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l'Union européenne

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8242/22

**Dossier interinstitutionnel:
2021/0050(COD)**

**SOC 223
EMPL 136
GENDER 31
ANTIDISCRIM 18**

NOTE

Origine:	la présidence
Destinataire:	délégations
Objet:	Proposition de DIRECTIVE DU PARLEMENT EUROPÉEN ET DU CONSEIL visant à renforcer l'application du principe de l'égalité des rémunérations entre hommes et femmes pour un même travail ou un travail de même valeur par la transparence des rémunérations et les mécanismes d'exécution

Les délégations trouveront ci-joint le tableau quatre colonnes relatif à la proposition susmentionnée.

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL 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

2021/0050(COD)

DRAFT [Consolidated version]

19-04-2022 at 17h17

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Formula				
1	2021/0050 (COD)	2021/0050 (COD)	2021/0050 (COD)	
Proposal Title				
2	<p>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL 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</p>	<p>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL 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</p>	<p>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL 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</p>	
Formula				
3	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	
Citation 1				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
4	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 157(3) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 157(3) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 157(3) thereof,	
Citation 2				
5	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	
Citation 3				
6	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	
Citation 4				
7	Having regard to the opinion of the European Economic and Social Committee ¹ , <hr/> 1. OJ C , p.	Having regard to the opinion of the European Economic and Social Committee ¹ , <hr/> 1. OJ C , p.	Having regard to the opinion of the European Economic and Social Committee ¹ , <hr/> 1. OJ C , p.	
Citation 5				
8	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	
Formula				
9				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Whereas:	Whereas:	Whereas:	
Recital -1				
9a		<i>(-1) Article 11 of the United Nations Convention of 18 December 1979 on the Elimination of All Forms of Discrimination against Women (CEDAW) provides 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.</i>		
Recital 1				
10	(1) Articles 2 and 3(3) of the Treaty on European Union enshrine the right to equality between women and men as one of the essential values and tasks of the Union.	(1) Articles 2 and 3(3) of the Treaty on European Union (<i>TEU</i>) enshrine the right to equality between women and men as one of the essential values and tasks of the Union.	(1) Articles 2 and 3(3) of the Treaty on European Union enshrine the right to equality between women and men as one of the essential values and tasks of the Union.	
Recital 2				
11	(2) Articles 8 and 10 of the Treaty on the Functioning of the European Union ('TFEU') provide that the Union shall aim to eliminate inequalities, to promote equality between men and women and to combat discrimination based on sex	(2) Articles 8 and 10 of the Treaty on the Functioning of the European Union ('TFEU') provide that the Union shall aim to eliminate inequalities, to promote equality between men and women and to combat discrimination based on sex,	(2) Articles 8 and 10 of the Treaty on the Functioning of the European Union ('TFEU') provide that the Union shall aim to eliminate inequalities, to promote equality between men and women and to combat discrimination based on sex	

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	in all its activities.	<i>racial or ethnic origin, religion or belief, disability, age or sexual orientation</i> in all its activities.	in all its activities.	
Recital 3				
12	(3) Article 157(1) of the TFEU obliges each Member State to ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.	(3) Article 157(1) of the TFEU obliges each Member State to ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied. <i>Article 157(3) TFEU provides for the adoption of measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value. Article 157(4) TFEU stipulates that Member States may, with a view to ensuring full equality in practice between men and women in working life, maintain or adopt measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.</i>	(3) Article 157(1) of the TFEU obliges each Member State to ensure that the principle of equal pay for male and female workers for equal work or work of equal value (hereinafter principle of equal pay) is applied.	
Recital 3a				

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12a		<p><i>(3a) The terminology used in Article 157 TFEU dates from 1957. Since then, social and legal changes, as well as research in the medical and biological fields have led to the recognition, in the definition of "sex", of diversity in addition to women and men. For example, in some Member States it is currently possible for persons to legally register themselves as having a third, often neutral, gender. The Court of Justice of the European Union (the 'Court') has also held that the principle of equal treatment for men and women cannot be limited to the prohibition of discrimination based on the fact that a person is of one or other sex. In view of the purpose and the nature of the rights which the principle of equal treatment seeks to safeguard, it also applies to discrimination arising from the person's gender identity.</i></p>		
Recital 3b				
12b		<p><i>(3b) This Directive applies a human rights oriented approach that seeks to protect persons from pay discrimination irrespective of their sex, gender, gender identity, gender expression or sex</i></p>		

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		<p><i>characteristics and therefore interprets its legal basis, namely discrimination on the grounds of sex, in the broadest and most inclusive way, in order to foster gender equality and encompass people in all their diversity. Employers should take into account workers that do not identify as either female or male in their pay reporting obligations and should mention them in a category separate from female and male workers. When calculating the gender pay gap, those workers' pay should be compared to the average level of pay of male workers. An employer should only mention workers who do not identify as either female or male in their pay reporting obligations where those workers are legally registered as not identifying as female or male or where that information has been proactively and voluntarily disclosed to the employer.</i></p>		
Recital 3c				
12c		<p><i>(3c) The principle of equal pay laid down in Article 157 TFEU and as consistently interpreted in the case-law of the Court constitutes an important aspect of the principle of equal treatment of men and women</i></p>		

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		<p><i>and an essential part of the Union acquis, including the case-law of the Court concerning sex discrimination. However, closing the gender pay gap remains a significant challenge because, across the Union, women's earnings continue to be proportionately lower than those of men. The Union gender pay gap persists and stood at 14,1 % in 2019, with significant variations across Member States, and has decreased only minimally over the last ten years. The degree of pay discrimination is even larger for women who are subject to intersecting forms of discrimination, based, inter alia, on racial, ethnic or social origin, migration status, religion or belief, sexual orientation or disability. In accordance with the settled case-law of the Court, in order to assess whether workers are performing the same work or work of equal value, it should be determined whether, having regard to a range of factors including qualifications, skills, responsibility and working conditions, those workers may be considered to be in a comparable situation.</i></p>		
Recital 4				

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13	(4) Article 23 of the Charter of Fundamental Rights of the European Union provides that equality between women and men must be ensured in all areas, including employment, work and pay.	(4) Article Articles 21 and 23 of the Charter of Fundamental Rights of the European Union provides (the ‘Charter’) prohibit any discrimination on the grounds of sex, enshrine the right to equal treatment and provide that equality between women and men must be ensured in all areas, including employment, work and pay. Article 23 of the Universal Declaration of Human Rights states that everyone, without any discrimination, has the right to equal pay for equal work, to free choice of employment, to just conditions of work and to just remuneration ensuring an existence worthy of human dignity. Gender equality remains a real challenge in all of those areas, and that challenge has been exacerbated by the crisis arising from the COVID-19 pandemic.	(4) Article 23 of the Charter of Fundamental Rights of the European Union provides that equality between women and men must be ensured in all areas, including employment, work and pay.	
Recital 5				
14	(5) The European Pillar of Social Rights ¹ , jointly proclaimed by the European Parliament, the Council, and the Commission, incorporates among its principles equality of treatment and opportunities between women and men, and the right to equal pay for work of equal value.	(5) The European Pillar of Social Rights ¹ , jointly proclaimed by the European Parliament, the Council, and the Commission, incorporates, in particular in-among its Principles No 2, 3, 5 and 7, the principles of equality of treatment and opportunities between women and	(5) The European Pillar of Social Rights ¹ , jointly proclaimed by the European Parliament, the Council, and the Commission, incorporates among its principles equality of treatment and opportunities between women and men, and the right to equal pay for work of equal value.	

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	<p>1. https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_en</p>	<p>men, <i>regardless of gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation. This includes participation in the labour market, terms and conditions of employment and career progression; and</i> the right to equal pay for work of equal value; <i>the right to fair and equal treatment regarding working conditions and access to social protection and training, regardless of the type and duration of the employment relationship; and the right of workers to be informed in writing at the start of employment about their rights and obligations. Principle 8 provides that the social partners are to be consulted on the design and implementation of economic, employment and social policies according to national practices, and are to be encouraged to negotiate and conclude collective agreements in matters relevant to them, while respecting their autonomy and the right to collective action.</i></p> <p>1. https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_en</p>	<p>1. https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_en</p>	
Recital 6				

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15	<p>(6) Directive 2006/54/EC of the European Parliament and of the Council¹ provides that for the same work or for work of equal value, direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration is to be eliminated. In particular, where a job classification system is used for determining pay, it should be based on the same criteria for both men and women and should be drawn up so as to exclude any discrimination on grounds of sex.</p> <p><small>1. 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 (OJ L 204, 26.7.2006, p. 23).</small></p>	<p>(6) Directive 2006/54/EC of the European Parliament and of the Council¹ provides that for the same work or for work of equal value, direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration is to be eliminated. In particular, where a job classification system is used for determining pay, it should be based on the same criteria for both men and women gender-neutral criteria and should be drawn up so as to exclude any discrimination on grounds of sex.</p> <p><small>1. 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– (OJ L 204, 26.7.2006, p. 23).</small></p>	<p>(6) Directive 2006/54/EC of the European Parliament and of the Council¹ provides that for the same work or for work of equal value, direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration is to be eliminated. In particular, where a job classification system is used for determining pay, it should be based on the same criteria for both men and women and should be drawn up so as to exclude any discrimination on grounds of sex.</p> <p><small>1. 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 (OJ L 204, 26.7.2006, p. 23).</small></p>	
Recital 7				
16	<p>(7) The 2020 evaluation¹ found that the implementation of the equal pay principle is hindered by a lack of transparency in pay systems, a lack of legal certainty on the concept of ‘work of equal value’, and by procedural obstacles faced by victims of discrimination. Workers</p>	<p>(7) <i>The Commission communication of 20 November 2017 setting out the EU Action Plan 2017-2019 on tackling the gender pay gap notes that the pay gap can be explained by a number of different factors, including, in particular, the segregation of the</i></p>	<p>(7) The 2020 evaluation¹ found that the implementation of the equal pay principle is hindered by a lack of transparency in pay systems, a lack of legal certainty on the concept of ‘work of equal value’, and by procedural obstacles faced by victims of discrimination. Workers</p>	

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	<p>lack the necessary information to make a successful equal pay claim and in particular information about the pay levels for categories of workers who perform the same work or work of equal value. The report found that increased transparency would allow revealing gender bias and discrimination in the pay structures of an undertaking or organisation. It would also enable workers, employers and social partners to take appropriate action to enforce the right to equal pay.</p> <p>1. SWD(2020)50. See also the 2013 Report on the implementation of Directive 2006/54/EC to the European Parliament and the Council, COM (2013)861 final.</p>	<p><i>labour market as well as stereotypes fuelled by inadequate work-life balance policies.</i> The 2020 evaluation¹ <i>of the relevant provisions in Directive 2006/54/EC</i> found that the implementation of the <i>principle of equal pay</i> principle is hindered by a lack of transparency in pay systems, a lack of legal certainty on the concept of ‘work of equal value’, and by procedural obstacles faced by victims of discrimination. Workers lack the necessary information to make a successful equal pay claim and in particular information about the pay levels for categories of workers who perform the same work or work of equal value. The report found that increased transparency would allow revealing gender bias and discrimination in the pay structures of an undertaking or organisation. It would also enable workers, employers and social partners to take appropriate action to enforce the right to equal pay <i>for equal work or work of equal value.</i></p> <p>1. SWD(2020)50. See also the 2013 Report on the implementation of Directive 2006/54/EC to the European Parliament and the Council, COM (2013)861 final.</p>	<p>lack the necessary information to make a successful equal pay claim and in particular information about the pay levels for categories of workers who perform the same work or work of equal value. The report found that increased transparency would allow revealing gender bias and discrimination in the pay structures of an undertaking or organisation. It would also enable workers, employers and social partners to take appropriate action to enforce the right to equal pay.</p> <p>1. SWD(2020)50. See also the 2013 Report on the implementation of Directive 2006/54/EC to the European Parliament and the Council, COM (2013)861 final.</p>	
Recital 7a				
16a				

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		<p><i>(7a) Commission Recommendation 2014/124/EU¹ urges Member States to introduce pay transparency measures such as the right to obtain information on pay levels, reporting by companies, pay audits and collective bargaining and, in accordance with the case-law of the Court, to clarify the principle of equal pay for work of equal value in their national law on the basis of objective criteria, such as educational, professional and training requirements, skills, effort and responsibility, work undertaken and the nature of the tasks involved. It sets out a set of core measures to help Member States enhance the principle of equal pay. The Commission report of 20 November 2017 on the implementation of that Recommendation through pay transparency noted that few Member States have adapted their national legal systems to strengthen the principle of equal pay for work of equal value in response to the Recommendation and therefore highlighted the need for further targeted measures at Union level to make pay transparency a reality.</i></p> <p><i>1. Commission Recommendation 2014/124/EU of 7 March 2014 on strengthening the principle of equal pay between men and women through</i></p>		

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		<i>transparency (OJ L 69, 8.3.2014, p. 112).</i>		
Recital 8				
17	<p>(8) Following a thorough evaluation of the existing framework on equal pay for equal work or work of equal value¹ and a wide-ranging and inclusive consultation process², the gender equality strategy 2020-2025³ announced binding measures on pay transparency.</p> <p>1. Evaluation of the relevant provision in Directive 2006/54/EC implementing the Treaty principle on ‘equal pay for equal work or work of equal value’, SWD(2020)50; Report on the implementation of the EU Action Plan 2017-2019 on tackling the gender pay gap, COM(2020)101. 2. https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2020-33490_en 3. Communication from the Commission ‘A Union of Equality: Gender Equality Strategy 2020-2025’ of 5 March 2020, COM(2020)152 final.</p>	<p>(8) Following a thorough evaluation of the existing framework on equal pay for equal work or work of equal value¹ and a wide-ranging and inclusive consultation process², the gender equality strategy 2020-2025³ announced binding measures on pay transparency. <i>Those measures should focus on criteria and assess objectives in order to ensure that they are non-discriminatory.</i></p> <p>1. Evaluation of the relevant provision in Directive 2006/54/EC implementing the Treaty principle on ‘equal pay for equal work or work of equal value’, SWD(2020)50; Report on the implementation of the EU Action Plan 2017-2019 on tackling the gender pay gap, COM(2020)101. 2. https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2020-33490_en 3. Communication from the Commission ‘A Union of Equality: Gender Equality Strategy 2020-2025’ of 5 March 2020, COM(2020)152 final.</p>	<p>(8) Following a thorough evaluation of the existing framework on equal pay for equal work or work of equal value¹ and a wide-ranging and inclusive consultation process², the gender equality strategy 2020-2025³ announced binding measures on pay transparency.</p> <p>1. Evaluation of the relevant provision in Directive 2006/54/EC implementing the Treaty principle on ‘equal pay for equal work or work of equal value’, SWD(2020)50; Report on the implementation of the EU Action Plan 2017-2019 on tackling the gender pay gap, COM(2020)101. 2. https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2020-33490_en 3. Communication from the Commission ‘A Union of Equality: Gender Equality Strategy 2020-2025’ of 5 March 2020, COM(2020)152 final.</p>	
Recital 8a				
17a		<i>(8a) The economic and social consequences of the COVID-19 pandemic are having a disproportionate impact on women</i>		

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		<p><i>and gender equality, and job losses have been concentrated in low-paid, female-dominated sectors. The effects of the COVID-19 pandemic will therefore further widen gender inequalities and the gender pay gap unless the recovery response is gender sensitive. Those consequences have made it even more pressing to tackle the issue of equal pay for equal work or work of equal value. Strengthening the implementation of the principle of equal pay through further measures is particularly important to ensure that the progress which has been made in addressing disparities in pay is not compromised.</i></p>		
Recital 8b				
17b		<p><i>(8b) Gender stereotypes, the perpetuation of the "glass ceiling" and the "sticky floor" and horizontal segregation, including the over-representation of women in low-paid service jobs, are structural issues that significantly contribute to the gender pay gap and form complex challenges to achieving good quality jobs and the principle of equal pay. Work-life balance policies should contribute to the achievement of gender equality by promoting the</i></p>		

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		<p><i>participation of women in the labour market. The COVID-19 pandemic has highlighted the continued undervaluing of work predominantly carried out by women and has demonstrated the value, visibility and recognition of women’s work in front-line services, such as health care, cleaning, childcare, social care and residential care for older people and other adult dependants. Complementary measures to tackle the issue need to focus on improving the working conditions and career-prospects of workers with such jobs.</i></p>		
Recital 9				
18	<p>(9) The gender pay gap is caused by various factors, part of which can be attributed to direct and indirect gender pay discrimination. A general lack of transparency about pay levels within organisations maintains a situation where gender-based pay discrimination and bias can go undetected or, where suspected, are difficult to prove. Binding measures are therefore needed to improve pay transparency, encourage organisations to review their pay structures to ensure equal pay for women and men doing the same</p>	<p>(9) The gender pay gap is caused by various factors, part of which can be attributed to direct and indirect gender pay discrimination. A general lack of transparency about pay levels within organisations maintains a situation where gender-based pay discrimination and bias can go undetected or, where suspected, are difficult to prove. Various types of binding measures are therefore needed to improve pay transparency, to encourage organisations to review their pay structures to ensure equal pay for women and men doing the</p>	<p>(9) The gender pay gap is caused by various factors, part of which can be attributed to direct and indirect gender pay discrimination. A general lack of transparency about pay levels within organisations maintains a situation where gender-based pay discrimination and bias can go undetected or, where suspected, are difficult to prove. Binding measures are therefore needed to improve pay transparency, encourage organisations to review their pay structures to ensure equal pay for women and men doing the same</p>	

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	work or work of equal value, and enable victims of discrimination to enforce their right to equal pay. This needs to be complemented by provisions clarifying existing legal concepts (such as the concept of ‘pay’ and ‘work of equal value’) and measures improving enforcement mechanisms and access to justice.	<i>samein collaboration with the social partners, ensure equal pay for equal work or work of equal value, foster the adoption of remedial measures where unjustified differences are identified</i> and enable victims of discrimination to enforce their right to equal pay. This needs to be complemented by provisions clarifying existing legal concepts (such as the concept of ‘pay’ and ‘work of equal value’) and measures improving enforcement mechanisms and access to justice, <i>while with respecting Member State models. Pay transparency measures showing gender pay disparities can ensure substantial progress in addressing the gender pay gap and exposing the undervaluation of women’s work and gendered labour market segregation, which is one of the major root causes of the pay gap. Pay transparency alone cannot address structural and existing gender inequalities but is a first step towards tackling those inequalities and should be complemented by additional measures that aim to close the gender pay as well as the pension and care gaps, and to combat the feminisation of poverty.</i>	work or work of equal value, and enable victims of discrimination to enforce their right to equal pay. This needs to be complemented by provisions clarifying existing legal concepts (such as the concept of ‘pay’ and ‘work of equal value’) and measures improving enforcement mechanisms and access to justice.	
Recital 10				
19				

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	(10) The application of the principle of equal pay between men and women should be enhanced by eliminating direct and indirect pay discrimination. This does not preclude employers to pay differently workers doing the same work or work of equal value on the basis of objective, gender-neutral and bias-free criteria such as performance and competence.	(10) The application of the principle of equal pay between men and women should be enhanced by eliminating direct and indirect pay discrimination through transparency and remedial measures . This does not preclude employers to pay differently workers doing the same work or work of equal value on the basis of objective , gender-neutral and bias-free criteria such as performance and competence educational, professional and training requirements, skills, effort, responsibility, and working conditions .	(10) The application of the principle of equal pay between men and women should be enhanced by eliminating direct and indirect pay discrimination. This does not preclude employers to pay differently workers doing the same work or work of equal value on the basis of objective, gender-neutral and bias-free criteria such as performance and competence.	
Recital 11				
20	(11) This Directive should apply to all workers, including part-time workers, fixed-term contract workers or persons with a contract of employment or employment relationship with a temporary agency, who have an employment contract or employment relationship as defined by the law, collective agreements and/or practice in force in each Member State, taking into account the case-law of the Court of Justice of the European Union ('the Court'). In its case law, the Court established criteria for determining	(11) This Directive should apply to all workers in the Union , including those working in non-standard sectors or in zero-hour contracts , part-time workers, fixed-term contract workers or and persons with a contract of employment or employment relationship with a temporary agency as defined in Directive 2008/104/EC of the European Parliament and of the Council¹ or with a subcontracting company , who have an employment contract or employment relationship as defined by the law, collective	(11) This Directive should apply to all workers, including part-time workers, fixed-term contract workers or persons with a contract of employment or employment relationship with a temporary agency, as well as workers in management positions , who have an employment contract or employment relationship as defined by the law, collective agreements and/or practice in force in each Member State, taking into account the case-law of the Court of Justice of the European Union ('the Court').	

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	<p>the status of a worker¹. Provided that they fulfil those criteria, domestic workers, on-demand workers, intermittent workers, voucher based-workers, platform workers, trainees and apprentices should fall within the scope of this Directive. The determination of the existence of an employment relationship should be guided by the facts relating to the actual performance of the work and not by the parties' description of the relationship.</p> <p>1. Case C-66/85, Deborah Lawrie-Blum v Land Baden-Württemberg, ECLI:EU:C:1986:284; Case C-428/09, Union Syndicale Solidaires Isère v Premier ministre and Others, ECLI:EU:C:2010:612; Case C-229/14, Ender Balkaya v Kiesel Abbruch- und Recycling Technik GmbH, ECLI:EU:C:2015:455; Case C-413/13, FNV Kunsten Informatie en Media v Staat der Nederlanden, ECLI:EU:C:2014:2411; Case C-216/15, Betriebsrat der Ruhrlandklinik gGmbH v Ruhrlandklinik gGmbH, ECLI:EU:C:2016:883; Case C-658/18, UX v Governo della Repubblica italiana, ECLI:EU:C:2020:572.</p>	<p>agreements and/or practice in force in each Member State, taking into account the case-law of the Court of Justice of the European Union ('the Court'). In its case law, the Court established criteria for determining the status of a worker¹². Provided that they fulfil those criteria, domestic workers, on-demand workers, intermittent workers, voucher based-workers, platform workers, workers in sheltered employment, trainees and apprentices should fall within the scope of this Directive. The determination of the existence of an employment relationship should be guided by the facts relating to the actual performance of the work and not by the parties' description of the relationship.</p> <p>1. Case C-66/85, Deborah Lawrie-Blum v Land Baden-Württemberg, ECLI:EU:C:1986:284; Case C-428/09, Union Syndicale Solidaires Isère v Premier ministre and Others, ECLI:EU:C:2010:612; Case C-229/14, Ender Balkaya v Kiesel Abbruch- und Recycling Technik GmbH, ECLI:EU:C:2015:455; Case C-413/13, FNV Kunsten Informatie en Media v Staat der Nederlanden, ECLI:EU:C:2014:2411; Case C-216/15, Betriebsrat der Ruhrlandklinik gGmbH v Ruhrlandklinik gGmbH, ECLI:EU:C:2016:883; Case C-658/18, UX v Governo della Repubblica italiana, ECLI:EU:C:2020:572 Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on</p>	<p>In its case law, the Court established criteria for determining the status of a worker¹². Provided that they fulfil those relevant criteria, domestic workers, on-demand workers, intermittent workers, voucher based-workers, platform workers, trainees and apprentices should may fall within the scope of this Directive. The determination of the existence of an employment relationship should be guided by the facts relating to the actual performance of the work and not by the parties' description of the relationship.</p> <p>1. Case C-66/85, Deborah Lawrie-Blum v Land Baden-Württemberg, ECLI:EU:C:1986:284; Case C-428/09, Union Syndicale Solidaires Isère v Premier ministre and Others, ECLI:EU:C:2010:612; Case C-229/14, Ender Balkaya v Kiesel Abbruch- und Recycling Technik GmbH, ECLI:EU:C:2015:455; Case C-413/13, FNV Kunsten Informatie en Media v Staat der Nederlanden, ECLI:EU:C:2014:2411; Case C-216/15, Betriebsrat der Ruhrlandklinik gGmbH v Ruhrlandklinik gGmbH, ECLI:EU:C:2016:883; Case C-658/18, UX v Governo della Repubblica italiana, ECLI:EU:C:2020:572.</p>	

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		<p><i>temporary agency work (OJ L 327, 5.12.2008, p. 9).</i></p> <p><i>2. Case C-66/85, Deborah Lawrie-Blum v Land Baden-Württemberg, ECLI:EU:C:1986:284; Case C-428/09, Union Syndicale Solidaires Isère v Premier ministre and Others, ECLI:EU:C:2010:612; Case C-229/14, Ender Balkaya v Kiesel Abbruch- und Recycling Technik GmbH, ECLI:EU:C:2015:455; Case C-413/13, FNV Kunsten Informatie en Media v Staat der Nederlanden, ECLI:EU:C:2014:2411; Case C-216/15, Betriebsrat der Ruhrlandklinik gGmbH v Ruhrlandklinik gGmbH, ECLI:EU:C:2016:883; Case C-658/18, UX v Governo della Repubblica italiana, ECLI:EU:C:2020:572.</i></p>		
Recital 11a				
20a			<p>(11a) An important element of eliminating pay discrimination is pay transparency prior to the employment therefore this Directive should also apply to the applicants for employment.</p>	
Recital 12				
21	<p>(12) In order to remove obstacles for victims of gender pay discrimination to enforce their right to equal pay and guide employers in ensuring respect of this right, the core concepts related to equal pay, such as ‘pay’ and ‘work of equal</p>	<p>(12) In order to remove obstacles for victims of gender pay discrimination to enforce their right to equal pay and guide employers in ensuring respect of this right, the core concepts related to equal pay, such as ‘pay’ and ‘work of equal</p>	<p>(12) In order to remove obstacles for victims of gender pay discrimination to enforce their right to equal pay and guide employers in ensuring respect of this right, the core concepts related to equal pay, such as ‘pay’ and ‘work of equal</p>	

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	value’, should be clarified in line with the case law of the Court. This should facilitate the application of these concepts, especially for small and medium-sized enterprises.	value’, should be clarified <i>by Member States in national law</i> in line with the case law of the Court. This should facilitate the application of these concepts <i>and avoid unnecessary administrative burden</i> , especially for <i>microenterprises and small and medium-sized enterprises (SMEs)</i> .	value’, should be clarified in line with the case law of the Court. This should facilitate the application of these concepts, especially for micro , small and medium-sized enterprises.	
Recital 13				
22	(13) The principle of equal pay for equal work or work of equal value for women and men should be respected with regard to wage or salary and any other consideration, whether in cash or in kind, which the workers receive directly or indirectly, in respect of their employment from their employer. In line with the case-law of the Court ¹ , the concept of ‘pay’ should comprise not only salary, but also additional benefits such as bonuses, overtime compensation, travel facilities (including cars provided by the employer and travel cards), housing allowances, compensation for attending training, payments in case of dismissal, statutory sick pay, statutory required compensation and occupational pensions. It should include all elements of remuneration due by law or collective agreement.	(13) The principle of equal pay for equal work or work of equal value for women and men should be respected with regard to wage or salary and any other consideration, whether in cash or in kind, which the workers receive directly or indirectly, in respect of their employment from their employer. In line with the case-law of the Court ¹ , the concept of ‘pay’ should comprise not only salary, but also additional benefits such as bonuses, overtime compensation, travel facilities (including cars provided by the employer and travel cards), housing and food allowances, compensation for attending training, payments in the case of dismissal, statutory sick pay, statutory required compensation and occupational pensions. It should include all elements of remuneration due by law or collective agreement.	(13) The principle of equal pay for equal work or work of equal value for women and men should be respected with regard to wage or salary and any other consideration, whether in cash or in kind, which the workers receive directly or indirectly, in respect of their employment from their employer. In line with the case-law of the Court ¹ , the concept of ‘pay’ should comprise not only salary, but also additional complementary or variable components of the pay. Under complementary or variable components, any benefits such as bonuses, overtime compensation, travel facilities (including cars provided by the employer and in addition to the ordinary basic or minimum wage, which the worker receives directly or indirectly, whether in cash or in kind, should	

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	<p>1. For example, Case C-58/81, Commission of the European Communities v Grand Duchy of Luxembourg, ECLI:EU:C:1982:215; Case C-171/88 Rinner-Kulhn v FWW Spezial-Gebaudereinigung GmbH, ECLI:EU:C:1989:328; Case C-147/02 Alabaster v Woolwhich plc and Secretary of State for Social Security, ECLI:EU:C:2004:192; Case C-342/93 - Gillespie and Others ECLI:EU:C:1996:46; Case C-278/93 Freers and Speckmann v Deutsche Bundepost, ECLI:EU:C:1996:83; Case C-12/81, Eileen Garland v British Rail Engineering Limited, ECLI:EU:C:1982:44; Case C-360/90, Arbeiterwohlfahrt der Stadt Berlin e.V. v Monika Bötel, ECLI:EU:C:1992:246; Case C-33/89, Maria Kowalska v Freie und Hansestadt Hamburg, ECLI: EU:C:1990:265.</p>	<p><i>Reducing the gender pay gap leads to labour market equality and efficiency.</i></p> <p>1. For example, Case C-58/81, Commission of the European Communities v Grand Duchy of Luxembourg, ECLI:EU:C:1982:215; Case C-171/88 Rinner-Kulhn v FWW Spezial-Gebaudereinigung GmbH, ECLI:EU:C:1989:328; Case C-147/02 Alabaster v Woolwhich plc and Secretary of State for Social Security, ECLI:EU:C:2004:192; Case C-342/93 - Gillespie and Others ECLI:EU:C:1996:46; Case C-278/93 Freers and Speckmann v Deutsche Bundepost, ECLI:EU:C:1996:83; Case C-12/81, Eileen Garland v British Rail Engineering Limited, ECLI:EU:C:1982:44; Case C-360/90, Arbeiterwohlfahrt der Stadt Berlin e.V. v Monika Bötel, ECLI:EU:C:1992:246; Case C-33/89, Maria Kowalska v Freie und Hansestadt Hamburg, ECLI: EU:C:1990:265.</p>	<p>be taken into account. These may include but are not limited to bonuses, overtime compensation, travel cards) facilities, housing allowances, compensation for attending training, payments in case of dismissal, statutory sick pay, statutory required compensation and occupational pensions. It should include all elements of remuneration due by law or, collective agreement and/or practice in force in each Member State.</p> <p>1. [1] For example, Case C-58/81, Commission of the European Communities v Grand Duchy of Luxembourg, ECLI:EU:C:1982:215; Case C-171/88 Rinner-Kulhn v FWW Spezial-Gebaudereinigung GmbH, ECLI:EU:C:1989:328; Case C-147/02 Alabaster v Woolwhich plc and Secretary of State for Social Security, ECLI:EU:C:2004:192; Case C-342/93 - Gillespie and Others ECLI:EU:C:1996:46; Case C-278/93 Freers and Speckmann v Deutsche Bundepost, ECLI:EU:C:1996:83; Case C-12/81, Eileen Garland v British Rail Engineering Limited, ECLI:EU:C:1982:44; Case C-360/90, Arbeiterwohlfahrt der Stadt Berlin e.V. v Monika Bötel, ECLI:EU:C:1992:246; Case C-33/89, Maria Kowalska v Freie und Hansestadt Hamburg, ECLI: EU:C:1990:265.</p>	
Recital 13a				
22a			(13-a) In order to ensure a uniform presentation of the	

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			<p>information required by this directive, pay levels should be expressed as the gross annual pay and the corresponding gross hourly pay. The calculation of these may be based on the actual pay specified in regard to the worker, regardless if it is set annually, monthly, hourly or otherwise.</p>	
Recital 13b				
22b			<p>(13a) Member States should not be obliged to set up new bodies for the purpose of this Directive. Tasks deriving from the Directive may be conferred to the established bodies, including social partners, in accordance with the national law and/or practice.</p>	
Recital 13c				
22c			<p>(13b) In order to protect workers and to address a fear of victimisation in the application of the principle of equal pay, workers should be able to be represented by a representative. This could be trade unions or other workers' representatives. If there are no workers' representatives, workers should be able to be represented</p>	

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			by a representative of their choice. Member States should have a possibility to take into account national circumstances and different roles concerning workers' representation.	
Recital 14				
23	(14) Article 10 of the Treaty on the Functioning of the European Union provides that, in defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Article 4 of Directive 2006/54/EC provides that there shall be no direct or indirect discrimination on grounds of sex, notably in relation to pay. Gender-based pay discrimination where a victim's sex plays a crucial role can take many different forms in practice. It may involve an intersection of various axes of discrimination or inequality where the worker is a member of one or several groups protected against discrimination on the basis of sex, on the one hand, and racial or ethnic origin, religion or belief, disability, age or sexual orientation (as protected under Directive	(14) Article 10 of the Treaty on the Functioning of the European Union TFEU provides that, in defining and implementing its policies and activities, the Union shall shallis to aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Article 4 of Directive 2006/54/EC provides that there shall shallis to be no direct or indirect discrimination on grounds of sex, notably in relation to pay. Gender-based pay discrimination where a victim's sex gender plays a crucial role can take many different forms in practice. It may involve an intersection of various axes of discrimination or inequality where the worker is a member of one or several groups protected against discrimination on the basis of sex , on the one hand, and racial or ethnic origin, religion or belief, disability, age or sexual orientation (as	(14) Article 10 of the Treaty on the Functioning of the European Union provides that, in defining and implementing its policies and activities, the Union shall should aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Article 4 of Directive 2006/54/EC provides that there shall be no direct or indirect discrimination on grounds of sex, notably in relation to pay. Gender-based pay discrimination where a victim's sex plays a crucial role can take many different forms in practice. It may involve an intersection of various axes of discrimination or inequality where the worker is a member of one or several groups protected against discrimination on the basis of sex, on the one hand, and racial or ethnic origin, religion or belief, disability, age or sexual orientation (as protected under Directive	

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	<p>2000/43/EC or Directive 2000/78/EC), on the other hand. Migrant women are among groups who face such multiple forms of discrimination. This directive should therefore clarify that, in the context of gender-based pay discrimination, such a combination should be taken into account, thus removing any doubt that may exist in this regard under the existing legal framework. This should ensure that the courts or other competent authorities take due account of any situation of disadvantage arising from intersectional discrimination, in particular for substantive and procedural purposes, including to recognise the existence of discrimination, to decide on the appropriate comparator, to assess the proportionality, and to determine, where relevant, the level of compensation awarded or penalties imposed.</p>	<p>protected under <i>Article 21(1) of the Charter</i>, Directive 2000/43/EC or Directive 2000/78/EC), on the other hand. Migrant women, women with disabilities or women of a diverse racial, ethnic or social origin are among groups who face such multiple forms of discrimination. This Directive should therefore clarify that, in the context of gender-based pay discrimination, such a combination should be taken into account, thus removing any doubt that may exist in this regard under the existing legal framework. This should ensure that the courts, equality bodies designated pursuant to Article 20 of Directive 2006/54/EC, and or other competent authorities take due account of any situation of disadvantage arising from intersectional discrimination, in particular for substantive and procedural purposes, including to recognise the existence of discrimination, to decide on the appropriate comparator, to assess the proportionality, and to determine, where relevant, the level of compensation awarded or penalties imposed. An intersectional approach is crucial to understanding, tackling and resolving the multiple forms of discrimination that comprise the gender pay gap. This Directive</p>	<p>2000/43/EC or Directive 2000/78/EC), on the other hand. Migrant women are Among groups who may face such multiple combined forms of discrimination are for example women with a migrant background, Roma women, women with disabilities, young or elderly women. This Directive should therefore clarify that, in the context of gender-based pay discrimination, it should be possible to take such a combination should be taken into account, thus removing any doubt that may exist in this regard under the existing legal framework. This should ensure that and enabling the courts or other competent authorities to take due account of any situation of disadvantage arising from intersectional discrimination, in particular for substantive and procedural purposes, including to recognise the existence of discrimination, to decide on the appropriate comparator, to assess the proportionality, and to determine, where relevant, the level of compensation awarded or penalties sanctions imposed. This clarification should not change the scope of employers' obligations in regard to the pay transparency measures under this Directive. In</p>	

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		<i>should also ensure that the specific obstacles experienced by and the needs of workers with disabilities are taken into account, including in relation to its scope, accessibility to information, the right to compensation and data disaggregation, in compliance with the United Nations Convention on the Rights of Persons with Disabilities (CRPD) of 13 December 2006.</i>	particular, employers should not be required to gather data related to other protected grounds than sex.	
Recital 15				
24	(15) In order to respect the right to equal pay between men and women, employers must have pay setting mechanisms or pay structures in place ensuring that there are no pay differences between male and female workers doing the same work or work of equal value that are not justified by objective and gender-neutral factors. Such pay structures should allow for the comparison of the value of different jobs within the same organisational structure. In line with the case law of the Court, the value of work should be assessed and compared based on objective criteria, such as educational, professional and training requirements, skills, effort and responsibility, work undertaken and	(15) In order to respect the right to equal pay between men and women , employers must have pay setting mechanisms, or pay structures in place which could be developed through social dialogue, in cooperation with the social partners, including trade unions , ensuring that there are no gender-based pay differences between male and female workers doing performing the same work or work of equal value that are not justified by objective and gender-neutral factors. Such pay structures should allow for the comparison of the value of different jobs within the same organisational structure. In line with the case law European Parliament's resolution of 21	(15) In order to respect the right to equal pay between men and women, employers must have pay setting mechanisms or pay structures in place ensuring that there are no pay differences between male and female workers doing the same work or work of equal value that are not justified by objective and gender-neutral factors. Such pay settings mechanisms or pay structures should allow for the comparison of the value of different jobs within the same organisational structure and may be based on the existing European Union guidelines¹, indicators and gender-neutral models . In line with the case law of the Court, the value of work should be assessed and compared based on	

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	<p>the nature of the tasks involved.¹</p> <p>¹ For example, Case C-400/93, Royal Copenhagen, ECLI:EU:C:1995:155; Case C-309/97, Angestelltenbetriebsrat der Wiener Gebietskrankenkasse, ECLI:EU:C:1999:241; Case C-381/99, Brunnhofer, ECLI:EU:C:2001:358; Case C- 427/11, Margaret Kenny and Others v Minister for Justice, Equality and Law Reform and Others [2013] ECLI:EU:C:2013:122, paragraph 28.</p>	<p><i>January 2021 on the EU Strategy for Gender Equality, work should be deemed to be of equal value if, based on a comparison of two groups of workers which have not been formed in an arbitrary manner, the work performed is comparable, taking into account objective, gender-neutral criteria. In accordance with the case-law of the Court, the value of work should be assessed and compared based on objective criteria, such as including educational, professional and training requirements, skills, effort, responsibility and working conditions, without taking into account working hours for the purpose of clarity and responsibility, work undertaken and the nature of the tasks involved.</i>¹</p> <p>¹ For example, Case C-400/93, Royal Copenhagen, ECLI:EU:C:1995:155; Case C-309/97, Angestelltenbetriebsrat der Wiener Gebietskrankenkasse, ECLI:EU:C:1999:241; Case C-381/99, Brunnhofer, ECLI:EU:C:2001:358; Case C-427/11, Margaret Kenny and Others v Minister for Justice, Equality and Law Reform and Others [2013] ECLI:EU:C:2013:122, paragraph 28.</p>	<p>objective criteria, such as educational, professional and training requirements, skills, effort and responsibility, work undertaken and the nature of the tasks involved.¹² To facilitate the application of the concept of work of equal value, especially for micro, small and medium-sized enterprises, the objective criteria to be used should include four factors: skills, effort, responsibility and working conditions. These factors have been identified by the above guidelines as essential and sufficient for evaluating the tasks performed in an organisation regardless of which economic sector the enterprise belongs to. As not all factors are equally relevant for a specific position, each of the four factors should be weighed by the employer depending on the relevance of these criteria for the specific job or position concerned. Additional criteria may also be taken into account, if relevant.</p> <p>¹ For example, Case C-400/93, Royal Copenhagen, ECLI:EU:C:1995:155; Case C-309/97, Angestelltenbetriebsrat der Wiener Gebietskrankenkasse, ECLI:EU:C:1999:241; Case C-381/99, Brunnhofer, ECLI:EU:C:2001:358; Case C-427/11, Margaret Kenny and Others v Minister for Justice, Equality and Law</p>	

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			<p>Reform and Others [2013] ECLI:EU:C:2013:122, paragraph 28. 52013SC0512 - EN - EUR-Lex (europa.eu) 2. [2] For example, Case C-400/93, Royal Copenhagen, ECLI:EU:C:1995:155; Case C-309/97, Angestelltenbetriebsrat der Wiener Gebietskrankenkasse, ECLI:EU:C:1999:241; Case C-381/99, Brunnhöfer, ECLI:EU:C:2001:358; Case C- 427/11, Margaret Kenny and Others v Minister for Justice, Equality and Law Reform and Others ECLI:EU:C:2013:122, paragraph 28.</p>	
Recital 15a				
24a			<p>(15a) National models for wage-setting varies and may be based on collective agreements and/or elements decided by the employer. This directive does not intend to affect the different national models of wage setting.</p>	
Recital 16				
25	<p>(16) The identification of a valid comparator is an important parameter in determining whether work may be considered of equal value. It enables the worker to show that they were treated less favourably than the comparator of a different sex performing equal work or work of equal value. In situations where no real-life comparator exists,</p>	<p>(16) The identification of a valid comparator is an important parameter in determining whether work may be considered of equal value. It enables the worker to show that they were treated less favourably than the comparator of a different sexgender performing equal work or work of equal value. The comparator should be a male</p>	<p>(16) The identification of a valid comparator is an important parameter in determining whether work may be considered of equal value. It enables the worker to show that they were treated less favourably than the comparator of a different sex performing equal work or work of equal value. Building on the developments brought by the</p>	

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	<p>the use of a hypothetical comparator should be allowed, allowing a worker to show that they have not been treated in the same way as a hypothetical comparator of another sex would have been treated. This would lift an important obstacle for potential victims of gender pay discrimination, especially in highly gender-segregated employment markets where a requirement of finding a comparator of the opposite sex makes it almost impossible to bring an equal pay claim. In addition, workers should not be prevented from using other facts from which an alleged discrimination can be presumed, such as statistics or other available information. This would allow gender-based pay inequalities to be more effectively addressed in gender-segregated sectors and professions.</p>	<p>performing equal work or work of equal value <i>with the highest pay level</i>. In situations where no real-life comparator exists, the use of a hypothetical comparator should be allowed<i>permitted</i>, allowing a worker to show that they have not been treated in the same way as a hypothetical comparator of another sex<i>gender</i> would have been treated. This would lift<i>lifts</i> an important obstacle for potential victims of gender pay discrimination, especially in highly gender-segregated employment markets where a requirement of finding a comparator of the opposite sex<i>different gender</i> makes it almost impossible to bring an equal pay claim.– <i>This is for instance the case in the female-dominated care sector, in which it is very difficult for women to claim gender discrimination if the comparison is required to come from the same sector. A hypothetical comparator would facilitate the objective and gender-neutral evaluation of certain jobs and encourage employers and the social partners to identify undervalued sectors and jobs.</i> In addition, workers should not be prevented from using other facts from which an alleged discrimination can be presumed, such as statistics or other available</p>	<p>definition of direct and indirect discrimination in Directive 2006/54/EC, in situations where no real-life comparator exists, the use of a hypothetical comparator should be allowed, allowing a worker to show that they have not been treated in the same way as a hypothetical comparator of another sex would have been treated. This would lift an important obstacle for potential victims of gender pay discrimination, especially in highly gender-segregated employment markets where a requirement of finding a comparator of the opposite sex makes it almost impossible to bring an equal pay claim.– In addition, workers should not be prevented from using other facts from which an alleged discrimination can be presumed, such as statistics or other available information. This would allow gender-based pay inequalities to be more effectively addressed in gender-segregated sectors and professions.</p>	

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		information, <i>pay level and the pay setting criteria, a reference to an existing classification based on social partners' collective agreements. Where no comparison based on a real situation is possible, the existence of a job classification system, which may include pay structures and be potentially part of a collective agreement, can also be used by the worker as a means to demonstrate that there is a case of pay discrimination.</i> This would allow gender-based pay inequalities to be more effectively addressed in gender-segregated sectors and professions.		
Recital 17				
26	(17) The Court has clarified ¹ that in order to compare whether workers are in a comparable situation, the comparison is not necessarily limited to situations in which men and women work for the same employer. Workers may be in a comparable situation even when they do not work for the same employer whenever the pay conditions can be attributed to a single source setting up those conditions. This may be the case when pay conditions are regulated by statutory provisions or collective labour agreements relating	(17) The Court has clarified ¹ that in order to compare whether workers are in a comparable situation, the comparison is not necessarily limited to situations in which men and women two workers work for the same employer-, given that workers may be in a comparable situation even when they do not work for the same employer whenever the pay conditions can be attributed to a single source setting up those conditions. This may be the case when pay conditions are regulated by statutory provisions or collective	(17) The Court has clarified ¹ that in order to compare whether workers are in a comparable situation, the comparison is not necessarily limited to situations in which men and women work for the same employer. Workers may be in a comparable situation even when they do not work for the same employer whenever the pay conditions can be attributed to a single source setting up those conditions and where these conditions are fully equal and comparable. This may be the case when all relevant pay	

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	<p>to pay applicable to several companies, or when such conditions are laid down centrally for more than one organisation or business within a holding company or conglomerate. Furthermore, the Court clarified that the comparison is not limited to workers employed at the same time as the claimant.²</p> <p>1. Case C-320/00 Lawrence, ECLI:EU:C:2002:498. 2. Case 129/79 Macarthys, ECLI:EU:C:1980:103.</p>	<p>labour agreements relating to pay applicable to several companiesemployers, or when such conditions are laid down centrally for more than one organisation or business within a holding company or conglomerate. Furthermore, the Court clarified that the comparison is not limited to workers employed at the same time as the claimant:² or to workers performing their tasks in the same establishment.</p> <p>1. Case C-320/00 Lawrence, ECLI:EU:C:2002:498. 2. Case 129/79 Macarthys, ECLI:EU:C:1980:103.</p>	<p>conditions are regulated by statutory provisions or collective labour agreements relating to pay applicable to several companies, or when such conditions are laid down centrally for more than one organisation or business within a holding company or conglomerate. Furthermore, the Court clarified that the comparison is not limited to workers employed at the same time as the claimant.² Additionally, when performing the actual assessment, it should be recognized that a difference in pay may be explained by factors unrelated to sex.</p> <p>1. [1] Case C-320/00 Lawrence, ECLI:EU:C:2002:498. 2. [2] Case 129/79 Macarthys, ECLI:EU:C:1980:103.</p>	
Recital 18				
27	<p>(18) Member States should develop specific tools and methodologies to support and guide the assessment of what constitutes work of equal value. This should facilitate the application of this concept, especially for small and medium-sized enterprises.</p>	<p>(18) Member States should develop specific tools and methodologies, including gender-neutral job evaluation or classification systems, to support and guide the assessment of what constitutes work of equal value: and to ensure, where possible, cross-sectoral comparisons This should facilitate the application of this concept, especially for small and medium-</p>	<p>(18) Member States should developensure that specific tools and methodologies are made available to support and guide employers in the assessment of what constitutes work of equal value. This should facilitate the application of this concept, especially for micro, small and medium-sized enterprises. Taking into account national law,</p>	

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		<i>sized enterprises microenterprises and SMEs. Member States should develop those tools and methodologies in cooperation with the social partners.</i>	collective agreements and/or practice, Member States may choose to entrust the development of specific tools and methodologies to the social partners or to develop them in cooperation or after consultation with the social partners.	
Recital 19				
28	(19) Job classification and evaluation systems may, if not used in a gender-neutral manner, in particular when they assume traditional gender stereotypes, result in gender-based pay discrimination. In such case, they contribute to and perpetuate the pay gap by evaluating male and female dominated jobs differently in situations where the worth of the work performed is of equal value. Where gender-neutral job evaluation and classification systems are used, however, they are effective in establishing a transparent pay system and are instrumental to ensure that direct or indirect discrimination on grounds of sex is excluded. They detect indirect pay discrimination related to the undervaluation of jobs typically done by women. They do so by measuring and comparing jobs whose content is different but of	(19) Currently, job evaluation and job classification systems are often designed on the basis of the requirements of male-dominated jobs. This undervalues the skills associated with female-dominated jobs, reproduces gender bias, gender discrimination and gender stereotypes and reinforces the gender pay gap across sectors. Job and evaluation and classification systems may, if not used in a gender-neutral manner, in particular when they assume traditional gender stereotypes, result in gender-based pay discrimination. In such case, they contribute to and perpetuate the pay gap including the gender pay gap across sectors by evaluating male and female dominated jobs differently in situations where the worth of the work performed is of equal value. Where gender-neutral job evaluation and classification	(19) Job classification and evaluation systems may, if not used in a gender-neutral manner, in particular when they assume traditional gender stereotypes, result in gender-based pay discrimination. In such case, they contribute to and perpetuate the pay gap by evaluating male and female dominated jobs differently in situations where the worth of the work performed is of equal value. Where gender-neutral job evaluation and classification systems are used, however, they are effective in establishing a transparent pay system and are instrumental to ensure that direct or indirect discrimination on grounds of sex is excluded. They detect indirect pay discrimination related to the undervaluation of jobs typically done by women. They do so by measuring and comparing jobs whose content is different but of	

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	equal value and so support the principle of work of equal value.	systems are used, however, they are effective in establishing a transparent pay system and are instrumental to ensure that direct or indirect discrimination on grounds of sex is excluded is excluded and pay equity is reached . They detect indirect pay discrimination related to the undervaluation of jobs typically done by women and may expose discriminatory assumptions and stereotypes . They do so by measuring and comparing jobs including in different sectors whose content is different but of equal value and so support the principle of work of equal value. Where work is not of equal value, a difference in pay which is disproportionate to the difference in value of the work indicates that the job evaluation or classification system is not free from gender bias.	equal value and so support the principle of work of equal value.	
Recital 19a				
28a		(19a) Member States should ensure the development of actions to provide technical assistance to employers in the form of guidelines, practical tools, training and financial support for the implementation of the measures provided for in this Directive, including for the implementation of		

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		<i>objective, gender-neutral job evaluation and classification systems. Member States should ensure the involvement of the social partners in such actions.</i>		
Recital 20				
29	(20) The lack of information on the envisaged pay range of a job position creates an information asymmetry which limits the bargaining power of applicants. Ensuring transparency should enable prospective workers to make an informed decision about the expected salary without limiting in any way the employer's or worker's bargaining power to negotiate a salary even outside the indicated range. It would also ensure an explicit and non-gender biased basis for pay setting and would disrupt the undervaluation of pay compared to skills and experience. This transparency measure would also address intersectional discrimination where non-transparent pay settings allow for discriminatory practices on several discrimination grounds. The information to be provided to applicants prior to employment, if not published in a job vacancy notice, could be provided to the applicant prior to the job interview	(20) The lack of information on the envisaged pay range of a job position creates an information asymmetry which limits the bargaining power of applicants. Ensuring transparency should enable prospective workers to make an informed decision about the expected salary without limiting in any way the employer's or worker's bargaining power to negotiate a salary even outside the indicated range. It would also ensure also ensures an explicit and non-gender biased basis for pay setting and would disrupt disrupts the undervaluation of pay compared to skills and experience. This transparency measure would should also address intersectional discrimination where non-transparent pay settings allow for discriminatory practices on several discrimination grounds. The information to be provided to applicants prior to employment, if not published in a job vacancy	(20) The lack of information on the envisaged pay range of a job position creates an information asymmetry which limits the bargaining power of applicants. Ensuring transparency should enable prospective workers to make an informed decision about the expected salary without limiting in any way the employer's or worker's bargaining power to negotiate a salary even outside the indicated range. It would also ensure an explicit and non-gender biased basis for pay setting and would disrupt the undervaluation of pay compared to skills and experience. This transparency measure would also address intersectional discrimination where non-transparent pay settings allow for discriminatory practices on several discrimination grounds. Applicants for employment should receive information about the initial pay or its range prior to the job interview or otherwise prior to the conclusion of the labour	

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	by the employer or in a different manner, for instance by the social partners.	notice, could should be provided to the applicant prior to the job interview by the employer or in a different manner, for instance by the social partners. The information should be provided in a manner accessible to persons with disabilities in accordance with Union law, in particular with Directives (EU) 2016/2102 and (EU) 2019/882	contract in such a way as to allow them to negotiate in a transparent manner and make an informed decision on the pay. The information could be provided The information to be provided to applicants prior to employment, if not published in a job vacancy notice, could be provided to the applicant prior to the job interview by the employer or in a different manner, for instance by the social partners.	
Recital 21				
30	(21) In order to disrupt the perpetuation of a pay gap between female and male workers affecting individual workers over time, employers should not be allowed to enquire about the prior pay history of the applicant for a job.	(21) In order to disrupt the perpetuation of the gender pay gap between female and male workers affecting individual workers over time, employers should ensure that vacancy notices and job recruitment processes are gender-neutral, and should not be allowed to enquire about the prior pay history of the applicant for a job. The information on vacancy notices and job recruitment processes should be provided in a manner accessible to people with disabilities upon their request, in accordance with Union law, in particular with Directives (EU) 2016/2102 and (EU) 2019/882.	(21) In order to disrupt the perpetuation of a pay gap between female and male workers affecting individual workers over time, employers should not be allowed to enquire and proactively try to obtain the information about the prior pay history of the applicant for a job.	

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Recital 22				
31	<p>(22) Pay transparency measures should protect workers' right to equal pay while limiting as much as possible costs and burden for employers, paying specific attention to micro and small enterprises. Where appropriate, measures should be tailored to the size of employers taking into account employers' headcount.</p>	<p>(22) Pay transparency measures should protect workers' right to equal pay while limiting as much as possible costs and administrative burden for employers, paying specific attention to micro and small microenterprises and SMEs. <i>As women are overrepresented in such enterprises, the implementation of this Directive is necessary to tackle the gender pay gap. Such enterprises would therefore benefit from ensuring equal pay for equal work or work of equal value between workers.</i> Where appropriate, measures should be tailored to the size of employers taking into account employers' headcount. <i>Member States should draw up tools and guidelines for microenterprises and SMEs, in order to facilitate abiding by the obligations set out in this Directive.</i></p>	<p>(22) Pay transparency measures should protect workers' right to equal pay while limiting as much as possible costs and burden for employers, paying specific attention to micro and small enterprises. Where appropriate, measures should be tailored to the size of employers taking into account employers' headcount. The number of workers employed by employers to be applied as a criterion whether an employer is subject to pay reporting as referred to in this Directive may be as defined by the Commission Recommendation on micro, small and medium-sized enterprises¹.</p> <p>¹. Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, C(2003) 1422.</p>	
Recital 23				
32	<p>(23) Employers should make accessible to workers a description of the criteria used to determine pay levels and career progression. The employer should have flexibility in the way it complies with this obligation taking into account the</p>	<p>(23) Employers should make accessible to workers and workers' representatives a description of the criteria used to determine pay levels and career progression, including all elements of pay, that comprise wages or salary and all other</p>	<p>(23) Employers should make accessible to workers a description of the which criteria are used to determine pay levels and career pay progression refers to the process of how a worker moves to a higher</p>	

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	size of the organisation.	<i>benefits paid directly or indirectly in cash or in kind by the employer to the worker. The information should have flexibility in the way it complies with this obligation taking into account the size of the organisation be provided in a manner accessible to workers with disabilities, upon their request, in accordance with Union law, in particular with Directives (EU) 2016/2102 and (EU) 2019/882.</i>	pay level. Criteria related to pay progression may include, for instance, individual performance, skills development, and/or seniority. When implementing this obligation, Member States should have flexibility in the way it complies with this pay particular attention to avoiding excessive administrative burden for micro and small enterprises. Member States may also provide, as mitigating measures, ready-made templates to support small and micro enterprises in complying with the obligation. Member States may exempt micro and small-sized employers from the obligation related to pay progression, for instance by allowing them to make the pay progression criteria available upon request by workers taking into account the size of the organisation.	
Recital 24				
33	(24) All workers should have the right to obtain information, upon their request, on their pay and on the pay level, broken down by sex, for the category of workers doing the same work or work of equal value. Employers must inform workers of this right on an annual basis.	(24) All workers, and their representatives should have the right to obtain clear and complete information, upon their request or via their representatives , on their pay and on the individual pay level, and average pay levels , broken down by sex gender , for the category	(24) All workers should have the right to obtain information, upon their request, on their pay and on the pay level, broken down by sex, for the category of workers doing the same work or work of equal value. In those companies with workers' representatives, this information	

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	Employers may also, on their own initiative, opt for providing such information without workers needing to request it.	of workers doing performing the same work or work of equal value, as well as the gender pay gap and the median gender pay gap between workers employed by the same employer provided that this information has not already been communicated to the workers' representatives. Upon the request of a worker, employers should provide information on how pay levels are determined. The information should be provided in a manner accessible to workers with disabilities, upon their request, in accordance with Union law, in particular with Directives (EU) 2016/2102 and (EU) 2019/882. Employers must inform workers and their representatives of this right on an annual basis. Employers may also, on their own initiative, opt for providing such information without workers needing to request it. Member States should put in place measures to prohibit contractual terms which aim to restrict workers from disclosing information about their pay or to seek information from the same or other categories of workers' pay.	can preferably be provided through them. Employers must should inform workers of this right on an annual basis. Employers may also, on their own initiative, opt for providing such information without workers needing to request it.	
Recital 25				
34	(25) Employers with at least 250	(25) Employers with at least 250 50	(25) Employers with at least 250	

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	<p>workers should regularly report on pay, in a suitable and transparent manner, such as including the information in their management report. Companies subject to the requirements of Directive 2013/34/EU of the European Parliament and of the Council¹ may also choose to report on pay alongside other worker-related matters in their management report.</p> <p>¹. Directive 2013/34/EU, as amended by Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 as regards disclosure of non-financial and diversity information by certain large undertakings and groups (OJ L 330, 15.11.2014, p. 1).</p>	<p>workers should regularly report on pay, in a suitable and transparent manner, such as including the information in their management report. Companies subject to the requirements of, where an employer is required to draw up such a report pursuant to Directive 2013/34/EU of the European Parliament and of the Council¹. The information should be provided in a manner accessible to workers with disabilities upon their request, in accordance with Union law, in particular with Directives (EU) 2016/2102 and (EU) 2019/882 may also choose to report on pay alongside other worker-related matters in their management report.</p> <p>¹. Directive 2013/34/EU, as amended by Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 as regards disclosure of non-financial and diversity information by 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain targettypes of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19) and groups (OJ L 330, 15.11.2014, p. 1).</p>	<p>workers should regularly report on pay, in a suitable and transparent manner, such as including the information in their management report. Companies subject to the requirements of Directive 2013/34/EU of the European Parliament and of the Council¹ may also choose to report on pay alongside other worker-related matters in their management report. To maximise the coverage of pay transparency of workers, Member States may make regular reporting on pay mandatory for employers with less than 250 workers.</p> <p>¹. [1] Directive 2013/34/EU, as amended by Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 as regards disclosure of non-financial and diversity information by certain large undertakings and groups (OJ L 330, 15.11.2014, p. 1).</p>	
Recital 26				
35	(26) Pay reporting should allow	(26) Pay reporting should allow	(26) Pay reporting should allow	

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	<p>employers to evaluate and monitor their pay structures and policies, allowing them to proactively comply with the principle of equal pay. At the same time, the gender-disaggregated data should assist competent public authorities, workers’ representatives and other stakeholders to monitor the gender pay gap across sectors (horizontal segregation) and functions (vertical segregation). Employers may wish to accompany the published data by an explanation of any gender pay differences or gaps. In cases where differences in average pay for the same work or work of equal value between female and male workers cannot be justified by objective and gender-neutral factors, the employer should take measures to remove the inequalities.</p>	<p>employers to evaluate and monitor their pay structures and policies, allowing them to proactively comply with the principle of equal pay. Reporting and joint pay assessments contribute to increased awareness of gender bias in pay structures and pay discrimination and addressing them in an effective and systemic way and thereby benefitting all workers employed by the same employer. At the same time, the gender-disaggregated data should assist competent public authorities, workers’ representatives and other stakeholders to monitor and address the gender pay gap across sectors (horizontal segregation) and functions (vertical segregation). Employers may wish to accompany the published data by an explanation of any gender pay differences or gaps. In cases where differences in average pay for the same work or work of equal value between female and male workers workers of different genders cannot be justified by objective and gender-neutral factors, the employer should take measures to remove the inequalities.</p>	<p>employers to evaluate and monitor their pay structures and policies, allowing them to proactively comply with the principle of equal pay. At the same time, the gender-disaggregated sex-disaggregated data should assist competent public authorities, workers’ representatives and other stakeholders to monitor the gender pay gap across sectors (horizontal segregation) and functions (vertical segregation). Employers may wish to accompany the published data by an explanation of any gender pay differences or gaps. In cases where differences in average pay for the same work or work of equal value between female and male workers cannot be justified by objective and gender-neutral factors, the employer should take measures to remove the inequalities.</p>	
Recital 27				
36	(27) To reduce the burden on	(27) To reduce the burden on	(27) To reduce the burden on	

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	<p>employers, Member States could decide to gather and interlink the necessary data through their national administrations allowing for a computation of the pay gap between female and male workers per employer. Such data gathering may require interlinking data from several public administrations (such as tax inspectorates and social security offices) and would be possible if administrative data matching employers’ (company/organisational level) to workers’ (individual level) data, including benefits in cash and in-kind, are available. Member States could decide to gather this information not only for those employers covered by the pay reporting obligation under this Directive, but also with regard to small and medium-sized enterprises. The publication of the required information by Member States should replace the obligation of pay reporting on those employers covered by the administrative data provided that the result intended by the reporting obligation is achieved.</p>	<p>employers, Member States could decide to gather and interlink the necessary data through their national administrations allowing for a computation of the gender pay gap between female and male workers per employer. Such data gathering may require interlinking data from several public administrations (such as tax inspectorates and social security offices) and would be possible if administrative data matching employers’ (company/organisational level) to workers’ (individual level) data, including benefits in cash and in-kind, are available. Member States could decide to gather this information not only for those employers covered by the pay reporting obligation under this Directive, but also with regard to small and medium-sized enterprises those voluntarily reporting. The publication of the required information by Member States should replace the obligation of pay reporting on those employers covered by the administrative data provided that the result intended by the reporting obligation is achieved. Member States should provide support to employers and the social partners, including by providing guidelines, templates, and training with the aim of facilitating the</p>	<p>employers, Member States could decide to gather and interlink the necessary data through their national administrations allowing for a computation of the pay gap between female and male workers per employer. Such data gathering may require interlinking data from several public administrations (such as tax inspectorates and social security offices) and would be possible if administrative data matching employers’ (company/organisational level) to workers’ (individual level) data, including benefits in cash and in-kind, are available. Member States could decide to gather this information not only for those employers covered by the pay reporting obligation under this Directive, but also with regard to micro, small and medium-sized enterprises. The publication of the required information by Member States should replace the obligation of pay reporting on those employers covered by the administrative data provided that the result intended by the reporting obligation is achieved.</p>	

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		<i>fulfilment of reporting obligations and reducing the burden on employers, in particular SMEs. In the case of microenterprises, such support should be provided on request.</i>		
Recital 28				
37	(28) In order to make the information on the pay gap between female and male workers at organisational level widely available, Member States should entrust the monitoring body designated pursuant to this Directive to aggregate the data on the pay gap received from employers without putting additional burden on the latter. The monitoring body should make these data public, allowing to compare the data of individual employers, sectors and regions of the Member State concerned.	(28) In order to make the information on the gender pay gap between female and male workers at organisational level widely available, Member States should entrust the monitoring body designated pursuant to this Directive to aggregate in cooperation with the social partners and competent national authorities the data on the pay gap received from employers without putting additional burden on the latter. The monitoring body should make these ascertain data public, as specified in this Directive, including by publishing them on an easily accessible website , allowing to compare the data of individual employers, sectors and regions of the Member State concerned.	(28) In order to make the information on the pay gap between female and male workers at organisational level widely available, Member States should entrust the monitoring body designated pursuant to this Directive to aggregate compile the data on the pay gap received from employers without putting additional burden on the latter. The monitoring body These data should make these data be made public, allowing to compare the data of individual employers, sectors and regions of the Member State concerned.	
Recital 29				
38	(29) Joint pay assessments should trigger the review and revision of	(29) Joint pay assessments should trigger the review and revision of	(29) Joint pay assessments should trigger the review and revision of	

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	<p>pay structures in organisations with at least 250 workers that show pay inequalities. The joint pay assessment should be carried out by employers in cooperation with workers' representatives; if workers' representatives are absent, they should be designated for this purpose. Joint pay assessments should lead to the elimination of gender discrimination in pay.</p>	<p>pay structures in organisations with at least 25050 workers that show pay inequalities. The joint pay assessment should be carried out by employers in cooperation with workers' representatives; if workers' representatives are absent, they should be designated <i>or democratically elected by the workers of the undertaking or organisation, trade unions or their members, in accordance with provisions of national law or regulations or of collective designated</i> for this purpose. Joint pay assessments should lead, <i>within a reasonable time</i>, to the elimination of gender discrimination in pay <i>in particular through the adoption of remedial measures where relevant</i>.</p>	<p>pay structures in organisations with at least 250 workers that show pay inequalities. The joint pay assessment should be carried out if employers and workers' representatives do not agree that the difference in average pay level between female and male workers of at least 5% can be justified by objective and gender-neutral criteria or if such a justification is not provided by the employer. The joint pay assessment should be carried out by employers in cooperation with workers' representatives; if there are no workers' representatives are absent, they should be designated by workers for this purpose. Joint pay assessments should lead to the elimination of gender discrimination in pay.</p>	
Recital 29a				
38a		<p><i>(29a) Member states should ensure employers and workers' representatives prepare their gender action plan, which provides for concrete measures and aims to close the gender pay gap within the employer to achieve gender equality in terms of pay, non-discrimination and other conditions of employment. The gender action</i></p>		

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		<i>plan should incorporate monitoring tools to assess its progress and be reviewed regularly. A gender pay gap of less than 2,5 % that cannot be explained by objective factors cannot be used as proof that the employers complies with the equal pay obligation.</i>		
Recital 30				
39	<p>(30) Any processing or publication of information under this Directive should comply with Regulation (EU) 2016/679 of the European Parliament and of the Council¹. Specific safeguards should be added to prevent the direct or indirect disclosure of information of an identifiable co-worker. On the other hand, workers should not be prevented from voluntarily disclosing their pay for the purpose of enforcing the principle of equal pay between men and women for equal work or work to which equal value is attributed.</p> <p>¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119, 4.5.2016, p. 1.</p>	<p>(30) Any processing or publication of information under this Directive should comply with Regulation (EU) 2016/679 of the European Parliament and of the Council¹. Specific safeguards should be added to prevent the direct or indirect disclosure of information of an identifiable co-worker. On the other hand, workers should not be prevented from voluntarily disclosing their pay, <i>especially not from sharing it with their trade unions or workers' representatives for the purpose of enforcing the principle of equal pay between men and women for equal work or work to which equal value is attributed.</i></p> <p>¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC</p>	<p>(30) Any processing or publication of information under this Directive should comply with Regulation (EU) 2016/679 of the European Parliament and of the Council¹. Specific safeguards should be added to prevent the direct or indirect disclosure of information of an identifiable co-worker. On the other hand, workers should not be prevented from voluntarily disclosing their pay for the purpose of enforcing the principle of equal pay between men and women for equal work or work to which equal value is attributed.</p> <p>¹ [1] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119, 4.5.2016, p. 1.</p>	

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		(General Data Protection Regulation) OJ L 119, 4.5.2016, p. 1.		
Recital 31				
40	<p>(31) It is important that social partners discuss and give particular attention to matters of equal pay in collective bargaining. The different features of national social dialogue and collective bargaining systems across the Union and the autonomy and contractual freedom of social partners as well as their capacity as representatives of workers and employers should be respected. Therefore, Member States, in accordance with their national system and practices, should take appropriate measures, such as programmes supporting social partners, practical guidance as well as an active participation of the government in a social dialogue at national level. Such measures should encourage social partners to pay due attention to equal pay matters, including discussions at the appropriate level of collective bargaining and the development of gender-neutral job evaluation and classification systems.</p>	<p>(31) It is important that social partners discuss and give particular attention to matters of equal pay in collective bargaining. The different features of national social dialogue and collective bargaining systems across the Union and the autonomy and contractual freedom of social partners as well as their capacity as representatives of workers and employers should be respected. Therefore, Member States, in accordance with their national system and practices, should take appropriate measures, such as programmes supporting social partners, practical guidance as well as an active participation of the government in a social dialogue at national level and removing all restrictions on the use of collective negotiations. Such measures should encourage social partners to pay due attention to equal pay matters, including discussions at the appropriate level of collective bargaining and the development of gender-neutral job evaluation and classification systems.</p>	<p>(31) It is important that social partners discuss and give particular attention to matters of equal pay in collective bargaining. The different features of national social dialogue and collective bargaining systems across the Union and the autonomy and contractual freedom of social partners as well as their capacity as representatives of workers and employers should be respected. Therefore, Member States, in accordance with their national system and practices, should take appropriate measures, such as programmes supporting social partners, practical guidance as well as an active participation of the government in a social dialogue at national level. Such measures should to encourage social partners to pay due attention to equal pay matters, includingwhich may include discussions at the appropriate level of collective bargaining and the development of gender-neutral job evaluation and classification systems.</p>	

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Recital 32				
41	(32) Workers should have the necessary procedures at their disposal to facilitate the exercise of their right to access justice. National legislation making use of conciliation or the intervention of an equality body compulsory or subject to incentives or penalties should not prevent parties from exercising their right of access to court.	(32) <i>All</i> workers should have the necessary procedures at their disposal to facilitate the exercise of their right to access justice. National legislation making use of conciliation or the intervention of an equality body compulsory or subject to incentives or penalties should not prevent parties from exercising their right of access to court. Member States should ensure that women with disabilities, including those under substituted decision-making mechanisms, have access to justice and legal remedies on an equal basis with others.	(32) Workers should have the necessary procedures at their disposal to facilitate the exercise of their right to access justice. National legislation making use of conciliation or the intervention of an equality body compulsory or subject to incentives or penalties sanctions should not prevent parties from exercising their right of access to court.	
Recital 33				
42	(33) Involving equality bodies, besides other stakeholders, is instrumental in effectively applying the principle of equal pay. The powers and mandates of the national equality bodies should therefore be adequate to fully cover gender pay discrimination, including any pay transparency or any other rights and obligations laid down in this Directive. In order to overcome the procedural and cost-related obstacles that workers who believe to be discriminated against face when they	(33) The direct involvement of the social partners in national equality policies is necessary to ensure continuous and coordinated involvement of the social partners. Involving equality bodies, besides other stakeholders, is instrumental in effectively applying the principle of equal pay. The powers and mandates of the national equality bodies, without prejudice to the role of the social partners and the labour inspectorates or other bodies responsible for enforcing	(33) Involving equality bodies, besides other stakeholders, is instrumental in effectively applying the principle of equal pay. The powers and mandates of the national equality bodies should therefore be adequate to fully cover gender pay discrimination, including any pay transparency or any other rights and obligations laid down in this Directive. In order to overcome the procedural and cost-related obstacles that workers who believe to be discriminated against face when they	

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	<p>seek to enforce their right to equal pay, equality bodies, as well as associations, organisations, bodies and workers' representatives or other legal entities with an interest in ensuring equality between men and women, should be able to represent individuals. They should be able to decide to assist workers on their behalf or in their support, which would allow workers who have suffered discrimination to effectively claim their rights and the principle of equal pay to be enforced.</p>	<p>observance of workers' rights, should therefore be adequate to fully cover gender pay discrimination, including any pay transparency or any other rights and obligations laid down in this Directive. In order to overcome the procedural and cost-related obstacles that workers who believe to be discriminated against face when they seek to enforce their right to equal pay, equality bodies, as well as associations, organisations, bodies and workers' representatives or other legal entities with an interest in ensuring equality between men and women, should be able to represent individuals. They should be able to decide to assist workers on their behalf or in their support, which would allow workers who have suffered discrimination to effectively claim their rights and the principle of equal pay to be enforced.</p>	<p>seek to enforce their right to equal pay, equality bodies, as well as associations, organisations, bodies and workers' representatives or other legal entities with an interest in ensuring equality between men and women, should be able to represent individuals. They should be able to decide to assist workers on their behalf or in their support, which would allow workers who have suffered discrimination to effectively claim their rights and the principle of equal pay to be enforced.</p>	
Recital 34				
43	<p>(34) Equality bodies and workers' representatives should also be able to represent one or several workers who believe to be discriminated against based on sex in violation of the principle of equal pay for the same work or work of equal value. Bringing claims on behalf of or</p>	<p>(34) Equality bodies and workers' representatives should also be able to represent one or several workers who believe to be discriminated against based on sex in violation of the principle of equal pay for the same work or work of equal value. Bringing claims on behalf of or</p>	<p>(34) Equality bodies and workers' representatives should also be able to represent one or several workers who believe to be discriminated against based on sex in violation of the principle of equal pay for the same work or work of equal value. Bringing claims on behalf of or</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	supporting several workers is a way to facilitate proceedings that would not have been brought otherwise because of procedural and financial barriers or a fear of victimisation and also when workers are facing discrimination on multiple grounds which can be difficult to disentangle. Collective claims have the potential to uncover systemic discrimination and create visibility of equal pay and gender equality in society as a whole. The possibility of collective redress would motivate pro-active compliance with pay transparency measures, creating peer pressure and increasing employers' awareness and willingness to act preventively.	supporting several workers is a way to facilitate proceedings that would not have been brought otherwise because of procedural and financial barriers or a fear of victimisation and also when workers are facing discrimination on multiple grounds which can be difficult to disentangle. Collective claims have the potential to uncover systemic discrimination and create visibility of equal pay and gender equality in society as a whole. The possibility of collective redress would motivate pro-active compliance with pay transparency measures, creating peer pressure and increasing employers' awareness and willingness to act preventively and would address the systemic nature of pay discrimination.	supporting several workers is a way to facilitate proceedings that would not have been brought otherwise because of procedural and financial barriers or a fear of victimisation and also when workers are facing discrimination on multiple grounds which can be difficult to disentangle. Collective claims have the potential to uncover systemic discrimination and create visibility of equal pay and gender equality in society as a whole. The possibility of collective redress would motivate pro-active compliance with pay transparency measures, creating peer pressure and increasing employers' awareness and willingness to act preventively. Member States may decide to set qualification criteria for the representatives involved in the judicial proceedings, in order to ensure quality of the representation.	
Recital 35				
44	(35) Member States should ensure the allocation of sufficient resources to equality bodies for the effective and adequate performance of their tasks related to pay discrimination based on sex. Where the tasks are allocated to more than one body, Member States should ensure that	(35) Member States should ensure that the human, technical and financial the allocation of sufficient resources to equality bodies for the effective and adequate performance of and national bodies and authorities with responsibility for inspection and supervision such as	(35) Member States should ensure the allocation of sufficient resources to equality bodies for the effective and adequate performance of their tasks related to pay discrimination based on sex. Where the tasks are allocated to more than one body, Member States should ensure that	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	they are adequately coordinated.	<i>labour inspectorates are used to effectively and adequately perform their respective tasks and responsibilities, in particular those related to gender pay discrimination based on sex.</i> Where the tasks are allocated to more than one body, Member States should ensure that they are adequately coordinated.	they are adequately coordinated. Member States should consider allocating amounts recovered as fines to the equality bodies for the purpose of effectively carrying out their functions in regard to the enforcement of the right to equal pay, including to bring pay discrimination claims or assist and support victims in bringing such claims.	
Recital 36				
45	(36) Compensation should cover in full the loss and damage sustained as a result of gender pay discrimination ¹ . It should include full recovery of back pay and related bonuses or payments in kind, compensation for lost opportunities and moral prejudice. No prior fixed upper limit for such compensation should be allowed. ¹ . Case C- 407/14, María Auxiliadora Arjona Camacho v Securitas Seguridad España SA, ECLI:EU:C:2015:831, para. 45.	(36) Compensation should cover in full the loss and damage sustained as a result of gender pay discrimination ¹ . It should include full recovery of back pay and related bonuses or payments in kind, as well as compensation for lost opportunities and moral prejudice. The compensation should take into account gender-based pay discrimination that intersects with additional grounds of discrimination. No prior fixed upper limit for such compensation should be allowed. ¹ . Case C—407/14, María Auxiliadora Arjona Camacho v Securitas Seguridad España SA, ECLI:EU:C:2015:831, para. 45.	(36) Compensation should cover in full the loss and damage sustained as a result of gender pay discrimination ¹ . It should include full recovery of back pay and related bonuses or payments in kind, compensation for lost opportunities (such as access to certain benefits depending on pay level) and moral prejudice (such as moral suffering from the underevaluation of work performed) . No prior fixed upper limit for such compensation should be allowed. ¹ . [1] Case C- 407/14, María Auxiliadora Arjona Camacho v Securitas Seguridad España SA, ECLI:EU:C:2015:831, para. 45.	
Recital 37				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
46	(37) In addition to compensation, other remedies should be provided. Courts should, for instance, be able to require an employer to take structural or organisational measures to comply with its obligations regarding equal pay. Such measures may include, for instance, an obligation to review the pay setting mechanism based on a gender-neutral evaluation and classification; to set up an action plan to eliminate the discrepancies discovered and to reduce any unjustified gaps in pay; to provide information and raise workers' awareness about their right to equal pay; to establish a mandatory training for human resources staff on equal pay and gender-neutral job evaluation and classification.	(37) In addition to compensation, other remedies should be provided. Courts should, for instance, be able to require an employer to take structural or organisational measures to comply with its obligations regarding equal pay. Such measures may include, for instance, an obligation to review the pay setting mechanism based on a gender-neutral evaluation and classification; to set up an review their gender action plan to eliminate the discrepancies discovered and to reduce any unjustified gaps in pay; to provide information and raise workers' awareness about their right to equal pay; to establish a mandatory training for human resources staff on equal pay and gender-neutral job evaluation and classification.	(37) In addition to compensation, other remedies should be provided. Courts or competent authorities should, for instance, be able to require an employer to take structural or organisational measures to comply with its obligations regarding equal pay. Such measures may include, for instance, an obligation to review the pay setting mechanism based on a gender-neutral evaluation and classification; to set up an action plan to eliminate the discrepancies discovered and to reduce any unjustified gaps in pay; to provide information and raise workers' awareness about their right to equal pay; to establish a mandatory training for human resources staff on equal pay and gender-neutral job evaluation and classification.	
Recital 38				
47	(38) Following the case law of the Court ¹ , Directive 2006/54/EC established provisions to ensure that the burden of proof shifts to the defendant when there is a prima facie case of discrimination. Member States should not be prevented from introducing, at any appropriate stage of the proceedings,	(38) Following the case law of the Court ¹ , Directive 2006/54/EC established provisions to ensure that the burden of proof shifts to the defendant when there is a prima facie case of discrimination. Member States should not be prevented from introducing, at any appropriate stage of the proceedings,	(38) Following the case law of the Court ¹ , Directive 2006/54/EC established provisions to ensure that the burden of proof shifts to the defendant when there is a prima facie prima facie case of discrimination. Member States should not be prevented from introducing, at any appropriate stage	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>rules of evidence which are more favourable to workers making a claim. In any legal or administrative proceedings concerning direct or indirect discrimination, in case the employer did not comply with the pay transparency obligations set out by the Directive, the burden of proof should be automatically shifted to the defendant, irrespective of the worker showing a prima facie case of pay discrimination.</p> <p><small>1. Case C-109/88, Handels- og Kontorfunktionærernes Forbund I Danmark v Dansk Arbejdsgiverforening, acting on behalf of Danfoss, ECLI:EU:C:1989:383.</small></p>	<p>rules of evidence which are more favourable to workers making a claim. In any legal or administrative proceedings concerning direct or indirect discrimination, in case the employer did not comply with the pay transparency obligations set out by the Directive, the burden of proof should be automatically shifted to the defendant, irrespective of the worker showing a prima facie case of pay discrimination.</p> <p><small>1. Case C-109/88, Handels- og Kontorfunktionærernes Forbund I Danmark v Dansk Arbejdsgiverforening, acting on behalf of Danfoss, ECLI:EU:C:1989:383.</small></p>	<p>of the proceedings, rules of evidence which are more favourable to workers making a claim. In any legal or administrative proceedings concerning direct or indirect discrimination, in case Nevertheless, it is not always easy for victims and courts to know how to establish even that presumption. In the Case C-109/88 (Danfoss case) the Court held that when a system of pay is totally lacking in transparency, the burden of proof should be shifted to the defendant, irrespective of the worker showing a prima facie case of pay discrimination. This should in particular be the case when the employer did not comply in a manifestly negligent manner with the pay transparency obligations set out by the under this Directive, the burden of proof should be automatically shifted to the defendant, irrespective of the worker showing a prima facie case of pay discrimination for instance refusing to provide information requested by the workers or not reporting on gender pay gap, where relevant.</p> <p><small>1. [1] Case C-109/88, Handels- og Kontorfunktionærernes Forbund I Danmark v Dansk Arbejdsgiverforening, acting on behalf of Danfoss, ECLI:EU:C:1989:383.</small></p>	
Recital 39				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
48	(39) Although it is necessary only to establish a presumption of discrimination before the burden of proof shifts to the employer, it is not always easy for victims and courts to know how to establish even that presumption. Pay transparency measures have the potential to support the use of the reversal of the burden of proof, by helping workers determine the average pay levels for women and men performing the same work or work of equal value. Enabling workers to provide prima facie evidence which allows discrimination to be presumed would swiftly trigger the reverse burden of proof to the benefit of the worker.	(39) Although it is necessary only to establish a presumption of discrimination before the burden of proof shifts to the employer, it is not always easy for victims and courts to know how to establish even that presumption. Pay transparency measures have the potential to support the use of the reversal of the burden of proof, by helping workers determine the average pay levels for women and men workers performing the same work or work of equal value. Enabling workers to provide prima facie evidence which allows discrimination to be presumed would swiftly trigger the reverse burden of proof to the benefit of the worker.	(39) Although it is necessary only to establish a presumption of discrimination before the burden of proof shifts to the employer, it is not always easy for victims and courts to know how to establish even that presumption. Pay transparency measures have the potential to support the use of the reversal of the burden of proof, by helping workers determine the average pay levels for women and men performing the same work or work of equal value. Enabling workers to provide prima facie evidence which allows discrimination to be presumed would swiftly trigger the reverse burden of proof to the benefit of the worker.	
Recital 40				
49	(40) In accordance with the case-law of the Court, national rules on time limits for the enforcement of rights under this Directive should be such that they cannot be regarded as capable of rendering virtually impossible or excessively difficult the exercise of those rights. Limitation periods create specific obstacles for victims of gender pay discrimination. For that purpose, common minimum standards should be established. Those standards	(40) In accordance with the case-law of the Court, national rules on time limits for the enforcement of rights under this Directive should be such that they cannot be regarded as capable of rendering virtually impossible or excessively difficult the exercise of those rights. Limitation periods create specific obstacles for victims of gender pay discrimination. For that purpose, <i>the limitation period should not begin to run before the discrimination has</i>	(40) In accordance with the case-law of the Court, national rules on time limits for the enforcement of rights under this Directive should be such that they cannot be regarded as capable of rendering virtually impossible or excessively difficult the exercise of those rights. Limitation periods create specific obstacles for victims of gender pay discrimination. For that purpose, common minimum standards should be established. Those standards	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	should determine when the limitation period begins to run, the duration thereof and the circumstances under which it is interrupted or suspended and provide that the limitation period for bringing claims is at least three years.	<i>ceased, and additional</i> common minimum standards should be established. Those standards should determine when the limitation period begins to run, the duration thereof and the circumstances under which it is interrupted or suspended and provide that the limitation period for bringing claims is at least three <i>five</i> years.	should determine when the limitation period begins to run, the duration thereof and the circumstances under which it is interrupted or suspended. Member States should consider the limitation periods not to begin to run before the violation of the principle of equal pay or infringement of the rights or obligations under this Directive has ceased and the claimant knows, or can reasonably be expected to know, about the violation or infringement or before the termination of the employment contract. Member States should and provide that the limitation period for bringing claims is at least three years. Member States may also set a higher maximum limitation period within which the claimant will be required to act.	
Recital 41				
50	(41) Litigation costs create a serious disincentive for victims of gender pay discrimination to claim their right to equal pay, leading to insufficient protection and enforcement of the right to equal pay. In order to remove this strong procedural obstacle to justice, successful claimants should be	(41) Litigation costs create a serious disincentive for victims of gender <i>gender-based</i> pay discrimination to claim their right to equal pay, leading to insufficient protection and enforcement of the right to equal pay. In order to remove this strong procedural obstacle to justice, successful	(41) Litigation costs create a serious disincentive for victims of gender pay discrimination to claim their right to equal pay, leading to insufficient protection and enforcement of the right to equal pay. In order to remove this strong procedural obstacle to justice, successful claimants Member States	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>allowed to recover their procedural costs from the defendant. On the other hand, claimants should not be liable for successful defendant's proceedings costs unless the claim was brought in bad faith, was clearly frivolous or if the non-recovery by the defendant would be considered unreasonable by the courts or other competent authorities under the specific circumstances of the case, for instance having regard to the financial situation of micro-enterprises.</p>	<p>claimants should be allowed to recover their procedural costs, in particular legal costs, from the defendant. On the other hand, claimants should not be liable for successful defendant's proceedings costs unless Member States should give the courts the possibility to assess whether unsuccessful claimants had reasonable grounds for bringing the claim was brought in bad faith, was clearly frivolous or if the non-recovery by the defendant would be considered unreasonable by the courts or other competent authorities under the specific circumstances of the case, for instance having regard to the financial situation of micro-enterprises to court and to order that they do not have to bear all or part of their costs. This should in particular apply where a defendant did not comply with the pay transparency obligations set out in this Directive.</p>	<p>should be allowed to recover their procedural costs from the defendant. On the other hand, claimants should not be liable for successful defendant's proceedings costs unless reasonable courts to assess whether the losing claimant had reasonable grounds for bringing the claim was brought in bad faith, was clearly frivolous or if the non-recovery by the defendant would be considered unreasonable by the courts or other competent authorities under the specific circumstances of the case, for instance having regard to the financial situation of micro-enterprises to court and to order that the losing claimant does not have to bear its costs. This should in particular apply where a defendant did not comply with the pay transparency obligations set out in this Directive.</p>	
Recital 42				
51	<p>(42) Member States should provide for effective, proportionate and dissuasive penalties in the event of infringements of national provisions adopted pursuant to this Directive or national provisions that are already</p>	<p>(42) Member States should provide for effective, proportionate and dissuasive penalties in the event of infringements of national provisions adopted pursuant to this Directive or national provisions that are already</p>	<p>(42) Member States should provide for effective, proportionate and dissuasive penalties sanctions in the event of infringements of national provisions adopted pursuant to this Directive or national provisions that</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>in force on the date of entry into force of this Directive and that relate to the right to equal pay between men and women for the same work or work of equal value. Such penalties should include fines, which should be set at a minimum level having due regard to the gravity and duration of the infringement, to any possible intent to discriminate or serious negligence, and to any other aggravating or mitigating factors that may apply in the circumstances of the case, for instance, where pay discrimination based on sex intersects with other grounds of discrimination. Member States should consider allocating amounts recovered as fines to the equality bodies for the purpose of effectively carrying out their functions in regard to the enforcement of the right to equal pay, including to bring pay discrimination claims or assist and support victims in bringing such claims.</p>	<p>in force on the date of entry into force of this Directive and that relate to the right to equal pay between men and women for the same equal work or work of equal value. Such penalties should include fines based, for instance, on the employer's gross annual turnover or on the employer's total payroll and, which should be set at a minimum level having due regard to the gravity and duration of the infringement, to any possible intent to discriminate or serious negligence, and to any other aggravating or mitigating factors that may apply in the circumstances of the case, for instance, where pay discrimination based on sex intersects with other grounds of discrimination. Member States should consider allocating amounts recovered as fines to the equality bodies for the purpose of effectively carrying out their functions in regard to the enforcement of the right to equal pay for equal work or work of equal value, including to bring pay discrimination claims or assist and support victims in bringing such claims.</p>	<p>are already in force on the date of entry into force of this Directive and that relate to the right to equal pay between men and women for the same work or work of equal value. Such penalties should sanctions may include fines, which should be set at a minimum level having due regard to the gravity and duration of the infringement, to any possible intent to discriminate or serious negligence on the part of the employer, and to any other aggravating or mitigating factors that may apply in the circumstances of the case, for instance, where pay discrimination based on sex intersects is combined with other grounds of discrimination. Member States should consider allocating amounts recovered as fines to the equality bodies for the purpose of effectively carrying out their functions in regard to the enforcement of the right to equal pay, including to bring pay discrimination claims or assist and support victims in bringing such claims.</p>	
Recital 43				
52	(43) Member States should establish	(43) Member States should establish	(43) Member States should	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>specific penalties for repeated infringements of any right or obligation relating to equal pay between men and women for the same work or work of equal value, to reflect the severity of the act and further deter such infringements. Such penalties may include different types of financial disincentives such as the revocation of public benefits or the exclusion, for a certain period of time, from any further award of financial inducements or from any public tender procedure.</p>	<p>specific penalties for repeated infringements of any right or obligation relating to equal pay between men and women for the same work or work of equal value, to reflect the severity of the act and further deter such infringements. Such penalties may include different types of financial disincentives such as the revocation of public benefits or the exclusion, for a certain period of time, from any further award of financial inducements or from any public tender procedure.</p>	<p>establishensure that specific penaltiessanctions for repeated infringements of any right or obligation relating to equal pay between men and women for the same work or work of equal value apply, to reflect the severity of the act and further deter such infringements. Such penaltiessanctions may include different types of financial disincentives such as the revocation of public benefits or the exclusion, for a certain period of time, from any further award of financial inducements or from any public tender procedure.</p>	
Recital 44				
53	<p>(44) Obligations on employers stemming from this Directive are part of the applicable obligations in the fields of environmental, social and labour law whose compliance Member States have to ensure under Directive 2014/23/EU of the European Parliament and of the Council¹, Directive 2014/24/EU of the European Parliament and of the Council², Directive 2014/25/EU of the European Parliament and of the Council³ in regard to participation in public procurement procedures. In order to comply with these</p>	<p>(44) Obligations on employers stemming from this Directive are part of the applicable obligations in the fields of environmental, social and labour law whose compliance Member States have to ensure under Directive 2014/23/EU of the European Parliament and of the Council¹, Directive 2014/24/EU of the European Parliament and of the Council², Directive 2014/25/EU of the European Parliament and of the Council³ in regard to participation in public procurement procedures. In order to comply with these</p>	<p>(44) Obligations on employers stemming from this Directive are part of the applicable obligations in the fields of environmental, social and labour law whose compliance Member States have to ensure under Directive 2014/23/EU of the European Parliament and of the Council¹, Directive 2014/24/EU of the European Parliament and of the Council², Directive 2014/25/EU of the European Parliament and of the Council³ in regard to participation in public procurement procedures. In order to comply with these</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>obligations as far as the right to equal pay is concerned, Member States should in particular ensure that economic operators, in the performance of a public contract or concession, have pay setting mechanisms that do not lead to a pay gap between female and male workers that cannot be justified by gender-neutral factors in any category of workers carrying out equal work or work of equal value. In addition, Member States should consider for contracting authorities to introduce, as appropriate, penalties and termination conditions ensuring compliance with the principle of equal pay in the performance of public contracts and concessions. They may also take into account non-compliance with the principle of equal pay by the bidder or one of his subcontractors when considering the application of exclusion grounds or a decision not to award a contract to the tenderer submitting the most economically advantageous tender.</p> <p>1. Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, OJ L 94, 28.3.2014, p. 1. 2. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, p. 65.</p>	<p>obligations as far as the right to equal pay is concerned, Member States should in particular ensure that economic operators, in the performance of a public contract or concession, have pay setting mechanisms that do not lead to a gender pay gap between female and male workers that cannot be justified by gender-neutral factors in any category of workers carrying out equal work or work of equal value. In addition, Member States should consider for contracting authorities to introduce, as appropriate, penalties and termination conditions ensuring compliance with the principle of equal pay in the performance of public contracts and concessions. They may also take into account non-compliance with the principle of equal pay by the bidder or one of his subcontractors when considering the application of exclusion grounds or a decision not to award a contract to the tenderer submitting the most economically advantageous tender.</p> <p>1. Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, OJ L 94, 28.3.2014, p. 1. 2. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, p. 65.</p>	<p>obligations as far as the right to equal pay is concerned, Member States should in particular ensure that economic operators, in the performance of a public contract or concession, have pay setting mechanisms that do not lead to a pay gap between female and male workers that cannot be justified by gender-neutral factors in any category of workers carrying out equal work or work of equal value. In addition, Member States should consider for contracting authorities to introduce, as appropriate, penalties sanctions and termination conditions ensuring compliance with the principle of equal pay in the performance of public contracts and concessions. They may also take into account non-compliance with the principle of equal pay by the bidder or one of his subcontractors when considering the application of exclusion grounds or a decision not to award a contract to the tenderer submitting the most economically advantageous tender.</p> <p>1. Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, OJ L 94, 28.3.2014, p. 1. 2. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, p. 65.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	3. Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC, OJ L 94, 28.3.2014, p. 243.	3. Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC, OJ L 94, 28.3.2014, p. 243.	3. Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC, OJ L 94, 28.3.2014, p. 243.	
Recital 45				
54	(45) The effective implementation of the right to equal pay requires adequate judicial and administrative protection against any adverse treatment as a reaction to an attempt to exercise workers' rights relating to equal pay between men and women, to any complaint to the employer or to any legal or administrative proceedings aimed at enforcing compliance with the right to equal pay.	(45) The effective implementation of the right to equal pay requires adequate judicial and administrative protection against any adverse treatment as a reaction to an attempt to exercise workers' rights relating to equal pay between men and women, to any complaint to the employer or to any legal or administrative proceedings aimed at enforcing compliance with the right to equal pay.	(45) The effective implementation of the right to equal pay requires adequate judicial and administrative protection against any adverse treatment as a reaction to an attempt to exercise workers' rights relating to equal pay between men and women, to any complaint to the employer or to any legal or administrative proceedings aimed at enforcing compliance with the right to equal pay. According to the case law¹ the category of employees who are entitled to the protection should be interpreted broadly and include all employees who may be subject to retaliatory measures taken by an employer in response to a complaint of discrimination. The protection is not limited solely to employees who have lodged complaints or their representatives, or to those who comply with certain formal requirements governing the recognition of a certain status, such as that of a witness.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			1. [1] C-404/18 Hakelbracht and others ECLI:EU:2019:523.	
Recital 46				
55	(46) In order to improve the enforcement of the equal pay principle, this Directive should strengthen the existing enforcement tools and procedures in regard to the rights and obligations laid down in this Directive and the equal pay provisions set out in Directive 2006/54/EC.	(46) In order to improve the enforcement of the equal pay principle, this Directive should strengthen the existing enforcement tools and procedures in regard to the rights and obligations laid down in this Directive and the equal pay provisions set out in Directive 2006/54/EC.	(46) In order to improve the enforcement of the equal pay principle, this Directive should strengthen the existing enforcement tools and procedures in regard to the rights and obligations laid down in this Directive and the equal pay provisions set out in Directive 2006/54/EC.	
Recital 47				
56	(47) This Directive lays down minimum requirements, thus respecting the Member States' prerogative to introduce and maintain more favourable provisions. Rights acquired under the existing legal framework should continue to apply, unless more favourable provisions are introduced by this Directive. The implementation of this Directive cannot be used to reduce existing rights set out in existing Union or national law in this field, nor can it constitute valid grounds for reducing the rights of workers in regard to equal pay between men and women	(47) This Directive lays down minimum requirements, thus respecting the Member States' prerogative to introduce and maintain more favourable provisions. Rights acquired under the existing legal framework should continue to apply, unless more favourable provisions are introduced by this Directive. The implementation of this Directive cannot be used to reduce existing rights set out in existing Union or national law in this field, nor can it constitute valid grounds for reducing the rights of workers in regard to equal pay between men and women	(47) This Directive lays down minimum requirements, thus respecting the Member States' prerogative to introduce and maintain more favourable provisions. Rights acquired under the existing legal framework should continue to apply, unless more favourable provisions are introduced by this Directive. The implementation of this Directive cannot be used to reduce existing rights set out in existing Union or national law in this field, nor can it constitute valid grounds for reducing the rights of workers in regard to equal pay between men and women	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	for the same work or work of equal value.	for the same for equal work or work of equal value.	for the same work or work of equal value.	
Recital 48				
57	(48) In order to ensure proper monitoring of the implementation of the right to equal pay between men and women for the same work or work of equal value, Member States should set up or designate a dedicated monitoring body. This body, which may be part of an existing body pursuing similar objectives, should have specific tasks in relation to the implementation of the pay transparency measures foreseen in this Directive and gather certain data to monitor pay inequalities and the impact of the pay transparency measures.	(48) In order to ensure proper monitoring of the implementation of the right to equal pay between men and women for the same for equal work or work of equal value, Member States should set up or designate a dedicated monitoring body. This body, which may be part of an existing body pursuing similar objectives, and which cooperates in particular with the social partners, labour inspectorates and other bodies responsible for the enforcement of workers' rights, should have specific tasks in relation to the implementation and enforcement of the pay transparency measures foreseen in this Directive and gather certain data to monitor pay inequalities and the impact of the pay transparency measures. Member States should ensure that their monitoring body has adequate resources in order to fulfil its tasks.	(48) In order to ensure proper monitoring of the implementation of the right to equal pay between men and women for the same work or work of equal value, Member States should set up or designate a dedicated monitoring body. This body, which may be part of an existing body pursuing similar objectives, make sure that the tasks in relation to the implementation of the pay transparency measures foreseen in this Directive are carried out and gather certain data to monitor pay inequalities and the impact of the pay transparency measures. Where the tasks related to monitoring of the implementation of this Directive are carried out by different bodies or authorities, Member States should ensure that they are adequately coordinated.	
Recital 49				
58	(49) Compiling wage statistics broken down by gender and	(49) Compiling wage statistics broken down by gender, disability	(49) Compiling wage statistics broken down by gender sex and	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>providing the Commission (Eurostat) with accurate and complete statistics is essential for analysing and monitoring changes in the gender pay gap at Union level. Council Regulation (EC) No 530/1999¹ requires Member States to compile four-yearly structural earnings statistics at micro level that provide harmonized data for the calculation of the gender pay gap. Annual high-quality statistics could increase transparency and enhance monitoring and awareness of gender pay inequality. The availability and comparability of such data is instrumental for assessing developments both at national level and throughout the Union.</p> <p>¹ Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and on labour costs (OJ L 63, 12.3.1999, p. 6).</p>	<p><i>and age</i> and providing the Commission (Eurostat) with accurate and complete statistics is essential for analysing and monitoring changes in the gender pay gap at Union level. Council Regulation (EC) No 530/1999¹ requires Member States to compile four-yearly structural earnings statistics at micro level that provide harmonized data for the calculation of the gender pay gap. Annual high-quality statistics could increase transparency and enhance monitoring and awareness of gender pay inequality. The availability and comparability of such data is instrumental for assessing developments both at national level and throughout the Union.</p> <p>¹ Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and on labour costs (OJ L 63, 12.3.1999, p. 6).</p>	<p>providing the Commission (Eurostat) with accurate and complete statistics is essential for analysing and monitoring changes in the gender pay gap at Union level. Council Regulation (EC) No 530/1999¹ Regulation 530/1999¹ of the Council requires Member States to compile four-yearly structural earnings statistics at micro level that provide harmonized data for the calculation of the gender pay gap. Annual high-quality statistics could increase transparency and enhance monitoring and awareness of gender pay inequality. The availability and comparability of such data is instrumental for assessing developments both at national level and throughout the Union. Relevant statistics transmitted to Eurostat should be collected for statistical purposes in the meaning of Regulation 223/2009² of the European Parliament and of the Council.</p> <p>¹ [1] Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and on labour costs (OJ L 63, 12.3.1999, p. 6). ² Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics.</p>	
Recital 50				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
59	(50) This Directive aims at a better and more effective implementation of the principle of equal pay for equal work or work to which equal value is attributed between men and women through the establishment of common minimum requirements which should apply to all undertakings and organisations across the European Union. Since this objective cannot be sufficiently achieved by the Member States and should therefore be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive, which limits itself to setting minimum standards, does not go beyond what is necessary in order to achieve that objective.	(50) This Directive aims at a better and more effective implementation of the principle of equal pay for equal work or work to which equal value is attributed between men and women through the establishment of common minimum requirements which should apply to all undertakings and organisations across the European Union. Since this objective cannot be sufficiently achieved by the Member States and should therefore be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive, which limits itself to setting minimum standards, does not go beyond what is necessary in order to achieve that objective.	(50) This Directive aims at a better and more effective implementation of the principle of equal pay for equal work or work to which equal value is attributed between men and women through the establishment of common minimum requirements which should apply to all undertakings and organisations across the European Union. Since this objective cannot be sufficiently achieved by the Member States and should therefore be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive, which limits itself to setting minimum standards, does not go beyond what is necessary in order to achieve that objective.	
Recital 51				
60	(51) The role of social partners is of key importance in designing the way pay transparency measures are implemented in Member States, especially in those with high collective bargaining coverage. Member States should therefore	(51) The role of social partners is of key importance in designing the way pay transparency measures are implemented in Member States, especially in those with high collective bargaining coverage. Member States should therefore	(51) The role of social partners is of key importance in designing the way pay transparency measures are implemented in Member States, especially in those with high collective bargaining coverage. Member States should therefore	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	have the possibility to entrust the social partners with the implementation of all or part of this Directive, provided that they take all the necessary steps to ensure that the results sought by this Directive are guaranteed at all times.	have the possibility to entrust the social partners with the implementation of all or part of this Directive, provided that they take all the necessary steps to ensure that the results sought by this Directive are guaranteed at all times. <i>This Directive is to be interpreted so as to strengthen the role of the social partners in Member States.</i>	have the possibility to entrust the social partners with the implementation of all or part of this Directive, provided that they take all the necessary steps to ensure that the results sought by this Directive are guaranteed at all times. Furthermore, Member States should be able to allow for the social partners to maintain, negotiate, conclude and enforce collective agreements which establish different arrangements on pay transparency, provided that the results sought by this Directive are ensured at all times.	
Recital 52				
61	(52) In implementing this Directive Member States should avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of micro, small and medium-sized enterprises. Member States are therefore invited to assess the impact of their transposition act, on small and medium-sized enterprises in order to ensure that they are not disproportionately affected, giving specific attention to micro-enterprises, to alleviate the administrative burden, and to publish the results of such	(52) In implementing this Directive Member States should avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of micro, small and medium-sized enterprises <i>microenterprises and SMEs</i> . Member States are therefore invited to assess the impact of their transposition act, on small and medium-sized enterprises <i>microenterprises and SMEs</i> in order to ensure that they are not disproportionately affected, giving specific attention to micro-	(52) In implementing this Directive Member States should avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of micro, small and medium-sized enterprises. Member States are therefore invited to assess the impact of their transposition act, on small and medium-sized enterprises in order to ensure that they are not disproportionately affected, giving specific attention to micro-enterprises, to alleviate the administrative burden, and to publish the results of such	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	assessments.	<i>enterprises, its proper implementation while providing necessary support</i> to alleviate the administrative burden, and to publish the results of such assessments. <i>Member States should include an assessment of the impact of this Directive on female-dominated sectors. Member States shall provide support, technical assistance and training, in particular for microenterprises and SMEs, to comply with those obligations.</i>	assessments.	
Recital 53				
62	<p>(53) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725¹ and delivered an opinion on XX XXXX.</p> <p>¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).</p>	<p>(53) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725¹ and delivered an opinion on XX XXXX.</p> <p>¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).</p>	<p>(53) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725¹ and delivered an opinion² on 27 April 2021, on XX XXXX.</p> <p>¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).</p> <p>² https://edps.europa.eu/system/files/2021-04/21-04-27_2021-0251_d0905_comments_en.pdf</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Formula				
63	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	
CHAPTER I				
64	CHAPTER I General provisions	CHAPTER I General provisions	CHAPTER I General provisions	
Article 1				
65	Article 1 Subject matter	Article 1 Subject matter	Article 1 Subject matter	
Article 1, first paragraph				
66	This Directive lays down minimum requirements to strengthen the application of the principle of equal pay between men and women for equal work or work of equal value enshrined in Article 157 TFEU and the prohibition of discrimination laid down in Article 4 of Directive 2006/54/EC, in particular through pay transparency and reinforced enforcement mechanisms.	This Directive lays down minimum requirements to strengthen the application of the principle of equal pay between men and women for equal work or work of equal value enshrined in Article 157 TFEU and the prohibition of discrimination laid down in Article 4 of Directive 2006/54/EC, in particular through pay transparency and reinforced enforcement mechanisms.	This Directive lays down minimum requirements to strengthen the application of the principle of equal pay between men and women for equal work or work of equal value between men and women enshrined in Article 157 TFEU and the prohibition of discrimination laid down in Article 4 of Directive 2006/54/EC, in particular through pay transparency and reinforced enforcement mechanisms.	
Article 2				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
67	Article 2 Scope	Article 2 Scope	Article 2 Scope	
Article 2(1)				
68	1. This Directive applies to employers in the public and private sectors.	1. This Directive applies to employers in the public and private sectors.	1. This Directive applies to employers in the public and private sectors.	
Article 2(2)				
69	2. This Directive applies to all workers who have an employment contract or employment relationship as defined by law, collective agreements and/or practice in force in each Member State with consideration to the case-law of the Court of Justice.	2. This Directive applies to all workers who have an employment contract or employment relationship as defined by law, collective agreements and/or practice in force in each Member State with consideration to the case-law of the Court of Justice. <i>This Directive applies to workers referred to in the first subparagraph irrespective of their sex, gender, gender identity, gender expression or sex characteristics for the purpose of complying with the prohibition of discrimination laid down in Article 4 of Directive 2006/54/EC.</i>	2. This Directive applies to all workers who have an employment contract or employment relationship as defined by law, collective agreements and/or practice in force in each Member State with consideration to the case-law of the Court of Justice.	
Article 2(2a)				
69a			3. Applicants for employment	

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			shall also be covered by the scope of this Directive for the purposes of Article 5.	
Article 2(2a)				
69b		<i>2a. For the purposes of Article 5, this Directive applies to applicants for employment.</i>		
Article 3				
70	Article 3 Definitions	Article 3 Definitions	Article 3 Definitions	
Article 3(1), introductory part				
71	1. For the purposes of this Directive, the following definitions apply:	1. For the purposes of this Directive, the following definitions apply:	1. For the purposes of this Directive, the following definitions apply:	
Article 3(1), point (-a)				
71a			(-a) ‘principle of equal pay’ means the principle of equal pay for equal work or work of equal value between men and women;	
Article 3(1), point (a)				
72	(a) ‘pay’ means the ordinary basic	(a) ‘pay’ means the ordinary basic	(a) ‘pay’ means the ordinary basic	

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	or minimum wage or salary and any other consideration, whether in cash or in kind which the worker receives directly or indirectly ('complementary or variable components'), in respect of his/her employment from his/her employer;	or minimum wage or salary and any other consideration, whether in cash or in kind which the worker receives directly or indirectly ('complementary or variable components'), in respect of his/her employment from his/her employer;	or minimum wage or salary and any other consideration, whether in cash or in kind which the worker receives directly or indirectly ('complementary or variable components'), in respect of his/her employment from his/her employer;	
Article 3(1), point (b)				
73	(b) 'pay level' means gross annual pay and the corresponding gross hourly pay;	(b) 'pay level' means gross annual pay and the corresponding gross hourly pay;	(b) 'pay level' means gross annual pay and the corresponding gross hourly pay;	
Article 3(1), point (c)				
74	(c) 'pay gap' means the difference of average pay levels between female and male workers of the employer, expressed as percentage of the average pay level of male workers;	(c) ' <i>gender</i> pay gap' means the difference of average pay levels between female and male workers of the employer, expressed as percentage of the average pay level of male workers;	(c) 'pay gap' means the difference of average pay levels between female and male workers of the employer, expressed as percentage of the average pay level of male workers;	
Article 3(1), point (d)				
75	(d) 'median pay level' means the pay of the worker that would have half of the workers earn more and half less than they do;	(d) 'median pay level' means the pay of the worker that would have half of the workers earn more and half less than they do;	(d) 'median pay level' means the pay of the worker that would have half of the workers earn more and half less than they do;	
Article 3(1), point (e)				
76				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	(e) ‘median pay gap’ means the difference between the median pay level of female and median pay level of male workers expressed as percentage of the median pay level of male workers;	(e) ‘median <i>gender</i> pay gap’ means the difference between the median pay level of female and median pay level of male workers expressed as percentage of the median pay level of male workers;	(e) ‘median pay gap’ means the difference between the median pay level of female and median pay level of male workers expressed as percentage of the median pay level of male workers;	
Article 3(1), point (f)				
77	(f) ‘quartile pay band’ means each of four equal groups of workers into which they are divided according to their pay levels – from the lowest to the highest;	(f) ‘quartile pay band’ means each of four equal groups of workers into which they are divided according to their pay levels – from the lowest to the highest;	(f) ‘quartile pay band’ means each of four equal groups of workers into which they are divided according to their pay levels – from the lowest to the highest;	
Article 3(1), point (fa)				
77a		<i>(fa) ‘work of equal value’ means work that is determined to be of equal value in accordance with the non-discriminatory and objective gender-neutral criteria provided for in Article 4(3) and is based on a comparison of two groups of workers which have not been formed in an arbitrary manner;</i>		
Article 3(1), point (g)				
78	(g) ‘category of workers’ means workers performing the same work or work of equal value grouped by the workers’ employer based on	(g) ‘category of workers’ means workers performing the same work or work of equal value grouped by the workers’ employer based on	(g) ‘category of workers’ means workers performing the same work or work of equal value grouped by the workers ² ’ employer or otherwise	

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	criteria as laid down in Article 4 of this Directive and specified by the employer concerned;	criteria as laid down in Article 4 of this Directive and specified by the employer concerned together with the workers' representatives on the basis of the criteria provided for in Article 4(3) and in accordance with the applicable law, collective agreements or other provisions in each Member State;	based on objective, gender-neutral criteria as laid down in Article 4 of this Directive and specified by the employer concerned specified in regard to the employer concerned in accordance with national law, collective agreements and/or practice;	
Article 3(1), point (ga)				
78a		(ga) 'workers' representatives' means representatives of recognised trade unions or other persons who are freely elected or who are designated by the workers in an organisation to represent them in accordance with national law and practice. The exclusive prerogatives and rights of trade unions, such as the right of trade unions to participate in collective bargaining, and to conclude collective agreements, and workers' right to organise themselves in trade unions, shall be preserved;		
Article 3(1), point (h)				
79	(h) 'direct discrimination' means the situation where one person is treated less favourably on grounds of sex than another person is, has been	(h) 'direct discrimination' means the situation where one person is treated less favourably on grounds of sex than another person is, has	(h) 'direct discrimination' means the situation where one person is treated less favourably on grounds of sex than another person is, has been	

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	or would be treated in a comparable situation;	been or would be treated in a comparable situation direct discrimination as defined in Article 2(1), point (a), of Directive 2006/54/EC;	or would be treated in a comparable situation;	
Article 3(1), point (i)				
80	(i) ‘indirect discrimination’ means the situation where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary;	(i) ‘indirect discrimination’ means the situation where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary indirect discrimination as defined in Article 2(1), point (b), of Directive 2006/54/EC;	(i) ‘indirect discrimination’ means the situation where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary;	
Article 3(1), point (ia)				
80a		(ia) ‘intersectional discrimination’ means a situation in which grounds of discrimination prohibited under Directive 2006/54/EC and one or more grounds of discrimination prohibited under Directive 2000/43/EC or 2000/78/EC interact with each other at the same time in such a way as to be inseparable,		

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		<i>producing distinct and specific forms of discrimination;</i>		
Article 3(1), point (j)				
81	(j) ‘equality body’ means the body or bodies designated pursuant to Article 20 of Directive 2006/54/EC, for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on grounds of sex;	(j) ‘equality body’ means the body or bodies designated pursuant to Article 20 of Directive 2006/54/EC, for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on grounds of sex;	(j) ‘equality body’ means the body or bodies designated pursuant to Article 20 of Directive 2006/54/EC, for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on grounds of sex;	
Article 3(1), point (k)				
82	(k) ‘labour inspectorate’ means the national body or bodies that have an inspection function on the labour market in a Member State.	(k) ‘labour inspectorate’ means the national body or bodies that have an inspection function on the labour market in a Member State.	(k) ‘ labour inspectorate control body ’ means the national body or bodies that have an inspection function on the labour market in a Member State responsible, in accordance with national law and/or practice, for control and/or inspection functions in regard to matters of equal pay. Where applicable, social partners may carry out these functions;	
Article 3(1), point (ka)				
82a			(l) ‘workers’ representatives’ means the workers’ representative in accordance with national law and/or practice;	

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Article 3(1), point (kb)				
82b			(m) ‘micro-sized employer’ means an employer which employs fewer than 10 persons;	
Article 3(1), point (kc)				
82c			(n) ‘small-sized employer’ means an employer which employs at least 10 and fewer than 50 persons;	
Article 3(2), introductory part				
83	2. For the purposes of this Directive, discrimination includes:	2. For the purposes of this Directive, discrimination includes:	2. For the purposes of this Directive, discrimination includes:	
Article 3(2), point (a)				
84	(a) harassment and sexual harassment, within the meaning of Article 2(2) of Directive 2006/54/EC, as well as any less favourable treatment based on a person's rejection of or submission to such conduct, when such harassment or treatment relates to or results from the exercise of the rights provided for in this Directive;	(a) harassment and sexual harassment, within the meaning of Article 2(2) of Directive 2006/54/EC, as well as any less favourable treatment based on a person's rejection of or submission to such conduct, when such harassment or treatment relates to or results from the exercise of the rights provided for in this Directive;	(a) harassment and sexual harassment, within the meaning of Article 2(2) of Directive 2006/54/EC, as well as any less favourable treatment based on a person's rejection of or submission to such conduct, when such harassment or treatment relates to or results from the exercise of the rights provided for in this Directive;	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 3(2), point (b)				
85	(b) instruction to discriminate against persons on grounds of sex;	(b) instruction instructions to discriminate against persons on grounds of sex within the meaning of Article 2(2) of Directive 2006/54/EC ;	(b) instruction to discriminate against persons on grounds of sex;	
Article 3(2), point (c)				
86	(c) any less favourable treatment of a woman related to pregnancy or maternity leave within the meaning of Council Directive 92/85/EEC ¹ . ¹ Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (OJ L 348, 28.11.1992, p. 1).	(c) any less favourable treatment of a woman -related to pregnancy or maternity leave within the meaning of Council Directive 92/85/EEC ¹ , or to paternity leave, parental leave or carers' leave, as defined, respectively, in Article 3(1), points (a), (b) and (c), of Directive (EU) 2019/1158 of the European Parliament and of the Council² . ¹ Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage– improvements in the safety and health at work of pregnant workers and workers who have recently given birth– or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (OJ L 348, 28.11.1992, p. 1). ² Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU (OJ L 188, 12.7.2019, p. 79).	(c) any less favourable treatment of a woman related to pregnancy or maternity leave within the meaning of Council Directive 92/85/EEC ¹ . ¹ Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (OJ L 348, 28.11.1992, p. 1).	
Article 3(2), point (ca)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
86a			<p>(d) any less favourable treatment of a worker based on sex within the meaning of the Council Directive (EU) 2019/1158¹;</p> <p>1. Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU (OJ L 188, 12.7.2019, p. 79–93)</p>	
Article 3(2), point (cb)				
86b			<p>(e) discrimination based on a combination of sex and any other ground or grounds of discrimination protected under Directive 2000/43/EC or Directive 2000/78/EC.</p>	
Article 3(3)				
87	<p>3. Pay discrimination under this Directive includes discrimination based on a combination of sex and any other ground or grounds of discrimination protected under Directive 2000/43/EC or Directive 2000/78/EC.</p>	<p>3. Pay discrimination under this Directive includes discrimination based on a combination of sex and any other ground or grounds of discrimination protected under Directive 2000/43/EC or Directive 2000/78/EC.</p>	<p>3. Pay discrimination under this Directive includes discrimination based on a combination of sex and any other ground or grounds of discriminationParagraph 2(e) does not entail additional obligations for employers to gather data as referred to in this Directive related to other protected under Directive 2000/43/EC or Directive 2000/78/EC grounds of</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			discrimination than sex.	
Article 4				
88	Article 4 Equal work and work of equal value	Article 4 Equal work and work of equal value	Article 4 Equal work and work of equal value	
Article 4(-1)				
88a		<i>-1. Member States shall clarify the concept of ‘work of equal value’ in applicable law, collective agreement or other provisions in each Member State, in accordance with the case-law of the Court of Justice and point 10 of Recommendation 2014/124/EU, based on objective, gender-neutral criteria in accordance with paragraph 3 of this Article.</i>		
Article 4(1)				
89	1. Member States shall take the necessary measures to ensure that employers have pay structures in place ensuring that women and men are paid equally for the same work or work of equal value.	1. Member States shall, <i>in cooperation with the social partners</i> , take the necessary measures, <i>after consulting the equality bodies</i> , to ensure that employers have pay structures in place ensuring that women and men are paid equally for the same <i>equal pay for equal</i> work or work of equal value, <i>without discrimination based</i>	1. Member States shall take the necessary measures, to ensure that employers have pay structures in place <i>use a pay setting mechanism or pay structures</i> ensuring that women and men are paid equally for the same work or work of equal value.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>on grounds of sex, gender, gender identity, gender expression or sex characteristics.</i>		
Article 4(2)				
90	<p>2. Member States shall take the necessary measures ensuring that tools or methodologies are established to assess and compare the value of work in line with the criteria set out in this Article. These tools or methodologies may include gender-neutral job evaluation and classification systems.</p>	<p>2. Member States shall, <i>in cooperation with the social partners</i>, take the necessary measures, <i>after consulting the equality bodies, to ensure</i>ensuring that tools or methodologies are established <i>and are easily accessible to employers and workers for the purpose of assessing and comparing</i>to assess and compare the value of work in line<i>accordance</i> with the criteria set out in this Article. These<i>provided for in paragraph 3 and to encourage the use of such tools or methodologies to determine pay levels. Those tools or methodologies to assess and compare the value of work shall be implemented with the involvement of the social partners, who shall be given access to all relevant information. Those</i> tools or methodologies may<i>shall</i> include gender-neutral job evaluation and classification systems, <i>to be developed in accordance with national law, collective agreements, and other provisions applicable in each Member State.</i></p>	<p>2. Member States shall take the necessary measures ensuring that analytical tools or methodologies are established to assess and compare made available to support and guide employers in their assessment and comparison of the value of work in line with the criteria set out in this Article. These tools or methodologies may include gender-neutral job evaluation and classification systems. The format for such tools or methodologies may be set in accordance with national law, collective agreements and/or practice.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 4(2a)				
90a		<i>2a. The Commission shall cooperate with the European Institute for Gender Equality (EIGE) to establish Union-wide guidelines for Member States in the development of job evaluation and classification systems. The EIGE shall be provided with adequate financial and human resources to fulfil that task.</i>		
Article 4(3)				
91	3. The tools or methodologies shall allow assessing, in regard to the value of work, whether workers are in a comparable situation, on the basis of objective criteria which shall include educational, professional and training requirements, skills, effort and responsibility, work undertaken and the nature of the tasks involved. They shall not contain or be based on criteria which are based, whether directly or indirectly, on workers' sex.	3. The tools or methodologies <i>referred to in paragraph 2</i> shall allow for assessing, in regard to the value of work, whether workers are in a comparable situation, on the basis of objective gender-neutral criteria. Those gender-neutral criteria shall be agreed upon with the social partners and which shall include at least the following: formal or non-formal educational, professional and training requirements, as well as skills, effort and , responsibility, work undertaken and the nature of the tasks involved. They shall not contain or be based on criteria which are based, whether directly or indirectly, on workers'	3. The tools or methodologies shall allow assessing, in regard to the value of work, pay setting mechanism or pay structures shall enable assessment of whether workers are in a comparable situation comparable situations in regard to the value of work , on the basis of objective, gender-neutral criteria which shall include educational, professional and training requirements, not be based, whether directly or indirectly, on workers' sex. These objective criteria shall include skills, effort, responsibility and working conditions, and, if appropriate, any other factors which are	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		sex <i>and working conditions. Member States shall take into account the Annex 1 to the Commission Staff Working Document accompanying the Report on the application of Directive 2006/54/EC as a guideline when establishing the gender-neutral criteria.</i>	relevant to the specific job or position . These and responsibility, work undertaken and the nature of the tasks involved. They shall not contain or be based on criteria which are based, whether directly or indirectly, on workers' sex shall also be applied in an objective gender-neutral manner.	
Article 4(3a)				
91a			3a. Taking account national law, collective agreements and/or practice, Member States may entrust the social partners to take the measures referred to in paragraphs 1 to 3, or to take the necessary measures in cooperation with the social partners, provided that the obligations under this Article are adequately fulfilled at all times.	
Article 4(3a)				
91b		<i>3a. Additional gender-neutral criteria may be developed at the relevant level in Member States in accordance with national practices. The tools or methodologies referred to in paragraph 2 shall apply without taking into account working hours. Where professional</i>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>experience is taken into account as part of the professional requirements in the determination of work of equal value, the party claiming this as a factor shall demonstrate that the higher professional experience leads to added value for the work actually performed.</i>		
Article 4(3b)				
91c		<i>3b. Member States shall provide support to employers and the social partners, including training, tools, and detailed guidance on implementing the objective, gender-neutral criteria referred to in paragraph 3 and the tools or methodologies referred to paragraph 2.</i>		
Article 4(4)				
92	4. Whenever differences in pay can be attributed to a single source establishing the pay conditions, the assessment whether workers are carrying out the same work or work of equal value shall not be limited to situations in which female and male workers work for the same employer but may be extended to that single source. The assessment shall also not	4. Whenever Where differences in pay can be attributed to a single source establishing the pay conditions, the assessment whether workers are carrying out the same work or work of equal value shall not be limited to situations in which female and male workers work for the same employer but may be extended to that single source	4. Whenever differences in pay can be attributed to a single source establishing the pay conditions, the assessment whether workers are carrying out the same work or work of equal value shall not be limited to situations in which female and male workers work for the same employer but may be extended to that single source. The assessment shall also not	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>be limited to workers employed at the same time as the worker concerned. Where no real comparator can be established, a comparison with a hypothetical comparator or the use of other evidence allowing to presume alleged discrimination shall be permitted.</p>	<p><i>including for the purpose of cross-sector comparisons.</i> The assessment shall also be carried out with the relevant social partners for those sectors and shall not be limited to workers employed at the same time as the worker concerned. Where no real comparator can be established, a comparison with a hypothetical comparator, <i>based on the objective and gender-neutral criteria provided for in paragraph 3,</i> or the use of other evidence allowing to presume alleged discrimination shall be permitted, <i>by means, for instance, of an existing classification based on social partner's collective agreements at branch or sectoral level. The hypothetical comparator shall facilitate cross-sector comparison where possible.</i></p>	<p>be limited to workers employed at the same time as the worker concerned. Where no real comparator can be established, a comparison with a hypothetical comparator or the use of other evidence allowing to presume alleged discrimination shall be permitted.</p>	
Article 4(5)				
93	<p>5. Where a job evaluation and classification system is used for determining pay, it shall be based on the same criteria for both men and women and drawn up so as to exclude any discrimination on grounds of sex.</p>	<p>5. Where a job evaluation and classification system is used for determining pay, it shall be based on the same <i>objective and gender-neutral</i> criteria for both men and women and <i>workers in all their diversity and shall be drawn up so as to exclude any form of discrimination, and to ensure that skills associated with female-</i></p>	<p>5. Where a job evaluation and classification system is used for determining pay, it shall be based on the same criteria for both men and women <i>objective, gender-neutral criteria</i> and drawn up so as to exclude any <i>direct or indirect</i> discrimination on grounds of sex.</p>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>dominated jobs are not undervalued on grounds of sex.</i>		
CHAPTER II				
94	CHAPTER II Pay transparency	CHAPTER II Pay transparency	CHAPTER II Pay transparency	
Article 5				
95	Article 5 Pay transparency prior to employment	Article 5 Pay transparency prior to employment	Article 5 Pay transparency prior to employment	
Article 5(1)				
96	1. Applicants for employment shall have the right to receive from the prospective employer information about the initial pay level or its range, based on objective, gender-neutral criteria, to be attributed for the position concerned. Such information shall be indicated in a published job vacancy notice or otherwise provided to the applicant prior to the job interview without the applicant having to request it.	1. Applicants for employment shall have the right to receive from the prospective employer, information about the initial pay level or its <i>the</i> range; <i>of an advertised position</i> based on objective, gender-neutral criteria, to be attributed for the position concerned <i>and where applicable the collective agreement applied by the company in relation to the job.</i> Such information shall be indicated in a published job vacancy notice or otherwise provided to the applicant prior to the job interview without the applicant having to request it. <i>Any applicant for employment shall, upon request,</i>	1. Applicants for employment shall have the right to receive from the prospective employer information about the initial pay level or its range, based on objective, gender-neutral criteria, to be attributed for the position concerned. Such information shall be indicated <i>provided sufficiently in advance, either</i> in a published job vacancy notice or otherwise provided <i>prior to the applicant prior to the job interview without the applicant having to request it</i> <i>job interview, or in any case prior to the conclusion of the employment contract.</i>	

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		<i>have the right to receive information on the gender-neutral criteria on which the average pay level is based.</i>		
Article 5(2)				
97	2. An employer shall not, orally or in writing, personally or through a representative, ask applicants about their pay history during their previous employment relationships.	2. An employer shall not, orally or in writing, personally or through a representative, ask applicants about their pay history during their previous and current employment relationships.	2. An employer shall not, orally or in writing, personally or through a representative, ask applicants about their pay history during their previous employment relationships.	
Article 5(2a)				
97a		<i>2a. Employers shall ensure that vacancy notices, job titles and recruitment processes are gender neutral and that the information is provided in a manner accessible to workers with disabilities, upon request, in accordance with harmonised legal acts of the Union on accessibility.</i>		
Article 6				
98	Article 6 Transparency of pay setting and career progression policy	Article 6 Transparency of pay setting and career progression policy	Article 6 Transparency of pay setting and career progression policy	
Article 6, first paragraph				

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99	The employer shall make easily accessible to its workers a description of the criteria used to determine pay levels and career progression for workers. These criteria shall be gender-neutral.	<i>1</i> The employer shall make easily accessible provide to its workers and workers' representatives a description of the criteria used to determine pay levels and career progression for workers, including all elements of pay that comprise wages or salary and all other benefits paid directly or indirectly in cash or in kind by the employer to the worker for each category of worker including any job evaluation or classification system. These criteria shall be gender-neutral and shall comply with the non-discriminatory, objective criteria provided for in Article 4(3).	1 The employer shall make easily accessible to its workers a description of the criteria which criteria are used to determine pay, pay levels and, where applicable, pay-career progression for workers. These criteria shall be objective and gender-neutral.	
Article 6, first paragraph a				
99a			2 Member States may exempt micro and small-sized employers from the obligation related to the pay progression under paragraph 1.	
Article 6, first paragraph a				
99b		<i>1a</i> The information referred to in paragraph 1 shall be provided in formats accessible to workers with disabilities, in accordance with harmonised legal acts of the Union		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>on accessibility.</i>		
Article 7				
100	Article 7 Right to information	Article 7 Right to information	Article 7 Right to information	
Article 7(1)				
101	1. Workers shall have the right to receive information on their individual pay level and the average pay levels, broken down by sex, for categories of workers doing the same work as them or work of equal value to theirs, in accordance with paragraphs 3 and 4.	1. Workers <i>and their workers' representatives</i> shall have the right to receive <i>clear and complete</i> information on their individual pay level and the average pay levels, broken down by sex <i>gender</i> , for categories of workers doing <i>performing</i> the same work as them or work of equal value to theirs, <i>as well as the gender pay gap and median gender pay gap between of workers employed by the same employer</i> in accordance with paragraphs 3 and 4, <i>but not more frequently than twice a year and provided that that information has not already been communicated to them through their workers' representatives. Workers' representatives shall have the right to receive information on how pay for each category of worker is determined. The employer shall also transmit the information given to their workers, and where</i>	1. Workers, shall have the right to request and receive in writing information on their individual pay level and the average pay levels, broken down by sex, for categories of workers doing the same work as them or work of equal value to theirs, in accordance with paragraphs 3 and 4 1a and 3 .	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>applicable to the workers' representatives, to the monitoring body.</i>		
Article 7(1a)				
101a			1a. Workers shall have the possibility to request and receive the information referred to in paragraph 1 through their representatives, in accordance with national law and/or practice. An equality body may also request and receive the information referred to in paragraph 1 upon the request of a worker, in accordance with national law and/or practice.	
Article 7(2)				
102	2. Employers shall inform all workers, on an annual basis, of their right to receive the information referred to in paragraph 1.	2. Employers shall inform all workers, on an annual basis, of their right to receive the information referred to in paragraph 1 <i>and of the steps that the worker should undertake to exercise that right.</i>	2. Employers shall inform all workers, on an annual basis, of their right to receive the information referred to in paragraph 1.	
Article 7(2a)				
102a			2a. By way of derogation to paragraph 2, micro and small-sized employers shall inform all	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			workers every two years of their right to receive the information referred to in paragraph 1.	
Article 7(3)				
103	3. Employers shall provide the information referred to in paragraph 1 within a reasonable period of time upon a worker's request. The information shall be provided in accessible formats for workers with disabilities upon their request.	3. Employers shall provide the information referred to in paragraph 1 within a reasonable period of time upon atwo months of the worker's request. The information shall be provided in accessible formats for writing and the employer shall retain proof of transmission or receipt, in electronic form and in a manner accessible to workers with disabilities upon their request .	3. Employers shall provide the information referred to in paragraph 1 within a reasonable period of time upon a worker's request. The information shall be provided in accessible formats for workers with disabilities upon their request.	
Article 7(4)				
104	4. Workers shall have the possibility to request the information referred to in paragraph 1 through their representatives or an equality body.	4. Workers shall have the possibility right to request the information referred to in paragraph 1 through their workers' representatives, or the or an equality body in order to guarantee confidentiality and anonymity. If the information is inaccurate or incomplete, the worker shall, personally or through their workers' representatives, have the right to request additional and reasonable clarifications and details regarding any of the data	4. Workers shall have the possibility to request the information referred to in paragraph 1 through their representatives or an equality body.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>provided and receive a substantiated reply.</i>		
Article 7(5)				
105	5. Workers shall not be prevented from disclosing their pay for the purpose of enforcing the principle of equal pay between men and women for equal work or work of equal value.	5. Workers shall not be prevented from disclosing their pay. <i>To that end, Member States shall put in place measures to prohibit contractual terms aiming to restrict workers from disclosing information about their pay, including to their colleagues or workers' representatives, or from seeking information about the same or other categories of workers' pay for the purposes of this Directive and without prejudice to data protection rules for the purpose of enforcing the principle of equal pay between men and women for equal work or work of equal value.</i>	5. Workers shall not be prevented from disclosing their pay for the purpose of enforcing the principle of equal pay between men and women for equal work or work of equal value.	
Article 7(6)				
106	6. Employers may require that any worker having obtained information pursuant to this Article shall not use that information for any other purpose than to defend their right to equal pay for the same work or work of equal value and not disseminate the information otherwise.	6. Employers may require that any workers <i>shall ensure that workers</i> having obtained information pursuant to this Article shall not use that information for any other purpose than to <i>fulfil the aims of this Directive, and</i> defend their right to equal pay for the same <i>equal</i> work or work of equal value. <i>Workers</i>	6. Employers may require that any worker having obtained information <i>other than that concerning their own pay or pay level</i> pursuant to this Article shall not use that information for any other purpose than to defend their <i>the</i> right to equal pay for the same work or work of equal value and not disseminate the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>may share and not disseminate the information otherwise obtained with their workers' representatives and the equality body.</i>	information otherwise.	
Article 7a				
106a		Article 7a Labelling		
Article 7a, first paragraph				
106b		<i>The Commission shall, after consulting the social partners and the national authorities, create an official label for all employers who do not have a gender pay gap based on the information received by the monitoring bodies on the gender pay gap and median gender pay gap. National competent authorities with the involvement of the monitoring bodies shall ensure the implementation of the labelling at national level.</i>		
Article 8				
107	Article 8 Reporting on pay gap between female and male workers	Article 8 Reporting on pay gap between female and male workers	Article 8 Reporting on pay gap between female and male workers	
Article 8(1), introductory part				

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108	1. Employers with at least 250 workers shall provide the following information concerning their organisation, in accordance with paragraphs 2, 3, and 5:	1. Employers with at least 250 50 workers <i>or lower if defined at a national level</i> , shall monitor and provide the following information concerning their organisation, in accordance with paragraphs 2, 3, and 5:	1. Employers with at least 250 workers shall annually provide the following information concerning their organisation, in accordance with paragraphs 2, 3 , and 5:	
Article 8(1), point (a)				
109	(a) the pay gap between all female and male workers;	(a) the gender pay gap between all female and male workers ;	(a) the pay gap between all female and male workers;	
Article 8(1), point (b)				
110	(b) the pay gap between all female and male workers in complementary or variable components;	(b) the gender pay gap between all female and male workers in complementary or variable components;	(b) the pay gap between all female and male workers in complementary or variable components;	
Article 8(1), point (c)				
111	(c) the median pay gap between all female and male workers;	(c) the median gender pay gap between all female and male workers ;	(c) the median pay gap between all female and male workers;	
Article 8(1), point (d)				
112	(d) the median pay gap between all female and male workers in complementary or variable	(d) the median gender pay gap between all female and male workers in complementary or	(d) the median pay gap between all female and male workers in complementary or variable	

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	components;	variable components;	components;	
Article 8(1), point (e)				
113	(e) the proportion of female and male workers receiving complementary or variable components;	(e) the proportion of female and male workers receiving complementary or variable components, <i>broken down by gender</i> ;	(e) the proportion of female and male workers receiving complementary or variable components;	
Article 8(1), point (f)				
114	(f) the proportion of female and male workers in each quartile pay band;	(f) the proportion of female and male workers in each quartile pay band, <i>broken down by gender</i> ;	(f) the proportion of female and male workers in each quartile pay band;	
Article 8(1), point (g)				
115	(g) the pay gap between female and male workers by categories of workers broken down by ordinary basic salary and complementary or variable components.	(g) the <i>gender</i> pay gap between female and male workers by categories of workers broken down by ordinary basic salary and complementary or variable components-;	(g) the pay gap between female and male workers by categories of workers broken down by ordinary basic salary and complementary or variable components.	
Article 8(1), point (ga)				
115a		<i>(ga) the proportion of workers who benefited from a pay rise following their return from maternity leave, paternity leave, parental leave, and carers leave, broken down by</i>		

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		<i>gender;</i>		
Article 8(1), point (gb)				
115b		<i>(gb) the average pay levels by category of workers, broken down by gender.</i>		
Article 8(1a)				
115c			1a. Criterion to be applied for determining whether an employer is subject to pay reporting and joint pay assessment shall be the staff headcount.	
Article 8(1a), introductory part				
115d		<i>1a. From ...[OJ please insert the date of transposition of this Directive], employers shall provide the information referred to in paragraph 1 as follows:</i>		
Article 8(1a), point (a)				
115e		<i>(a) for employers with more than 250 workers, every year;</i>		
Article 8(1a), point (b)				
115f				

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		<i>(b) for employers with 50 to 250 workers, every two years;</i>		
Article 8(1a), point (c)				
		<i>(c) for employers with 50 to 250 workers where all elements of pay are bound by a collective agreement, every three years;</i>		
115g				
Article 8(1b)				
		<i>1b. Employers with fewer than 50 workers shall provide the information in paragraph 1 on a voluntary basis, every two years.</i>		
115h				
Article 8(1c)				
		<i>1c. Employers should mention, as part of their pay reporting obligations, workers who do not identify as either female or male as a category separate from female and male workers. When calculating the gender pay gap, those workers' pay should be compared to the average pay level of male workers. Employers should mention those workers only where they are legally registered as not identifying as female or male or where that information has been</i>		
115i				

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		<i>proactively and voluntarily disclosed to the employer.</i>		
Article 8(2)				
116	2. The accuracy of the information shall be confirmed by the employer's management.	2. The accuracy of the information <i>pursuant to paragraph 1 and the methods used to calculate it</i> , shall be confirmed by the employer's management, <i>following the consultation of workers' representatives.</i>	2. The accuracy of the information shall be confirmed by the employer's management.	
Article 8(3)				
117	3. The employer shall publish the information referred to in paragraph 1, points (a) to (f) on an annual basis in a user-friendly way on its website or shall otherwise make it publicly available. The information from the previous four years, if available, shall also be accessible upon request. In addition, the employer shall share this information with the monitoring body referred to in paragraph 6.	3. The employer shall publish the information referred to in paragraph 1, points (a) to (f), <i>in accordance with paragraph 1a. The employer shall publish that information on an annual basis</i> in a user-friendly way on its website or shall otherwise make it publicly available <i>and accessible to persons with disabilities in accordance with harmonised legal acts of the Union on accessibility. Where applicable, employers shall include that information in their management reports drawn up pursuant to Directive 2013/34/EU.</i> The information from the previous four years, if available, shall also be accessible upon request. In addition,	3. The employer shall publish The information referred to in paragraph 1, points (a) to (f) on an annual basis in a user-friendly way on its website or shall otherwise make it publicly available. The information from the previous four years, if available, shall also be accessible upon request. In addition, the employer shall share this information with the monitoring body referred to in paragraph 6(g) shall be communicated to the authority in charge of compiling and publishing such data pursuant to Article 26, paragraph 3, point (c). The employer may publish the information referred to in paragraph 1, points (a) to (f) on its website or otherwise make it	

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		the employer shall share this information with the monitoring body referred to in paragraph 6 <i>of this Article</i> .	publicly available.	
Article 8(4)				
118	4. Member States may decide to compile the information set out in paragraph 1, points (a) to (f) themselves, on the basis of administrative data such as data provided by employers to the tax or social security authorities. This information shall be made public in accordance with paragraph 6.	4. Member States may decide to compile the information set out in paragraph 1, points (a) to (f) themselves , on the basis of administrative data such as data provided by employers to the tax or social security authorities. This That information shall be made public in accordance with paragraph 6.	4. Member States may decide to compile the information set out in paragraph 1, points (a) to (f) themselves, on the basis of administrative data such as data provided by employers to the tax or social security authorities. This information shall be made public in accordance with Article 26 , paragraph 6 3 , point (c).	
Article 8(5)				
119	5. The employer shall provide the information referred to in paragraph 1, point (g) to all workers and their representatives, as well as to the monitoring body referred to in paragraph 6. It shall provide it to the labour inspectorate and the equality body upon their request. The information from the previous four years, if available, shall also be provided upon request.	5. The employer shall provide the information referred to in paragraph 1, point (g) of this Article , to all workers and their workers' representatives, as well as to the equality body and the monitoring body referred to in paragraph 6 designated pursuant to Article 26 . It shall provide it to the labour inspectorate and the equality body upon their request. The information from the previous four years, if available, shall also be provided upon request.	5. The employer shall provide the information referred to in paragraph 1, point (g) to all workers and their representatives, as well as to the monitoring body referred to in paragraph 6 . It. The employer shall provide the information to the labour inspectorate control body and the equality body upon their request. The information from the previous four years, if available, shall also be provided upon request.	

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Article 8(6)				
120	6. Member States shall entrust the monitoring body designated pursuant to Article 26 to collect the data received from employers pursuant to paragraph 1, points (a) to (f) and to ensure that this data is public and allows a comparison between employers, sectors and regions of the Member State concerned in a user-friendly way.	6. Member States shall entrust the monitoring body designated pursuant to Article 26 to collect the data received from employers pursuant to paragraph 1, points (a) to (f) and to ensure that this data is public and allows a comparison between employers, sectors and regions of the Member State concerned in a user-friendly way.	6. Member States shall entrust the monitoring body designated pursuant to Article 26 to collect the data received from employers pursuant to paragraph 1, points (a) to (f) and to ensure that this data is public and allows a comparison between employers, sectors and regions of the Member State concerned in a user-friendly way.	
Article 8(7)				
121	7. Workers and their representatives, labour inspectorates and equality bodies shall have the right to ask the employer for additional clarifications and details regarding any of the data provided, including explanations concerning any gender pay differences. The employer shall respond to such request within a reasonable time by providing a substantiated reply. Where gender pay differences are not justified by objective and gender-neutral factors, the employer shall remedy the situation in close cooperation with the workers' representatives, the labour inspectorate and/or the equality	7. Workers and their <i>workers'</i> representatives, labour inspectorates and equality bodies shall have the right to ask the employer for additional clarifications and details regarding any of the data provided, including explanations concerning any gender pay differences. The employer shall respond to such request within a reasonable time by providing a substantiated reply. Where gender pay differences are not justified by objective and , gender-neutral factors, the employer shall remedy the situation <i>within a reasonable time</i> in close cooperation with the workers' representatives, the labour inspectorate and/or <i>and</i>	7. Workers and their representatives, labour inspectorates and equality bodies shall have the right to ask the employer The employer shall respond to requests from workers, their representatives and the control body for additional clarifications and details regarding any of the data provided, including explanations concerning any gender pay differences. The employer shall respond to such equality body may also request such clarifications upon request by a worker. The employer shall respond within a reasonable time by providing a substantiated reply. Where gender	

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	body.	the equality body.	pay differences are not justified by objective and gender-neutral factors, the employer shall remedy the situation in close cooperation with the workers' representatives, the labour inspectorate control body and/or the equality body.	
Article 9				
122	Article 9 Joint pay assessment	Article 9 Joint pay assessment <i>and gender action plan</i>	Article 9 Joint pay assessment	
Article 9(1), introductory part				
123	1. Member States shall take appropriate measures to ensure that employers with at least 250 workers conduct, in cooperation with their workers' representatives, a joint pay assessment where both of the following conditions are met:	1. Member States shall take appropriate measures to ensure that employers with at least 250 50 workers <i>or lower if defined at a national level</i> conduct, in cooperation with their workers' representatives, a joint pay assessment <i>and a gender action plan</i> where both <i>all</i> of the following conditions are met:	1. Member States shall take appropriate measures to ensure that employers with at least 250 workers conduct, in cooperation with their workers' representatives, a joint pay assessment where both of the following conditions are met:	
Article 9(1), point (a)				
124	(a) the pay reporting conducted in accordance with Article 8 demonstrates a difference of average pay level between female and male	(a) the pay reporting conducted in accordance with Article 8 demonstrates a <i>difference of average pay level between female and male</i>	(a) the pay reporting conducted in accordance with Article 8 demonstrates a difference of average pay level between female and male	

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	workers of at least 5 per cent in any category of workers;	workers gender pay gap of at least 5 2,5 per cent in any category of workers;	workers of at least 5 per cent in any category of workers;	
Article 9(1), point (b)				
125	(b) the employer has not justified such difference in average pay level by objective and gender-neutral factors.	(b) the employer has not justified such difference in average pay level by objective and gender-neutral factors.	(b) the employer has not justified such difference in average pay level by objective and gender-neutral factors criteria .	
Article 9(1), point (ba)				
125a		<i>(ba) the employer has not corrected such unjustified difference in average pay level within six months of the publication of the gender pay gap.</i>		
Article 9(1), point (bb)				
125b		<i>(bb) On ... [eight years after the date of entry into force of this Directive], the percentage referred to in point (a) of the first subparagraph shall be reduced to zero.</i>		
Article 9(2), introductory part				
126	2. The joint pay assessment shall include the following:	2. The joint pay assessment shall include the following:	2. The joint pay assessment shall be carried out in order to identify,	

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			remedy and prevent differences in pay between female and male workers which cannot be justified by objective and gender-neutral factors and shall include the following:	
Article 9(2), point (a)				
127	(a) an analysis of the proportion of female and male workers in each category of workers;	(a) an analysis of the proportion of female and male workers in each category of workers, broken down by gender ;	(a) an analysis of the proportion of female and male workers in each category of workers;	
Article 9(2), point (b)				
128	(b) detailed information on average female and male workers' pay levels and complementary or variable components for each category of workers;	(b) detailed information on average female and male workers' pay levels and complementary or variable components for each category of workers, broken down by gender ;	(b) detailed information on average female and male workers' pay levels and complementary or variable components for each category of workers;	
Article 9(2), point (c)				
129	(c) identification of any differences in pay levels between female and male workers in each category of workers;	(c) identification of any differences in pay levels between female and male workers in each category of workers, broken down by gender ;	(c) identification of any differences in average pay levels between female and male workers in each category of workers;	
Article 9(2), point (d)				
130	(d) the reasons for such differences	(d) the reasons for such differences	(d) the reasons for such differences	

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	in pay levels and objective, gender-neutral justifications, if any, as established jointly by workers' representatives and the employer;	in pay levels and objective, gender-neutral justifications, if any, as established jointly by workers' representatives and the employer;	in average pay levels and objective, gender-neutral justifications, if any, as established jointly by the workers' representatives and the employer;	
Article 9(2), point (e)				
131	(e) measures to address such differences if they are not justified on the basis of objective and gender-neutral criteria;	(e) measures a gender action plan to address such differences if they are not justified on the basis of objective and , gender-neutral criteria;	(e) measures to address such differences if they are not justified on the basis of objective and gender-neutral criteria;	
Article 9(2), point (f)				
132	(f) a report on the effectiveness of any measures mentioned in previous joint pay assessments.	(f) a report on the effectiveness of any measures mentioned in previous joint pay assessments.	(f) a report on the effectiveness an evaluation of any measures mentioned in from previous joint pay assessments.	
Article 9(2a)				
132a		2a. Member States shall take appropriate measures to ensure that employers, in cooperation with workers' representatives and the equality bodies, draw up gender action plans as referred to in paragraph 1, point (e). The gender action plans shall set out concrete measures to achieve equal treatment and opportunities between genders regarding pay		

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		<i>equality, non-discrimination and other conditions of employment as laid down in this Directive. The gender action plans shall also include provisions for monitoring those concrete measures and corrective actions. Where applicable, the gender action plans shall be included in the management report drawn up pursuant to Directive 2013/34/EU.</i>		
Article 9(2b)				
132b		<i>2b. Following the joint pay assessment, the employer will draw up a monitoring report following the provisions for monitoring the concrete measures and corrective actions in the gender action plan, to assess the effectiveness of the gender action plan. The gender action plans shall be proportionate, and shall be based on a balanced approach.</i>		
Article 9(3)				
133	3. Employers shall make the joint pay assessments available to workers, workers' representatives, the monitoring body designated pursuant to Article 26, the equality body and the labour inspectorate.	3. Employers shall make the joint pay assessments available to workers, workers' representatives, the monitoring body designated pursuant to Article 26, the equality body and the labour inspectorate.	3. Employers shall make the joint pay assessments available to workers, workers' representatives; the monitoring body designated and communicate them to the authority in charge of collecting	

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		<p><i>The joint pay assessments shall be made available in easily accessible formats.</i></p>	<p>the joint pay assessment pursuant to Article 26, paragraph 3, point (d). The joint pay assessment shall be made available to the equality body and the labour inspectorate control body, upon their request.</p>	
Article 9(4)				
134	<p>4. If the joint pay assessment reveals differences in average pay for equal work or work of equal value between female and male workers which cannot be justified by objective and gender-neutral criteria, the employer shall remedy the situation, in close cooperation with the workers' representatives, labour inspectorate, and/or equality body. Such action shall include the establishment of gender-neutral job evaluation and classification to ensure that any direct or indirect pay discrimination on grounds of sex is excluded.</p>	<p>4. If the joint pay assessment reveals differences in average pay for equal work or work of equal value between female and male workers which cannot be justified by objective and, gender-neutral criteria, or the monitoring report shows an insufficiency in the measures adopted, the employer shall remedy the situation within a reasonable time frame, in close cooperation with the workers' representatives, labour inspectorate, and/or equality body. Such action shall include an analysis of the implementation of the criteria set out in the job evaluation or classification system for the purpose of determining pay levels and career progression and the establishment of gender-neutral job evaluation and classification to ensure that any direct or indirect pay discrimination on grounds of sex is excluded.</p>	<p>4. If the joint pay assessment reveals differences in average pay for equal work or work of equal value between female and male workers which cannot be justified by objective and gender-neutral criteria When implementing the measures from the joint pay assessment, the employer shall remedy the situation unjustified pay differences, in close cooperation with the workers' representatives, labour inspectorate, taking into account national law and/or practices. The control body and/or equality body may be asked to participate in the process. Such action shall include the establishment of gender-neutral job evaluation and classification to ensure that any direct or indirect pay discrimination on grounds of sex is excluded.</p>	

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Article 10				
135	Article 10 Data protection	Article 10 Data protection	Article 10 Data protection	
Article 10(1)				
136	1. To the extent that any information provided pursuant to measures taken under Articles 7, 8, and 9 involves the processing of personal data, it shall be provided in accordance with Regulation (EU) 2016/679.	1. To the extent that any information provided pursuant to measures taken under Articles 7, 8, and 9 involves the processing of personal data, it shall be provided in accordance with Regulation (EU) 2016/679.	1. To the extent that any information provided pursuant to measures taken under Articles 7, 8, and 9 involves the processing of personal data, it shall be provided in accordance with Regulation (EU) 2016/679.	
Article 10(2)				
137	2. Any personal data collected by employers pursuant to Articles 7, 8 or 9, shall not be used for any other purpose than to implement the principle of equal pay for equal work or work of equal value.	2. Any personal data collected by employers pursuant to Articles 7, 8 or 9, shall not be used for any other purpose than to implement the principle of equal pay for equal work or work of equal value.	2. Any personal data collected by employers processed pursuant to Articles 7, 8 or 9, shall not be used for any other purpose than to implement the principle of equal pay for equal work or work of equal value.	
Article 10(3)				
138	3. Member States may decide that, where the disclosure of information pursuant to Articles 7, 8 and 9 would lead to the disclosure, either directly	3. Member States may decide that, where the disclosure of information pursuant to Articles 7, 8 and 9 would lead to the disclosure, either directly	3. Member States may decide that, where the disclosure of information pursuant to Articles 7, 8 and 9 would lead to the disclosure, either directly	

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	or indirectly, of the pay of an identifiable co-worker, only the workers' representatives or the equality body shall have access to that information. The representatives or equality body shall advise workers regarding a possible claim under this Directive without disclosing actual pay levels of individual workers doing the same work or work of equal value. The monitoring body referred to in Article 26 shall have access to the information without restriction.	or indirectly, of the pay of an identifiable co-worker, only the workers' representatives or the equality body shall have access to that information. The representatives or equality body shall advise workers regarding a possible claim under this Directive without disclosing actual pay levels of individual workers doing performing the same work or work of equal value. The monitoring body referred to indesignated pursuant Article 26 shall have access to the information without restriction.	or indirectly, of the pay of an identifiable co-worker, only the workers' representatives, the control body or the equality body shall have access to that information. The representatives or equality body shall advise workers regarding a possible claim under this Directive without disclosing actual pay levels of individual workers doing the same work or work of equal value. The For purposes of monitoring body referred to in pursuant to Article 26 shall have access to the information the information shall be made available without restriction.	
Article 11				
139	Article 11 Social dialogue	Article 11 Social dialogue	Article 11 Social dialogue	
Article 11, first paragraph				
140	Without prejudice to the autonomy of social partners and in accordance with national law and practice, Member States shall ensure that the rights and obligations under this Directive are discussed with social partners.	Without prejudice to the autonomy of social partners and in accordance with national law and practice, Member States shall ensure that the rights and obligations under this Directive are discussed implemented and monitored in consultation with social partners.	Without prejudice to the autonomy of social partners and in accordance with national law and practice, Member States shall take adequate measures to ensure that the effective involvement of social partners, through discussing the rights and obligations under this Directive, where applicable, upon their	

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			request are discussed with social partners.	
Article 11, first paragraph a				
140a		<i>Member States shall, without prejudice to the autonomy of the social partners, and taking into account the diversity of national practices, strengthen the role of the social partners to promote gender equality and to tackle pay discrimination and the undervaluation of work that is predominantly carried out by women, with the aim of achieving equal pay for work of equal value.</i>		
Article 11, first paragraph b				
140b		<i>Without prejudice to the autonomy of the social partners, Member States shall take measures to guarantee that trade unions can collectively bargain on measures to address pay discrimination and the undervaluation of work predominantly carried out by women, as well as other measures aimed at closing the gender pay gap; Member States shall take appropriate measures to ensure that employers recognise trade unions and its representation at the</i>		

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		<i>workplace, and the right of workers to organise and participate in collective bargaining.</i>		
CHAPTER III				
141	CHAPTER III Remedies and enforcement	CHAPTER III Remedies and enforcement	CHAPTER III Remedies and enforcement	
Article 12				
142	Article 12 Defence of rights	Article 12 Defence of rights	Article 12 Defence of rights	
Article 12, first paragraph				
143	Member States shall ensure that, after possible recourse to conciliation, judicial procedures for the enforcement of rights and obligations related to the principle of equal pay between men and women for equal work or work of equal value are available to all workers who consider themselves wronged by a failure to apply the principle of equal pay for equal work or work of equal value. Such procedures shall be easily accessible to workers and to those who act on their behalf, even after the labour relationship in which the discrimination is alleged to have occurred has ended.	Member States shall ensure that, after possible recourse to conciliation <i>and dialogue with the social partners</i> , judicial procedures for the enforcement of rights and obligations related to the principle of equal pay between men and women for equal work or work of equal value are available to all workers who consider themselves wronged by a failure to apply the principle of equal pay for equal work or work of equal value. Such procedures shall be easily accessible to workers and to those who act on their behalf, even after the labour relationship in which the discrimination is alleged	Member States shall ensure that, after possible recourse to conciliation, judicial procedures for the enforcement of rights and obligations related to the principle of equal pay between men and women for equal work or work of equal value are available to all workers who consider themselves wronged by a failure to apply the principle of equal pay for equal work or work of equal value . Such procedures shall be easily accessible to workers and to those who act on their behalf, even after the labour relationship in which the discrimination is alleged to have occurred has ended.	

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		to have occurred has ended.		
Article 12, first paragraph a				
143a		<i>Member States shall promote conciliation measures and shall reduce procedural obstacles to seeking a remedy by means of judicial or administrative proceedings. Recourse to conciliation shall be encouraged and voluntary. Recourse to conciliation shall trigger an interruption or suspension of the limitation period referred to in Article 18.</i>		
Article 13				
144	Article 13 Procedures on behalf or in support of workers	Article 13 Procedures on behalf or in support of workers	Article 13 Procedures on behalf or in support of workers	
Article 13(1)				
145	1. Member States shall ensure that associations, organisations, equality bodies and workers' representatives or other legal entities which have, in accordance with the criteria laid down by national law, a legitimate interest in ensuring equality between men and women, may engage in any	1. Member States shall, <i>in accordance with national law and practice</i> , ensure that associations, organisations, equality bodies and workers' representatives or other legal entities which have, in accordance with the criteria laid down by national law , a legitimate	1. Member States shall ensure that associations, organisations, equality bodies and workers' representatives or other legal entities which have, in accordance with the criteria laid down by national law , a legitimate interest in ensuring equality between men and women, may engage in any	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	<p>judicial or administrative procedure to enforce any of the rights or obligations related to the principle of equal pay between men and women for equal work or work of equal value. They may act on behalf or in support of a worker who is victim of an infringement of any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value, with the latter's approval.</p>	<p>interest in ensuring equality between men and women tackling the gender pay gap, may engage in any judicial or administrative procedure to enforce any of the rights or obligations related to the principle of equal pay between men and women for equal work or work of equal value. They may act on behalf or in support of a worker who is the victim of an infringement of any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value, with the latter's approval or upon notification in accordance with national law and practice.</p>	<p>judicial or administrative administrative or judicial procedure to enforce any of the rights or obligations related to the principle of equal pay between men and women for equal work or work of equal value. They may act on behalf or in support of a worker who is an alleged victim of an infringement of any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value, with the latter's approval.</p>	
Article 13(2)				
146	<p>2. Equality bodies and workers' representatives shall also have the right to act on behalf or in support of several workers, with the latter's approval.</p>	<p>2. Equality bodies and workers' representatives, in particular trade unions, shall also have the right to act on behalf or in support of an individual worker or, in the case of several workers, with the latter's by means of collective redress, in proceedings for the enforcement of rights and obligations related to the principle of equal pay for equal work or work of equal value, with those workers' approval or upon notification in accordance with national law and practice.</p>	<p>2. Equality bodies and workers' representatives shall also have the right to act on behalf or in support of several workers, with the latter's approval, if provided for in national law.</p>	

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Article 13(2a)				
146a		<i>2a. Member States shall, in accordance with national law and practice, ensure that in any judicial or administrative procedure to enforce any of the rights or obligations related to the principle of equal pay for equal work or work of equal value where an employer acts as a defendant employers' representative organisations may act in support of that employer.</i>		
Article 14				
147	Article 14 Right to compensation	Article 14 Right to compensation	Article 14 Right to compensation	
Article 14(1)				
148	1. Member States shall ensure that any worker who has suffered harm as a result of an infringement of any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value shall have the right to claim and to obtain full compensation or reparation, as determined by the Member State, for that harm.	1. Member States shall ensure that any worker who has suffered harm as a result of an infringement of any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value shall have the right to claim and to obtain full compensation or reparation, as determined by the Member State, for that harm.	1. Member States shall ensure that any worker who has suffered harm as a result of an infringement of any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value shall have the right to claim and to obtain full compensation or reparation, as determined by the Member State, for that harm.	

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Article 14(2)				
149	2. The compensation or reparation referred to in paragraph 1 shall ensure real and effective compensation for the loss and damage sustained, in a way which is dissuasive and proportionate to the damage suffered.	2. The compensation or reparation referred to in paragraph 1 shall ensure real and effective compensation <i>or reparation</i> for the loss and damage sustained, in a way which is dissuasive and proportionate to the damage suffered. <i>Where intersectional discrimination has been found, the compensation or reparation shall be adjusted accordingly.</i>	2. The compensation or reparation referred to in paragraph 1 shall ensure real and effective compensation or reparation as the Member States so determine for the loss and damage sustained, in a way which is dissuasive and proportionate to the damage suffered.	
Article 14(3)				
150	3. The compensation shall place the worker who has suffered harm in the position in which that person would have been if he or she had not been discriminated based on sex or if no infringement of any of the rights or obligations relating to equal pay between men and women for equal work or work of equal value had occurred. It shall include full recovery of back pay and related bonuses or payments in kind, compensation for lost opportunities and moral prejudice. It shall also include the right to interest on arrears.	3. The compensation <i>or reparation</i> shall place the worker who has suffered harm in the position in which that person would have been if he or she had not been <i>discriminated based on sex</i> <i>subject to direct or indirect discrimination as defined in Article 3</i> or if no infringement of any of the rights or obligations relating to equal pay <i>between men and women</i> for equal work or work of equal value had occurred. It shall include full recovery of back pay and related bonuses or payments in kind, compensation for lost opportunities and moral prejudice. It shall also	3. The compensation or reparation shall place the worker who has suffered harm in the position in which that person would have been if he or she had not been discriminated based on sex or if no infringement of any of the rights or obligations relating to equal pay between men and women for equal work or work of equal value had occurred. Member States shall include ensure that the compensation or reparation includes full recovery of back pay and related bonuses or payments in kind, compensation for lost opportunities and moral prejudice. It	

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		include the right to interest on arrears.	shall also include the right to as well as interest on arrears.	
Article 14(4)				
151	4. The compensation or reparation may not be restricted by the fixing of a prior upper limit.	4. The compensation or reparation may not be restricted by the fixing of a prior upper limit.	4. The compensation or reparation may not be restricted by the fixing of a prior upper limit.	
Article 15				
152	Article 15 Other remedies	Article 15 Other remedies	Article 15 Other remedies	
Article 15, first paragraph, introductory part				
153	Member States shall ensure that, in legal proceedings aimed at ensuring the enforcement of any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value, the courts or other competent authorities may order, at the request of the claimant and at the expense of the defendant:	Member States shall ensure that, in legal proceedings aimed at ensuring the enforcement of any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value, the courts or other competent authorities may order, at the request of the claimant and at the expense of the defendant:	Member States shall ensure that, in legal proceedings aimed at ensuring the enforcement of any right or obligation in case of an infringement of rights or obligations related to the principle of equal pay between men and women for equal work or work of equal value, the courts or other competent authorities may order the courts or other competent authorities, in accordance with national rules, may issue, at the request of the claimant and at the expense of the defendant:	
Article 15, first paragraph, point (a)				

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154	(a) an injunction order establishing an infringement of any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value and stopping the infringement;	(a) an injunction order establishing an infringement of any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value and stopping the infringement;	(a) an injunction order establishing an infringement of any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value and stopping to stop the infringement;	
Article 15, first paragraph, point (b)				
155	(b) an injunction order ordering the defendant to take structural or organisational measures to comply with any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value or to stop an infringement thereof.	(b) an injunction order ordering the defendant to take structural or organisational measures to comply with any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value or to stop an infringement thereof.	(b) an injunction order ordering the defendant to take structural or organisational measures to comply with any right or obligation the rights or obligations related to the principle of equal pay between men and women for equal work or work of equal value or to stop an infringement thereof.	
Article 15, first paragraph a				
155a		<i>The structural or organisational measures referred to in the first paragraph, point (b), may include an obligation to review the pay setting mechanism based on gender-neutral job evaluation or classification systems, the establishment of an action plan to eliminate the discrepancies discovered, and measures to reduce any unjustified gender pay gaps.</i>		

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Article 15, second paragraph				
156	Non-compliance with any of these orders shall, where appropriate, be subject to a recurring penalty payment, with a view to ensuring compliance.	Non-compliance with any of these orders shall, where appropriate, be subject to a recurring penalty payment, with a view to ensuring compliance.	Non-compliance with any of these orders shall, where appropriate, be subject to a recurring penalty payment, with a view to ensuring compliance with the order .	
Article 16				
157	Article 16 Shift of burden of proof	Article 16 Shift of burden of proof	Article 16 Shift of burden of proof	
Article 16(1)				
158	1. Member States shall take the appropriate measures, in accordance with their national judicial systems, to ensure that, when workers who consider themselves wronged because the principle of equal pay has not been applied to them, establish before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the defendant to prove that there has been no direct or indirect discrimination in relation to pay.	1. Member States shall take the appropriate measures, in accordance with their national judicial systems, to ensure that, when workers who consider themselves wronged because the principle of equal pay has not been applied to them, establish before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the defendant to prove that there has been no direct or indirect discrimination in relation to pay.	1. Member States shall take the appropriate measures, in accordance with their national judicial systems, to ensure that, when workers who consider themselves wronged because the principle of equal pay has not been applied to them, establish before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the defendant to prove that there has been no direct or indirect discrimination in relation to pay.	
Article 16(2)				

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159	2. Member States shall ensure that, in any legal or administrative proceedings concerning direct or indirect discrimination, where an employer failed to comply with any of the rights or obligations related to pay transparency set out in Articles 5 through 9 of this Directive, it shall be for the employer to prove that there has been no such discrimination.	2. Member States shall ensure that, in any legal or administrative proceedings concerning direct or indirect discrimination, where an employer failed to comply with any of the rights or obligations related to pay transparency set out in Articles 5 through 9 of this Directive, it shall be for the employer to prove that there has been no such discrimination.	2. Member States shall ensure that, in any legal or administrative judicial proceedings concerning direct or indirect regarding alleged pay discrimination, where an employer failed to comply with any of the rights or did not implement the pay transparency obligations related to pay transparency as set out in Articles 5 through 9 of this Directive in a manifestly negligent manner , it shall be for the employer to prove that there has been no such discrimination.	
Article 16(3)				
160	3. The claimant shall benefit from any doubt that might remain.	3. The claimant shall benefit from any doubt that might remain.	3. The claimant shall benefit from any doubt that might remain.	
Article 16(4)				
161	4. This Directive does not prevent Member States from introducing evidential rules which are more favourable to the claimant in proceedings instituted to enforce any of the rights or obligations relating to equal pay between men and women for equal work or work of equal value.	4. This Directive does not prevent Member States from introducing evidential rules which are more favourable to the claimant in proceedings instituted to enforce any of the rights or obligations relating to equal pay between men and women for equal work or work of equal value.	4. This Directive does not prevent Member States from introducing evidential rules which are more favourable to the claimant in proceedings instituted to enforce any of the rights or obligations relating to equal pay between men and women for equal work or work of equal value.	

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Article 16(5)				
162	5. Member States need not apply paragraph 1 to proceedings in which it is for the court or competent body to investigate the facts of the case.	5. Member States need not apply paragraph 1 to proceedings in which it is for the court or competent body to investigate the facts of the case.	5. Member States need not apply paragraph 1 to proceedings in which it is for the court or competent body to investigate the facts of the case.	
Article 16(6)				
163	6. This Article shall not apply to criminal procedures, unless otherwise provided by national law.	6. This Article shall not apply to criminal procedures, unless otherwise provided by national law.	6. This Article shall not apply to criminal procedures, unless otherwise provided by national law.	
Article 16a				
163a			<p style="text-align: center;">Article 16a Article 16a Proof of equal work or work of equal value</p>	
Article 16a(1)				
163b			<p>1. When assessing whether female and male workers are carrying out the same work or work of equal value, the assessment of whether workers are in a comparable situation shall not be limited to situations in which female and male workers work for the same employer but shall be extended to a single source establishing the pay conditions. A single source</p>	

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			exists when it stipulates all elements of pay relevant for comparison of workers.	
Article 16a(2)				
163c			2. The assessment of whether workers are in a comparable situation shall also not be limited to workers employed at the same time as the worker concerned.	
Article 16a(3)				
163d			3. In a situation where no real comparator can be established, it shall be allowed to use any other evidence to prove alleged pay discrimination, including statistics or a comparison of how a worker would be treated in a comparable situation.	
Article 17				
164	Article 17 Access to evidence	Article 17 Access to evidence	Article 17 Access to evidence	
Article 17(1)				
165	1. Member States shall ensure that in proceedings concerning a claim	1. Member States shall ensure that in proceedings concerning a claim	1. Member States shall ensure that in proceedings concerning a claim	

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	regarding equal pay between men and women for equal work or work of equal value, national courts or competent authorities are able to order the defendant to disclose any relevant evidence which lies in their control.	regarding equal pay between men and women for equal work or work of equal value, national courts or competent authorities are able to order the defendant to disclose any relevant evidence which lies in their control.	regarding an equal pay between men and women for equal work or work of equal value claim , national courts or competent authorities are able to order the defendant to disclose any relevant evidence which lies in their control, in accordance with national law and practice.	
Article 17(2)				
166	2. Member States shall ensure that national courts have the power to order the disclosure of evidence containing confidential information where they consider it relevant to the claim. They shall ensure that, when ordering the disclosure of such information, national courts have at their disposal effective measures to protect such information.	2. Member States shall ensure that national courts have the power to order the disclosure of evidence containing confidential information where they consider it relevant to the claim. They shall ensure that, when ordering the disclosure of such information, national courts have at their disposal effective measures to protect such information.	2. Member States shall ensure that national courts or competent authorities have the power to order the disclosure of evidence containing confidential information where they consider it relevant to the equal pay claim. They shall ensure that, when ordering the disclosure of such information, national courts have at their disposal effective measures to protect such information, in accordance with national procedural rules.	
Article 17(2a)				
166a		2a. Member States shall, without prejudice to national law on the submission and evaluation of evidence, ensure that the final decision of a court confirming an infringement of the right to equal pay may be used, where relevant, as		

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		<i>evidence in the context of any other action before their national courts to seek redress measures with regard to direct or indirect discrimination or intersectional discrimination against the same employer.</i>		
Article 17(3)				
167	3. This Article shall not prevent Member States from maintaining or introducing rules which are more favourable to claimants.	3. This Article shall not prevent Member States from maintaining or introducing rules which are more favourable to claimants.	3. This Article shall not prevent Member States from maintaining or introducing rules which are more favourable to claimants.	
Article 18				
168	Article 18 Limitation periods	Article 18 Limitation periods	Article 18 Limitation periods	
Article 18(1)				
169	1. Member States shall lay down rules applicable to limitation periods for bringing claims regarding equal pay between men and women for equal work or work of equal value. Those rules shall determine when the limitation period begins to run, the duration thereof and the circumstances under which it is interrupted or suspended.	1. Member States shall lay down rules applicable to limitation periods for bringing claims regarding equal pay between men and women for equal work or work of equal value. Those rules shall determine when the limitation period begins to run, the duration thereof and the circumstances under which it is interrupted or suspended.	1. Member States shall lay down ensure that rules applicable apply to limitation periods for bringing claims regarding equal pay between men and women for equal work or work of equal value. Those rules shall determine when the limitation period begins to run, the duration thereof and the circumstances under which it is interrupted or suspended taking into	

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			account that the limitation periods shall not begin to run before the claimant knows, or can reasonably be expected to know about the infringement. Member States may decide that the limitation period does not begin to run before the termination of the employment contract. They shall be set at no less than three years.	
Article 18(2)				
170	2. Limitation periods shall not begin to run before the violation of the principle of equal pay between men and women for equal work or for work of equal value or infringement of the rights or obligations under this Directive has ceased and the claimant knows, or can reasonably be expected to know, about the violation or infringement.	2. Limitation periods shall not begin to run before the violation of the principle of equal pay between men and women for equal work or for work of equal value or infringement of the rights or obligations under this Directive has ceased and the claimant knows, or can reasonably be expected to know, about the violation or infringement.	2. Limitation periods shall not begin to run before the violation of the principle of equal pay between men and women for equal work or for work of equal value or infringement of the rights or obligations under this Directive has ceased and the claimant knows, or can reasonably be expected to know, about the violation or infringement.	
Article 18(3)				
171	3. Member States shall ensure that the limitation periods for bringing claims are set at three years at least.	3. Member States shall ensure that the limitation periods for bringing claims are set at three <i>five</i> years at least.	3. Member States shall ensure that the limitation periods for bringing claims are set at three years at least.	
Article 18(4)				
172				

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	4. Member States shall ensure that a limitation period is suspended or, depending on national law, interrupted, as soon as a claimant undertakes action by lodging a claim or bringing the claim to the attention of the employer, workers' representatives, labour inspectorate or equality body.	4. Member States shall ensure that a limitation period is suspended or, depending on national law, interrupted, as soon as a claimant undertakes action by lodging a claim or bringing the claim to the attention of the employer, workers' representatives, labour inspectorate or equality body.	4. Member States shall ensure that a limitation period is suspended or, depending on national law, interrupted, as soon as a claimant undertakes action by lodging a claim before the court or bringing the claim to the attention of the employer; directly or through workers' representatives, labour inspectorate the control body or equality body.	
Article 18(4a)				
172a			5. This Article sets uniform rules on limitation periods and does not address the question of the rules on the expiration of claims.	
Article 19				
173	Article 19 Legal and judicial costs	Article 19 Legal and judicial costs	Article 19 Legal and judicial costs	
Article 19, first paragraph				
174	Claimants who prevail on a pay discrimination claim shall have the right to recover from the defendant, in addition to any other damages, reasonable legal and experts' fees and costs. Defendants who prevail on a pay discrimination claim shall	Claimants who prevail on a pay discrimination claim Member States shall ensure that where a defendant, in addition to any other damages, reasonable legal and experts' fees and costs. Defendants who prevail	Claimants who prevail on a pay discrimination claim Member States shall ensure that in cases the defendant, in addition to any other damages, reasonable legal and experts' fees and costs. Defendants who prevail	

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	not have the right to recover any legal and experts' fees from the claimant(s) and costs, unless the claim was brought in bad faith, was clearly frivolous or where such non-recovery is considered manifestly unreasonable under the specific circumstances of the case.	<i>prevails on a pay discrimination claim shall not have the right to recover any legal and experts' fees from the claimant(s) and costs, unless the claim was brought in bad faith, was clearly frivolous or where such non-recovery is considered manifestly unreasonable under the specific circumstances of the case, the court benefits from the possibility to assess, according to the national law, whether the unsuccessful claimant had reasonable grounds for bringing the claim to court, and order that the unsuccessful claimant does not have to bear its costs.</i>	where a defendant prevails on a pay discrimination claim shall not have the right to recover any legal and experts' fees from the claimant(s) and costs, unless the claim was brought in bad faith, was clearly frivolous or where such non-recovery is considered manifestly unreasonable under the specific circumstances of the case, the court benefits from the possibility to assess, according to the national law, whether the losing claimant had reasonable grounds for bringing the claim to court, and order that the losing claimant does not have to bear its costs.	
Article 20				
175	Article 20 Penalties	Article 20 Penalties	Article 20 Penalties Sanctions	
Article 20(1)				
176	1. Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall,	1. Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall,	1. Member States shall lay down the rules on penalties effective, proportionate and dissuasive sanctions applicable to infringements of national provisions adopted pursuant to this Directive and the rights and obligations relating to the principle of equal pay. Member States shall take all	

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	without delay, notify the Commission of those rules and of those measures and of any subsequent amendment affecting them.	without delay, notify the Commission of those rules and of those measures and of any subsequent amendment affecting them.	measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall and , without delay, notify the Commission of those rules and of those measures and of any subsequent amendment affecting them.	
Article 20(2), introductory part				
177	2. Member States shall ensure that fines are applied to infringements of the rights and obligations relating to equal pay for the same work or work of equal value. They shall set a minimum level for such fines ensuring real deterrent effect. The level of the fines shall take into account:	2. Member States shall ensure that fines are applied to infringements of the rights and obligations relating to equal pay for the same <i>equal</i> work or work of equal value. They shall set a minimum level for such fines ensuring <i>based, for instance, on the employer's gross annual turnover or on the employer's total payroll and shall ensure that that minimum level is proportionate and has a</i> real deterrent effect. The level of the fines shall take into account:	2. Member States shall ensure that fines are applied to the sanctions guarantee a real deterrent effect for the infringements of the rights and obligations relating to equal pay for the same work or work the principle of equal value. They shall set a minimum level for such pay . These may include fines ensuring real deterrent effect. The level of the fines shall take into account:	
Article 20(2), point (a)				
178	(a) the gravity and duration of the infringement;	(a) the gravity and duration of the infringement and whether there were repeated infringements ;	(a) the gravity and duration of the infringement ;	
Article 20(2), point (b)				

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179	(b) any intent or serious negligence on the part of the employer;	(b) any intent or serious negligence on the part of the employer;	(b) any intent or serious negligence on the part of the employer;	
Article 20(2), point (c)				
180	(c) any other aggravating or mitigating factor applicable to the circumstances of the case.	(c) any other aggravating factor, such as a finding of intersectional discrimination , or mitigating factor applicable to the circumstances of the case.	(c) any other aggravating or mitigating factor applicable to the circumstances of the case.	
Article 20(3)				
181	3. Member States shall establish specific penalties to be imposed in case of repeated infringements of the rights and obligations relating to equal pay between men and women, such as the revocation of public benefits or the exclusion, for a certain period of time, from any award of financial inducements.	3. Member States shall establish specific penalties to be imposed in the case of repeated or serious infringements of the rights and obligations relating to equal pay between men and women, such as the revocation of public benefits or the exclusion, for a certain period of time, from any award of financial inducements.	3. Member States shall establish ensure that specific penalties to be imposed sanctions apply in case of repeated infringements of the rights and obligations relating to equal pay between men and women, such as the revocation of public benefits or the exclusion, for a certain period of time, from any award of financial inducements.	
Article 20(4)				
182	4. Member States shall take all measures necessary to ensure that the penalties provided for are effectively applied in practice.	4. Member States shall take all measures necessary to ensure that the penalties provided for are effectively applied in practice.	4. Member States shall take all measures necessary to ensure that the penalties sanctions provided for are effectively applied in practice.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 21				
183	Article 21 Equal pay matters in public contracts and concessions	Article 21 Equal pay matters in public contracts and concessions	Article 21 Equal pay matters in public contracts and concessions	
Article 21(1)				
184	1. The appropriate measures that the Member States take in accordance with Article 30(3) of Directive 2014/23/EU, Article 18(2) of Directive 2014/24/EU and Article 36(2) of Directive 2014/25/EU, shall include measures to ensure that, in the performance of public contracts or concessions, economic operators comply with the obligations relating to equal pay between men and women for equal work or work of equal value.	1. -The appropriate measures that the Member States take in accordance with Article 30(3) of Directive 2014/23/EU, Article 18(2) of Directive 2014/24/EU and Article 36(2) of Directive 2014/25/EU, shall include measures to ensure that, in the performance of public contracts or concessions, economic operators comply with the obligations <i>relating to equal pay between men and women for equal work or work of equal value laid down in this Directive.</i>	1. The appropriate measures that the Member States take in accordance with Article 30(3) of Directive 2014/23/EU, Article 18(2) of Directive 2014/24/EU and Article 36(2) of Directive 2014/25/EU, shall include measures to ensure that, in the performance of public contracts or concessions, economic operators comply with the obligations relating to equal pay between men and women for equal work or work of equal value.	
Article 21(2)				
185	2. Member States shall consider for contracting authorities to introduce, as appropriate, penalties and termination conditions ensuring compliance with the principle of equal pay in the performance of public contracts and concessions. Where Member States' authorities act in accordance with Article	2. Member States shall consider for contracting authorities to introduce, as appropriate, penalties and termination conditions ensuring compliance with the principle of equal pay in the performance of public contracts and concessions. Where Member States' authorities act in accordance with Article	2. Member States shall consider for contracting authorities to introduce, as appropriate, penalties sanctions and termination conditions ensuring compliance with the principle of equal pay in the performance of public contracts and concessions. Where Member States' authorities act in accordance with Article	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	38(7)(a) of Directive 2014/23/EU, Article 57(4)(a) of Directive 2014/24/EU, or Article 80(1) of Directive 2014/25/EU in conjunction with Article 57(4)(a) of Directive 2014/24/EU, they may exclude or may be required by Member States to exclude any economic operator from participation in a public procurement procedure where they can demonstrate by any appropriate means the infringement of the obligations referred to in paragraph 1, related either to a failure to comply with pay transparency obligations or a pay gap of more than 5 per cent in any category of workers which is not justified by the employer on the basis of objective, gender-neutral criteria. This is without prejudice to any other rights or obligations set out in Directive 2014/23/EU, Directive 2014/24/EU or Directive 2014/25/EU.	38(7)(a) of Directive 2014/23/EU, Article 57(4)(a) of Directive 2014/24/EU, or Article 80(1) of Directive 2014/25/EU in conjunction with Article 57(4)(a) of Directive 2014/24/EU, they may exclude or may be required by Member States to exclude any economic operator from participation in a public procurement procedure where they can demonstrate by any appropriate means the infringement of the obligations referred to in paragraph 1 <i>of this Article</i> , related either to a failure to comply with pay transparency obligations or a pay gap of more than 52,5 per cent <i>in accordance with Article 9(1) of this Directive</i> in any category of workers which is not justified by the employer on the basis of objective, gender-neutral criteria. This is without prejudice to any other rights or obligations set out in Directive 2014/23/EU, Directive 2014/24/EU or Directive 2014/25/EU.	38(7)(a) of Directive 2014/23/EU, Article 57(4)(a) of Directive 2014/24/EU, or Article 80(1) of Directive 2014/25/EU in conjunction with Article 57(4)(a) of Directive 2014/24/EU, they may exclude or may be required by Member States to exclude any economic operator from participation in a public procurement procedure where they can demonstrate by any appropriate means the infringement of the obligations referred to in paragraph 1, related either to a failure to comply with pay transparency obligations or a pay gap of more than 5 per cent in any category of workers which is not justified by the employer on the basis of objective, gender-neutral criteria. This is without prejudice to any other rights or obligations set out in Directive 2014/23/EU, Directive 2014/24/EU or Directive 2014/25/EU.	
Article 22				
186	Article 22 Victimisation and protection against less favourable treatment	Article 22 Victimisation and protection against less favourable treatment	Article 22 Victimisation and protection against less favourable treatment	
Article 22(1)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
187	1. Workers and their representatives shall not be treated less favourably on the ground that they have exercised their rights relating to equal pay between men and women.	1. Workers and their <i>workers'</i> representatives shall not be treated less favourably on the ground that they have exercised their rights <i>right to equal pay for equal work or work of equal value as provided for in this Directive or on the ground that they have reported infringements of the right</i> to equal pay between men and women <i>for equal work or work of equal value.</i>	1. Workers and their representatives shall not be treated less favourably on the ground that they have exercised their rights relating to equal pay between men and women or supported another person in the protection of their rights.	
Article 22(2)				
188	2. Member States shall introduce in their national legal systems such measures as necessary to protect workers, including those who are workers' representatives as provided for by national law and/or practice, against dismissal or other adverse treatment by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with any rights or obligations relating to equal pay between men and women.	2. Member States shall introduce in their national legal systems such measures as necessary to protect workers, including those who are workers' representatives as provided for by national law and/or practice, against dismissal or other adverse treatment by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with any rights or obligations relating to equal pay between men and women <i>for equal work or work of equal value.</i>	2. Member States shall introduce in their national legal systems such measures as necessary to protect workers, including those who are workers' representatives as provided for by national law and/or practice, against dismissal or other adverse treatment by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with any rights or obligations relating to equal pay between men and women.	
Article 22a				
188a		<i>Article 22a</i>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>Intersectional discrimination</i>		
Article 22a(1)				
188b		<i>1. Member States, employers, workers' representatives, equality bodies and monitoring bodies designated pursuant to Article 26 shall, without prejudice to national law, take into account the existence of intersectional forms of discrimination and unconscious bias when implementing the rights and obligations laid down in this Directive and reporting on pay transparency measures, including those laid down in Articles 14 and 17, and shall endeavour, develop and implement specific actions to identify and address situations in which pay discrimination based on sex intersects with other grounds of discrimination. They may also analyse and revise any practice or criteria that could be discriminatory and tackle and find solutions for the concerns of workers facing intersecting forms of discrimination within a particular workplace or sector.</i>		
Article 22a(2)				
188c		<i>2. When collecting data received</i>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>from employers, the equality and monitoring bodies shall, without prejudice to national law, analyse that data in a way that takes account of multiple and intersectional forms of discrimination.</i>		
Article 23				
189	Article 23 Relationship with Directive 2006/54/EC	Article 23 Relationship with Directive 2006/54/EC	Article 23 Relationship with Directive 2006/54/EC	
Article 23, first paragraph				
190	Chapter III of this Directive shall apply to proceedings concerning any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value set out in Article 4 of Directive 2006/54/EC.	Chapter III of this Directive shall apply to proceedings concerning any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value set out in Article 4 of Directive 2006/54/EC.	Chapter III of this Directive shall apply to proceedings concerning any right or obligation related to the principle of equal pay between men and women for equal work or work of equal value set out in Article 4 of Directive 2006/54/EC.	
Article 23a				
190a		<i>Article 23a Support for SMEs</i>		
Article 23a, first paragraph				
190b		<i>In order to limit the costs and</i>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>administrative burdens on employers, Member states shall provide support, in the form of technical assistance and training, to SMEs and workers' representative organisations to comply with the obligations laid down in this Directive.</i>		
CHAPTER IV				
191	CHAPTER IV Horizontal provisions	CHAPTER IV Horizontal provisions	CHAPTER IV Horizontal provisions	
Article 24				
192	Article 24 Level of protection	Article 24 Level of protection	Article 24 Level of protection	
Article 24(1)				
193	1. Member States may introduce or maintain provisions that are more favourable to workers than those laid down in this Directive.	1. Member States may introduce or maintain provisions that are more favourable to workers than those laid down in this Directive.	1. Member States may introduce or maintain provisions that are more favourable to workers than those laid down in this Directive.	
Article 24(2)				
194	2. Implementation of this Directive shall under no circumstances constitute grounds for reducing the level of protection in the fields	2. Implementation of this Directive shall under no circumstances constitute grounds for reducing the level of protection in the fields	2. The implementation of this Directive shall under no circumstances constitute grounds for reducing the level of protection in	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	covered by this Directive.	covered by this Directive.	the fields covered by this Directive. This shall be without prejudice to the right of Member States and the social partners to lay down, in the light of changing circumstances, legislative, regulatory, collective or contractual arrangements other than those in force on [to insert the date of adoption of this Directive], provided that the minimum requirements laid down in this Directive are complied with and that the existing level of protection is not reduced.	
Article 25				
195	Article 25 Equality bodies	Article 25 Equality bodies	Article 25 Equality bodies	
Article 25(1)				
196	1. Without prejudice to the competence of labour inspectorates or other bodies that enforce the rights of workers, including the social partners, national equality bodies established in accordance with Directive 2006/54/EC shall be competent with regard to matters falling within the scope of this Directive.	1. Without prejudice to the competence of labour inspectorates or other bodies that enforce the rights of workers, including the social partners, <i>existing</i> national equality bodies established in accordance with Directive 2006/54/EC shall be competent with regard to matters falling within the scope of this Directive.	1. Without prejudice to the competence of labour inspectorates control body or other bodies that enforce the rights of workers, including the social partners, national equality bodies established in accordance with Directive 2006/54/EC shall be competent with regard to matters falling within the scope of this Directive.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 25(2)				
197	2. Member States shall take active measures to ensure close cooperation and coordination between the national equality bodies and other national bodies that have an inspection function in the labour market.	2. Member States shall take active measures to ensure close cooperation and coordination between the national equality bodies and other national bodies that have an inspection function in the labour market, including the social partners in accordance with national law and practice.	2. Member States shall take active measures to ensure promote close cooperation and coordination between the national equality bodies and other national control bodies that have an inspection function in the labour market with regard to matters relating to the principle of equal pay.	
Article 25(3)				
198	3. Member States shall provide equality bodies with the adequate resources necessary for effectively carrying out their functions with regard to the respect for the right to equal pay between men and women for the same work or work of equal value. Member States shall consider allocating amounts recovered as fines pursuant to Article 20 to the equality bodies for that purpose.	3. Member States shall provide the equality bodies and labour inspectorates with the adequate and sufficient or if needed additional resources, necessary for effectively carrying out their new functions with regard to the respect for the right to equal pay between men and women for the same for equal work or work of equal value. Member States shall consider allocating on top of the national resources assigned to equality bodies to additionally allocate the amounts recovered as fines pursuant to Article 20 to the equality bodies for that purpose.	3. Member States shall provide equality bodies with the adequate resources necessary for effectively carrying out their functions with regard to the respect for the right to equal pay between men and women for the same work or work of equal value. Member States shall consider allocating amounts recovered as fines pursuant to Article 20 to the equality bodies for that purpose.	
Article 26				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
199	Article 26 Monitoring and awareness-raising	Article 26 Monitoring and awareness-raising	Article 26 Monitoring and awareness-raising	
Article 26(1)				
200	1. Member States shall ensure the consistent monitoring of the implementation of the principle of equal pay between women and men for equal work or for work of equal value and the enforcement of all available remedies.	1. Member States shall ensure the consistent monitoring of the implementation of the principle of equal pay between women and men for equal work or for work of equal value and the enforcement of all available remedies.	1. Member States shall ensure the consistent and coordinated monitoring and support of the implementation of the principle of equal pay between women and men for equal work or for work of equal value and the enforcement of all available remedies.	
Article 26(2)				
201	2. Each Member State shall designate a body ('monitoring body') for the monitoring and support of the implementation of national legal provisions implementing this Directive and shall make the necessary arrangements for the proper functioning of such body. The monitoring body may be part of existing bodies or structures at national level.	2. Each Member State shall designate a body ('monitoring body') for the monitoring and support of the implementation of national legal provisions implementing this Directive and shall make the necessary arrangements and ensure adequate resources for the proper functioning of such body. The monitoring body may be part of an existing bodies or structures body or structure at national level depending on the national institutional context for implementing the principle of equal pay. It shall work closely with the social partners involved in the	2. Each Member State shall designate a body ('monitoring body') for the monitoring and support of the implementation of national legal provisions implementing this Directive and shall make the necessary arrangements for the proper functioning of such body. The monitoring body may be part of existing bodies or structures at national level.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>application of the principle of equal pay and may be required to cooperate with the labour inspectorates.</i>		
Article 26(3), introductory part				
202	3. Member States shall ensure that the tasks of the monitoring body include the following:	3. Member States shall ensure that the tasks of the monitoring body include the following:	3. Member States shall ensure that the tasks of the monitoring body include the following following tasks are carried out:	
Article 26(3), point (a)				
203	(a) to raise awareness among public and private undertakings and organisations, social partners and the general public to promote the principle of equal pay and the right to pay transparency;	(a) to raise awareness among public and private undertakings and organisations, social partners and the general public to promote the principle of equal pay and the right to pay transparency, <i>as well as the need to tackle intersectional discrimination, including by communicating and sharing employers' good practices and initiatives for the purpose of equal pay for equal work or work of equal value;</i>	(a) to raise raising awareness among public and private undertakings and organisations, social partners and the general public to promote the principle of equal pay and the right to pay transparency;	
Article 26(3), point (b)				
204	(b) to tackle the causes of the gender pay gap and devise tools to help analyse and assess pay	(b) to tackle the causes of the gender pay gap and devise tools to help analyse and assess pay	(b) to tackle analysing the causes of the gender pay gap and devise tools to help analyse and assess pay	

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	inequalities;	<i>inequalities</i> devise tools and guidance to help analyse and assess pay inequalities in order to tackle discrimination as defined in Article 3, including the causes of the gender pay gap;	inequalities;	
Article 26(3), point (c)				
205	(c) to aggregate data received from employers pursuant to Article 8(6), and publish this data in a user-friendly manner;	(c) to aggregate data received from employers pursuant to Article 8(6) as laid down by this Directive , and publish this data in an accessible and user-friendly manner in accordance with the harmonised legal acts of the Union on accessibility and, where possible, analyse the data for the purpose of identifying multiple, intersectional or cross-sectoral forms of discrimination, with a particular focus on female-dominated sectors;	(c) to aggregate collecting data received from employers pursuant to Article 8(6), and 8 , and promptly publish this data in a the data referred to in Article 8, paragraph 1, points (a) to (f) in a easily, accessible and user-friendly manner, allowing comparison between employers, sectors and regions of the Member State concerned. The information from the previous four years, if available, shall also be accessible;	
Article 26(3), point (d)				
206	(d) to collect the joint pay assessment reports pursuant to Article 9(3);	(d) to collect the joint pay assessment reports pursuant to Article 9(3);	(d) to collect collecting the joint pay assessment reports pursuant to Article 9(3);	
Article 26(3), point (e)				
207	(e) to aggregate data on the number and types of pay discrimination	(e) to aggregate data on the number and types of pay discrimination	(e) to aggregate aggregating data on the number and types of pay	

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	claims brought before the courts and complaints brought before the competent public authorities, including equality bodies.	claims brought before the courts and complaints brought before the competent public authorities, including equality bodies.	discrimination claims brought before the courts and complaints brought before the competent public authorities, including equality bodies.	
Article 26(3), point (ea)				
207a		<i>(ea) to provide relevant data and information to the relevant institutions such as EIGE and Eurofound in order to allow for the comparability and assessment of that data at Union level;</i>		
Article 26(3), point (eb)				
207b		<i>(eb) to give warnings and recommendations for fines to the relevant competent authorities designated by Member States to implement Article 20 of this Directive, in the case of non-compliance with the obligations laid down in this Directive in certain companies or sectors, in order for the competent authorities to undertake follow-up actions, such as a revision of the national pay equality plan or penalties.</i>		
Article 26(3a)				
207c				

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		<i>3a. Member States may add the tasks to the monitoring body to take the necessary actions, including fines, in the case of non-compliance of employers with this Directive as laid down in Article 20.</i>		
Article 26(4)				
208	4. Member States shall provide the Commission with the data referred to in paragraph 3, points (c), (d), and (e) to the Commission annually.	4. Member States shall provide the Commission with the data referred to in paragraph 3, points (c), (d), and (e) to the Commission annually.	4. Member States shall every two years, in one single submission , provide the Commission with the data referred to in paragraph 3, points (c), (d), and (e) to the Commission annually.	
Article 26a				
208a		<i>Article 26a Union Pay Equality Plans</i>		
Article 26a(1)				
208b		<i>1. The Commission shall create a Union Pay Equality Plan setting out priorities and targets to fill in concrete measures and corrective actions based on data on labour market segregation and the biases in equal pay for equal work or work of equal value in the Union and the single market. The Union Pay Equality Plan shall be presented for</i>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>a five year period.</i>		
Article 26a(2)				
208c		<i>2. The Commission shall create guidelines for national pay equality plans, to be established by Member States, setting out concrete measures and corrective actions to address the gender pay gap in the labour market. To that end, Member States shall first assess the situation, based on the collected data on the segregation of labour markets and the biases in equal pay for equal work or work of equal value. Member States shall make those data and analytical tools publicly available.</i>		
Article 26a(3)				
208d		<i>3. The Commission shall, after consulting the social partners and the national authorities, designate EIGE to create an online interactive pay transparency and equality tool to facilitate the analysis and assessment of gender pay in SMEs. That tool shall be free of charge and easy to use. It shall be based on an accessible methodology. It shall be available in all official languages of the</i>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>Union. The EIGE shall be provided with adequate financial and human resources for that purpose.</i>		
Article 27				
209	Article 27 Collective bargaining and action	Article 27 Collective bargaining and action	Article 27 Collective bargaining and action	
Article 27, first paragraph				
210	This Directive shall not affect in any way the right to negotiate, conclude and enforce collective agreements and to take collective action in accordance with national law or practice.	This Directive shall not affect in any way the right to negotiate, conclude and enforce collective agreements and to take collective action in accordance with national law or practice.	1. This Directive shall not affect in any way the right to negotiate, conclude and enforce collective agreements and to take collective action in accordance with national law or practice.	
Article 27, first paragraph a				
210a			2. In accordance with national law and practice, Member States may allow for the social partners to maintain, negotiate, conclude and enforce collective agreements which establish arrangements on pay transparency provided that the results sought by this Directive are ensured at all times.	
Article 28				
211				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 28 Statistics	Article 28 Statistics	Article 28 Statistics	
Article 28, first paragraph				
212	Member States shall provide the Commission (Eurostat) with up-to-date gender pay gap data annually and in a timely manner. These statistics shall be broken down by gender, economic sector, working time (full-time/part-time), economic control (public/private ownership) and age and be calculated on an annual basis.	Member States shall provide the Commission (Eurostat) with up-to-date gender pay gap data annually and in a timely manner. These statistics shall be broken down by gender, economic sector, working time (full-time/part-time), <i>type of contract (indefinite/temporary/hourly)</i> , economic control (public/private ownership), <i>disability</i> , and age and <i>shall, where possible, include whether the difference was justified by objective and gender-neutral criteria, and</i> be calculated on an annual basis <i>and, where possible, be combined with anonymised data regarding intersectional forms of discrimination.</i>	1. Member States shall provide annually the Commission (Eurostat) with up-to-date national data for the calculation of the gender pay gap data annually and in a timely manner in unadjusted form. These statistics shall be broken down by gender sex , economic sector, working time (full-time/part-time), economic control (public/private ownership) and age and be calculated on an annual basis.	
Article 28, first paragraph a				
212a			2. The first annual gender pay data shall be transmitted not before 31 January 2028 for reference year 2026.	
Article 29				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
213	Article 29 Dissemination of information	Article 29 Dissemination of information	Article 29 Dissemination of information	
Article 29, first paragraph				
214	Member States shall take active measures to ensure that the provisions they adopt pursuant to this Directive, together with the relevant provisions already in force, are brought by all appropriate means to the attention of the persons concerned throughout their territory.	Member States shall take active measures to ensure that the provisions they adopt pursuant to this Directive, together with the relevant provisions already in force, are brought by all appropriate means to the attention of the persons concerned throughout their territory.	Member States shall take active measures to ensure that the provisions they adopt pursuant to this Directive, together with the relevant provisions already in force, are brought by all appropriate means to the attention of the persons concerned throughout their territory.	
Article 30				
215	Article 30 Implementation	Article 30 Implementation	Article 30 Implementation	
Article 30, first paragraph				
216	Member States may entrust the social partners with the implementation of this Directive, where the social partners jointly request to do so, provided that Member States take all the necessary steps to ensure that the results sought by this Directive are guaranteed at all times.	Member States may entrust the social partners with the implementation of this Directive, where the social partners jointly request to do so, provided that Member States take all the necessary steps to ensure that the results sought by this Directive are guaranteed at all times.	Member States may entrust the social partners with the implementation of this Directive, where the social partners jointly request to do so in accordance with national law and/or practice regarding the role of social partners , provided that Member States take all the necessary steps to ensure that the results sought by this Directive are guaranteed at all times.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 31				
217	Article 31 Transposition	Article 31 Transposition	Article 31 Transposition	
Article 31(1)				
218	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [two years after the entry into force]. They shall immediately inform the Commission thereof.	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [two years after the entry into force]. <i>Without prejudice to the autonomy of the social partners and in accordance with national law and practice, Member States shall ensure that the rights and obligations under this Directive are transposed.</i> They shall immediately inform the Commission thereof.	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [two three years after the entry into force]. They shall immediately inform the Commission thereof.	
Article 31(2)				
219	2. When informing the Commission, Member States shall also accompany it with a summary of the results of their assessment regarding the impact of their transposition act on small and medium-sized enterprises and a reference to where such assessment is published.	2. When informing the Commission, Member States shall also accompany it with provide a summary of the results of their assessment regarding the impact of their transposition act on non workers and employers of small and medium-sized enterprises and on female-dominated sectors and a	2. When informing the Commission, Member States shall also accompany it with a summary of the results of their assessment regarding the impact of their transposition act on micro , small and medium-sized enterprises and a reference to where such assessment is published.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		reference to where such assessment is published.		
Article 31(3)				
220	3. When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by shall be laid down by Member States.	3. When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by shall be laid down by Member States.	3. When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by shall be laid down by Member States.	
Article 32				
221	Article 32 Reporting and review	Article 32 Reporting and review	Article 32 Reporting and review	
Article 32(1)				
222	1. By [eight years after the entry into force] Member States shall communicate to the Commission all information on how this Directive has been applied and what has been its impact in practice.	1. By [eight five years after the entry into force] Member States shall communicate to the Commission all information on how this Directive has been applied and what has been its impact in practice-	1. By [eight years after the entry into force] Member States shall communicate to the Commission all information on how this Directive has been applied and what has been its impact in practice.	
Article 32(2)				
223	2. On the basis of the information	2. On the basis of the information	2. On the basis of the information	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	provided by Member States, the Commission shall submit a report to the European Parliament and the Council on the implementation of this Directive and propose, where appropriate, legislative amendments.	provided by Member States, the Commission shall, <i>within one year of receiving the information</i> , submit a report to the European Parliament and the Council on the implementation of this Directive, <i>which shall include an impact assessment taking into account the collected data and experiences by the Member States, employers, EIGE, the social partners, the equality bodies and monitoring bodies and other relevant institutions. Based on this, the Commission shall consider how to lower the amount of workers an employer must have to be bound by Articles 8 and 9 of this Directive, and propose, accordingly</i> and propose, where appropriate, legislative amendments.	provided by Member States, the Commission shall submit a report to the European Parliament and the Council on the implementation of this Directive and propose, where appropriate, legislative amendments.	
Article 33				
224	Article 33 Entry into force	Article 33 Entry into force	Article 33 Entry into force	
Article 33, first paragraph				
225	The Directive shall enter into force on the twentieth day following its publication in the Official Journal of the European Union.	The Directive shall enter into force on the twentieth day following its publication in the Official Journal of the European Union.	The Directive shall enter into force on the twentieth day following its publication in the Official Journal of the European Union.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 34				
226	Article 34 Addressees	Article 34 Addressees	Article 34 Addressees	
Article 34, first paragraph				
227	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	
Formula				
228	Done at Brussels,	Done at Brussels,	Done at Brussels,	
Formula				
229	For the European Parliament	For the European Parliament	For the European Parliament	
Formula				
230	The President	The President	The President	
Formula				
231	For the Council	For the Council	For the Council	
Formula				
232	The President	The President	The President	

