depends on obligatory agreements between works councils and employers. The Equal Treatment Act for the Private Sector contains a mandate for collective bargaining, but no obligation that regulates collective bargaining processes in general. Employees who consider works council agreements as a violation of the principle of equal pay would have to make corresponding courts claims against their employers.

It should be noted that collective agreements contain pay grids that are structured by qualification levels and 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 and corrected in individual court cases. **The collective agreements and the pay grids are re-negotiated annually** by the social partners and consequently are under regular observation and adaptation.

²⁴ The online wage calculator is accessible here: <https://www.icalculator.info/austria.html>

²⁵ See, §3(2) & 11 of Equal Treatment Act (Official Gazette No. 66/2004).

²⁶ More information about the project, here: <https://www.einkommensbericht.gv.at/>

Social Partners' Good Practices on Equal Pay

The Austrian Trade Union Confederation (ÖGB) and its sectoral affiliated unions are trying to achieve equal pay through collective agreements (general/sectoral). Collective bargaining on sectoral level is conducted by the sectoral unions in its various sectors.

VIDA has been working for a long time on improvements for women through collective agreements and at company level²⁷. Important improvements for women have already been achieved in many areas, such as equal pay for work of equal value or measures to better reconcile work and family life. Women are strongly represented in the VIDA trade union. Around 43,000 women in sectors such as railways, care, tourism, health or also in cleaning, home care and aviation are looked after by VIDA under one roof. Similarly, the PRO-GE has been fighting to raise minimum wages in female dominated low pay sectors such as the textile industry to improve the situation of women working in the industry²⁸. In addition, PRO-GE has also worked hard to integrate gender neutral job classification systems ensuring that criteria such as stress and responsibilities are also counted towards the pay grade.

Conclusions

Austrian legislation provides a number of tools that trade unions, and social partners in general, can use to address the persistent gender pay gap, and in particular to enforce equal pay for work of equal value. Unions have used a dual strategy, trying to raise the pay in female dominated sectors, but reforming existing discriminatory job classification systems. While there are a few good practices, they do not have a significant impact on the wide gender pay gap. Cross-sectoral initiatives would probably be the way forward. However, there is little interest by employers and government so far to take on equal pay for work of equal value as a focus.

Good practices

GOOD PRACTICE 1

Sector: Textile

Type of good practice: Collective agreement

Signatories: PRO-GE; PRO-GE union, the Employer's Association of the Textile, Clothing, Footwear and Leather Industry, Subsector: Textile Industry

Date: 1 April 2020²⁹.

Key elements:

- National Collective Agreement for Textile Workers.
 - It aims to raise the minimum wages in a sector which predominately employs women.
 - With regards to classification, employees shall be classified into one of the six employment groups by the employer with the involvement of the works council.
 - The classification shall include the totality of the activities performed, and in addition - where provided, a completed (vocational) training, - where provided, the degree of autonomy and responsibility.
 - The classification may not lead to a different classification or payment for the same activities or activities of equal value within the meaning of the Equal Treatment Act, which are predominantly performed by men or women.
 - The full text is available [here](#).
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²⁷ See VIDA's website with the latest developments at: https://www.vida.at/cms/S03/S03_0

²⁸ See PRO-GE's website with the latest developments at: https://www.proge.at/cms/P01/P01_1/themen

²⁹ The Framework collective agreement was concluded between the Trade Association of the Textile, Clothing, Footwear and Leather Industry, Textile Industry Occupational Group and the Austrian Trade Union Federation, Trade Union PRO-GE for workers in the Austrian textile industry of 1 April 2016 in the version applicable as of 1 April 2020.

GOOD PRACTICE 2**Sector:** Textile/Laundry (Industrial laundries)**Type of good practice:** Collective agreement**Signatories:** PRO-GE**Date:** 1.7.2022 (duration: 12 months)**Key elements:**

- Raise of 5,4% rise in collectively agreed minimum wages. New minimum wage thus stands at 1.607,30 €.
- 5,1 % rise in actually paid wages.
- Increase of apprentices' remunerations by 5,4 %.
- Increase in allowances, supplements and bonuses by 4,75%.
- 24th December as paid holiday.
- Full text is available here.

5.2**BELGIUM****Introduction**

According to the *Institute pour l'égalité des femmes et des hommes* of Belgium the gender pay gap, considering women's part-time work, is still 23,1% in Belgium (IEFH, 2021). However, due to the unequal allocation of pay bonuses and other measures introduced during the COVID-19 crisis between male-dominated and female-dominated sectors, it is not clear yet if the gender pay gap will continue to decrease or increase in Belgium. Still, Belgium has currently one of the lowest gender pay gaps per hour in the EU (5,3 %) thanks to Belgian trade unions' efforts on the matter³⁰. Although there has been a shrinking of the freedom and rights of trade unions in the last years in Belgium, collective bargaining remains a key tool to advance equal pay.

State of play with equal pay and legislation in Belgium

There is **no constitutional provision** in Belgium referring to equality of women and men at work, or the right to equal pay for work of equal value³¹. Beyond equal pay, the **Law of 26 July of 1996**, also known as the Wage-standard Law, is a big legal barrier for equal pay³². The Law imposes limits to the possible increase in wages, independently from the increased benefits that companies might have had³³. This restriction applies to the salaries of all workers, **but it disproportionately affects equal pay between women and men** and blocks the negotiations on pay, including on equal pay³⁴.

The legal framework regulating equal pay is the **2012 Gender Pay Act** (Law of 22 of April aiming at fighting the pay gap between women and men). It does not refer to equal value expressly, although the **Collective Labour Agreement No 25 on equal pay** for male and female employees does it, as it is explained later.

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. At the interprofessional level, every two years social partners from the private sector are obliged to negotiate at a national level an interprofessional agreement (IPA) on the evolution in wages -among other aspects-, including gender equality in wages, and possible measures to be taken (Articles 2 and 3) (IEFH, 2020, 3). When **bargaining at sectoral level**, the law also introduces the

³⁰ According to Eurostat (2021), the gender pay gap per hour in Belgium is at 5,3%, well below the EU average which is at 13%. Since 2010, this gap has been decreasing (from 10.2% to 5.3%) (Statbel, 2022).

³¹ Only articles 10 and 11 of the Constitution establish that "the equality of women and men is guaranteed" and prohibit discrimination, respectively.

³² Trade unions have denounced the Law before courts, see for example, case 152/2016 of the Constitutional Court of Belgium.

³³ For 2021-2022, the limit has been set by the federal government at 0.4%.

³⁴ Trade unions attempted to introduce an exception to the application of this Law when equal pay and gender pay gap issues were involved, but their demands were not considered in the end.

need to discuss the gender pay gap and focuses mainly on the **classifications of functions**, which **ought to be gender-neutral** (Article 5). The bargaining joint committees must send the agreed classification of functions for evaluation to the Directorate of the Analysis and Evaluation of the Collective Bargaining Agreements, but before that, they need to have already assessed the gender-neutral character of the classification agreement (Article 6). The Directorate issues an opinion on the classification. To enable the evaluation, an instrument that should allow a straightforward analysis has been developed: A **checklist of twelve questions**³⁵, dealing with diverse subjects, such as the methods of the job evaluation, the composition of the technical committee, and others. If the Directorate gives a negative evaluation -and the joint committees do not modify them-, a **name-and-shame list** is published with the joint committees not complying with the neutral job classifications³⁶. However, the list is not widely publicised, and it does not really harm companies (IEFH, 2020, 14).

At the company level, the Gender Pay Act establishes several reporting and wage-analysis obligations. First, the employer – in companies **with 50 employees or more**- is obliged to compile a statistical **report every two years** on the gender pay gap within the company, taking into account the different job levels (Article 7). The report has to be discussed in the works council, and if there is none, in the committee for prevention and protection at work. When the report shows an unbalanced pay structure in the company, the works council **can decide to adopt an action plan** (Article 8). However, in the Law, the rules for this action plan remain vague and it is optional (IEFH, 2020, 8). Second, the Gender Pay Act establishes the **obligation to provide certain data to the National Bank broken down by sex**, annually. Filling in the “bilan social”, or Social Balance Sheet, is compulsory for companies with 20 full-time equivalent employees or more (Article 4). The data from the social balance sheets are analysed by the National Bank, and the data of those who are obliged to report are published³⁷.

Concretely on the issue of equal pay for work of equal value, the **law upholds a restrictive understanding of what work of equal value is** because it focuses solely on classifications of functions, and thus, limits work of equal value to the work that is carried within the same sub-sector. Consequently, it does not encompass the diverse dimensions of work of equal value, which must encompass sectoral and cross-sectoral approaches. Besides, in the Belgium legal practice, the basis of the comparison for work of equal value is even further restricted to work within the same company, with the same job title, seniority, etc. (IEFH, 2020, 8).

Collective bargaining on equal pay

Belgium has one of the **highest collective bargaining coverages** in Europe³⁸, 96% of employees are covered by collective bargaining (ETUC, 2014, 10). It is also highly **centralised** as the key level of collective bargaining is **national**. The national level sets the frameworks. Trade union density in Belgium is 49,1%, also quite high (OECD, 2021). However, there has been a shrinking of the freedom and rights of trade unions in the last years in Belgium, which has also affected the collective bargaining sphere³⁹.

The mentioned **Collective Labour Agreement (CLA) No 25 on equal pay** for male and female was adopted in 1975 and modified in 2001 and 2008. It refers to equal pay for work of equal value in Article 1 when it 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 (European network, 2019, 48). The national collective labour agreement commits social partners to keeping up efforts to achieve equality between women and men. This includes that all joint committees mandatorily should review their job classifications so as to make them gender neutral (European network, 2019, 48). However:

“CLA 25 has remained a dead letter. In fact, the 2012 Gender Pay Act builds on this obligation and makes the Directorate responsible for the control and monitoring of the technical and legal correctness of the Collective Labour Agreements, and therefore, charges it with the control of the mentioned gender neutrality”. FGTB-ABVV, 2022.

³⁵ https://emploi.belgique.be/fr/themes/egalite-et-non-discrimination/egalite-femmes-hommes-lecart-salarial#toc_heading_3

³⁶ The list is published here: Égalité Femmes-Hommes: l'écart salarial - Service public fédéral Emploi, Travail et Concertation sociale (belgique.be)

³⁷ The Gender Pay Act also establishes the possibility to appoint a mediator for conflicts arising from pay discrimination based on sex or the gender pay gap. But this figure has not been too used and trade unions have questioned mediator's protection and power to actually work on the issues at stake

³⁸ In the EU, around two-thirds of employees (62%) are covered by collective bargaining (the highest levels are in France, Belgium, Austria, Portugal, Finland, and Slovenia, and the lowest in Bulgaria, Poland, and Lithuania) (ETUC, 2014, 10).

³⁹ Also, Belgian trade unions have denounced the attacks on fundamental components of their industrial relations system (ETUC, 2016).

In terms of wage setting, the predominant level at which wage bargaining takes place is intermediate or alternating between central and industry bargaining. **Collective bargaining over wages takes place at a combination of levels**, cross-sectoral, sectoral, and company level (European network, 2019, 3). Normally the coordination of wage-setting is done through binding norms regarding maximum or minimum wage rates or pay increases issued as a result of either a centralized bargaining by the principal union and employers' associations, with or without government involvement, or a unilateral government imposition of wage schedule or freeze, with or without prior consultation and negotiations with unions and/or employers' associations (European network, 2019, 3). Trade unions regret that the permitted maximum for pay increases that it is established nationally becomes a **barrier to bargaining for equal pay** for women and men too, in practice.

Social partners' good practices on equal pay

Social partners in Belgium have a long history of working for equal pay, including on the dimension of equal pay for work of equal value. There is awareness on the distinction between **the gender pay gap** and the **right to equal pay for work of equal value**. The gender pay gap in Belgium is greatly shaped by part-time working⁴⁰ and unequal caring responsibilities of women and men. Trade unions in Belgium are also concerned by the difference in the gender pay gap between the public, private and self-employed sectors, noting that the gap within the self-employed is the sharpest⁴¹.

Equal pay for work of equal value is determined by the fact that jobs are **not valued neutrally** but with a **male bias** which makes feminised jobs and sectors to be undervalued and underpaid in general terms. The bias in the assessment affects all payment forms, including bonuses. Equal pay for work of equal value is **hampered by the incorrect assessment of the nature, characteristics, and other factors involved** in the tasks, jobs, and professions that are done mainly by women, such as the **"nastiness"** of many of the tasks they undertake (i.e., in cleaning, caring for elderly or badly ill people, in the food industry with dead animals, etc.). In this regard, Belgium trade unionists called attention to the **food industry sector** and the biased evaluation of the jobs within it⁴².

*"For example, in the **meat industry**, while men workers are the majority in the job of killing the animals (i.e., pigs), women workers outnumber men in the following tasks of meat processing, which involve a great deal of "nasty" tasks (blood, bad smell, dirtiness, etc.), which are not adequately considered, and in consequence, are underpaid, especially when compared to the tasks men workers do". (ACV.CSC, 2021).*

Trade unions in both Flemish and Walloon regions, have developed **several actions to foster equal pay**. **Awareness-raising campaigns** on equal pay⁴³, usually on Equal Pay Day and on International Women's Day (8th of March). Similarly, they have pushed for **increasing the minimum wage** which has been proven to be particularly beneficial to women workers, as there are proportionally more women in the lower wage categories (IEFH, 2021, 66). They have developed **specific training** on how to negotiate for equal pay⁴⁴ and created **brochures** to tackle the gender pay gap and help advance equal pay in collective bargaining⁴⁵. Additionally, **the work of trade**

⁴⁰ According to the Belgian Statistical Office (Statbel), part-time work concerns 42.5% of women employees and 11.8% of men employees in Belgium in 2021. Women's part-time working is an important issue of concern to Belgian trade unions. Most women working part-time in Belgium are obliged to do so. It is also part of a capitalist strategy where some workers are only hired for peak hours. In the same vein, in some professions, the arduousness of the job is not well-considered and becomes impossible to work full-time because it would be unbearable for any worker.

⁴¹ Self-employed women in Belgium earn significantly less than male entrepreneurs and the gender gap in earnings is higher than for wage employment (OECD, 2012).

⁴² In this regard, it is no coincidence that in the shame-list of companies which have not adequately set a neutral functions classification (see supra), among the 6 companies listed, 2 belong to the food industry, specifically to "grease-melting" and "chicory roasting". The data refer to 2019: <https://emploi.belgique.be/fr/themes/egalite-et-non-discrimination/egalite-femmes-hommes-lecart-salarial>

⁴³ The oldest campaign on equal pay undertaken on equal pay day since 2005 has been highlighted as a good practice below (by FTGB), but other trade unions in Belgium have also developed their awareness-raising campaigns on equal pay which also constitute good practice on this regard. For example, CSC's 8th of March campaigns have mainly focused on equal pay. In 2018: « Ma fiche de paie a-t-elle un sexe (https://www.youtube.com/watch?v=H4G9l_rJZrg) »; in 2019: « Nous voulons 0% d'écart salarial ! »; in 2020: « Scratch and win : l'égalité n'est pas un jeu de hasard ». For example, a seminar on how to negotiate for equal pay was organised in Brussels by the end of 2021 by the FGFB, for its delegates, negotiators, and affiliates.

⁴⁴ For example, a seminar on how to negotiate for equal pay was organised in Brussels by the end of 2021 by the FGFB, for its delegates, negotiators, and affiliates.

⁴⁵ For example, CSC's brochure « Agissez sur l'écart salarial dans votre entreprise »: https://www.lacsc.be/docs/default-source/acv-csc-doc-sitemap/5000-over-het-acv-a-propos-de-la-csc/5230-publicaties-publications/5240-folders-en-brochures-brochures/5335-gender-equality-egalite-hommes-femmes/agir-sur-ecart-salarial-tcm187-355851.pdf?sfvrsn=61a93517_2

unions' women's committees or gender equality bureaus has been key to fostering discussions on gender equality at work and within the unions. Interviewees note that the issue of equal pay has been central in these committees' work.

In an attempt **recognising the work women workers have done during the COVID-19 pandemic**, trade unions have developed several reports, collected information, and interviewed essential women workers⁴⁶. However, many of the **"bonuses" for having worked during lockdowns** and under the exceptional circumstances of the COVID-19 are being distributed and agreed differently for women and men workers, and thus, **the pay gap is increasing**:

"The difference regarding the "bonuses" have increased with the pandemic, masculinised jobs have achieved more and better bonuses for having worked during pandemic than feminised jobs." ACV-CSC, 2021.

With regards to **equal pay for work of equal value**, trade unions have **lobbied** the government and other political actors to push the discussion on equal pay, and have, for example, recommended the Government to modify the law so that the dimension of equal value is included. In the framework of **social dialogue**, trade unions have also been working on the **development of the Decrees** set in the Gender Pay Act and the act's implementation, so that it better regulates equal pay for work of equal value among other issues.

The Belgium Institute for Equality between women and men published in 2020 a report analysing the strengths⁴⁷ and weaknesses of the Gender Pay Act. The weaknesses become **barriers to equal pay** in practice, and especially in trade unions' efforts on equal pay. The main problem remains the **effective implementation of the law** and the obligations it sets. There are no serious consequences for not complying with the law. For example, companies often do not present correct social balance sheets: They are often filled out poorly, incompletely, or deliberately incorrect. Although the National Bank analyses them and signals the mistakes, it has no power to act. Besides, the law imposes effort commitments, but **no results commitments**. The existing data shows that the Belgium pay gap and equal pay in Belgium have not started to decline at a faster pace since 2012 (IEFH, 2020,15). Another barrier is insufficient **pay transparency**, as calculating the gender pay gap on the company level does not equal nor replace the need to have pay transparency⁴⁸. Persisting **gender stereotypes** and sexism are barriers, too. Negotiating for equal pay for work of equal value concretely is even **more difficult**, as adopting measures for work of equal value require **structural measures**, which take a lot of time, money, need long-term commitments, and willingness to negotiate. Additionally:

"Delegates are overwhelmed, they have a lot on their plate and their work is not easy. If they have the sensitivity to work on equal pay and on equal pay for work of equal value, they do it; otherwise, if there is no previous awareness or concern about gender equality issues it is very difficult." ACV-CSC, 2021.

Conclusions

The 2012 Gender Pay Act is a good legal base to establishing equal pay and to negotiate on the 3 levels of collective bargaining, although the lack of control and imposition of sanctions makes its implementation in practice very difficult. The willingness of the employers to apply the law is also a big barrier. The mentioned wage-standard Law is hampering many of the trade union's efforts in that regard. Belgium trade unions are doing great efforts lobbying the government and fighting for eliminating this barrier.

⁴⁶ See, for example, the report of CSC "Travailleuses, santé et coronavirus": syndicaliste-933-bis-dossier-femmes-santé-corona.pdf (lacsc.be)

⁴⁷ Some of the highlighted strengths are that the Law develops a gender mainstreaming approach, involving employers actively in closing the gender pay gap, and establishing periodicity in obligations (see pages 13-14).

⁴⁸ And what is more, the Gender Pay Act establishes the obligation to keep pay confidentiality in various articles. Additionally, the Gender Pay Act only applies to the private sector and only to some companies, consequently leaving out small-scale companies -which constitute a large part of the Belgium company ecosystem- and the public sector from the different obligations.

Good practices

GOOD PRACTICE 1

Cross-sectoral

Type of good practice: Awareness-raising

Signatories: ABVV-FGTB

Date: since 2005 until present

Key elements:

- Awareness-raising campaign for Equal Pay Day on 25 March since 2005, the oldest in Belgium⁴⁹.
- Within the framework of the campaign, brochures and diverse tools have been developed through the years⁵⁰. For example, an online test for knowing if any action on equal pay is needed in your sector or company⁵¹, and an online calculator of the gender pay gap⁵².

GOOD PRACTICE 2

Cross-sectoral

Type of good practice: Tool

Signatories: ACV-CSC

Date: 2019

Key elements:

- Tool to work for gender equality at work and within the trade union which includes aspects of equal pay⁵³.
- The tool is structured around five action points. Each action point is accompanied by a list of questions and a list of leads intended to help the worker and union.

GOOD PRACTICE 3

Cross-sectoral

Type of good practice: lobbying

Signatories: ACV-CSC + ABVV-FGTB

Date: 2021

Key elements:

- Intervention before the Advisory Committee for Equal Opportunities of the Senate on 04 January 2021.
- The intervention focused on the causes and action levers for the gender pay gap.

5.3

DENMARK

Introduction

Denmark has one of the world's most segregated labour markets. Women in Denmark are more likely to work in the public sector providing care, while men are more likely to work in the private sector and in the STEM professions of science, technology, engineering and mathematics (Danish Ministry of Foreign Affairs, 2021).

⁴⁹ The Equal Pay Day national campaigns in Belgium in which FGTB was involved until 2017: <https://www.equalpayday.be/vorige-campagnes/> ; Additionally, the campaigns for minimum wage (Fight for 14 euro) and gender equality: <https://fgtb.be/fight-14-les-femmes-savent-pourquoi> ; https://fgtb.be/sites/fgtb/files/press/link_doc/dossier-sur-lcart-salarial.pdf

⁵⁰ See for example, the latest at: <https://www.fgtb.be/index.php/25-mars-journee-de-legalite-salariale>

⁵¹ See it at: <https://www.fgtb.be/test-ecart-salarial>

⁵² See it at: <https://www.fgtb.be/calcul-ecart-salarial>

⁵³ See it at: https://www.lacsc.be/docs/default-source/acv-csc-docsitemap/5000-over-het-acv-a-propos-de-la-csc/5230-publicaties-publications/5240-folders-en-brochures-brochures/5335-gender-equality-egalite-hommes-femmes/carnet-de-bords-web-2019-tcm187-317450.pdf?s-fvrsn=68d8db1c_2

The 2019 gender equality report of the Danish Institute for Human Rights provides an overview of human rights and gender equality in Denmark between 2017 and 2019⁵⁴. The report also touches upon equal pay and concludes “that the right to equal pay for equal work is well-established in human rights law, EU law and Danish law. However, there are still unexplainable pay differences between men and women, which lead to a considerable economic inequality between men and women across a life span” (Danish Institute for Human Rights, 2019, Ch. 8.3).

The gender pay gap has settled at 13.9% in Denmark and is thus slightly above the EU average of 13% with hardly any improvements over the last few years (Eurostat, 2022). Moreover, for the labour market as a whole there is a 19,7% pay difference between women with a bachelor education (e.g., nurse) and a man with same level of education (e.g., Bachelor of Engineering) (Sygeplejerskernes Samarbejde i Norden, 2018).

State of play with equal pay and legislation

Central to the current fight for equal pay in Denmark is the call to the Danish parliament to revisit the Public Servant Reform Act of 1969 (‘Tjenestemandreformen af 1969’). The act was intended to modernise the employment system for state employees and to allow the state a greater control over wage developments. It is regarded as one of the main causes as to why the female-dominated professions in the public sector still have a lower wage level than their male counterparts in positions with a corresponding level of education and responsibility.

“Danish nurses still receive 10-20% less in pay than male-dominated professions requiring a similar level of education. There are many contributing factors to unequal pay, but a recent report from the Danish Institute for Human Rights found that one key reason is the effect of the 1969 Public Servant Reform Act which saw nurses and other female-dominated professions placed at a lower pay level. In recent national negotiations, Danish nurses voted ‘no’ to a pay offer of up to 5% which was set to preserve real wages for public workers over the next three years. A citizens’ petition to reform the law in respect of many traditionally female professions has also received the requisite 50,000 signatures for it to make it to parliament.” (Sorensen, 2021).

In Denmark, equal pay between men and women is governed by the **Equal Pay Act**, which dates back to 1976 when it was adopted to implement the Equal Pay Directive⁵⁵. It has been amended on several occasions. The latest amendment was in 2016. The prohibition on discrimination on grounds of gender with regard to pay is stipulated in Section 1 of the Act (European Commission, 2021).

Employers in Denmark are prohibited from discriminating against their employees based on gender, both with regards to pay or and other working conditions. According to Section 1(1) of the Equal Pay Act, it is a violation of the principle of equal pay if gender is the reason for a difference in salary. This applies to direct as well as indirect discrimination.

Throughout the last 30-40 years Denmark has been relatively successful in eradicating the kind of unequal pay, that arises, when a man and a woman carries out the same kind of work in the same kind of workplace. However, the problem of unequal pay for work of same value continues to haunt the world of work for women. Danish legislation on equal pay stipulates that **“two employees, who work in different fields of same value for the same employer should be paid equally even though the work they carry out is not the same.”** The problem with the Danish legislation is that it is difficult to use in practice. There are no defined criteria and only limited case law in the area.

The legislation also requires the Minister of Employment together with the Minister of Equality to produce a **report on the status on equal pay between women and men every three years**. They do this based on the requirement that companies with a minimum of **35 full-time workers** are under the obligation to prepare yearly gender-segregated wage statistics. Furthermore, the duty to prepare gender-segregated wage statistics now only applies to companies that employ at a minimum 10 men and 10 women with comparable job functions.

⁵⁴ The report is only available in Danish: <https://www.humanrights.dk/publications/gender-status-2019>

⁵⁵ Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.



Danish trade unions consider that the implementation of requirements for gender-specific salary information is a good and necessary basis for addressing equal pay issues, but they criticize the lack of enforcement⁵⁶.

It is also noteworthy that Denmark was the subject of the empirical study on the impact of mandatory wage transparency. The study suggests that wage transparency with a view to disclose gender disparities in pay can have some effect in narrowing the gender wage gap at company level (Bennedsen et al. 2019).

Finally, there is no state supervisory authority responsible for ensuring compliance with the law, but there is the Danish Institute for Human Rights, which works to prevent gender-based discrimination and produces reports and analyses. The Institute is a national body for equality whose mandate now includes gender equality. However, the Institute has no powers to check or monitor employer compliance with the law (NIKK, 2019).

Collective Bargaining and equal pay

The Danish labour market is characterised by a strong involvement of the social partners at company, local and national level. Through autonomous collective bargaining, social partners negotiate, conclude and enforce pay and working conditions, including equal pay provisions. Pay negotiations are autonomous and do not include governmental parties unless they involve the public sector.

Collective bargaining is of paramount importance in all wage issues in Denmark. Collective agreements must comply with the principle of equal pay for men and women. This interpretation is supported by a mediation agreement from 28 March 1973, which abolished different pay rates for men and women in collective agreements between members of the FH – Danish Trade Union Confederation (then LO), and the Confederation of Danish Employers.

Many collective agreements have implemented the regulation of the Equal Pay Act, which thereby transfers disputes concerning equal pay to the Labour Court and the Industrial Tribunals instead of to the ordinary courts. Collective agreements in Denmark are private contracts, hence, in principle, a matter for the contracting parties.

The Danish Trade Union Confederation works at national and European level for reducing the gender pay gap by enforcing the principle of equal pay and equal pay for work of equal value. Pay is in general regulated in two ways. Either by minimum-pay agreements (around 80% in industry, construction, and services or by normal pay agreements (20% in transport, meat and food processing industries) (FH, 2021).

⁵⁶ Interview with LO, 2021.



Social Partners' Good Practices on Equal Pay

In Denmark, the social partners alone negotiate all aspects of wage and working conditions. There is, however, a long tradition of involving the social partners in decisions related to the labour market and welfare policies. This takes place partly via numerous committees, councils and boards, but also through tripartite negotiation at the invitation of the government, which are scheduled ad-hoc.

Social partners apply and enforce the principle of equal pay between women and men in their collective agreements and in the industrial relations system. In view of this, the social partners have set **up equal pay bodies** at sector-level dealing with breaches of collective agreements or interpretation of the equal pay including equal pay for work of equal value.

In Denmark, BUPL (Danish Union of Early Childhood and Youth Educators) has collaborated with other trade unions in collective bargaining with a view to obtaining higher salaries for predominantly female professions. In 2018, these efforts paid off resulting in an extra two million euros for early childhood educators as well as enhanced recognition of the early childhood education profession.

The Danish Equal Pay Alliance

The Forbundet af Offentligt Ansatte (FOA), the third largest trade union representing the workers in the public sector, has welcomed the government decision to set up a committee to examine the problem of pay inequality.⁵⁷ The FOA has been part of a large group of trade unions (51 unions) that have been pushing for new measures to achieve gender equality in the form of an Equal Pay Alliance. While collective bargaining has been able to deliver some improvements, public sector unions argue that the problem requires a broader political approach.

⁵⁷ For more information: <https://wageindicator.org/labour-laws/collective-bargaining/2021/denmark-union-welcomes-decision-to-set-up-committee-on-equal-pay-may-31-2021>

Calling for Tripartite Negotiations

These fifty-one public service unions, representing over half a million public workers have issued a call on the government to **engage in tripartite negotiations** to close the gender pay gap. The unions, which had previously concluded agreements setting aside a pool of funds to address the gender pay gap, have been pushing for more concerted actions to address the issue pointing out “that the economic constraints on the normal collective bargaining process prevent action on the scale necessary to make real progress.”⁵⁸

Nurses go on strike for a re-evaluation

There has been significant acknowledgement in Denmark of the essential work of healthcare workers during the COVID-19 pandemic. This led the Danish Nurses Organization to reopen the topic of nurses (a female dominated profession) receiving a lower pay when compared to male dominated jobs, such as construction engineers. Especially considering that they have the same educational requirements, rendering it a question of equal pay for work of equal value.

The issue of equal pay for work of equal value formed the backdrop of the negotiations, which took place in the spring of 2021 for the renewal of the public collective agreements for the state, regional and municipal sectors for the upcoming period 2021-2024 (Videbæk Munkholm and Christian Højer Schjøler, 2021). The negotiations led to a preliminary agreement containing a general salary increase for all nurses of 5.02 % spread over the course of a three-year period. However, the members of the nurse’s organisation rejected the agreements. Subsequent mediation efforts did not result in an increase in salary; instead, issues of equal pay for work of equal value were to be addressed by forming a committee dealing with the salary structures of the public sector. The committee will issue recommendations and make conclusions with respect to collective bargaining of salary and other working conditions in the public sector with a view to equal pay for work of equal value.

Collective Agreements on Equal Pay and Equal Pay for Work of Equal Value

Collective agreements have implemented the regulation of the Equal Pay Act, which thereby transfers disputes concerning equal pay to the Labour Court and the Industrial Tribunals instead of to the ordinary courts.

In **February 2020**, the social partners in Denmark agreed to a renewal of the **collective agreement in the manufacturing sector**. Soon after the agreement was concluded, other sectors such as transport, construction and the cleaning industry signed similar collective agreements. The agreement reflected the impact of the economic crisis and contained innovative elements, including the establishment of an equal pay tribunal, chaired by a labour court judge, to deal with all disputes related to equal pay. The main workers’ and employers’ organizations nominate the board members. The tribunal covers all sectors represented by those organizations, and not only manufacturing.

Conclusions

Danish Trade Unions have helped to significantly raise the issue of equal pay for work of equal value. They have been particularly concerned about cross-sectoral comparison as well as raising the overall earnings in sectors which have a predominantly female work force. Collective agreements have specifically targeted the proper implementation of legislation, such as the Equal Pay Act, which made it easier to claim rights through labour courts and industrial tribunals. However, there is still a lot to be done. While companies may expect fines if they do not honour the equal pay legislation, enforcement mechanisms are far and few in between.

⁵⁸ Ibid.

Good practices

GOOD PRACTICE 1

Sector: Industry, manufacture

Type of good practice: collective agreement

Signatories: The Central Organisation of Industrial Employees in Denmark (CO-Industri) (trade union); The Confederation of Danish Industry (Dansk Industri) (employer)

Date: 1 June 2020

Key elements:

- It is the largest sectoral collective agreement in Denmark: Collective Agreement for Salaried Employees in Industry 2020–2023⁵⁹.
- Signatories have established their own Equal Pay Council.
- The sectoral agreement, contains a specific protocol on equal pay and pay of work of equal value: the “Appendix 27 Protocol on the implementation of the Consolidation Act on Equal Pay to Men and Women.”
- All employers shall offer men and women equal pay, including equal pay elements and pay conditions, for the same work or work given the same value.
- Particularly when a professional qualification system is used to establish the pay, this system shall be based on the same criteria for male and female employees and be designed in a way that it excludes discrimination on grounds of gender.
- The evaluation of the value of the work shall take place on the basis of a general evaluation of relevant qualifications and other relevant factors.
- An employee whose remuneration is lower than that of others in contravention of clause 1 shall be entitled to the difference.
- An employer with a minimum of 35 employees shall each year prepare gender-segregated wage statistics for groups of a minimum of 10 persons of each sex calculated on the basis of the 6-digit DISCO code⁶⁰ for the purpose of consulting and informing the employees of wage gaps between men and women in the enterprise.
- The Council can mete out a fine where there is a violation of the rule concerning the preparation of gender-segregated equal wage statistics/equal pay report or in the event of special circumstances⁶¹. (However, according to early reports the council has only ruled in very few cases (Danish Institute for Human Rights, 2014, 33)).

GOOD PRACTICE 2

Cross-sectoral & public service

Type of good practice: Funding campaign

Social Partner: *Forbundet af Offentligt Ansatte (FOA)*

Date: 2018

Key elements:

- A specific fund to tackle gender pay inequality was established with the aim to equalise pay for female dominated jobs.
- One of the strategies adopted by public service unions is to negotiate an **additional percentage or flat rate pay increases in low paid and feminised jobs and sectors**.
- An attempt to address the link between the undervaluation of work and pay inequalities was introduced in the 2018 negotiations by the Danish public services unions in municipal and state sectors.
- This resulted in an allocation of DKK 85 million (approx. €11.5 million) for implementation for pay rises in female-dominated jobs in the public sector.

⁵⁹ The agreement covers 230.000 blue- and white-collar workers in the manufacturing sector and spearheads the negotiations in the private sector.

⁶⁰ DISCO-08 is the official Danish version of [International Standard Classification of Occupations \(ISCO-08\)](#). ISCO is prepared by the International Labor Organization (ILO). From 2010, DISCO-08 replaces DISCO-88 which was the official Danish version of ISCO-88.

⁶¹ See Clause 2 of Appendix 21 to the Industrial Agreement available here in English: <https://www.danskindustri.dk/DownloadDocument?id=165072&docid=161722>.

GOOD PRACTICE 2**Cross-sectoral****Type of good practice:** Lobbying**Signatories:** 51 Public Service Unions**Date:** 2021-2022**Key elements:**

- The 2021-2024 agreement for municipal and state sectors continued to provide a dedicated equal pay fund (in the municipal sector this amounted to DKK 56 million/approx. €7.5 million from 1 April 2022).
- However, unions argue that this remains insufficient to deal with the problem of the undervaluing of work carried out in feminised jobs and sectors.
- An Equal Pay Alliance made up of 51 public service unions has called on the government to hold tripartite negotiations.
- Pay transparency and role of gender-neutral job evaluation and job classification in the public services on ending the GPG, including the negotiation of a much more substantial equal pay fund to upgrade pay in female dominated sectors in the future.

5.4**FRANCE****Introduction**

In 2018, the gender pay gap in France stood at 15.2%, slightly below the European average of 16.2% in the same year (Statista, 2018). In 2019, the European average pay gap saw improvement, dropping to 14.1% while France saw a rise in the gender wage gap, climbing to 16.5%, the 10th highest in the European Union (Eurostat, 2021).⁶² It currently stands at 15,8 %, almost three percentage points higher than EU average (13%). The reasons for this pay gap are rooted in inequalities in the volume of work, with women being much more likely to work part-time and less likely to be employed during the year than men. When these two sources of the gap are taken into account, women receive on average 28.5% less pay than men. More than 40% of this gap results from working time inequalities.⁶³

The state of play with equal pay and legislation

France has legally guaranteed equal pay for equal work starting in 1972 with the Gender Equality Act. The French Labour Code specifically refers to work of equal value.

Article L. 3221-4, French Labour Code

... works that require a comparable set of professional knowledge, skills resulting from experience, responsibilities and types of physical or nervous loads.

This principle of equal value took a long time to be established, despite the laws of 1972 and 1983. The obligations to negotiate on this issue were strengthened in 2001 and especially in 2014, not least due to the pressure of French trade unions. Hence, equal pay for work of equal value is now a compulsory issue to be taken up in negotiations at branch level, when classifications are revised.

⁶² INSEE, the statistical office reports: "In 2019, women's FTE wages(working full time) are 16.6% lower than men's for employees working mainly in the private sector and 14.3% lower for those working mainly in the civil service.

⁶³ For more detailed explanation of the gap, see: <https://www.insee.fr/fr/statistiques/4514861>

Several other laws have been adopted since then, including the 2006 Act that obliges companies to close the pay gap for women returning from maternity leave. However, the gender pay gap persists. Though not specifically targeting equal pay, the most recent **French law on accelerating economic and occupational gender equality** of the 24th of December 2021 follows the commitment of the French government during the French presidency of the G7 in 2019, in concertation with French social partners, to adopt new measures to reinforce the economic independence of women and further occupational gender equality.⁶⁴

There have been some court cases about equal pay for work of equal value. The General Confederation of Labour (Confédération Générale du Travail/CGT) refers to about a dozen cases that have been decided in favour of women (CGT, 2017). These cases remain individual cases. The CGT asserts that to go further, a collective approach is necessary

The Freedom to Choose One's Future Occupation law was enacted on 5 September 2018. It requires companies to ensure equal pay for work of equal value. **A Gender Equality Index** has been developed to facilitate this, and companies are expected to use it to assess their gender pay gap. They must also publish the assessment and take any necessary corrective measures within three years.

In November of 2019, an agreement was reached by all social partners about the structure of the index aimed to measure equal remuneration in companies with more than 50 employees. Five comparison criteria were retained: remuneration; return from maternity leave; salary increases; promotions; and the percentage of women in the group paid the highest wages (Equileap, 2021, 20).

Companies are assigned a score based on the aggregated points, given for each of the indicators. The minimum required score is 75 (out of a maximum of 100). Underperforming companies are required to devote a budget to close the pay gap or take other corrective measures. Within three years of publishing their score, if companies are still short of this target (at least 75 points), they will be charged a penalty of 1% of the company's payroll.

However, the vast majority (73%) of French companies do not make information on differences between the salaries of male and female employees available. Moreover, no French company has closed its gender pay gap, i.e., no French company publishes a mean, unadjusted gender pay gap of 3% or less (Equileap, 2021).

The index has been **heavily criticised by French trade unions** because the commitments have not been met. While the index was put in place to create transparency on pay gaps, trade unions point to more opacity. The unions further observe that the construction of the index relies exclusively on the Human Resources Departments, which are under no obligation to communicate the details of the calculation to the unions or other relevant actors.⁶⁵

French unions have regretted the exclusion of the public sector from these reporting obligations. The Health and Social Care Sector (Santé-Sociaux) of the *The Confédération Française Démocratique du Travail* (CFDT) points out that many trade union negotiators do not have the competencies to analyse the wage index reports and if the index is over 75%, they tend not to question it further. However, when the reports are examined in detail, it becomes obvious that there is still a wide gender pay gap (Pillinger, 2021).

The CFDT asserts that a major weakness of the Index is that it is up to employers to choose the categories of 'equivalent jobs. Employer discretion on the gender pay gap reporting are in particular evidence in the case of the Ile-de-France Savings Bank (CEIDF) where the Confédération Générale du Travail (CGT) has taken a class action⁶⁶ over pay inequality (Pillinger, 2021).

⁶⁴ LOI n° 2021-1774 du 24 décembre 2021 visant à accélérer l'égalité économique et professionnelle (1)

NOR : MTRX2110876L

ELI : <https://www.legifrance.gouv.fr/eli/loi/2021/12/24/MTRX2110876L/jo/texte>

JORF n°0300 du 26 décembre 2021

⁶⁵ Critical views of the index can be found on the following websites:

[https://www.egalite-professionnelle.cgt.fr/wp-content/uploads/2022/02/Note-](https://www.egalite-professionnelle.cgt.fr/wp-content/uploads/2022/02/Note-CGT-women-mixed-index-wage-equality.pdf)

[CGT-women-mixed-index-wage-equality.pdf](https://www.egalite-professionnelle.cgt.fr/wp-content/uploads/2021/03/De%CC%81claration-unitaire-8-mars-2021.pdf)

<https://www.egalite-professionnelle.cgt.fr/wp-content/uploads/2021/03/De%CC%81claration-unitaire-8-mars-2021.pdf>

⁶⁶ Under 2016 judicial reforms, class action allows a judge to order measures to put an end to discrimination and redress the harm suffered by all those included in the group concerned.

CGT Launches Class Action over Pay Inequality against Ile-de France Savings Bank

The CGT, which had launched a group action against the *Caisse d'Épargne Île-de-France* (CEIDF) for discrimination against women in June 2019, took the branch of the banking group to court on Wednesday 7 October 2020. The latter had refused to enter into negotiations.

“One year after having put the Caisse d'Épargne Île-de-France (CEIDF) on notice for discrimination against women in June 2019, our organisation has taken the bank to court after it refused to enter into negotiations on the issue.” (CGT, 2020)

The bank has claimed that the pay gap is only 1%

The CGT sees this ‘group action’ as a way to open ambitious collective bargaining on the gender pay gap, which if successful means that all 2,700 women working for CEIDF can benefit, as they can then join the claim once the judgment has been made. The union suggests that the Index Égalité has been used to conceal pay gaps - a company can claim 95 points out of 100 while maintaining a pay gap of 10% (CGT, 2020).

Collective Bargaining and equal pay

In 2020, gender equality ranked as the 2nd topic of collective bargaining at sectoral level (the first was wages) with 174 texts, but only 11 exclusively or mainly dedicated to gender equality⁶⁷

Collective bargaining and the Annual Gender Equality Report (Rapport de situation comparé) have been key tools to address gender discrimination in employment. Employers with more than 50 employees must negotiate annually (or every three years if an agreement has been reached) on equal pay and on gender equality more broadly. Indeed, France is the country that has so far gone the furthest in the European Union in regulating collective bargaining on gender equality, by introducing for the first time an obligation to negotiate on this topic.

As Bruno et al. note that “while a stronger female presence in the workforce tends to encourage the negotiating parties to reach an agreement, the chances that negotiations result in an agreement are, however, significantly lower in highly feminized bargaining environments” (Bruno et al., 2021). While this obligation has existed since 2001, non-compliance has been sanctioned only since 2012 (Bruno et al., 2021).

The French equality model in collective bargaining is based on a principle of complementarity, enshrined in law, between industry and firm level collective bargaining. Both levels have an obligation to negotiate and bargaining at the company level should support agreements set at the industry level provisions (on pay scales, classifications, joint initiatives on key issues of the industry) tailored to address gender equality issues which are specific to the workplace.

Article L 140-2, French Labour Code on Equal Pay

Collective bargaining, in sectoral level, and in enterprises within the annual collective bargaining about remunerations, and special information are mandatory. So as to ensure the effectiveness of compulsory negotiation, information must be provided regarding the compared situation of men and women. Indicators are numerous, and listed in article D 432.1 of the Labour code⁶⁸.

⁶⁷ Taken from the power point presentation of FO: “New Frontiers for Collective Bargaining for Equality Intervention”; presented on the 1st of December 2021; based on the source: https://travail-emploi.gouv.fr/IMG/pdf/bnc_2020_-_edition_2021_06.07.21.pdf

⁶⁸ The “Code du travail » is accessible here : https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000038620214/



In a first meeting complying with the annual obligation for unions and employers to negotiate at enterprise level, the employer has to provide trade union representatives with information that enables them to carry out a comparative analysis of the situation of men and women in jobs, qualifications, pay, hours worked and the organisation of working time. Companies with fewer than 300 employees can conclude an agreement with the State to receive financial assistance to carry out a study of their employment equality situation and of the measures they would need to take to ensure equal opportunities between men and women (Article R 1143-1 of the Labour Code).

French collective agreements refer to equal pay for work of equal value in a general manner recalling the provisions in the French labour code. The national convention regarding air transport is such an example⁶⁹.

Force Ouvrière (FO) points out that “agreements at company level are mainly referring to existing legal dispositions or existing collective agreements at sectoral level or even existing report on comparative situations at sectoral level established in the framework of collective bargaining rounds (FO presentation, 2021).” Furthermore, French trade unions have pointed out that the law is not applied, which is evidenced in the most recent report by the government. On the 7th of March 2022, the French Labour Ministry published the 2022 assessment report of the French Gender Equality Index (*Publication of the Index by the 1st of March 2022*).⁷⁰ The main data highlighted in the report is the following:

The figures released indicated that 59% of companies with more than 50 employees have neither an agreement nor an action plan. However, only 0.2% of companies with more than 50 employees were sanctioned. The Force Ouvrière Congress on the 2nd of June 2022 responded with the following statement: “*The Congress notes that*

⁶⁹ More information in “good practice 1” below.

⁷⁰ <https://travail-emploi.gouv.fr/actualites/l-actualite-du-ministere/article/les-resultats-de-l-index-de-l-egalite-professionnelle-2022>

real equality has not yet been achieved and that the illusion of equality already achieved remains an important obstacle. In the case of the Equality Index, which is supposed to tackle wage inequalities in order to achieve equality with concrete results, the congress denounces a tool that, as it stands, masks a large part of the gender pay gaps. The Congress demands its revision and improvement and stresses the need for it to be a complement and not an obstacle to collective bargaining of agreements on occupational equality between women and men.”⁷¹

Social partners’ good practices on equal pay

An interprofessional national agreement was concluded on 1 March 2004, between national organizations of employers and French trade unions, in order to promote the professional equality between men and women⁷². It contains commitments in relation to information, and to look for the means of reducing the differences of salary.

The interprofessional agreement of 2004 provides the framework for negotiation on the French gender pay gap, but unions have criticized that there was no procedure or methodology in place that could guide the process. Moreover, those who are generally involved in further negotiations tend to lack legal training and gender equality experts are rarely involved. Given these obstacles, French unions have been seriously engaged in addressing these deficits.

The CGT⁷³ and CDTF, among others, have focussed their work on equal pay for work of equal value by addressing job classifications with the aim to upgrade female-dominated jobs reviewing the definitions and evaluations of jobs used in professional classifications. As the CGT states, “this requires, in the first instance to analyse the criteria which are used in existing professional classification to reveal, that behind an apparent neutrality, there can be serious gender biases, if for example skills are differently weighted.” (CGT, 2021)

The European Federation of Public Service Unions (EPSU) describes in its 2021 Pay Transparency Report how the CFDT has focused on entry level pay and commissioned a study to compare pay levels across eight different sectors, including health and social care and seven male-dominated sectors in the private sector, such as building, glass, and metallurgy. According to EPSU research “comparing equivalent years of training, the study showed that the health and social care sector starting salaries are consistently well below the other sectors and that for example while a builder would earn €100 net, a nursing assistant would earn €86 net. The cross-sectoral study clearly reveals the gender pay gap and is being used to strengthen negotiations for job reclassifications in both the public and private health and social care sectors” (Pillinger, 2021, 30).

To go further, a collective approach is needed, and professional classifications must be examined.

Conclusions

The French Government has made a seemingly strong effort to close the gender pay gap. According to the Ministry of Labour, this four-layered process has been implemented, requiring around 40,000 companies to measure their pay data, make this data visible, take steps to close the gap, and pay penalties for failing to take action. In 2021, another initiative was started in France – to create an international ISO standard on gender equality. With this standard on hiring and promotion practices, pay structures as well as health and safety and incidences sexual harassment can be assessed in a structured manner. While France is the country with the strongest legislation in the European Union, unions, despite their efforts, struggle to turn this legislation into binding collective agreements. They have pushed for the review of job classifications, in particular those which may look neutral, but nevertheless carry significant gender biases. The case of France shows once again that collective bargaining, even in the context of such advanced equality provisions, remains an essential if not key element to realise equal pay for work of equal value and thus help to close the gender pay gap.

⁷¹ <https://www.force-ouvriere.fr/resolution-generale-congres-de-rouen-juin-2022>

⁷² The agreement is accessible here: <http://www.lexisnexis.fr/pdf/DO/mixite.pdf>

⁷³ See in particular the CGT Guide, which includes a range of good practices: <https://www.egalite-professionnelle.cgt.fr/wp-content/uploads/2017/10/CGT-GuideEGAPRO-interactif.pdf>

Good practices

GOOD PRACTICE 1

Sectorial: Air transport sector

Type of good practice: Collective agreement clause

Signatories: CGT, CFE-CGC, CFDT, CGT-FO, UNSA (trade unions); SOCIETE AIR FRANCE

Date: 2014

Key elements:

- A clause in the “Agreement on professional equality between women and men in the air transport sector” reads:
- *“With respect for the principle of equality between women and men, companies shall ensure that the principle of equality between women and men is respected, in particular with regard to access to employment, training, professional promotion, wages and working conditions in accordance with the provisions of the Labour Code. The principle of equal treatment between employees for the same work or work of equal value shall be ensured under the conditions provided for by the Labour Code and the present national collective agreement for air transport, without prejudice to future legislative or regulatory provisions. The trade unions and the companies shall endeavour to take into account the objective of professional equality between women and men, within the framework of their compulsory negotiations pursuant to Articles L 132-12 and L 132-27 of the Labour Code⁷⁴.”*

GOOD PRACTICE 2

Sectorial: Air transport

Type of good practice: Collective agreement

Signatories: CGT, CFE-CGC, CFDT, CGT-FO, UNSA (trade unions); SOCIETE AIR FRANCE (employer)

Date: 9 March 2018

Key elements:

- The Air France agreement “Agreement on professional equality between women and men, 1 January 2018 - 31 March 2021”⁷⁵ details indicators to measure inequalities and find ways to address them.
 - Article 3 refers to equal pay (3.3. refers to comparative pay monitoring, and 3.4. to the Method of analysis and treatment of possible pay gaps between women and men).
 - The significant residual gaps identified may be the subject of a corrective measure, the principle of which will be agreed at the NAO⁷⁶, and the employees concerned will be informed individually.
 - The remedial measures implemented will be the subject of information at a monitoring committee for this agreement, which will be organised in the first half of the year.
-

⁷⁴ The national collective agreement is accessible in the following link: <https://www.cfdafr.org/wp-content/uploads/2015/12/CCNTA-PS-5em-Ed-2014.pdf>

⁷⁵ The agreement is accessible here: <https://www.droits-salaries.com/420495178-skyteam-societe-air-france/42049517800014-siege/A09318008430-un-ac-cord-sur-l-egalite-professionnelle-entre-les-femmes-et-les-hommes-1er-janvier-2018-31-mars-2021-egalite-homme-femme-egalite-pro-diversite.shtml>

⁷⁶ NAO stands for Négociation Annuelle Obligatoire (French: Mandatory Annual Negotiation)

GOOD PRACTICE 3**Company (Finance):** La Caisse d'Épargne Côte d'Azur (La CECAZ)**Type of good practice:** Collective agreement**Signatories:** La SNE-CGC; la SNP- FO, le SU-UNSA (trade unions); la CECAZ (employer)**Date:** July 2018**Key elements:**

- Comparison of pay gaps must be made on equivalent positions, within the meaning of Article L3221-4 of the Labour Code, i.e. a comparable set of professional knowledge enshrined in a title, a diploma or professional practice, of abilities resulting from acquired experience, of responsibilities.
- The level of pay and classification on recruitment is identical between men and women in the same benchmark job. Only the following may be taken into account (only the level of training and professional experience acquired and the responsibilities already exercised can be taken into account to explain the differences).
- Commitment to an inventory of pay gaps – once a year taking account of the evolution of women's and men's pay by function, by classification, and according to seniority, including seniority in the position and diploma, in compliance with the comparison provisions of article L3221-4 of the Labour Code.
- Depending on result, a specific budgetary envelope adapted to the situation will be negotiated annually with the trade union organisations.
- Salary catch-up on return from maternity or adoption leave.

GOOD PRACTICE 4**Sector:** Agriculture/ Poultry Farming**Type of good practice:** collective agreement.**Signatories:** FGTA FO; FGA CFDT (trade unions); FIA, CNADEV (employers).**Date:** 27 June 2019**Key elements:**

- The National collective agreement for poultry processing industries establishes the “Agreement of 27 June 2019 on the quality of life at work and professional equality between men and women”⁷⁷.
- The agreement establishes some of the following obligations:
 - to analyse the effective salaries by classification and by gender, broken down by type of contract (if possible) and by average hourly rate;
 - to define and implement measures to eliminate the pay gap between men and women in the context of company pay negotiations, based on the analysis carried out in 2018, in order to achieve the objective of equal pay for men and women for the same work or work of equal value by 31 December 2020 at the latest;
 - A diagnosis and analysis of the respective situation of women and men is carried out for each of the company's professional categories in terms of:
 - recruitment, training, professional promotion, qualifications, classification, working conditions, health and safety at work, effective remuneration and work-life balance;
 - differences in salaries and career development according to age, qualification and seniority;
 - evolution of the respective promotion rates by profession, measures taken during the past year to ensure professional equality;
 - progress targets for the coming year and associated indicators.

⁷⁷ The agreement is accessible here: https://www.legifrance.gouv.fr/conv_coll/id/KALITEXT000039333290/?idConteneur=KALICONT000005635284

GOOD PRACTICE 5**Sector:** Social Economy**Type of good practice:** Collective agreement**Date:** 27 November 2015**Signatories:** CFDT; CGC; CFTC (trade unions), FO; L'UNES (employer)**Key Elements:**

- The “Agreement of 27 November 2015 on professional equality between women and men in the social and solidarity economy”⁷⁸ refers in Article 5.2 to the “Review of classifications and Equal pay”.
- It indicates that, “the evaluation criteria used to define the various jobs are analysed in order to identify and correct those that are likely to lead to discrimination between women and men and to ensure that all employees’ skills are taken into account”.
- It establishes the obligation to set up, with the support of the Higher Council for Professional Equality, specific training in this area for branch and company negotiators. Similarly, negotiators will be able to rely on the methodological guide produced by the joint working group set up under Article 19 of the French National Assembly of 19 June 2013.

5.5**GERMANY****Introduction**

The newly elected German government in 2021 pledged to tackle the country’s gender pay gap, which is one of the widest in the European Union. Europe’s largest economy shows a gender earnings gap of 18,3%, while the EU average is 13% (Eurostat, 2022). Trade unions have long demanded more concrete legal provisions, including sanctions, to address the persistent pay gap, which appears to be wider in the Western regions (20%) of Germany than in the East (6%) (DeStatis, 2020). Strike actions and collective bargaining have been used to push for fairer pay, particularly in sectors where women are predominantly employed. Trade Unions, and confederations like the DGB have been instrumental in lobbying for statutory minimum pay. As recently agreed, the statutory minimum wage will rise to twelve euros gross per hour starting on 1 October 2022. Additionally, the mini-job limit will increase to 520 euros. It is predicted that more than six million people will benefit from the increase, especially in eastern Germany and many women.⁷⁹

State of play with equal pay and legislation

In 1975, following the adoption of Directive 75/117/EEC, EU Member States were required to bring their legislation in line with Article 119, but Germany argued that Article 3 of its Constitutional Charter already fulfilled the intended purpose and thus made no changes to its national legislation. However, legal proceedings against Germany by the European Commission led to the required changes in the German Civil Code, which enshrined not only equal pay for equal work but also for work of equal value (de Fougères, 2021).

Up until 1975, special wage groups for women were allowed in collective agreements, which provided for lower pay even for equal work performed. They were later declared unconstitutional and replaced by so-called light-duty wage groups or lower wage groups (Leichtlohngruppen) (Maier, 2007, 16).

⁷⁸ The agreement is accessible here: <https://www.udess.fr/actualites/egalite-professionnelle-femmeshommes-dans-less-ambitions-aux-actes>

⁷⁹ For more information, please consult the German Government Website: <https://www.bundesregierung.de/breg-de/suche/12-euro-mindest-lohn-2006858>

The most recent German legislation on equal pay (Act on Pay Transparency/ (Entgelttransparenzgesetz or EntgTranspG), was enacted in 2017. The Act grants employees the right to receive information about the average monthly remuneration of a group of at least six employees of the opposite sex who work in the same or equivalent positions, provided the employer regularly employs more than 200 employees (including apprentices). The Act also stipulates that private employers with more than 500 employees are required to regularly review their pay structures and their application for compliance with equal pay (sections 17 - 20). They also must publish reports on gender equality and equal pay and respond with corrective measures. However, there are no sanctions should companies not comply with the provisions.

Above all, the law forbids discrimination for equal work in terms of duties or value. Two colleagues who perform comparable or similar work (taking account of the type of work, the qualification requirements, and the working conditions) must receive equal treatment. It is precisely the definition of ‘comparable’ or ‘equal level of value’ (gleiches Entgelts bei gleicher oder gleichwertiger Arbeit) that contributes to the emergence of legal disputes⁸⁰.

In 2019, the *Wirtschafts-und Sozialwissenschaftsinstitut* (WSI) of the *Hans-Böckler-Stiftung* conducted a survey among works councils to see whether employers have made efforts to implement the new law and secondly, whether employees have approached the works council for information on comparative pay, and thirdly whether company pay structures are analysed for gender discrimination. In only 12% of these companies, the employer has made an effort to implement the law.⁸¹

In order to support the legislation, several tools have been designed by the German government over the years to support companies and trade unions to analyse and/or develop gender neutral job classifications.

In 2009, the German government started to develop analytical and computer-based tools to help companies assess their pay structure with the view to promoting equal pay including for work of equal value. ‘Logib-D’ is one such instrument to promote pay equality in German companies. It is voluntary in nature and provides enterprises with a confidential tool. It facilitates the analyses of intra-company pay and personnel structures and offers consulting for an increased pay equality in enterprises. Two computer applications help in the anonymous and detailed cause analysis of pay inequalities between women and men in companies. Until the end of the year 2012, employers had the opportunity to use the free and confidential ‘Logib-D’ consulting on issues concerning pay and personnel structures (Ministry for Family Affairs, Senior Citizens, Women and Youth, 2011). Astonishingly, there is no information readily available that shows how many employers have used the tools or whether those who used it and found fault, put in place remedies.

A more recent application is the **Eg-check** which comprises a set of analytical tools for checking equal pay between women and men. It enables companies, trade unions, works councils and legislators to assess whether the current regulations on pay determination and their application in practice guarantee the legal principle of equal pay. Possible causes of pay inequality, and measures to rectify them, can be identified⁸².

The EVA (Evaluation of Job Evaluation Procedures, another such tool, can be used to check individual job evaluation procedures for gender neutrality on the basis of selected questions. It analyses job evaluations in collective agreements and thus presents a low-threshold instrument that can be used in an uncomplicated way by negotiating social partners⁸³. With the self-test “SME Equality Check”, small and medium-sized enterprises (SMEs) can also quickly and easily check whether they are up to date in terms of equality between women and men. With five questions in each of the four policy topic areas of personnel recruitment, working conditions, pay and communication, SMEs can test for themselves whether there is a need for action. For each of these topics, concrete recommendations for action and easy-to-implement practical suggestions are also offered, which can give SMEs ideas for improvement⁸⁴.

⁸⁰ For a general overview of the Act and an evaluation of its content see KOCHER, E. (2018) “Das Entgelttransparenzgesetz: ein Gesetz (nur) für Betriebsräte?” *Arbeit und Recht* 66, 1: 8-18.

⁸¹ The most extensive evaluation of the law was conducted by the H. Böckler Foundation: <https://www.boeckler.de/de/boeckler-impuls-betriebe-schaffen-kaum-transparenz-4397.htm>

⁸² For more information, consult: <https://www.eg-check.de/eg-check/DE/weichenseite/weichenseite-node.html>

⁸³ For more information, consult: <https://www.bmfsfj.de/bmfsfj/themen/gleichstellung/frauen-und-arbeitswelt/lohngerechtigkeit>

⁸⁴ For more information, consult: <https://www.bmfsfj.de/bmfsfj/service/publikationen/gleichstellungscheck-fuer-kleine-und-mittlere-unternehmen-155342>

Collective Bargaining and equal pay

The German federal constitution (Grundgesetz) guarantees freedom of association. Employees have the right to join trade unions, and nobody may be prevented from doing so, while, at the same time, membership is voluntary. German industrial relations are characterised by a dual system of interest representation, where trade unions and employers are solely responsible for collective bargaining, and works councils constitute the main bodies of employee representation at workplace level.

There are usually two types of collective agreements: The so-called “Manteltarif”, which contains provisions on working time, holidays, continued payment of wages, capital-forming benefits, and the “Lohn- oder Entgelt-Tarifvertrag”, which is usually concluded for only one year and determines the remuneration of workers.

Over the course of the 2020 bargaining round, trade unions affiliated to the DGB (German Trade Union Confederation) concluded new pay settlements for some 10 million employees. A further 8.8 million benefited from settlements agreed either in 2019 or in previous years, including significant bargaining areas such as retail and regional (Land) government. By contrast, new settlements concluded in 2020 mainly involved branches in which no collective bargaining had taken place in 2019 (WSI-Tarifarchiv, 2021).

Social partners' Good Practices on Equal Pay

The development of the “Comparative Worth Index (CW-Index)” by the Hans-Böckler-Stiftung (Lillemeier, 2016), marked a major step forward in understanding how job evaluation criteria and the gender pay gap are intertwined. The “CW-Index” has been developed within the framework of a study by the Institute of Economic and Social Research WSI and is 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. Such a statistical measuring instrument did not exist before. Rather, there was only the possibility of differentiating according to the so-called “performance groups”. However, these five “performance groups” lack precision, as they differentiate exclusively according to qualification and responsibility requirements. Other areas of requirements as well as any form of stress are not taken into account. This must be considered insufficient against the background of gender-neutral job evaluation. As Ute 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 of (equivalent) work to the (equivalent) work to the disadvantage of female employees” (Ute Klammer, 2018).

There are important examples of social partner action regarding equal pay for work of equal value. The Union of Metalworkers in Germany together with the Employers' Organisation Gesamtmetall have created a framework that enables neutral evaluation regardless of the tasks workers perform. With its introduction in the metal and electrical industry, the collective agreement on pay (Entgelttarifvertrag, ERA)⁸⁵ replaced the different rules for determining the pay of blue- and white-collar workers that had applied until then. Now, uniform rules are applied to workers' pay. This means, for example, that a three-and-a-half-year vocational training is valued the same, regardless of whether it took place in an industrial, commercial, or technical occupation. Also, the rules for determining performance pay and stress bonuses are now independent of whether the job is performed by blue-collar or white-collar workers. The evaluation is done based on education, tenure, responsibility, or leadership, e.g.⁸⁶.

This allows also to combine people working in different areas under one framework (IG Metall, 2022). While the collective agreement in metalwork presents a best practices example, the Food, Beverages and Catering Union (NGG) in Germany carried out an analysis of the 3500 collective agreements assessing fair pay and neutral job evaluation (Gewerkschaft Nahrung-Genuss-Gaststätten, 2022). The “Initiative *Lohngerechtigkeit: Was uns zusteht*” (Wage justice initiative: what we are entitled to) was started in June 2016 tackling the particularly high gender pay gap of 21% in the industry. The results of the project show that no agreement was free of bias. This presented a huge to-do list to the union and the related employers' organisation, however, not a single collective agreement has been changed so far, as no agreement between the social partners could be reached.

⁸⁵ For more information, consult: [https://www.igmetall.de/tarif/tariflexikon?buchstabe=E&begriff=Entgelttarifvertrag%20\(ERA\)](https://www.igmetall.de/tarif/tariflexikon?buchstabe=E&begriff=Entgelttarifvertrag%20(ERA))

⁸⁶ See for example: https://www.igmetall-schaeffler.de/uploads/media/ERA-Brosch_re.pdf

A promising project, initiated and implemented by the DGB supports young women in realising their careers on par with men. It not only aims to inform young women about their rights and options, but also helps to bring their issues and needs to the attention of policy-makers, trade unions, companies and administrations.⁸⁷

Conclusions

While Germany's pay transparency law has not had a major effect on the gender pay gap, the recent decision to raise the statutory minimum wage can possibly do what the specific law has so far failed to do. In October 2022, following a strong campaign for a higher wage floor by the German Trade Union Confederation, Germany's new government is to raise the country's minimum wage to €12 per hour. An increased minimum wage re-establishes the connection to the general wage structure and reduces the discrepancy between the low-wage sector (where women predominantly work) and regular employment. A higher minimum wage increases incomes in lower income brackets and improves income distribution. The increase will benefit nearly 6.2 million low-paid workers – two thirds of them women – making up 10% of the country's workforce and giving Germany the second-highest minimum wage in Europe after Luxembourg (DGB, 2022). While this is not a panacea, it shows that there many avenues to address the equal pay for work of equal value, but that they all are mainly carried by trade union action.

Good practices

GOOD PRACTICE 1

Sectoral: Metal and electric

Type of good practice: Collective Agreement

Signatories: IG Metall (trade union); Gesamtmetall (employer)

Date: 2003-2022

Key elements:

- Entgelt-Rahmenabkommen/Uniform pay agreements (ERA).
- With the Entgelt-Rahmenabkommen (ERA), IG Metall and the employers' associations (Gesamtmetall) created a set of rules in the metal and electrical industry in 2003 that abolished the previously traditional distinction between blue-collar and white-collar workers and standardised their pay.
- Workers and employees became employees - remuneration replaced the terms wage and salary.
- ERA also stands for transparency in the pay structure and more justice. This is because pay is based on activity. All employees are assigned to a pay group according to the same rules. This means: equal pay for comparable work tasks in development, production and administration. The framework agreements describe the job characteristics for the individual pay groups as well as the criteria for the respective classification.

5.6

ICELAND

Introduction

The Global Gender Gap Report finds that Iceland has closed 89.2% of its gender wage gap as of 2021, taking the lead as the most gender-equal country in the world. Narrowing the gap has taken some effort (World Economic Forum, 2021). In 2008, women earned 20,5% less than men. However, the gender pay gap has decreased steadily over time, but it was still at nearly 13% in 2020 (Statista, 2020). Active state equality policies and a strong labour movement have been instrumental in making some significant advances.

⁸⁷ For more detailed information on the project: <https://www.was-verdient-die-frau.de/ueber-uns/ueber-das-projekt>

The highly gender-segregated labour market is considered the main reason that has prevented closing the gender pay gap in Iceland. While specific legislation accompanied by gender equality action plans⁸⁸ has helped reduce the gap, two approaches are now in place which are unique and considered to be effective for closing the gap further. The first is **The Icelandic Equal Pay standard**, implemented in 2018, which has shown to be a useful way to encourage employers to be more objective when it comes to job evaluation processes. The other, more recent approach, focusses on the **re-evaluation of women's work** and thus addresses the systemic undervaluation of professions where women are in the majority. As such, this approach tackles the issue of the gender-segregated labour market which the Equal Pay Standard is unable to do as it compares only wages within the same job category (starfaflokkur) within the same company/unit. In particular, the new approach concentrates on the difference in pay between unrelated professions, comparing similar jobs, also across sectors.

State of play with equal pay and legislation

“Women and men who are employed by the same employer are entitled to equal pay and equal terms of employment for comparable work of equal value. Pay must be determined in the same manner for women and men and that the criteria on which they are determined must not include any discrimination based on gender. Terms, in addition to pay, means pension rights, the rights to be granted a holiday, the right to pay during sickness and any other terms or benefits that may be given monetary value.”

When evidence is presented that a woman and a man, employed by the same employer, receive different pay or different terms for equal-value and comparable work, the employer is obliged, if there is any difference, to prove that the difference can be explained by other factors.”(Icelandic Labour Law)⁸⁹.

Iceland has had legislation aimed to guarantee equal pay for men and women for a very long time dating back to 1961. The 1976 comprehensive Equality Act added the obligation of equal pay for work of equal value. In 2018, a new law took effect, which mandated precise ways on how to address the problem of equal pay, including equal pay for work of equal value⁹⁰. All companies and employers with more than twenty-five employees are compelled to prove that they pay men and women equal wages. This change was accomplished through an amendment to Article 19 of the Act on Equal Status and Equal Rights of Women and Men. The article states that employers need to undergo equal pay certification using the Equal Pay Standard (IEPS), which had been developed by Icelandic trade unions, the employers' confederation, and government officials. Employers are expected to renew their equal pay certification every three years. In addition, the law provides that any entity that fails to comply must pay a fine for every day it remains uncertified. Currently, this fine is approx. 400€ per day.

Job evaluation systems are human resource management (HRM) tools that involve systematically determining the value of a job within an organization or in relation to other positions within the organization. Their main purpose is to rate the job itself, not the person doing it.

⁸⁸ Traditionally, action plans to close the gender pay gap, based on the evaluation system, focused on the so called adjusted pay gap (leiðréttur), where the pay gap is adjusted for occupation, experience, education, among others.

⁸⁹ <https://www.asi.is/vinnurettarvefur/vinnurettur/icelandic-labour-law/gender-equality/pay-equality/>

⁹⁰ Regulation on the certification of equal pay systems of companies and institutions according to the ÍST 85 Standard – No. 1030 of 13 November 2017. More information: https://www.government.is/library/04-Legislation/Regulation_CertificatinOfEqualPaySystems_25012018.pdf 13

How the Equal Pay Standard works

The standard specifies requirements of an equal wage system that enables an organization to ensure gender equality with reference to legal requirements while the standard itself does not lay down any criteria regarding performance in equal wage affairs.

- A gender equality programme and action plan in accordance with Art. 18 of the Gender Equality Act (enterprises with 25 or more employees) is required and wage analysis which shall be used in the formulation of an equal wage policy and in setting targets regarding gender wage equality.
- The enterprise is obliged to document all decisions on wages which must be reasoned and traceable, so that the impartial, external party, the accredited auditor, can confirm it at the time of certification.
- Moreover, if a company/institution seeks equal pay confirmation under the Standard it must demonstrate a “job classification on the basis of predetermined, objective criteria in which the requirements of specific jobs are evaluated, such as with regard to responsibilities, workload, competence and working conditions, so that the same or equally valuable jobs are classified together.”⁹¹

The policy makes Iceland the first country in the world to require that companies and institutions with more than twenty-five employees who are employed full-time with contracts of at least a year prove that they pay men and women equally for the same job by obtaining certification from the centralized IEPS system for their equal-pay system. The aim of this gender equality legislation is to eradicate wage inequality at the workplace level. The Icelandic government received national and international praise for implementing this pioneering policy, which contributed to its image of being “the best place in the world to be a woman”⁹².

However, the Standard only tackles a part of the problem as it is not designed to correct the pay gap between jobs ‘traditionally’ carried out by men and jobs ‘traditionally’ carried out by women: It may be paid less to collect the garbage inside a building and more to take the garbage from the building and to disposal. Or there may be less pay for standing by the conveyor belt to box juices than transferring the boxes to the lorry. Yet, if the jobs are within the same workplace, the employer will be forced to objectively look into criteria for the different jobs and award points for various factors, such as responsibility, physical and mental load, noise and so on.

The Equal Pay Standard has also been criticized for its serious limitations. Various unions have reported that the Equal Pay Standard is misused to keep salaries down and even lowering wages of women. The main reason is that employers are not obliged to base their wage formation on the understanding of the deep-rooted bias, informed by patriarchy, that does not value women in the same way as men.⁹³

By the end of 2020, Iceland moved another step forward. The Equality Act was updated again – this time adding among other aspects the provision to ensure fair pay for all persons regardless of gender. This provision is unique in its design. The Act 151/2020 on Equal Status and Equal Rights Irrespective of Gender 28 also addresses the gender pay gap due to gendered horizontal segregation in its Article 18, stating that “employers shall work specifically to put women and men on an equal footing within their enterprise or institution and to take steps to avoid jobs being classified as specifically women’s or men’s jobs”.⁹⁴

The Act No. 86/2018 on Equal Treatment on the Labour Market is the law that regulates treatment at work and bans any type of discrimination based on gender, ethnicity, disability or gender expression, among others. This act establishes “that every employee, regardless of the abovementioned factors, shall receive an equal treatment when it comes to promotion opportunities, remuneration, leave or working conditions, among others.”⁹⁵

⁹¹ ACT on Equal Status and Equal Rights Irrespective of Gender CHAPTER I Scope, Objective and Glossary. January 2021.

⁹² See for example: <https://www.weforum.org/agenda/2021/03/best-countries-women-s-rights-gender-ga>

⁹³ Speech by Gudrun Margret: “Equal Pay for work of equal value” :Trade union achievements from national experience, lessons learned, strategies and plans ahead.” She is the gender representative of ASÍ, the Icelandic Confederation of trade unions.

⁹⁴ Act on Equal Status and Equal Rights of Women and Men No. 10/2008, as amended by Act No. 162/2010, No. 126/2011, No. 62/2014, No. 79/2015, No. 117/2016 and No. 56/2017. <https://www.government.is/library/04-Legislation/Act%20on%20equal%20status%20and%20equal%20rights%20of%20women%20and%20men%20no%2010%202008%20as%20amended%20101%202018%20final.pdf>

⁹⁵ Ibid.

Collective Bargaining and equal pay

The Icelandic labour market is flexible with high labour market participation, low unemployment, and labour supply dynamically responds to the economic cycle. Iceland is the most highly unionised country in the OECD and wage bargaining is a cornerstone of the economy. According to 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” (OECD, 2017).

Collective agreements are negotiated at various levels – national, regional, cross-sectoral, firm level, plant level, or by profession/occupation, reflecting the fact that some unions give mandates for part of the negotiations to federations. Employees in workplaces can be covered by various agreements at the same time. However, generally speaking, there is no strict hierarchy among the various levels of collective agreements. Labour law does not stipulate that terms of higher-level agreements should necessarily prevail over the lower-level agreements. This depends on the negotiating parties (OECD, 2017a). Most of the collective wage agreement refer to the existing equality legislation and provide for remedial measures.

Social partners’ good practices on equal pay

Iceland’s labour relations are based on a **tripartite model**, which involves members of labour confederations, employer’s association and the government. They all engage in an active and ongoing dialogue about issues regarding the labour market including **ways to tackle the gender pay gap**. This dialogue has been ongoing for decades, continuously trying to refine the tools to tackle the very persistent and deep-rooted gender pay gap.

The most recent initiative of the social partners on equal pay and equal pay for work of equal value is addressing the undervaluation of women-dominated jobs and the accompanying low pay. This includes in particular the health care and education sectors. Due to pressure from the Icelandic trade unions, the emotional toll of such work is being finally recognised. Addressing the gendered segregation of the labour market is also intended to include an intersectional perspective, as for example, women migrant workers belong to the lowest paid workers in Iceland.

A working group, appointed by the Prime Minister with participations from ASÍ⁹⁶ as well as other federations and the Confederation of Icelandic Enterprises, have started to make proposals in 2022 as to how to correct the systematic under evaluation of professions where women are in the majority. Trade unions in particular, are looking at ways to address the difference between presumably unrelated professions, comparing similar jobs between sectors. They are using the shift in focus **away from equal pay to equity** that the new equality law from 2022 provided. This change, they assert, requires new standards.

One of the proposals of the working group was to set up a taskforce, a group hosted by the government with the participation of the social partners.

The role of the taskforce would be to map out the problem and develop tools to make sure equal pay laws can be adhered to and enforced, to develop a new negotiating process for equal pay, and improve knowledge and awareness of equality laws; including through education, consulting, and improved dialogue.

Conclusions

Without a doubt the Equal Pay Standard has proven to be a useful way to encourage employers to be more objective when it comes to the job evaluation processes. If the equal pay standard is applied properly, it has the potential to correct gender pay gaps within the same workplaces.

The mandatory evaluation-based pay system, the IEPS, was designed to advance equal pay and correct gender inequities. When an employer increases accountability and transparency in the performance award system, differences in pay are reduced. Importantly, the IEPS shifts the burden of proof from the employee to the employer, thereby obliging companies to create more transparent systems for valuing different jobs.

Despite all the praise, it will be interesting to see whether the Equal Pay Standard can actually reduce the overall gender pay gap in Iceland. Critical voices from women trade unionists and women’s organisations point to the

⁹⁶ ASÍ is the largest confederation of labour in Iceland, about 2/3 of organised labour are members of trade unions which affiliate with ASÍ. ASÍ is built up of 46 trade unions of general workers, office and retail workers, seamen, construction and industrial workers, electrical workers and various other professions in the private sector and part of the public sector.

persistent horizontal job segregation, women's part-time work and their caring responsibilities as major reasons for the gender pay gap. The most recent tri-partite initiative looking at ways to compare jobs across sectors gives hope that Iceland once again proves its leading role in advancing gender equality in the labour market.

Good practices

GOOD PRACTICE 1

Sector: Trade

Type of good practice: Collective agreement

Signatories: VR/LÍV and the Icelandic Federation of Trade (FA) effective

Date: 1 April 2019

Key elements:

- The Title is “Collective wage agreement between VR/LÍV and the Icelandic Federation of Trade (fa) effective from 1 April 2019 to 1 November 2022/protocol 2011 – equal rights issues”⁹⁷; and it considers the following:

The equal opportunities of men and women to work, career development and wages are a matter of great interest to wage-earners and undertakings.

The parties, therefore, will work together on the following issues during the term of the agreement.

 - Complete the preparation of a standard on the implementation of the equal opportunities of the genders to work and professional development. The work on the standards is carried out in co-operation with Standards Iceland (Staðlaráð Íslands) and the Ministry of Welfare. The aim is to publish the standard before the expiry of the agreement.
 - Collaborate with Statistics Iceland will be continued in the study of the wage formations of men and women based on the organisation's database with the view of carrying out one study during the term of the agreement.
 - Jointly prepare promotional and educational material for wage earners and undertakings on equal rights in the labour market during the term of the agreement.

GOOD PRACTICE 2

Type of good practice: Collective agreement

Signatories: VR/LÍV Trade Unions and the Icelandic Federation of Trade (FA) effective

Date: 1 APRIL 2019 TO 1 NOVEMBER 2022

Key elements:

1.3. Wages

- c. When determining wages between the employer and the employee, the wage shall reflect the employee's work contribution, competence, educational qualifications and skills, as well as the nature of the job and the responsibility involved. Decisions regarding wages shall take account of the Gender Equality Act.
- f. If it is considered that there is a significant mismatch in the total wage payments of groups of wage earners working in comparable companies under comparable conditions, both parties are entitled to refer such case to the wage committee.
- h. Wages shall be determined in accordance with objectives stated in laws on wage equality.
- i. The parties agree that in the cases where the association sees reason to initiate a wage equality case, an investigation into the workplace may be performed with the participation of both associations before the actual negotiations take place.

⁹⁷ The agreement is accessible here: https://vrmainweb.azurewebsites.net/media/ujunjdqz/kjarasamningur_vr_fa2019_enska.pdf

ITALY

Introduction

In Italy, the gender pay gap, in absolute values, stands around 30% (CISL, 2022)⁹⁸. However, often only the gender pay gap per hourly earnings, amounting to 4,2 % for 2020, is shown because this is rather positive in Italy, despite an increasing trend in the last years⁹⁹.

The recent COVID-19 pandemic has triggered a revitalization of tripartite social dialogue in Italy, shaping the government's response and designating a key role in labour relations and collective bargaining between the social partners at both sectoral and enterprise levels (ILO, 2020). Equal pay is one of the issues to negotiate, and together with the improvement of the Italian legal framework on equal pay, Italian trade unions are seizing the moment to advance on this front.

State of play with equal pay and legislation

The Italian Constitution establishes that all citizens have equal social dignity and are equal before the law (Article 3) and that “working women are entitled to equal rights and, for comparable jobs, equal pay as men” (Article 37). However, although there is a constitutional provision for equal pay for women and men, the same article also states that “working conditions must allow women to fulfil their essential role in the family and ensure appropriate protection for the mother and child” (Article 37), which can potentially restrict the reach of the equal pay provision for the sake of the protection of the Italian family.

The main Italian legislation to address equal pay is the Code of Equal Opportunities between Women and Men (Legislative Decree 198/2006), which has been recently amended -on 18 November 2021- by Law 162/2021¹⁰⁰. The new measures substantially improve the previous requirements related to equal pay. The Code of Equal Opportunities prohibits pay discrimination and states that equal pay for equal work or work of equal value is to be established (Article 28.1), as well as that occupational classification systems for determining wages must adopt common criteria for men and women (Article 28.2).

Now, employers in the private and public sector with more than 50 employees must **draw up a biennial report on equal opportunities** (the obligation before was only for companies employing more than one hundred employees), which they need to submit to the National Equality Councillor who submits it to the Parliament (art. 50 Law 162/2021). They should pass the report on to the company trade unions too. The report can also be done voluntarily by public and private companies employing up to fifty employees. The latter were completely excluded in the previous legislation. The biennial report should give information segregated by sex and indicate the situation of men and women workers in relation to the status of recruitment, training, professional promotion, levels, category or qualification transitions, other mobility phenomena, the intervention of the Wage Supplement Fund, layoffs, early retirements and retirements, and the actual remuneration paid.

The National Labour Inspectorate is entitled to verify the genuineness of the reports, and in case of an incomplete or mendacious report, it can impose pecuniary administrative fines ranging between 1,000 and 5,000 €. Similarly, failing to submit a report by the required deadline may lead, after an initial warning to comply, to an administrative sanction and fine between 515 and 2,580 €. In case of non-compliance of longer than 12 months, any company failing to comply therewith may see the social security benefits it enjoys suspended for one year.

In addition, companies who draw up the biennial report, even if voluntary, can apply for the “Gender Equality Certificate”. The Certificate is given if they have met certain targets aimed at ensuring equality between women and men. Employers who have obtained the Gender Equality Certificate are entitled to several benefits, mainly exemptions on social security contributions and bonus scores for subsidies and state-investments¹⁰¹.

⁹⁸ Depending on how the gender pay gap is measured (to which dimensions we look at) the data varies greatly. For example, the gender overall earnings gap in Italy is of 43% (Eurostat, 2022, with data of 2018).

⁹⁹ The gender pay gap per hour in Italy is at 4.2%, below the EU's average (13%) (Eurostat, 2021).

¹⁰⁰ Some Italian regions have also adopted regional laws on equal pay. For example, the region of Campania has adopted its Regional Law no. 17 of 26 October 2021, “Provisions for the promotion of equal pay between the sexes, support for employment and quality female entrepreneurship, as well as for the enhancement of women's skills.”

¹⁰¹ Concretely: 1) to an exemption from the due social security contributions' payment up to a maximum of 1% (in any case not exceeding 50,000.00 euros per year). This exemption does not affect the calculation of pension benefits; 2) to a bonus score to be taken into account by the relevant Authorities when evaluating the eventual co-financing (through state aids) of investments made by the employer who submitted the project proposal.

The Labour Inspectorate is the responsible body to monitor the application of the Code of Equal Opportunities by companies. It is expected that the subsequent implementation decrees would set parameters to measure gender-based differences in pay, and that they consider the concrete dimension of equal pay for work of equal value.

Beyond equal pay, one of the key issues with regards to equality of women and men at work in Italy is the **low participation of women in the labour market**. The employment rate of women in Italy amounts to 49%, whereas the employment rate of men was 67,2% (EIGE, 2020)¹⁰². It is far below the EU average for the employment rate of women (62,5%) (EIGE, 2020).

Collective bargaining & equal pay

The Italian Law and – where relevant – the National Collective Bargaining Agreement (NCBA) regulate the relationships between employers and employees. Collective bargaining coverage is extensive in Italy (≥90%), when compared to other European countries. Currently, **national-level agreements** remain the main source of regulation. However, collective bargaining is developed in various ways, centralised (sectorial, national, and regionally) and decentralised (company level).

Sectoral NCBAs are concluded for the whole Italian territory and applied to all employees of the same sector. At this level, the main items of the employment contract are established, such as minimum wage and other economic benefits, which make up the overall remuneration of workers. Certain specific aspects of work, such as incentive remuneration schemes, performance bonuses, productivity standards, are regulated at decentralised level. Therefore, **pay is regulated both in NCBA**s and other not-national collective agreements, and the specific dimensions impacting on equal work for work of equal value should be looked at in all collective agreement types.

The concrete dimension of equal pay for work of equal value is not often directly discussed in bargaining. When it comes to references to more advanced regulations, such as those targeting the issue of equal value, it is often easier to introduce them in **centralised bargaining than in decentralised ones**. Additionally, trade unions note:

In Italy there are mostly men negotiators. But this is changing a lot lately, and also they're showing interest in learning how to better negotiate for women workers too. Women in unions are working more on "women's issues" and "family and social issues" and do not usually negotiate. We need more women negotiators and in general, trade unionists should receive more training on gender bargaining" CISL, 2021.

Social partners' good practices on equal pay

Trade unions in Italy have been doing longstanding work on gender equality issues in the world of work. They note that the **attention to equal pay has intensified** in the last years, as the problem of gender pay inequality has been reframed as an issue not only of women but of Italian society and the national economy.

Trade unions' actions have largely focused on tackling the gender pay gap and on equal pay more broadly, and to a lesser extent on the dimension of equal pay for work of equal value.

"Greater awareness on the dimension of equal pay for work of equal value is needed both internally in trade unions, and externally, among workers and citizens" CGIL, 2021.

¹⁰² In 2021, partly thanks to the funding received by the EU recovery funds, the Italian Parliament has adopted a specific budget for measures to close the gender gap in employment, such as granting benefits to employers who hire women in the two years 2021-2022 consisting of the full exemption of the due contributions.

In fact, Italian trade unions note that equal pay for work of equal value is directly related to the issue of the “sticky floor”¹⁰³ and precariousness of female-dominated sectors, such as the care sector¹⁰⁴:

“Trade unions should be more open-minded and prioritise equal pay in certain sectors and beyond those, in the professions of the future - like care, which is highly racialised and feminised”
CISL, 2021.

So, when fighting for equal pay, and specifically for equal pay for work of equal value, several biases should be considered, for example, those related to the **axes or discriminatory categories of gender, race, and migratory status**, among other. It is worth noting that women migrant workers in Italy are in the worst position in the Italian labour market (D’Alconzo, La Rocca & Marioni, 2020)¹⁰⁵. A key question when it comes to equal pay for work of equal value comes from **cross-sectorial comparison**, and not only from comparisons between different positions and jobs within the same sector.

Trade unions in Italy have developed **several actions to tackle the gender pay gap and to foster equal pay**. They have **lobbied** the government on **transparency obligations** for employers, specifically in the context of the negotiation of the EU Pay Transparency Directive¹⁰⁶, developed several **awareness-raising campaigns** on the issue of equal pay and women negotiators, and **reinforced** the discussions and collaborations among **women’s networks** within their organisations. They have also trained delegates and workers on equal pay, and at the company level, they have also collaborated with the new figure of “**diversity managers**” that some companies have.

Trade unions’ negotiators have succeeded to introduce diverse provisions in collective agreements aimed at improving job opportunities for women workers, and gender equality at work in general, hoping that these also impact positively on reducing the gender pay gap. In some collective agreements, specific references to the gender pay gap can be found.

For example, in the agreement of the supplementary company contract of the Electrolux group, chapter 5.4. entitled “support for parenting and contrasting the gender pay gap”, the text provided for the recognition of new parents the accrual of the result bonus also during the period of parental leave (optional maternity and paternity leave). In a recent agreement of April 2022 of the company Luxottica, it also provides for the calculation of the days of parental leave and the periods of absence for Covid-19 in the definition of the performance bonus. Trade unions have also worked with companies on “diversity” projects, where they have achieved to integrate several measures related to equal pay. For example, in the Ducati and Lamborghini “diversity” projects, it is established that: “As part of the programs to enhance differences and combat gender discrimination, the parties, within the specific commission, will define objectives with reference to the presence of women, the wage difference and the issues of generational change and career paths. [...]”. Specific mentions to “equal pay for work of equal value” in collective agreement provisions have not been found. On equal value, it is noted:

“We are lacking the criteria, we do not agree on the instruments, on the criteria to say: “what is of equal value”. The issue is that there is no willingness to agree on those criteria. Governments and others are not interested in that, for several reasons: because it is not an easy decision, it is very risky politically, it would involve many changes and would modify the budgets a lot, it would be too “costly” to upgrade the salaries of all feminised sectors, for example. They are not willing to do that, in my view, political will is missing.” UIL, 2021.

¹⁰³ According to EIGE’s Glossary & Thesaurus, the term “sticky floor” is an “expression used as a metaphor to point to a discriminatory employment pattern that keeps workers, mainly women, in the lower ranks of the job scale, with low mobility and invisible barriers to career advancement”. Contrarily, the term “glass ceiling” refers, according to EIGE, to the “artificial impediments and invisible barriers that militate against women’s access to top decision-making and managerial positions in an organisation, whether public or private and in whatever domain”.

¹⁰⁴ In the illegal market existing in social home care, the main carers in Italy are foreign women (Eurofound, 2011). More recently, it seems that the situation of migrant care workers has been exacerbated by the pandemic in Italy (Equaltimes, 2021).

¹⁰⁵ In that example, the axes of gender, migration status, and race intersect to undervalue the sector and jobs (feminised and racialised jobs) done by migrant and racialised women.

¹⁰⁶ In the audience trade unions had in May 2021 with the Minister of Labour and Social Policies, they emphasised the need to lower the threshold for the companies with reporting obligations, as the majority of companies in Italy are medium-small.

Thus, some of the key **barriers** in addressing equal pay for equal work is the **lack of political will** and **adequate tools**. The **embedded sexist culture** still persistent in Italy is not helpful either. **Employers' general resistance to increasing costs** makes bargaining for equal pay and specifically for work of equal value particularly difficult. Internal barriers to prioritise equal pay are also linked to the masculinised culture still sometimes persistent in trade unions:

“We need to strive and work for a strong cultural change involving everyone from politics to education, to the world of work, employers, and trade unions. The unions also need to do its big part to ensure that more women are involved in bargaining, and in leadership roles. The union culture is still very masculine, the way things are done, the dynamics, the rules...etc. This affects society and the world of work to a greater extent than we can imagine” CISL, 2021.

In the **sector of education**, the issue of equal pay for work of equal value can be looked at sectorally and cross-sectorally. **Sectorally**, 99% of pre-primary teachers are women (at the lowest level of education), whereas at higher levels, there are more male teachers. In education, the salaries go up with the level of education, so, for example, primary teachers earn less than secondary teachers. Although both teachers have the same educational level -it was equalised already in 2000- and the education provided is equally important (all children need both primary and secondary education), salaries differ. Culturally, it is understood that secondary teachers know more, but when looking at the objective criteria, tasks, and functions of the positions, that would be perhaps not that clear. The issue, once the same level of qualification has been achieved, would be that of changing mentalities, even within the sector. **Cross-sectorally**, it is estimated that teachers in Italy earn about 68% of the salary that workers with the same level of qualification receive in other public sectors, and the reasons for that are the bias and undervaluation of education because it is feminised, and the intangibility of education and the difficulty in monetising it. Consequently, there is a lack of agreement of the criteria to establish equal value in education.

Beyond equal pay, one of the key issues in Italy is the low number of women workers. Thus, the actions of trade unions have greatly focused on improving women's access to employment and working conditions so that they stay in the workplace. As in other European countries, in Italy, the **Covid-19 pandemic** has also accentuated pre-existing social inequalities, and negatively impacted diverse dimensions of gender equality, especially in paid work and care, which directly impacts the gender pay gap (Kambouri, 2020; EIGE, 2022). In Italy, during the Covid-19 pandemic, specific protocols on health and safety were shared to mitigate its effects, which favoured the spread of remote work, as a new organizational method, this also favoured the reconciliation of work and life private but produced the effect of a greater workload on female workers, as evidenced by many surveys and the responses that women have given. On 7 December 2021, the Government and the comparatively more representative Social Partners signed a “Protocol on work in agile mode” which regulated all aspects of this different way of working, identifying the issues of equal opportunities, welfare, and inclusiveness in specific articles.

Conclusions

The Italian legislation on equal pay is quite developed when compared to other EU countries, and the new amendments constitute an **important improvement** to advance equal pay and equality of women and men. Some of the newly established measures have only entered into force recently and the level of adequate implementation is **yet to be monitored**. However, the legislation could still be improved in several areas. Trade unions negotiate on several gender equality issues, including on equal pay, yet the dimension of equal pay for work of equal value is to be integrated into the bargaining and the collective agreements.

Good practices

GOOD PRACTICE 1

Sector: Education, transport and other

Type of good practice: awareness-raising

Signatories: UIL

Date: 2021

Key elements:

- Awareness-raising actions on the European Day for Equal Pay (10 October)
- UIL branches develop specific infographics to raise awareness on equal pay in specific sectors. For example, UILtrasporti¹⁰⁷.

GOOD PRACTICE 2

Sector: Transport

Type of good practice: agreement

Signatories: CGIL, CISL, UIL (the European Federation of Transport Workers, -to which trade unions adhere-, and CER, the Community of European Railway Enterprises and Infrastructures, in the presence of the European Commission)

Date: 2021

Key elements:

- On 5 November 2021 the European Social Partner Agreement on Women in Rail was signed, after more than three years of negotiations.
- Italian trade unions participated through their adherence to the EFTW, and now they are prepared to monitor the implementation of the agreement.
- The agreement contains a policy area referring to equal pay and the gender pay gap where it is established that the right to equal pay between women and men for equal work or work of equal value should be implemented.
- For that, it establishes the following obligations to companies: 1) reassess their remuneration policy and include in the assessment antidiscrimination and equality aspects; 2) assess and compare the value of work on objective criteria such as educational, professional, and training requirements, skills, effort and responsibility, work undertaken, and the nature of tasks involved to prevent or identify and tackle possible pay discrimination based on gender-biased pay scales.

GOOD PRACTICE 3

Cross-sectoral

Type of good practice: awareness-raising

Signatories: CISL

Date: 2021

Key elements:

- The CISL has supported ETUC's campaign on equal pay #EqualPayNeedsTradeUnions through various ways, mainly urging and lobbying the government to support the mentioned European directive.
- One of such ways was being creative too, for example, recording a flash mob¹⁰⁸.

¹⁰⁷ See, for example: <https://uiltrasporti.it/european-equal-pay-day/>

¹⁰⁸ Link to the flashmob: CISL Nazionale en Twitter: "La CISL sostiene la campagna CES per la trasparenza salariale ed abbattere la differenza salariale di genere. "La parità retributiva ha bisogno dei sindacati!" Cisl supports @etuc_ces campaign for equal pay #EqualPayNeedsTradeUnions #EqualPay #StandUpForEqualPay #SignThePledge <https://t.co/DftoLuXOBp>" / Twitter

GOOD PRACTICE 4

Cross-sectoral**Type of good practice:** training**Signatories:** CGIL**Dates:** 2021-2022**Key elements:**

- CGIL organised training courses for delegates on gender bargaining (onsite and online), which aim to transmit the knowledge and skills to strengthen gender bargaining, contrast the conscious and unconscious introduction of elements that end up penalizing female workers in terms of wages, job opportunities and professional growth.
 - The course is based on several modules that focus on:
 - Recognition and opposition to gender stereotypes.
 - Pros and cons of the concepts of “competence” and “merit”.
 - Gender bargaining: analysis of examples and good practices.
 - Discrimination of feminised jobs: lack of social recognition and economic value (example of care sector).
-

5.4

LATVIA

Introduction

The gender pay gap in Latvia is at 22,3% (Eurostat, 2021), and the trend shows that it has been increasing since 2011 (LSM, 2021). It currently constitutes the worst percentage in the EU, whose average gender pay gap is at 13%. Latvian trade unions have been pushing for more gender equality. Given that workers overall receive low wages, the issue of the gender pay gap is not easily understood and hence lacks the commitment and action it deserves. The legal framework and collective bargaining structures do not help much on equal pay, but in recent years, diverse collective agreements have been adopted with a view to improving working conditions and advancing on equal pay.

State of play with equal pay and legislation

The **Latvian Constitution does not refer to equal pay for women and men** nor to equality between women and men. The Constitution only establishes a general guarantee of equality in article 91 and the right to a just remuneration in article 107, where it states that “every employed person has the right to receive, for work done, commensurate remuneration [...]”.

The **right to equal pay for work of equal value**, however, is anchored in **Latvian labour law**, adopted on 6 July 2001, and amended on several occasions thereafter. Labour law states that “an employer has the obligation to specify equal remuneration for men and women for the same kind of work or work of equal value” (Article 60.1) and that “the employee has the right to request the remuneration that the employer normally pays for the same work or work of equal value” (article 60.2). But it puts a **three-month limit**¹⁰⁹ for an employee **to bring an action to court** for the violation of the right to equal pay for work of equal value (Article 60.3).

Trade unions in Latvia have denounced this as an **unreasonably short deadline** for bringing an action to court for unequal pay. This short period is not understandable especially considering that employees who have not been paid a salary can submit a claim within two years. However, **the Latvian Supreme Court has not heard trade unions’ demands in this regard**¹¹⁰. Employees rarely dare to challenge employers and initiate litigation during the employment relationship.

Pay or remuneration is also defined in the Labour Law as the regular pay for work to be disbursed to an employee, which includes a wage and supplements specified in laws and regulations, the collective agreement or employment contract, as well as bonuses and other kinds of remuneration related to work (Article 59)¹¹¹.

The Latvian legislative framework has **not yet developed specific pay transparency and pay reporting obligations**. In practice, sometimes employers qualify pay as confidential, and it takes efforts for trade union representatives to prove that they have a right to access information on pay to protect workers’ rights according to section 11 of Labour Law.

The **proposed new EU Directive on Transparency** – following the European Commission’s Proposal for a *Directive 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*- is expected to be very important for advancing equal pay in Latvia. In the view of Latvian trade unions, in this Directive, **lowering the threshold** for the companies obliged to report on wages would be important, because the majority of the companies in Latvia are small and medium (The Baltic Course, 2020).

¹⁰⁹ From the day the employee has learned or should have learned of the violation of the right to equal pay for work of equal value or the provisions of Paragraph one of article 60 of the Labour Law mentioned.

¹¹⁰ In its judgment in the case SKC-78/2018, the Supreme Court pointed out that by missing the 3 months term specified in Section 60 of the Labour Law, the worker loses the opportunity to have recognised the violation of her/his right to equal treatment and pay, and consequently, also loses the opportunity to request compensation.

¹¹¹ Additionally, in Latvian Labour Law the principles of equal rights and non-discrimination are established mainly in article 7 and the prohibition of differential treatment in article 29.



Collective bargaining & equal pay

There is **one national level trade union confederation in Latvia**, the LBAS, and almost all significant unions belong to it (ETUI, 2021). **Works councils** and other similar bodies are generally **voluntary** in Latvia (ETUI, 2021). Article 10 of the Labour law provides for only two workers' representation bodies – trade unions and authorised workers' representatives, and authorised workers' representatives have collective bargaining rights only if there is no trade union at the enterprise. Additionally, works councils are formally (by law or agreement) barred from negotiating (plant-level) agreements and, therefore, their involvement in negotiating wages in those agreements is rare (ETUI, 2021). Collective **bargaining coverage in Latvia is low**, standing at 27,1% (data of 2018), and trade union's density stands 11,6% (OECD, 2021). The main bargaining level is the **company level**. Trade unions in Latvia have been bargaining at the sectoral level only in the last years. There are relatively few industry-level agreements¹¹². Collective bargaining is much more important in the public sector, including large state-owned companies than in the private sector. And most of the industry-level agreements are also in the public sector (i.e., in education and health care). There have also been industry-level agreements in the transport sector, which is dominated by larger privatised companies (ETUI, 2021).

In October 2019, the Parliament of Latvia transferred from the Administrative Liability law to the Labour law the possibility to impose fines on employers who refuse to engage in collective bargaining. However, at the same time an important provision disappeared: the employer's liability for non-compliance with the collective agreement. LBAS and other trade unions denounced on number of occasions, strongly objected and even informed the ILO and ECSR about this manoeuvre.

In that year, there were also **new industry agreements**, in the sectors of construction and glass fibre. In April 2019, the construction union LBNA and three employers' associations plus individual companies signed a six-year deal – from November 2019 to December 2025 – with binding effect on all employers and workers in

¹¹² In 2015, there were only eight industry-level agreements and three of these were signed by the health union LVSAADA (ETUI, 2021).

construction. Since May 2017 until December 2021 LBAS implemented the project “Development of Bilateral Social Dialogue of the Latvian Free Trade Union Confederation in the Development of a Better Legal Framework for the Improvement of the Business Environment” with the target to conclude five general agreements. The construction industry was one of the industries, even though some discussions had already begun before 2017. That agreement was followed by a second agreement for glass fibre, which was signed in December 2019, coming into effect in 2020 and running for three years (ETUI, 2021). These are positive **developments** in collective bargaining in Latvia, but it is worth noting that these sectors are often male-dominated, so the improvements achieved in collective bargaining will likely benefit more male workers than female workers.

These developments may indicate an upcoming **better context for collective bargaining in Latvia**. To foster those developments, ETUC’s Executive Committee adopted a communication supporting sectoral collective bargaining and the autonomy of sectoral social partners in Latvia (ETUC, 2019). Still, small and medium companies in the private sector usually do not have unions and thus, are yet unaffected by collective bargaining.

The issues that collective agreements are to cover are defined in Latvian legislation and they include the organisation of work, pay, and internal work procedures. In practice, **agreements usually cover pay and bonuses**, holidays, and work and rest time. Additionally, agreements often also provide support for workers with young children and deal with health and safety issues (Lulle & Ungure, 2019). Wage bargaining and its coordination are still fragmented and confined largely to individual firms or plants (OECD, 2021).

There are **no direct provisions on equal pay for work of equal value in the currently existing collective agreements**. While pay is negotiated, the issue of equal pay for work of equal value is **not yet a priority**, and therefore, often it is not thoroughly discussed. Still, some of the sectoral collective agreements refer to the remuneration system and the principles that should uphold, such as equal rights of article 7 of the Labour law, which should in practice include equal pay. For example, the collective agreement of the railway sector (point 2.4)¹¹³ was signed in 2011 and prolonged, and it provides that employer and trade unions must agree in local-level collective agreements on the remuneration system and the principles that comply with legislative acts, which also means compliance to the principle of equal treatment set by article 7 of the Labour Law.

Another example is the sectoral collective agreement of SJSC “Latvijas dzelzceļš”. It was signed in 2017 and updated in 2019. In point 2.1. it further clarifies that remuneration is set following internal legislative acts that have to be confirmed by the trade union. Thus, it provides for the mechanism for trade unions to ensure that the remuneration system is transparent and complies with the principle of equal pay¹¹⁴. Another example is the sectoral collective agreement in the health care sector, which was signed in 2019 and applies only to state health and social care centres subordinated to the Ministry of Welfare. It provides for the principles and minimum levels of remuneration in line with the Law on Remuneration of Officials and Employees of State and Local Government Authorities. In that Law, Article 1 clarifies that its purpose is to attain that equal conditions are observed in the determination of remuneration for officials (employees) of State and local government authorities.

Social partners’ good practices on equal pay

Latvian social partners have worked on various gender equality issues, including the gender pay gap and equal pay, and to a lesser extent the specific dimension of equal value. When it comes to wages, **the focus is the persisting overall low wages in Latvia, for both men and women workers**. Thus, trade unions devote great efforts to the general increase of pay, and less into equal pay for women and men.

“Equal pay between women and men is not central. In Latvia, women workers % is relatively high when comparing to other countries. Also, women in leading positions % is bigger than in other places, the vertical segregation is not that bad. A bigger problem is, for example, the generalised low wages, but for women and men, for both.” LBAS, 2021.

¹¹³ The agreement can be found at: <https://www.ldzsa.lv/image/sections-cats-items/20/generalvienosanas.pdf>

¹¹⁴ The agreement can be found here: <https://www.ldzsa.lv/image/sections-cats-items/21/latvijas-dzelzcels-koncerns-lidz-31012021.pdf>

The fact that the percentage of women workers in the labour market, as well as the percentage of women workers in high positions, is not that bad in Latvia when compared to other European countries, **does not help to put the issue of equal pay for women and men as a priority** on the trade union's agenda¹¹⁵. It contributes to not considering equal pay for women and men as central in Latvian trade unions' work. However, **this might change, as the gender pay gap is currently increasing in the country** during the last two years the gap between the average gross hourly earnings of females and males has risen by 2.7 percentage points (LSM, 2021)¹¹⁶ and trade unions are putting more attention to the issue and increasing their efforts to monitor the situation.

Latvian trade union's **understanding of equal pay is broad**. The issue of pay inequality between local or national workers, and **migrant workers** is often considered when discussing equal pay. For example, the wage differences between these two groups of workers in the transport and construction sectors are big in Latvia and trade unions have made efforts to increase the low wages of migrant workers, although they acknowledge that the gender perspective was not adequately integrated into those actions.

Equal pay for women and men has been, however, an issue Latvian trade unions have addressed through diverse actions. Trade unions in Latvia have followed ETUC's **awareness-raising campaigns** on the issue of equal pay, for example, with more insistence on the 8th of March, on International Women's Day. Equal pay is normally **addressed in the framework of specific projects, which** are usually funded by the EU. In general, EU-funded projects have greatly helped Latvian trade unions to push discussions on gender equality and equal pay issues within their organisations, among workers, and beyond¹¹⁷. Similarly, ETUC campaigns on equal pay and gender equality are used internally, and **when negotiating and in their discourse**, trade unions have **used EU recommendations**, and diverse arguments to push for equal pay. Latvian trade unions have also engaged in social dialogue and **lobbied** the government and other actors for diverse gender equality and equal pay legislative modifications and others. Additionally, they often provide consultation and support services to workers, including with regards to pay and issues on equal pay.

"We're supporting the ETUC activities, and for us, the EU Transparency Directive is very important, because it could really help improve our legislation. EU Directives and overall, binding legal tools, are key for new EU member states like Latvia. If the EU does only a recommendation, it is not very useful, because in Latvia we will not apply it, until it is binding, and legislators here need to change and improve our legislation. The problem with this directive is that it is only for big companies, and we want to decrease the threshold, so that it also takes small and medium companies, as these are the majority in Latvia." LBAS, 2021.

When it comes to the **barriers** to addressing equal pay including equal pay for work of equal value, apart from the mentioned lack of prioritisation of the issue, one of the main barriers is the lack of transparency on wages derived from the lack of legal transparency obligations. Employers' autonomy to set the wages unilaterally is big in Latvia and the commercial secret protects them. Latvian trade unions' **insufficient resources** and the fact that they are small, including the confederation, is also a barrier to developing further actions on equal pay. Finally, the cultural issue of **sexism, discriminatory attitudes towards women workers, the persisting gender division of work**, and many other broader gender equality-related aspects should be considered, too.

With regard to equal pay for work of equal value strictly, the main barrier is the **lack of adequate tools to know what equal value is and strategies to address it**. Also, employees have not brought to trade unions specific **cases on equal pay for work of equal value** yet to bring **before courts**¹¹⁸. In this regard, although workers can come with their specific problems and conflicts to seek trade unions' help, for now, no cases on equal pay for work of equal value have yet been put forward to courts. In general, they note that there are not many complaints from workers related to discrimination based on sex. Finally, the consequences of the COVID-19 pandemic on equal pay have yet to be seen, but as in other countries, women workers' have been so far disproportionately affected by the crisis.

¹¹⁵ According to EIGE's [gender statistics database](#), Latvia's women's full-time equivalent (FTE) employment rate is 46%, while the EU average is 38% (2013). EIGE's Gender Equality Index has a "power indicators" where data on women's political, social, and economic power dimensions are considered. In the economic dimensions, for example of the "share of board members of the central bank (%)", Latvian percentage are also above the European average (EIGE, 2021).

¹¹⁶ And, according to EIGE's last Gender equality Index (2021), since 2018, Latvia's ranking has decreased by one place in the domain of money.

¹¹⁷ For example, some EU-funded projects related to work-life balance were developed some years ago. In 2020 and 2021, LBAS has we organized "Work life balance weeks" that included several events on gender issues, burnout, stress etc.

¹¹⁸ There are cases on equal pay in Latvia (e.g. No. CA-2542-20/32, decision of 11.12.2020; No. C-1774-20/5 of 17.12.2020; No. CA-0094-19/11 15.11.2019). However, interviewees note that recently there have not been cases where trade union members have applied for help within the litigation process to the lawyers of the trade unions..

Conclusions

The Latvian legal framework does not help advance equal pay, even more considering the lack of enforcement mechanisms. Wage transparency and reporting obligations, among other measures, are yet to be adopted. However, the collective bargaining structures have improved in the last years, new collective agreements have been signed, and new ones are expected to be negotiated. In that regard, it is key that these new opportunities are used to also push for equal pay. Equal pay between women and men, including equal pay for work of equal value, is a key issue to be negotiated in the improving bargaining context by Latvian trade unions, but it needs to become a priority.

Good practices

GOOD PRACTICE 1

Cross-sectoral

Type of good practice: Active Women's Committee within unions

Signatories: FTUCL (LBAS)

Date: since 2012

Key elements:

- LBAS' gender equality committee has been operating within the trade union for about 10 years and has developed continuous awareness-raising activities on gender equality and equal pay for women and men.
- It meets regularly, at least four times per year to discuss urgent national and EU positions and legislative proposals to promote gender equality.
- It organises study visits to different companies and institutions two times per year to meet the employers and trade union members at their workplace and find out about equal opportunities for women and men workers, among others. For example, to AS Dzintars, LU Botāniskais dārzs, LNOB, among other companies.
- It organised a workshop for trade union activists "Gender Equality - Challenges and Differences" (2017).

GOOD PRACTICE 2

Cross-sectoral

Type of good practice: report

Signatories: FTUCL (LBAS)

Date: 2017

Key elements:

- The "Roadmap on Gender Equality for Trade Unions" (2017) was distributed to all stakeholders to improve awareness-raising and collective bargaining with a special gender focus.
 - It provides inter alia important information on equal pay, the gender pay gap, and work-life balance, as well as how trade unions can promote equal pay through collective bargaining.
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5.9

POLAND

Introduction

The gender pay gap per hour in Poland is at 4.5% - quite low - (Eurostat, 2021)¹¹⁹ and this fact has often been used, especially by the Government and employers, as an excuse not to prioritise equal pay between women and men in the country. Trade unions in Poland have been working on gender equality, including equal pay, in various ways. Yet, their understanding of equal pay is broad. They do not focus only on equal pay for women and men but show concern about issues such as the wage gaps between the migrant and local workers, declared and undeclared work, and social dumping, mainly¹²⁰. Considering the negative effects of the COVID-19 pandemic on women workers' situation, Polish trade unions are reinforcing their efforts on gender equality, the gender pay gap and equal pay. Overall, the attention to equal pay between women and men has been increasing in the last few years. In view of this, both reinforcing collective bargaining and establishing wage transparency measures are key for Polish trade unions.

State of play with equal pay and legislation

The **Polish Constitution** refers to equal rights for women and men, and it explicitly mentions the right to **equal pay for work of equal value**. It establishes that “men and women shall have equal rights, in particular, regarding education, employment, and promotion, and shall have the right to equal compensation for work of similar value, to social security, to hold offices, and to receive public honours and decorations” (Article 33.2). However, the definition of what work of equal value is in Article 183c of the **Polish Labour Code**. It establishes that “employees have the right to equal remuneration for the same work or for work of an identical value” and that remuneration includes all components, “regardless of their name or characteristics, as well as other work-related benefits granted to employees in cash or non-cash form” (article 183c.1,2). Work of equal value is defined as follows in the Polish labour legislation:

Art. 183c. Equal treatment in remuneration.

3. Work of an identical value means work that demands from employees not only comparable professional qualifications, certified by documents provided for in separate provisions or by practice and professional experience but also comparable responsibility and effort.

In the Polish Labour Code, there is an **article that can potentially help advance equal pay** through collective bargaining. Article 9.4 states that “the provisions of **collective labour agreements** and other collective agreements, regulations, and statutes based on the law and determining the rights and duties of the parties to an employment relationship, are **not binding if they violate the principle of equal treatment in employment**”¹²¹. However, trade unions note that the article has not realized its potential and the problem persists in the implementation of the law. In fact, the problem, more broadly is that there is **no adequate legal framework with regard to wage transparency** in Poland, and in consequence, a lack of information as to workers' wages.

¹¹⁹ However, the Polish Central Statistical Office shows that the median gender pay gap between women and men in Poland is of almost 20% (GUS, 2020).

¹¹⁸ Social dumping refers to the increasingly concerning issue of international companies that, through diverse subcontracting chains, hire workers from Poland, but pay them much less than their workers in other European countries

¹²¹ In the same line, article 18.2 of the Polish Labour Code states that “any provisions of the contracts and acts [...] that are less favourable to an employee than the provisions of labour law are invalid; the appropriate provisions of labour law will apply instead”.

Although in 2020 a **draft law aimed at reducing the wage gap** between men and women was presented by the Women's Rights Congress Association¹²², there was no reaction at the level of state authorities to the draft presented (European network, 2021, 36), and so far, the legislation has not been debated nor adopted¹²³. **Beyond equal pay**, in Poland, the **minimum wage has increased steadily** in the last few years, and this, has been demonstrated to help women's economic position, given that they are disproportionately working in low-paid sectors (Majchrowska & Strawiński, 2018).¹²⁴

Collective bargaining & equal pay

In Poland, collective bargaining **coverage is low** (13%) (OECD, 2021, 2), and it is very **decentralised**, the majority is done at the company level or even plant level, which means that there are mainly single-employer collective agreements. Thus, multi-employer collective agreements are rare. Besides, employers in financial difficulties can suspend collective agreements or some of the obligations towards employees, including remuneration regulations, for up to three years (Article 9 of the Labour Code). Although by law the suspension should be agreed with the trade union that signed the agreement in the workplace, this does not always happen (ETUI; 2022). Works councils in companies are voluntary, but in the cases where even they are mandated by law, there are **no legal sanctions for non-observance**, so in practice, bargaining is not facilitated by the structures. On the collective bargaining system, it was noted:

"The way I see it, is that with such a weak collective bargaining system and practice, collective bargaining cannot be expected to promote gender equality [...]. The weaker the bargaining system, the narrower the range of subjects covered." **Solidarność, 2022.**

There are three nationally representative trade unions in Poland: NSZZ Solidarność, OPZZ, and FZZ. Normally, agreements are for a year, and they cover pay (including base salary, bonuses, and others), among other issues. According to Article 77(1) of the Labour Code, the **conditions of pay should be established by collective agreement**. However, trade unions note that **collective agreements do not usually directly refer to equal pay, and equal pay for work of equal value**.

"The issue of equal pay in bargaining is not the "hottest" in Poland. But we need to understand this considering the Polish context of collective bargaining, it is extremely difficult and very de-centralised, the situation is quite bad when it comes to collective bargaining" **Solidarność, 2021.**

When there is no works council and the workplace has more than 20 workers, the employer must produce some sort of **"remuneration regulations"** (*regulamin wynagrodzenia*), that set out the basis on which workers are paid, as well as some key working conditions. However, these are not negotiated but decided **by the employer unilaterally** (ETUI, 2022). There is a tendency to terminate existing agreements and replace them with remuneration regulations (ETUI, 2022).

Social partners' good practices on equal pay

For Polish trade unionists, **equal pay is mainly linked to the gender pay gap**, and they place the attention on the diverse structural issues that impact the gender pay gap (horizontal and vertical segregation, part-time working, inequality between women and men in caring responsibilities and domestic work, unequal use of maternity & paternity leave, other work-life balance measures, and others). The prevalence of the traditional family model in Poland has been highlighted as a key contributing factor to unequal pay. The specific dimension of **equal pay for work of equal value has not been often considered**.

¹²² During the conference in Warsaw 'Europe of equal pay. Polish proposal for legal solutions'

¹²³ The draft regulates instruments aimed at reducing the gap in wages between women and men, like periodic reporting obligations to employers (article 3(1)-(4)), and the obligation to present in the report necessary explanations and conclusions together with a corrective plan in this respect (Article 6(1)). More information on the draft law: https://4874bf6f-aad4-4141-8232-d11f1453c7ef.filesusr.com/ugd/742d99_44d2ae28fd874e3fb-4ca1515903d0d62.pdf ; https://4874bf6f-aad4-4141-8232-d11f1453c7ef.filesusr.com/ugd/742d99_e4e403493d5e4e15b3b9f138627c2b03.pdf; <https://notes-frompoland.com/2020/03/07/new-legislation-aims-to-close-gender-pay-gap-in-poland/>.

¹²⁴ The authors conclude that "the results confirm that minimum wage policy could be an appropriate tool for decreasing the existing differentials in pay between men and women".

Trade unions' actions for gender equality and equal pay include **awareness-raising** campaigns, **surveys and studies** on discrimination and harassment at work¹²⁵, **training and seminars**, and **lobbying** actions. For example, in 2021, trade unions lobbied the Government and other political stakeholders on equal pay, by sending letters to politicians (ministers) and Members of the European Parliament, as well as speaking out about the issue of equal pay in public institutions, such as the Polish senate. Much of the work on gender equality and the gender pay gap has been developed by **trade unions' Women's Committees**¹²⁶.

Although most Polish trade unions' actions focus on broader gender equality issues, they have also recently developed an action relating specifically to the dimension of equal pay for work of equal value. In July 2021, in the framework of NSZZ Solidarność's project "Social Dialogue Schemes for Decent Work in the public sector at the level of local governments", local employers, the City Hall of Jaworzno and the mentioned trade unions have negotiated an **agreement in which equal pay for work of equal value is included**¹²⁷. However, the agreement does **not establish any specific monitoring or evaluating mechanisms** to ensure that equal pay is implemented in practice.

The biggest **barrier** to addressing equal pay in Poland is the **lack of transparency** on wages, mainly because the Polish legal framework does not establish concrete and binding obligations to employers on reporting. This fact has blocked many trade unions' initiatives, and although they support transparency, trade unions acknowledge that this is an area where they are still working:

"There is a rhetorical support for transparency in trade unions, but in practice, more concrete actions should be developed". Solidarność, 2021.

"In order to apply the right to equality in practice, earnings must be transparent, we cannot assert our rights without transparency. The lack of transparency makes it impossible to properly check and monitor the situation, and the employers' resistance is huge". Solidarność, 2021.

Employers' resistance is also a big barrier in Poland to push for equal pay. Although the awareness of (un) equal pay has raised interest in the last few years, there is still **a lot to be done in terms of awareness** and information. Raising awareness is also the way to place the issue of equal pay as a priority, including for trade unions. The fact that **women workers' participation in many trade unions is still low** is also a barrier to equal pay for women and men in Poland. In the same vein, the insufficient monitoring of women workers' situation has also been mentioned as a barrier for Polish trade unions. Additionally, trade unionists noted that having **better guidelines** on how to negotiate in collective bargaining for equal pay, including equal pay for work of equal value, would be of great value.

Conclusions

The lack of wage transparency obligations and the weak collective bargaining structures in Poland do not facilitate advancing equal pay, including equal pay for work of equal value. The transparency obligations set by the proposed *EU Directive 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* would be beneficial to the Polish legal framework and trade unions' work to tackle unequal pay. Also, addressing gender pay inequalities is not always the priority in negotiations, especially considering that few women participate in collective bargaining processes and in trade unions.

¹²⁵ As an action to raise awareness, on International Women's Day, trade unions have denounced the unequal pay between women and men workers. See, for example, the action developed by OPZZ at: <https://www.opzz.org.pl/aktualnosci/kraj/precz-z-luka-placowa-rowne-wynagrodzenia-dla-kobiet-i-mezczyzn> Another example is the survey that the OPZZ has developed in 2020 on discrimination and mobbing where the various discriminatory situations women workers endure are highlighted. The work on discrimination, harassment, and mobbing has permitted trade unions to work on recommendations. The documents of the survey and recommendations can be found in OPZZ women's committee website at: <https://www.opzz.org.pl/komisje-problemowe/komisja-kobiet>

¹²⁶ For example, it is the women's committees who often develop a series of workshops, seminars, and other training actions on equal opportunities & equal pay (2020; 2021). Also, now, they have worked on women workers & and covid-19. See, for example OPZZ's presentation "The situation of women in the era of COVID-19 pandemic": <https://www.opzz.org.pl/komisje-problemowe/komisja-kobiet>

¹²⁷ For more information about the project and agreement see "Good Practice 1" table.

Good practices**GOOD PRACTICE 1**

Sector: Public sector**Type of good practice:** collective agreement clause**Signatories:** NSZZ Solidarność, local employers and municipality of Jaworzno**Date:** 2020-2022**Key elements:**

- The clause is in the collective agreement of the “Social Dialogue Schemes for Decent Work in the public sector at the level of local governments” pilot project¹²⁸. The project has been implemented by NSZZ Solidarność in cooperation with the Association of Polish Cities and the Norwegian partners: the Norwegian Union of Municipal and General Employees “Fagforbundet” and the Norwegian Association of Local and Regional Authorities “KS”.
- The clause states that “The Parties shall make every effort to ensure transparent principles of remuneration, respecting the importance of the standard expressed in the Labour Code that employees have the right to equal pay for equal work or for work of equal value.”

GOOD PRACTICE 2

Cross-sectoral**Type of good practice:** lobbying**Signatories:** OPZZ**Date:** 2021**Key elements:**

- The trade union has sent several letters to Euro-parliamentarians and Polish Ministers asking them to support actions for equal pay.
- The lobbying action is framed in the context of a bigger campaign, which included an information campaign lasted several days, a speech before the Polish Parliament in June 2021.

GOOD PRACTICE 3

Cross-sectoral**Type of good practice:** Training**Signatories:** OPZZ & NSZZ Solidarność**Date:** 2020, 2021**Key elements:**

- Trade unions have developed a series of workshops, seminars, and other training actions on equal opportunities & equal pay (2020; 2021).
 - Some have been organised by the women’s committees of trade unions.
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¹²⁸ More information about the project and the agreements can be found in the following link: [NSZZ Solidarność – 7th place Social Dialogue Schemes for Decent Work \(solidarnosc.org.pl\)](https://solidarnosc.org.pl/en/7th-place-social-dialogue-schemes-for-decent-work)

5.10

SPAIN

Introduction

Spanish trade unions have a long history of fighting for equal pay and the reduction of the gender pay gap. The gender pay gap per hour in Spain is at 9.4%, whereas the EU average is 13% (Eurostat, 2021), and it has been decreasing in the last 11 years (UGT, 2021). It is only in recent years that trade unions have focused more on equal pay for work of equal value. Likewise, recent legal developments have reinforced employers' obligations on equal pay, and these are expected to further improve the state of equal pay. Now, although the COVID-19 pandemic has put the spotlight on jobs predominantly done by women, women workers are being hit harder by the subsequent crisis.

State of play with equal pay and legislation

The Spanish constitution states that all Spaniards are equal before the law and prohibits discrimination on a series of grounds, including sex (Article 14). Article 35 specifically prohibits discrimination based on sex in the labour market. **Equal pay for work of equal value is expressly referred to in the Worker's Statute** indicating that "the employer is obliged to pay the same remuneration for the work of equal value" (article 28). And the same article continues specifying what constitutes equal value:

Art. 28. Equal pay based on sex

1. A job will have the same value as another when the nature of the functions or tasks actually entrusted, the educational, professional or training conditions required for its exercise, the factors strictly related to its performance and the working conditions in which said activities are carried out are actually equivalent.

Following the recent legal modifications to the Labour Law done by *Royal Decree-Law 6/2019*, of March 1, on equal treatment and opportunities for women and men in employment (RD 6/2019), the Worker's Statute **obliges employers to keep a record with the average of salaries** of its employees, disaggregated by sex and distributed by professional groups, professional categories or equal jobs or jobs of equal value, and **obliges companies with more than 50 employees to adopt and implement a gender equality plan**. Workers have the right to access, through the legal representation of workers in the company, the payment record of their company. When the average remuneration for workers of one sex is higher than that of the other sex by 25% or more¹²⁹, employers should justify why there is that pay inequality¹³⁰.

Following the legal modifications in 2019, two other Royal Decrees have been adopted by the Spanish Government **regulating key aspects of equal pay and equal pay for work of equal value**: *Royal Decree 901/2020*, of October 13, which regulates equality plans and their registration (RD 901/2020), and *Royal Decree 902/2020*, of October 13, on equal pay between women and men (RD 902/2020).

RD 901/2020 clarifies the method of carrying out equality plans, in terms of content and process. It strengthens the role of trade unions in negotiating gender equality plans and obliges employers to make their gender equality plans public through the **registry of their plans** in the Public Registry. RD 902/2020 **further develops the definition of work of equal value**. It enumerates some relevant factors in determining equal value and requires the correct evaluation of jobs that needs to be done following three criteria: **adequacy, completeness, and objectivity** (article 4). RD 902/2020 obliges all companies¹³¹ -regardless of their size- to have a remuneration or **pay record** for their entire workforce, also segregating the data by sex. Also, it obliges all companies that

¹²⁹ Taking the whole of the salary mass or the average of the perceptions satisfied.

¹³⁰ The threshold of 25% has been criticised by trade unions, who judged it is too high and propose to place it at 15%.

¹³¹ It applies to companies and to contract staff "personal laboral", but not to the public sector working with civil servants.

have a gender equality plan to a **pay audit**. The difference of the pay audit is that it needs a prior diagnosis of the gender equality and pay situation of the company and that it must incorporate all the necessary data to verify that the existing payment system in the company guarantees in a transversal and complete manner the effective application of the principle of equality between women and men. Not having the mandatory gender equality plan, or having it but not implementing it, or not having the minimum required contents in the plan, **is sanctioned**. The company can be **sanctioned with a fine** of 626 to 6,250€ and with **administrative sanctions**, such as prohibitions to access public contracts and subventions. Spanish trade unions are welcoming the recent legal developments. There are still some areas where the legal framework on equal pay could be improved, such as monitoring, ensuring that companies adequately comply with the new obligations, and focus more on actual results rather than obligations. However, it still soon to know the main flaws in practice as changes are recent and, currently, both trade unions and employers are getting to know and using the new instruments.

The most recent labour reform in Spain has been the Royal Law-Decree 32/2021, approved in December 2021. It has improved workers' rights and has had an impact on women's employment especially. Four key aspects can be highlighted: 1) Temporary employment is limited: the employment contract is presumed to be indefinite, the causes for temporary employment are defined and its duration is limited, so considering that the majority of workers in temporary employment are women, many working women will see their working conditions dignified. 2) The contract for work and service is eliminated: the figure of the fixed-discontinuous contract is promoted with which greater security and stability will be achieved. This change should represent a major transformation in sectors in which this contract has been used and which have a significant female presence, such as agricultural, forestry and fishing activities, restoration or manufacturing industry; 3) The chain of temporary contracts is limited: it reduces to 18 months in a period of 24 months the term of the chain of contracts to acquire the status of an indefinite worker, compared to 24 months in a period of 30 months currently in force. Again, the data suggest that women will also benefit proportionately more since they were the ones who were chaining more contracts; 4) Contracts and subcontracts are regulated: the reform involves the establishment of the sectoral implementing agreement for those working on contracts and subcontracts.

"With this reform, we win rights especially for women. Now it will be the time to demand and make effective this recovery of rights in each workplace and continue fighting from the union action for other improvements necessary to eliminate all gender gaps". CCOO, 2022.

Collective bargaining & equal pay

Trade union density is low in Spain (12,5%)¹³² and the overall level of **coverage is high** in Spain at around 80% of the total workforce (OECD, 2021). The major agreements have to be tripartite, involving the government, unions, and employers, and sometimes just between the employers and the unions at the national level. **National level negotiations have played a key role in** determining pay, working conditions, and key elements of labour market policy (ETUI, 2021). Collective bargaining is quite **centralised** in Spain, although negotiations between employers, and unions take place at three levels: national, industry and company/organisation. Especially, since a legal change of 2011 that gave a greater role to company bargaining¹³³, there has been a tendency to conclude more agreements at the company and even plant level. In 2012, and due to the economic crisis, a **labour law reform** was undertaken which strengthened company agreements, which among many other measures, worsened workers' legal protection¹³⁴. The general pattern has been that large and medium-sized companies have their own agreements (sometimes at plant level), while smaller employers have been covered by provincial agreements for their sector. Additionally, some sectors, like construction, banking, and chemicals have national agreements (ETUI, 2021). However, on collective bargaining trade unions have highlighted that:

¹³² The two main and national trade unions are the Workers' Commissions (Comisiones Obreras, CCOO) and the General Workers' Union (Unión General de Trabajadores, UGT). At higher levels, only trade unions that are the "most representative unions" at the national or regional level (or that can show that they have a specific level of support in the area covered by the negotiations) can sign the agreement on behalf of all the employees. Nationally, only CCOO and UGT are "most representative unions", however, in the province of Galicia, the trade union CIG (Confederación Intersindical Galega) has this status too, and in the Basque Country, ELA/STV (Eusko Langileen Alkartasuna) and LAB (Langile Abertzaleen Batzordeak). At the company and plant level, the employer and the works council are the bodies that negotiate

¹³³ See the Royal Decree 7/2011, of June 10, on urgent measures for the reform of collective bargaining.

¹³⁴ However, some of the changes of that legal reform have been very recently modified by the new labour law reform. The new labour law framework has been set by Royal Decree-Law 32/2021, of December 28, on urgent measures for labour reform, the guarantee of employment stability and the transformation of the labour market, that has been validated by the Spanish Parliament on February 3 of 2022.

“Bargaining has become more complex with the changes of the market, now it is more atomized, there are more employer’s chains and subcontracting.” ELA, 2021.

“In my experience, bargaining in the industry sector -which is male dominated-, or in services sectors, such as those related to care or cleaning -which are feminised-, is very different. There are big differences on how the activity of bargaining is developed depending on the sector and the presence of women/men. In male dominated sectors, workers’ demands are at least heard, but when bargaining in feminised sectors, worker’s demands are often ridiculed. Also, there are differences depending on who the negotiators are (if they’re women or men). I say this because historically, employers are not used to see women negotiators, and the level of sexism women negotiators often endure from employers is huge.” ELA, 2021.

There are a number of collective agreements which have **provisions on equal pay, including equal pay for work of equal value**. Often, equal pay for work of equal value is 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)¹³⁵. The national sectorial collective agreement of the chemical industry refers to equal pay for work of equal value in various of its provisions, regulating it together with non-discrimination, positive action, and the evaluation of jobs classifications¹³⁶. For example, Article 18 states that “in order to effectively contribute to the application of the principle of non-discrimination and its development under **equal working conditions for jobs of equal value**, it is necessary to develop positive actions, particularly in hiring conditions, salaries, training, [...]”. And Article 115 refers to **the evaluation of jobs and pay, stating** that the classification of professional groups that are provided in the collective agreement have been developed considering “the correct application of the principle of **equal pay for work of equal value**”, and thus, in accordance with the (aforementioned) Royal Legislative Decree 902/2020¹³⁷. Some national sectorial collective agreements place **equal pay for work of equal value as a “principle” that should inspire the application of the collective agreement**. For example, the national sectorial collective agreement of the rice industry states the need to “ensure that working women are equal to men in all salary aspects, so that for equal work or work of equal value, women always have equal pay” (Article 12.2.b) and that signatories should pay special attention to “equal pay for work of equal value” (Article 12.3.c)¹³⁸. When it comes to **collective agreements of a lower level** (provincial (regional) and company level), some have also clauses providing for equal pay for work of equal value¹³⁹.

¹³⁵ Another national sectorial collective agreement that places equal pay for work of equal value in the same antidiscrimination provision is the agreement of the textile sector.

¹³⁶ The collective agreement, “Resolución de 7 de julio de 2021, de la Dirección General de Trabajo, por la que se registra y publica el XX Convenio colectivo general de la industria química”.

¹³⁷ The collective agreements in the graphic arts, perfumery, glass and ceramics, and iron sectors, have similar provisions.

¹³⁸ The collective agreement, “Resolución de 29 de diciembre de 2021, de la Dirección General de Trabajo, por la que se registra y publica el Convenio colectivo estatal para las industrias de elaboración del arroz”.

¹³⁹ At company level, Spanish trade unionists have highlighted the collective agreement of “Adiseo España S.A.”, and “Aplicaciones Mecánicas y válvulas industriales S.A. (AMVI)”. At the provincial level, they highlight: 1) in Burgos, the Dry cleaning, Laundry, and Ironing Industries Collective Agreement; 2) in Valladolid, the Agricultural and Livestock Collective Agreement and Construction and Public Works Industry Collective Agreement; 3) in Soria, the Carpentry and Joinery Collective Agreement and the Auctioneers and Sawmills Collective Agreement; 4) in Ávila, the Cement Derivatives Collective Agreement, and the Road Transport Companies’ Collective Agreement, among others.

Social partners' good practices on equal pay

Social partners in Spain have been very active and for long working on **gender equality at work, the gender pay gap, and equal pay**. The attention to equal pay for work of equal value has increased in the last few years. Trade unionists note that this is in part due to the reinforcement of the feminist movement and conscience among women workers. The awareness of gender inequalities has also been raised within trade unions.

"In the past, many men colleagues were not that sensitive towards the issues relating to gender equality, and men negotiators were not keen to acknowledge that some of the negotiated provisions were not that beneficial to women workers. However, this tendency has changed greatly in the last years, and additionally, the number of women negotiators has increased." UGT, 2021.

Trade unions relate the **gender pay gap** 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. All these issues are negotiated in the gender equality plans of the companies. When negotiating pay, trade unions indicate that they have increased their attention on how remuneration is established. Apart from the base salary, all the complementary pay bonuses and other pecuniary and non-pecuniary remuneration are considered thoroughly because these constitute a key dimension impacting the gender pay gap, and on equal pay. The ingrained sexism which **undervalues the jobs and professions** that are done by women predominantly is one of the main factors contributing to unequal pay. Thus, to tackle the right to **equal pay for work of equal value**, in these last years, trade unions have focused on achieving **neutral and non-biased job (and professional groups) classifications**, among other measures.

They have **lobbied** to advance the legislation (RD 6/2019, RD 901/2020; RD 902/2020; RLD 32/2021), and have worked in the framework of the social dialogue to adopt specific tools to help implement the obligations set by the new legislative already mentioned measures. One of the agreed tools is the **"pay registry tool"**¹⁴⁰. It is an Excel file that 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. Although companies are obliged to have a pay registry, the use of this specific tool is voluntary. However, if they do not use the tool that is offered, they need to guarantee that they comply with the requirements set on Article 4 of the RD 902/2020. Another tool that to advance the right to equal pay for work of equal value is the **"job assessment tool"** that has been recently adopted -on April 13, 2022- that has been negotiated since May 2021 through social dialogue. The tool integrates some characteristics that are often made invisible when assessing the tasks and jobs that are predominantly done by women, such as thoroughness, attention to detail, emotional charge, and many others¹⁴¹. Many of these characteristics are often perceived as "natural" in women and thus, are not adequately considered.

Although the tool available only recently, trade unionists anticipate resistance to use or implement it because it has the potential to open the debate on all professional categories and it is going to show the need to review everything. Resistance can arise first from employers because the results of the new assessments might very likely show that the pay of the feminised jobs is to be raised. And second, perhaps from some trade unionists and negotiators, who might not be ready to acknowledge previous flaws and negotiate again things that have been negotiated recently. Also, it is important to remember the previous experiences and history because in collective bargaining, negotiators often part from a previous agreement and they try to improve the already existing agreement. A big increase in pay facilitated by non-biased job evaluations might be difficult to achieve. Consequently, the tool might be used first in the negotiation of the gender equality plans, but the aim is to use it in collective bargaining. Spanish trade unions note that they are prepared to fight in this regard. At the same time, they hope to improve the tools so that they are not that technical, and all delegates and negotiators can use them effectively. Although all trade unions are in favour of the agreed tools and find them good instruments to advance equal pay, some fear that the tools become too complex to be used by delegates. Trade unions' resources are often scarce and although a lot of efforts are being put into training delegates on how to use the tools for gender equality and equal pay effectively, the complexification is not beneficial to trade unions' work. The risk is to make equal pay only an "experts'" issue. For now, it remains to be seen how these tools will be implemented in practice.

¹⁴⁰ Trade unions note that currently, they are also working on a guide on the salary audit in the framework of the social dialogue.

¹⁴¹ Some of the key points and the links to the tools can be found in the Good practices tables below.

Spanish trade unions have developed varied actions on equal pay. For example, national-wide **awareness-raising campaigns**¹⁴², **training on negotiating and implementing gender equality plans and training on how to negotiate for equal pay**¹⁴³, **exhaustive annual reports** about equal pay and the prevailing gender pay gap in Spain¹⁴⁴, and **reports and guides** on the issues of precariousness and equal pay, including equal pay for work of equal value **in specific sectors** (for example, fish industry¹⁴⁵). Trade unions have also supported **women workers' strikes for equal pay**. Especially since 2018 and mainly in the Basque Country there have been several women worker's led strikes in the cleaning and elderly care professions. For example, ELA supported in 2019 the subcontracted cleaning workers of the municipality of Elorrio, who achieved a salary increase of 20.76% after 5 months of striking. Another example is the one, in the same year, of the cleaning workers of the courts and police stations of the province of Gipuzkoa, who managed to reduce the pay gap by 70% in comparison to the cleaning workers in the street after 280 days of strike. The cleaning workers of police stations, prisons, and courts, a majority of whom women, often they have to clean under poor and unsanitary conditions (including contact with blood, vomit, feces, etc.) and these factors were not considered in their jobs and pay. ELA has also other experiences with cleaning workers of different Basque municipalities regional governments, the Guggenheim Museum in Bilbao, etc.¹⁴⁶

¹⁴² To illustrate, since 2016, UGT develops the nation-wide campaign #Iworkforfree (“#YoTrabajoGratis”) from 18 November to the end of year to make visible the gender pay gap and the days in which women workers in Spain are “working for free”: for 2021; for 2020, [Las mujeres han finalizado el 2020 trabajando 51 días gratis | UGT](#); [Las mujeres cobran de media al año 5.726,30 euros menos que los hombres | UGT](#); [Los planes de igualdad y el registro retributivo pueden ayudar a atajar la discriminación en los salarios | UGT](#); for 2019; for 2017; and for 2016. The campaigns have also helped increase awareness of the issue internally.

¹⁴³ Currently, many of the training related to gender equality are being focused on the mentioned Royal Decrees 901 and 902/2020. To illustrate, as part of the efforts to get to know the new legislative measures, CCOO published in October 2020 a report explaining the key elements of the mentioned RD 901 and 902/2020, untitled: “Two new tools to keep advancing on equality policies in the labour field”: <https://www.ccoo.es/fc79f2a8de-05be865b1cebea200cc3a7000001.pdf>. It also published in April 2021 a guide specifically on the RD 901/2020: <https://www.ccoo.es/784a548d0cc314fd69c-d6290a45dac24000001.pdf>.

¹⁴⁴ For example, UGT has published an annual report on the gender pay gap for 17 years already. The gender pay gap report has a good reputation and it is often consulted by Government and other stakeholders, and also covered in the media, including in regional or provincial media, because the report analyses and compares the gender pay gap of the different provinces of Spain, among other aspects of the issue.

¹⁴⁵ See good practices' tables below for more information.

¹⁴⁶ Also, a group of cleaning workers of the public University of the Basque Country, under the motto “Same work, equal salary!” has denounced the 13% of pay gap they suffer. More information on the strategy behind these strikes can be found in the good practices' tables below.



In the care sector, CCOO has also won important cases before courts very recently (June 2022). The National High Court agreed with the trade union and sentenced that the salaries had to increase by 6,5% -in compliance with the Seventh Collective Agreement signed alone by this union- for workers in the Care for Dependency sector (day centres, residences, telecare, and home help). It also imposed a penalty of 1,000 € for reckless procedural conduct on each of the employers¹⁴⁷. Similarly, the regional Court of Public Procurement of Galicia agreed with CCOO and, indicated that “the municipalities must guarantee the salary increase of 6.5% for this year in the tenders of the Home Care Service”¹⁴⁸.

One of the biggest barriers regarding equal pay is **employers’ resistance** -employers often provide insufficient or incorrect data and use the excuse of data protection. Trade unions are sometimes forced to report these actions to the Labour inspectorate. However, the **Labour inspectorate is overworked** and there are **no sufficient inspectors** to effectively monitor employers’ compliance with their obligations. Additionally, although the Law provides for sanctions for non-compliance, to some employers it is easier to pay the fine or penalty than to comply with the obligation. In contrast, **some beneficial contextual factors** have helped the current advances on the issue of equal pay in Spain: the reinforcement of the feminist movement¹⁴⁹ and the active and functioning dialogue with the current government¹⁵⁰.

Conclusions

In conclusion, there have been some beneficial contextual factors that have helped the current advances on the issue of equal pay in Spain. The new legal framework on equal pay has reinforced employers’ obligations and strengthened trade unions’ bargaining position -especially with companies’ gender equality plans. These plans can be useful tools to advance gender equality, including equal pay. The neutral assessment of jobs **has been placed at the centre** of the new legal framework. However, it is still soon to know the effectiveness of the measures. Improving monitoring mechanisms and non-compliance sanctions are some of the areas where regulations could be improved. In Spain, equal pay for work of equal value is often **considered in collective agreement clauses**. Spanish trade unions consider that those provisions are key to keep fighting for equal pay, as they often serve as a starting point for discussions on equal pay, the neutral assessment of jobs, and the gender pay gap overall.

¹⁴⁷ The sentence can be consulted in the following link [22-08-2022]: <https://sanidad.ccoo.es/57fdb0eb31dca729e39081d399fd5457000058.pdf>

¹⁴⁸ More information about the successful case law [22-08-2022]: https://habitat.ccoo.es/noticia:629655--El_Tribunal_de_Contratacion_da_la_razon_a_CCOO_los_ayuntamientos_deben_garantizar_el_incremento_salarial_de_l_6_5_en_el_SAD&opc_id=bac2a2160410262027f085a3a03f5c40

¹⁴⁹ In Spain, the feminist movement, including supportive trade unions, organised in 2018 and 2019, two historical general women workers’ strikes on the 8th of March.

¹⁵⁰ Since 7 January 2020, the Spanish government is formed by the coalition of the socialist party and leftist party UP.

Good practices**GOOD PRACTICE 1****Cross-sectoral****Type of good practice:** Tool**Signatories:** social dialogue: trade unions (UGT & CCOO), Spanish government, employers' organisations**Date:** 2021, 2022**Key elements:**

- In the framework of the social dialogue, stakeholders have agreed on different tools to help equal pay: 1) pay registry tool; 2) tool to assess jobs neutrally. These have been developed to facilitate the implementation of the RDs 901 and 902.
- The tool to record and systematise a company's data on pay serves to identify pay inequalities in a company. The main tool is an Excel file, but other documents accompany it: 1) guide on how to use the tool; 2) excel file with an example; 3) document on FAQ on pay and the tool¹⁵¹.
- The tool to evaluate jobs neutrally has been adopted recently (April 2022)¹⁵². It focuses more thoroughly on the dimension of work of equal value:
 - It is a necessary step to carry out the salary audit of companies that have equality plans. The gender-sensitive job evaluation procedure makes it possible to make an objective estimate of the requirements for each job in the company on the basis of the content of the job they perform.
 - This tool becomes a key tool at the negotiating committees of gender equality plans and it may serve as a basis for collective bargaining commissions in the formulation of wage scales.
 - The trade union organisations are launching a training campaign on this tool for all those who take part in the negotiating tables, with a view to encouraging the use of the tool and making progress in improving the appraisal of jobs, which is expected to help close the wage gap.

¹⁵¹ The tool and the complementary documents: <https://www.igualdadenlaempresa.es/asesoramiento/herramientas-igualdad/home.htm>

¹⁵² It is accessible online at the website of the Work Ministry. The job assessment tool is composed by a "user guide" document and an "excel sheet": https://www.mites.gob.es/es/portada/herramienta_valoracion_puesto/index.htm

GOOD PRACTICE 2**Sector:** Services (cleaning and other feminised sectors)**Type of good practice:** collective bargaining & strike**Signatories:** ELA**Date: since** 2018**Key elements:**

- ELA's strategy on collective bargaining in some feminised sectors and professions, such as cleaning, has been to set a red line on collective bargaining with regards to wages.
- The trade union has taken the equalisation of (all) cleaning employees' remuneration as the priority in their collective bargaining, and thus, in some cases, it has supported strikes, where equal pay for equal work and work of equal value has been finally achieved¹⁵³.
- The efforts to achieve all cleaning employees' equal pay arose after realising that the cleaning employees working outside (i.e., streets; windows; majority of men) base-salary was higher than cleaning employees working inside (i.e., buildings and premises; majority of women). They identified a difference of ≈28% in the base salary.
- The characteristics found in feminised jobs lead ELA to change the approaches in collective bargaining and to carry out diagnoses that take gender bias into account. An important part of the strategy has been framed by the fact that the feminised sectors are characterized by the enormous dispersion of workplaces. The workforce is completely atomised, and this has forced ELA to establish different organizational forms that go beyond the typical trade union section (sección sindical) characteristic of masculinised environments. They have created teams of delegates who make constant visits to work centres.
- For the strikes on the cleaning sector, the strategy has been built taking as reference a regional collective agreement on a masculinised sector that has equal value functions: street cleaning in Gipuzkoa. The gap is of 8,000 euros when compared the feminised sector of cleaning buildings and premises and the masculinised sector of cleaning in the street (and removing the bonuses for working outdoors). The functions, qualifications, physical efforts, etc. are identical.
- After setting the reference point, ELA has worked with the cleaning workers of workplaces, where they have helped with important awareness-raising, empowerment, and organizational processes. ELA saw that by negotiating the elimination of the gender pay gap in the sectoral level bargaining committee they were not going to be taken seriously and/or they would not advance, and for that reason, they decided to push from the bottom-up and set a strategy of putting spotlights in workplaces. The strategy serves to empower workers (who usually feel undervalued, and their work is made invisible), demonstrate that eliminating the gender pay gap is possible and change the dynamics of negotiation of the sectoral committees. The issue is that these are not 2% or 15 euros per month age increases, but these are demands that go beyond what has been the "traditional" in bargaining. An important aspect in the cleaning sector is the prevalence of part-time contracts -which are a source of precariousness- and this has also been negotiated in each workplace.
- ELA has adapted the characteristics of these conflicts and the way mobilizations are done to a format that is different from the ones that are usually done in industrial (and masculinised) contexts because women workers usually choose to do other kinds of protests where they feel more comfortable. Often, these are more "visual", creative, and "friendly". For example, they have set up "protest karaokes" and shows, have recorded videos, or even made a "tourist route of the spots of precariousness". Strikes are very hard, but the empowering process of women workers, in the experience of ELA, has been crucial. Often, it is a question of dignity for them.
- ELA has found a recurring pressure from all political parties and the public administration to bargain only at the sectoral level and not in the workplace, and that "pressure" and "questioning" of their strategies do not happen when they bargain in the industry (masculinised) sector, for example, where there are many companies and workplace agreements.
- The several strikes supported by ELA have led to a proposal by the employers in the negotiation of the provincial agreement of the region of Bizkaia, but it is still insufficient. Their objective, as they have themselves told ELA at the bargaining committee, is to deactivate the mentioned strategy. The success of the strikes has led to achieving changing collective agreements. However, employers resist mentioning "gender pay gap" or equal pay for work of equal value in the negotiated clauses that increase wages and achieve equal pay. Employers' organisations strongly recommend companies not accept any terminology related to the pay gap.

¹⁵³ Information on some of the conflicts and strikes, hyperlinked: municipality of [Elorrio](#); [Guggenheim Museum Bilbao](#), other [1](#), [2](#), [3](#).

GOOD PRACTICE 3**Sector:** Fishery**Type of good practice:** Campaign & research**Signatories:** CCOO**Date:** 2020**Key elements:**

- Under the campaign #FishRights (“#PescarDerechos”), CCOO has published a series of studies, infographics, and other documents on the situation of the fish sector in Spain¹⁵⁴.
- One of the published research studies focuses on evaluating the general undervaluation of the jobs in the fish sector and the pay of the jobs that are carried out mostly by women in that sector. It analyses the issue of equal pay for work of equal value within the fish sector expressly¹⁵⁵.

GOOD PRACTICE 4**Sector:** Examples of various sectors**Type of good practice:** Collective bargaining clauses**Signatories:** CCOO, UGT**Date:** 2018, 2021**Key elements:**

- “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).
- “In order to effectively contribute to the application of the principle of non-discrimination and its development under equal working conditions for jobs of equal value, it is necessary to develop positive actions, particularly in hiring conditions, salaries, training, [...]” (Article 18 of the national sectorial collective agreement of the chemical industry). And article 115 refers to the evaluation of jobs and pay, stating that the classification of professional groups that are provided in the collective agreement have been developed considering “the correct application of the principle of equal pay for work of equal value”.

GOOD PRACTICE 5**Sector:** Social action and intervention**Type of good practice:** collective bargaining, agreement**Signatories:** CCOO**Date:** 2022**Key elements:**

- II State Collective Agreement on Social Action and Intervention 2022-2024.
- Minimum wage increase of 9.5% over the next four years.
- Adaptation to the sector of the procurement modalities provided for in RD 32/2021.
- Adaptation and improvement of current regulations on maternity, paternity and care of minors.
- Update and improvements to the guard add-on.

¹⁵⁴ https://industria.ccoo.es/noticia:521032--Manos_a_la_obra_con_#PescarDerechos_Denunciar_luchar_y_presionar_para_acabar_con_la_precariedad_y_la_discriminacion_en_la_industria_del_pescado&opc_id=14d9a05d1dad008126cf50f5898eb5a4. A key report published in the framework of the campaign is the “Socio-economic report: fight against precariousness, inequality and discrimination in the fish industry”.

¹⁵⁵ In the study “Neutral assessment of jobs in the fish industry”. Full study and the executive summary, respectively: <https://www.ccoo.es/5991369b-b8181601cdaa87687cfef3d5000001.pdf> ; <https://www.ccoo.es/7d23b6e322064b895f18712e64513a2e000001.pdf>

5.11

UNITED KINGDOM

Introduction

The Global Gender Gap Report of the World Economic Forum of 2021 places the United Kingdom on rank 23 of the 158 countries that make up the report (World Economic Forum, 2021). As regards wage equality in particular, the UK falls back to rank 75, with a gender pay gap of 15.5% and a collective bargaining coverage of 26.9% in 2019 (Office for National Statistics, 2019).

Pay Transparency has been an essential component of the public debate around fair pay, including equal pay for work of equal value. Moreover, trade unions have been major drivers to achieve fairer pay in the United Kingdom. They have successfully lobbied for more pay transparency and used collective bargaining to ensure, for example, gender-neutral job evaluation schemes. They have also collected relevant data, provided training for negotiators, and published helpful toolkits. In this context, the legally mandated reporting requirement of companies of 2017 should have been helpful in achieving fairer pay for women. However, over the last years and in light of the pandemic, the legally mandated annual reporting requirement about fair pay has been delayed, signalling “for organisations that gender equality and fair pay may be left aside during a global crisis” (Grabae and Platen, 2022).

State of play with equal pay and legislation

Equal pay legislation has enabled trade union to pursue many equal value legal cases over the years. In 2017, the mandatory gender pay gap reporting legislation came into force. Employers with at least 250 employees are now required to publish a gender pay gap report using gender-related pay data¹⁵⁶.

The first Equal Pay Act was introduced in 1970 following a memorable strike led by female workers at the Ford factory in Dagenham in 1968. The 187 sewing machinists went on strike to get a regrading of their jobs, which had been under-evaluated as a new wage structure was being introduced in 1967.

The employers in question must now annually publish specific information about the gender pay gap: (1) the difference in mean and median hourly rates of pay for male and female employees; (2) the difference between the mean and median bonuses paid to male and female employees over the 12-month period ending 5 April and the proportion of male and female employees receiving a bonus in that period; and (3) the proportions of male and female employees in each of four pay quartiles of the employer’s overall pay distribution. Employers may (but are not obliged to) also publish a narrative explaining any pay gaps/disparities and any action/plans they have to address them. The legislation is supported by guidance from ACAS (the Advisory, Conciliation and Arbitration Service).¹⁵⁷

The UK legislation specifically distinguishes between the right to equal pay for (i) like work, (ii) work rated as equivalent under an employer-initiated job evaluation scheme; and (iii) work of equal value¹⁵⁸. It specifies that value must be determined by reference to factors such as effort, skill and decision-making. Detailed guidance is provided by the Equality and Human Rights Commission (EHRC) on the application of the principle of equal value.¹⁵⁹ Although it is not mandatory, the EHRC strongly recommends that employers undertake an **equal pay audit**, which involves comparing the pay of different groups doing work of equal value, investigating the cause of any pay gaps by gender, ethnicity, disability, or working patterns; and putting in motion steps to close any pay gaps that cannot be justified on grounds other than the protected characteristics. The obligation to report applies to each separate company (based on the number of employees in that company) rather than the group as a whole.

¹⁵⁶ The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017, UK Statutory Instruments, 2017 No. 353.

¹⁵⁷ For more information, see: <https://gender-pay-gap.services.gov.uk>

¹⁵⁸ UK Equality Act 2010, ss 64 – 80.

¹⁵⁹ <http://www.equalityhumanrights.com/advice-and-guidance/tools-equal-pay/equal-pay-audit-toolkit/carrying-out-an-equal-pay-audit/>, accessed 13 Mar 2013

Finally, the Gender pay gap reports have to be made available on a company's website (alongside a written statement signed by a director) for three years as well as on a designated government website. The Government Equalities Office and ACAS have published joint guidance on the rules¹⁶⁰.

Collective Bargaining and equal pay

Most collective bargaining arrangements in the UK are voluntary. Collective bargaining is only possible where an employer recognises a trade union and between them, they decide on the scope of negotiations. But the law also allows unions to make even hostile employers recognise them if enough workers become union members and support union recognition. This is known as 'statutory recognition' (TUC, 2022).

Within this context and despite considerable obstacles, trade unions in the UK have made great headways regarding collective bargaining for equality and in particular addressing the issue of equal pay for work of equal value through collective agreements as well as class court action. UNISON, the public service union, sees collective bargaining as the best way to deliver equal pay to all workers. Although court cases have also helped trade unions to push for further measures regarding equal pay for work of equal value (Guillaume, 2015). Taking equal pay cases alone, so the union, will not solve the gender pay gap. While they may benefit the individuals who have lodged the equal pay complaints, they do not challenge the underlying causes of the gender pay gaps. On the other hand, pay and grading reviews establish where all jobs fit in a structure (UNISON, 2018). Trade unions such as UNISON, GMB and UNITE have successfully negotiated job evaluation schemes (JES) following the process each step of the way so as to ensure that the schemes are non-discriminatory.

However, these unions are also aware that job evaluation schemes can have a negative impact on gender equality and equal pay for work of equal value: "The factors to be used will need to take account of the full range of job demands that are important elements in all the posts, including those traditionally undertaken by women. In particular, there needs to be a careful consideration of how some factors are weighted so that they do not unfairly give higher scores to certain factors, such as physical strength, that may be part of jobs traditionally undertaken by men, as opposed to other factors such as interpersonal skills or finger dexterity, that may be skills in jobs traditionally carried out by women" (Unison, 2021).

The Equality and Human Rights Commission (EHRC) identifies "five main areas where job evaluations can be susceptible to gender bias. These are the choice of job factors and whether they reflect all the work being evaluated, and the potential discriminatory nature of job factor definitions, levels, weighting, and scoring. Addressing these five risks will help to ensure your job evaluation is gender neutral."¹⁶¹

Social partners' good practices on equal pay

Employers' pay reporting or providing information in the course of negotiations in supermarkets, in banking and finance, have been beneficial in negotiating pay parity. But major advances have made in the public sector, notably the National Health Service due to pressure from the trade unions.

The National Health Service (NHS) Agenda for Change pay system incorporates equal pay for work of equal value¹⁶²; as does the NJC for Local Government Services (England, Wales and Northern Ireland) which covers the largest group of employees for collective bargaining purposes in the UK economy and possibly Europe¹⁶³.

Agenda for Change (AfC) is the current National Health Service (NHS) grading and pay system for the staff of the NHS, with the exception of certain professions, e.g., doctors, dentists, and some senior managers. It was implemented in 2004, following agreement between the unions, employers and governments involved. Its reach is enormous covering more than one million health workers and superseded more than 20 collective agreements. It provides for a single bargaining system. It also introduced a single pay spine which covers all wages within

¹⁶⁰ For more information, see: <https://www.acas.org.uk/job-evaluation-considerations-and-risks-advice-booklet>

¹⁶¹ www.equalityhumanrights.com/en/advice-and-guidance/jobevaluation-schemes also the UNISON guidance: 'Keeping pay equal: trade union side guide to local government pay and grading reviews, 2017 Edition.

¹⁶² For more information, see: <https://www.nhsemployers.org/topics-networks/pay-pensions-and-reward/nhs-terms-and-conditions-service-agenda-change>

¹⁶³ For more information, see: <https://www.local.gov.uk/local-government-terms-and-conditions-green-book>

the organisation from the lowest entry-level salary through to senior managerial or executive levels. **Due to the pressure from UNISON included a gender-neutral job evaluation scheme, “leading to significant pay rises for low paid workers who were predominantly women”** (EPSU, 2021).

Unions in the UK are working hard on many fronts to advance on equal pay and equal pay for work of equal value¹⁶⁴. The TUC, with a 58 per cent majority of women members, equalling three million women, is an important driver in addressing the gender pay gap.

Unions and confederations like the TUC are training negotiators to understand and promote equal pay and equal pay for work of equal value. As the developments of gender-neutral job-classification schemes often-times require specific expertise, unions such as UNISON have supported negotiators with training and information. Developing a gender lens and applying it in negotiations is an important step to successfully address discriminatory practices or to give value to skills which are usually relegated to female jobs and need revaluation. The unions’ engagement around these issues is paramount; it is also paramount that unions lead, sit at the table, and monitor the implementation of such schemes.

Social Partners have developed toolkits and websites to inform about equal pay issues¹⁶⁵. **UNITE Education**, the national pay campaign (Unite The Union, 2008) includes action to close gender and racial pay gaps. Also, **a joint unions’ survey on gender pay gap** has been finalised and regional seminars are being organised to disseminate the results of the survey and to encourage joint union working at institution level.

UNISON reported that closing the gender pay gap is a demand in pay claims across all of the sectors where UNISON bargains. A national campaign, “Bridge the GAP” to close the gender pay gap supports bargaining activity.

“Millwall football club pay men 80% more than women. While female staff at Ryanair take home 72% less than their male colleagues. And in the UK, on average, men earn 18% more than women*.” (Bridge the GAP campaign).

Additionally, they have a number of ‘trailblazer’ sites where local branches are working on action plans to close the gender pay gap with employers. UNISON plans to use the learning from these sites to improve negotiating guidance about and organising around the gender pay gap.

UNITE Construction has succeeded to get support for equal pay for all in construction jobs across the sector. This includes an agreement to receive the annual pay review which includes information about race, gender, and age. Such information can highlight the discrimination around pay system including performance related to pay as well as grading.

“Historic actions by our members such as the Ford women machinists strike which led to the introduction of the Equal pay Act 1970, the speech therapists case which led to Agenda for Change in the NHS and Trico strike that contributed to pressure for the Equal Pay Act 1970 to be amended in 1983 to include equal pay for work of equal value, show that both employers and workers will benefit from non-discriminatory pay systems.” (UNITE, 2022).

NASUWT, the National Teachers’ Union, has campaigned for all schools to be covered by the Gender Pay Gap Reporting Regulations. NASUWT has also campaigned for the lifting of the pay cap for short-term supply teachers in Scotland which was in place from 2011 to 2017. This overwhelmingly benefits women who wish to work flexibly. (ETUCE, 2019).

¹⁶⁴ A comprehensive resource about union activities on equal pay in the UK can be found on: <https://www.equalpayportal.co.uk/unions/>

¹⁶⁵ Equality and Diversity forum in the National Health Service which is a joint employer and Staff Side Forum launched the Equal pay toolkit to monitor gender equal pay among NHS employers.

Finally, the TUC and its affiliates have made it their task to extend the pay gap reporting to disability and ethnicity and push for the introduction of mandatory action plans. They consider this approach as essential in not just tackling pay gaps but also equal pay in general as it would require employers to take an intersectional approach and set out how they are going to close their gaps which would in most circumstances mean reviewing practices that lead to unequal pay and looking doing equal pay audits and job evaluations.

Conclusions

UK trade unions have made major advances towards closing the gender pay gap using various means to achieve that. Litigation has helped to raise the pay of millions of women in the UK. However, there are also formidable obstacles starting with employers' denial that there is a pay gap at all as well as the lack of information about it. Employers' ignorance makes it particularly difficult for trade unions to spot and remedy equal pay and equal pay for work of equal value.

Given the current political and financial issues that the United Kingdom is grappling with such as BREXIT and the Covid pandemic, the implementation of collective agreements and their monitoring are also difficult tasks for the trade unions. What is more, the lack of benchmarks and sanctions in case of non-compliance of companies, is a major obstacle to promoting equal pay for work of equal value.

Good practices

GOOD PRACTICE 1

Sector: Public Sector

Type of good practice: collective agreement

Date: 9 May 2018

Signatories: UNISON, GMB and UNITE (Trade Unions); NJC (Employer)

- The collective agreement is called "National joint council for local government services national agreement on pay and conditions of service".
 - The National Joint Council (NJC) represents local authorities in England, Wales and Northern Ireland and their employees (other than those for whom there are alternative arrangements) and other authorities of equivalent status.
 - Pay, grading and conditions of service negotiations at both national and local level, should seek to ensure consistency, transparency and equality.
 - Evaluate jobs using the same analytical and non-discriminatory method.
 - Use consistent and non-discriminatory criteria for ensuring salaries at appointment are fair.
 - Include pay and grading in the equality monitoring process and reviewing these on a regular basis.
 - Criteria should be non-discriminatory so that comparisons can be made between levels of skills across different job types.
 - Train managers and staff involved in decision-making on pay, grading, appointment, and promotion to be aware of potential direct and indirect discrimination.
 - Ensure that equal pay and equal treatment initiatives are accessible to casual, temporary, full-time and part-time staff.
 - The local authority's pay structure should comply with the Equality Act 2010.
-

GOOD PRACTICE 2**Sector:** Public Sector**Type of good practice:** collective agreement**Date:** March 2007 -updated August 2012 (pay increase)**Signatories:** UNISON, GMB and T&GWU-now UNITE (trade unions), London Borough of Islington (employers)**Key elements:**

- The Agreement “The Single Status Agreement: London Borough of Islington”¹⁶⁶ will apply only to employees covered by the National Joint Council for Local Government Services (Green Book) who are affected by the changes to pay and conditions resulting from the Single Status Agreement.
- Recognition of the importance of equal pay for like work and work of equal value.
- In order to ensure equality and fairness and also compliance with equal pay/value legislation, the tasks and responsibilities previously associated with bonus schemes / allowances will be taken account of in the job evaluation process.
- The council is committed to undertaking an Equal Pay Audit every two years to ensure that all arrangements for pay and remuneration are equitable and non-discriminatory.
- The scheme has been designed to incorporate the principle of equal pay for work of equal value. The factor plan and weightings aim to be free from gender bias and discrimination on the grounds of all characteristics protected under the Equality Act 2010.
- Provincial/associated councils are encouraged to support the use of the scheme by providing training, advice, and guidance as appropriate.
- Local employer and union representatives involved in introducing and applying the scheme will need full initial training and regular refresher training both in applying the scheme and in equality awareness to ensure decisions are free from bias.
- All employees need to know: (1) why the scheme has been devised (2) the principles of equal value and fairness on which it is based (3) the factor plan and weightings (4) how the scheme will be applied.

GOOD PRACTICE 3**Sector:** Public Sector**Type of good practice:** collective agreement**Date:** April 2021**Signatories** UNISON Scotland (trade union); Dunbartonshire & Argyll & Bute Valuation Joint Board (employer).**Key elements:**

- Collective agreement incorporating the new pay and grading structure & terms and conditions of employment¹⁶⁷.
- Any Employee whose job evaluated pay has been assessed below his/her current pay will receive protected payments for a period of three years.
- The implementation of the new pay and grading structure and terms & conditions of employment includes assimilation and salary protection arrangements.
- The VJB acknowledges that nothing in this Collective Agreement will affect any rights and that Employees have under statute, common law, European Law or, in particular, the provisions of employment and discrimination law including the Equal Pay Act 1970, the Sex Discrimination Acts 1975 and 1986 and the Equality Act 2010. 7.
- The VJB also undertakes to review regularly the effect of the agreement once implemented in order to ensure compliance with all relevant legislation.

¹⁶⁶ The text is not yet available.¹⁶⁷ The text is not yet available.



LESSONS LEARNED: OPPORTUNITIES AND OBSTACLES

6

Both **collective bargaining** and **legal minimum wages** tend to reduce the overall level of wage inequality but their actual impact on the gender pay gap may also vary according to the specific institutional context. Men may often appear to benefit more than women from collectively negotiated wages (Hayter and Weinberg, 2011), while “women may suffer more than men under conditions of full deregulation and market or managerial-determined wage setting” (ILO-ACTRAV, 2019).

Despite gains made through collective bargaining, there is no doubt that **legal incentives** are often required. 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” (Cook, Lorwin and Daniels, 2002). In Sweden, for example, 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” (Daniels, 2021)

Guidance and technical assistance for union negotiators are another means that has been used by social partners to incorporate a gender perspective in preparations for pay negotiation, particularly as regards equal pay for work of equal value. An example of this was a joint initiative undertaken in Belgium by experts in the three union confederations and the Government’s Institute on Equality for Women and Men, which led to gender-neutral job evaluation and job classification criteria being agreed to inform collective bargaining with the aim of closing the gender pay gap. According to the ILO, this has been important in equipping negotiators with the relevant knowledge, skills, and data to engage in collective bargaining on this complex issue (ILO, 2021).

The sector-wide implementation of **gender-neutral occupational classification schemes** to correct the undervaluation of female-dominated occupations is a meaningful step towards achieving equal pay for work of equal value. In addition, targeted organizing to boost women’s active trade union membership is a strategy to pursue. The recent strikes for equal pay among cleaning professionals in the Basque Country (Spain) can serve as an example. Some of the characteristics found in feminised sectors – such as the enormous dispersion of workplaces- have led trade unions to change the approaches to collective bargaining. They have used teams of delegates who regularly visit workplaces. Trade union ELA observed that by negotiating the elimination of the gender pay gap in the sectoral level bargaining committee they were not taken seriously and realised that they would not advance on equal pay. For that reason, they decided to push from the bottom-up and set a strategy of starting strikes at company level. The strategy has served to empower workers, demonstrating that eliminating the gender pay gap is possible. In the end, the different organisation and striking strategies have led to a proposal by the employers to negotiate a new regional agreement.

With respect to the public sector, it may be particularly important to regulate outsourcing of public-sector jobs to the private sector in countries where private-sector minimum wages are low. By participating in sectoral bargaining, unions are better able to address the gender pay gap on a wider scale, progressing more quickly to eliminating that disparity (Green, 2021).

Pay transparency is an important policy to achieving fair pay. A transparent pay system is “one where employees understand not only their rate of pay but also the components of their individual pay packets. A transparent pay system avoids uncertainty, perceptions of unfairness and reduces the possibility of individual claims” (UK EHRC, 2016).

Pay transparency is mainly achieved through good pay data. Good pay data includes all information on all aspects of pay, including any fringe benefits and performance bonuses. In some countries, like Austria, Belgium,

France Iceland and others, 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.

Yet, transparency can have very different forms and it cannot stand alone. Transparency without guidance on what to analyse, on how to publish and compare data, and most importantly without sanctions or immediate legal consequences in case of noncompliance will not drive pay gaps down. In this context, trade unions' rights to receive information for each category of pay and to be involved in determining how the pay gap is measured need to be ensured as well as an obligation for employers to negotiate a plan to close the gender pay gap (ETUC, 2021).

In terms of obstacles, although **collective bargaining** has the potential to close gender wage gaps, certain factors hinder this potential for women in non-standard employment (part-time and temporary work). According to the OECD, "for women in non-standard jobs, the equalising potential of collective bargaining is hindered by three factors: 1) the fact that some bargaining systems do not allow using catchup raises in low-paid, female-dominated sectors; 2) negotiators' limited use of the bargaining tools; and 3) the limited bargaining coverage of women in non-standard jobs" (OECD, 2020).

Lack of awareness and knowledge concerning the concept of equal pay for work of equal value is another obstacle that trade unions face when negotiating collective agreements. The modification of remuneration systems is dependent on not only accessible know-how on how to improve evaluation systems in a gender sensitive way, but also combating the existing resistance of employers, employers' associations while making the case to place the issue high on the bargaining agenda internally.

There is room for improvement as to sustaining a coordinated sector approach to safeguards against maintaining gender pay differences, including between public and private sectors and between female and male dominated jobs and sectors. Tackling the gender pay gap by addressing equal pay for work of equal value cross-sectoral will remain a particular challenge for trade unions in Europe and beyond.



CONCLUSIONS

7

Collective bargaining has both macro and micro level impacts on the gender pay gap. At the macro level, research suggests that social dialogue and collective bargaining are most likely to promote inclusive employment systems that are beneficial to gender equality where the bargaining is coordinated and conducted at a national or sectoral level (OECD, 2021).

At the more micro level, collective bargaining can reduce managerial discretion in pay practices. With regard to specific gender equality measures, collective bargaining can be a mechanism to promote more gender friendly policies whether via working time arrangements or gender-sensitive pay and grading systems, or as the choice may be, negotiating higher wages for female-dominated sectors.

Strong legal frameworks supporting gender equality and equal pay are key to ensuring fair pay while inclusive labour markets are indispensable for successful equality bargaining:

“Despite scepticism towards legal interventions in some European countries with strong traditions of autonomous collective regulation, there is a clear need for policy action to be underpinned by legal rights. Specific types of legal intervention may also provide a framework or a catalyst for widening the agenda for collective bargaining. However, legal principles can also be more effectively enforced when implemented through and monitored by collective bargaining” (Koukiadaki, 2018, 120).

As this study has shown, there are some important trade union initiatives to counteract low pay in occupations in which women predominate and collective agreements that address job evaluation and job classification systems with a view to addressing equal pay for work of equal value.

However, trade unions’ uptake of the issue of equal pay for work of equal value is still underway. It is only in recent years and oftentimes due to the pressure by women in the trade unions or Women’s Committees that the issue has been taken up seriously. Where it has been taken up seriously as in the case of the public sector unions in the UK, great gains have been made for women workers. But the UK also shows the diversity of the different national systems, and their customs require tailor-made approaches.

Moreover, there is limited knowledge and use of EU or Member State equal pay legislation or EU initiatives intended to promote it. Hence, existing tools are not being fully utilised as the example of the German eg-check has shown or the French equality index. These could be important tools for trade unions to use in the context of collective bargaining. Attempts to establish equal pay for work of equal value in the context of budget cuts can lead to a ‘levelling down’ of men’s pay, rather than ‘levelling up’ of women’s pay, which has shown to lead to great controversy as the case of the Danish nurses shows.

It has become clear over the course of this study that in many countries, such as in Spain, constitutional principles of non-discrimination or equality exist and serve as the basis for constitutional court rulings in labour law or, more generally, of discriminatory behaviour. The equal pay principle is sometimes anchored in the employment legislation too (as in France and Spain), and in certain acts designed to implement EU equality directives (as in Denmark), or even in collective agreements, the legal status of which varies from country to country (as in France, where collective agreements are legally enforced among contracting parties). Not only do national laws differ, but also in the way the concept of ‘equal pay for work of equal value’ has been defined. In this respect, Iceland stands out as the nation with the most detailed definitions. Icelandic legislation specifies the extent to which (in)direct gender-based pay discrimination is prohibited; the specific indicators to evaluate such claims; what parameters have been laid down for establishing the equal value of the work and what justifications for pay differences are allowed; and the authorities allowed to enforce it.

Evaluating jobs based on gender-neutral criteria allows us to address the gender pay gap as a systemic issue, often tied to assumptions and stereotypes about the value of jobs that are “typically” seen as “women’s work”. It highlights the fact that women are often concentrated in sectors that are under-valued – such as care work – even though they involve high levels of responsibility and effort, and multiple specialized skills. Objective job evaluations can also positively impact other groups that often experience discrimination, such as migrants and refugees, people with disabilities, indigenous peoples and LGBTI people.

France and Iceland demonstrate how to trigger change through strict legal guidelines and clear sanctions when companies fail to follow the provisions. The European Commission has published a draft directive in March 2021. The committees in the European Parliament sharpened this approach and drove very actively the discussion on pay and intersectionality. Following this attempt, the European Union now has the means at hand to position itself at the global forefront of fair pay and equal opportunities. Knowing that debates in the European Council can be tough on matters of equality, as being demonstrated in past years, the Commission and Parliament should close their ranks and build a strong alliance contemplating the founding values of fair pay.

Creating fair pay systems including equal pay for work of equal value benefits everyone – not only women. Fair and transparent pay systems also have a major impact on corporate cultures. Especially the COVID-19 pandemic has shed a light on the fact that women-dominated jobs are highly under-valued and underpaid. Instruments to assess the value of work at national or higher levels are ready at hand – they just must be utilized to transform the world of work. If we miss this chance, the momentum will be lost as the nature of work continues to change rapidly.



RECOMMENDATIONS

8

A concerted **multi-level action** to close the gender pay gap is suggested to be an essential part of strategies for trade unions renewal in the changing employment landscape. Similarly, tackling the gender pay gap and particularly the issue of equal pay for work of equal value requires a **multi-pronged approach** framed by strong legislation. Beyond law, specific gender policies are necessary to set the frame for equal pay negotiations and the gender pay gap must be seen in the broader context of inequalities in the labour market and society.

Collective bargaining plays a key role in framing the equal pay for work of equal value as a gender equality issue and then addressing the nature of the pay discrimination, which may include newly designed job evaluation schemes, training negotiators and monitoring progress and ensuring redress if needed.

A carefully designed job evaluation scheme, if agreed with the trade union(s), and subsequently used by a properly trained panel, which should include trade union representatives, can help provide a basis for a fair pay system. However, it should be noted that job evaluation is only a tool for putting jobs into an overall rank order. It is a means to achieve a new grading and pay structures. An effective job evaluation scheme should be designed to be transparent, systematic and consistent. But any scheme also needs commitment from the employer, not only for time and resources, but to properly implement the outcomes of job evaluation exercises such as the re-grading of job roles.

It is key to promote inclusive labour markets generally. Trade unions should engage actively in lobbying for transparency and reporting requirements on pay. Also, trade unions may also be active in campaigning for measures to raise low pay or extend employment standards and legal rights. Minimum wages benefit all low paid workers. Since women are starkly overrepresented in low paid work, it would usually benefit women more dramatically. Trade unions should, however, develop specific campaigns on gender equality and equal pay, and mainstreaming gender through their projects and diverse campaigns, including when these focus on specific sectors. In this regard, reinforcing trade union's sensitivity towards gender equality and equal pay, focusing particularly on equal pay for work of equal value is important.

Without a clear set of remedies and sanctions, the drive for change will not be institutionalized. Without consequences in cases of non-compliance, employers will discover that breaking the rules is too easy. Trade unions should pressure for monitoring mechanisms and non-compliance sanctions.

To effectively tackle the gender pay gap, it is essential to discuss pay inequality across different sectors and occupations, as well as within them. The fact that collective agreements are negotiated separately for different sectors and/or for different employee groups contributes to maintaining gender pay differences. The labour market remains segregated by sex and gender horizontal (and vertical) segregation is a key piece in the persistence of the gender pay gap. Thus, cross-sectoral dialogues and discussions by trade unions are going to be key in achieving equal pay for work of equal value. These cross-sectoral actions could include collective bargaining in new and creative ways, but these are still to be explored.

Recommendations for social partners:

Specific actions towards a collective agreement supporting equal pay for work of equal value, can include the following:

- Conduct a pay audit, including starting salaries.
- Assess and evaluate the job classification systems whether they are gender neutral.
- Include and ensure the criteria for rewarding performance are clearly defined, achievable and fair, for example adjusting for part-time workers.
- Link performance to a quantifiable, objective target such as sales.
- Develop gender-neutral/gender-sensitive job classification schemes.
- Include part-time and outsourcing limits or prohibitions in collective agreements.
- Bargain for integrating collective agreement clauses referring to the respect or compliance with the right to equal pay for equal value.
- Involve women in the negotiation process; ideally there should be at least 50 per cent women in any negotiation team – on both sides.
- Ensure that hiring and promotions are fair.
- Make sure women have equal opportunities for advancement.
- Provide gender equality expert support in the negotiations.
- Monitor the implementation of the collective agreement.
- Provide redress in case of non-compliance.
- Take internal actions – promote equality bargaining.

LIST OF ABBREVIATIONS

CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CJEU	Court of Justice of the European Union
CLA	Collective Labour Agreement
EC	European Commission
ECSR	European Committee of Social Rights
EIGE	European Institute for Gender Equality
ETUC	European Trade Union Confederation
ETUCE	European Trade Union Committee for Education
ETUI	European Trade Union Institute
EPIC	Equal Pay International Coalition
EU	European Union
ILO	International Labour Organization
SME	Small and Medium Enterprises
STEM	Science, Technology, Engineering and Mathematics
TCLF	Textile, Clothing, Leather, and Footwear
TFEU	Treaty of Functioning of the European Union
OECD	Organisation for Economic Co-operation and Development

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¹⁶⁸ These include official and unofficial translations of pieces of legislation.

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