

## Targeted consultation with Member States on pay transparency

*(Feedback period: 5 March 2020 - 28 May 2020)*

Fields marked with \* are mandatory.

### Introduction

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Building on the European Commission's [2014 Pay Transparency Recommendation](#), and its [2017 implementation report](#), the purpose of this questionnaire is to seek feedback from Member States (national institutions and national representatives in charge of gender equality and employment) on pay transparency measures.

The result of this targeted consultation will feed into the Commission's preparation of an initiative introducing binding pay transparency measures at EU level. The consultation is done in parallel with an online [public consultation](#) open for feedback until 28 May for all citizens and stakeholders.

People doing equal work or work of equal value should receive the same pay regardless of their gender; this is one of the EU fundamental principles. Yet, despite the Equal Pay principle being in place since the Treaty of Rome in 1957, its effective implementation remains a major challenge. This is partly reflected in the continuing evidence of non-compliance with the law and in the persistence and magnitude of the pay gap between men and women at around 15 % on average in the EU. The explanatory factors behind the gender pay gap are complex and mutually reinforcing. They include horizontal and vertical labour market segregation, continued unequal sharing of caring responsibilities and its consequences for participation of women in the labour market, etc. Part of the difference can however be attributed to gender-based pay discrimination.

Pay transparency may contribute to a better enforcement of the equal pay right. More transparency about pay levels could help explain better the gender pay gap and how to find efficient solutions to close it.

This questionnaire is related to the initiative of introducing binding pay transparency measures which is part of the [Commission's Work Programme for 2020](#). It follows-up on [the Commission's evaluation](#) of the relevant provisions of [Directive 2006/54/EC on gender equality in employment and occupation](#). This evaluation suggested that insufficient transparency about pay within organisations means that pay discrimination may go undetected or, where it is suspected, it could be difficult to prove. It pointed to and unveiled problems in enforcing the principle of equal pay across the EU and fragmented pay transparency measures across the EU.

### Background information on respondents

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\* First name

\* Surname

\* Position

\* E-mail

\* Member State

- Austria
- Belgium
- Bulgaria
- Croatia
- Republic of Cyprus
- Czechia
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden

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## General state of play

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Organisations: they refer to companies and also to other private or public organisations

**1) Please provide details of your national measures on pay transparency since your last reporting to the Commission on 31/12/2015 (concerning the implementation of the [2014 Pay Transparency Recommendation](#)).**

Please provide relevant facts, figures, related costs and achievements.

Regulation/law name

The gender pay gap is decreasing. In 2016 the unadjusted gender pay gap (difference in pay when not taking into account other factors that influence the level of - hourly - wages) was 19 percent in the private sector and 8 percent in the public sector. The adjusted gender pay gap (difference in pay that remains after taking into account several background factors, like several employee characteristics, employer's characteristics and job characteristics) was 7 percent in the private sector and 5 percent in the public sector in 2016.

A new report based on the figures of 2018 is expected at the end of this year (2020). The aim is an equal position for men and women on the labor market and pay differences should be reduced further. Pay transparency could contribute to decrease the gender pay gap. Of course Dutch law prohibits unequal pay for equal work or work of equal value. This prohibition is laid down in several articles (Article 7:646 Dutch Civil Code; Act on Equal treatment of men and women; Equal treatment act). Employees are able to start a case if they notice they are not paid equally. There is no regulation on pay transparency.

Date of entry into force

Not applicable

Based on 2014 Recommendation? Yes/No

Not applicable

Are there studies or analysis such as impact assessments or ex-ante evaluations?

- Yes  
 No

Coverage (sector): Public / Private

Not applicable

Coverage (size) : organisation size threshold

Not applicable

Kind of pay transparency measure/s (e.g. right to access information, pay report, pay audit)

Not applicable

Scope: type of pay information

Not applicable

Frequency of pay information

Not applicable

Compulsory follow-up action? Yes/No. Is Yes, please explain

Not applicable

Do pay audits require the analysis of gender neutrality of job evaluation/classification systems? If so, how does this work?

No

Enforcement/compliance mechanism

Not applicable

Level of penalties /compensations

Not applicable

Complementary information about the measure(s)

Not applicable

Level of compliance: how many organisations implemented national measures

Not applicable

Are there ex-post evaluations?

- Yes
- No

Possible reference website

Not applicable

**2) Do you have any information regarding organisations that have reviewed their pay practice (level, structure, setting,...) following application of the pay transparency instrument in your country?**

Not applicable

**3) If you did not introduce any pay transparency measures, please explain why**

Everyone in The Netherlands has the right to be treated equally and given a fair chance of succeeding on the labour market. Labour market discrimination denies opportunities and prevents equal treatment. In 2018 a new Implementation Plan for labour market discrimination was presented. Promoting equal pay between men and women is part of that strategy and several measures have been taken/announced.

Every two years, Statistics Netherlands (CBS) conducts research on pay differences between men and women on behalf of the Ministry of Social Affairs and Employment. The latest report was published at the end of 2018 and was based on figures of 2016. A new report based on the figures of 2018 is expected at the end of this year.

In The Netherlands the gender pay gap is decreasing. The unadjusted pay gap between men and women in 2016 was 19 percent in the private sector and 8 percent in the public sector. For example in 2014 this was 20 and 10 percent respectively. So there is a decrease. Taking into account certain background characteristics that are known to be strongly related to pay, such as age, working time and education level, the pay gap in 2016 in the private sector is 7 percent and in the public sector 5 percent. The CBS concludes that, given the data currently known, there is a steady decrease in the adjusted pay gap in both the government and the business community in the period under review.

In a recently published article CBS indicates that in 2019 the wage gap between men and women narrowed further: "Women's average gross hourly earnings were 14 percent lower than men's. This percentage is becoming smaller every year. (...) Over time, the difference in average hourly wages has become progressively minor. (...) As of 1995, the gender wage gap has become narrower, by 0.5 percentage points per year." The article also indicates that based on the average or median net hourly wage, it turns out that women are even better off than men.

"The pay gap between men and women based on average hourly earnings presents a somewhat distorted view since wages of highly-paid male employees weigh in heavily. A more balanced picture can be obtained by looking at median hourly wages. The median is the value in the middle of a sorted ascending list of numbers. Last year, based on average hourly wages, women earned on average 14 percent less than men; but 7 percent less based on median hourly pay. (...) In 2019, women's median net hourly wages were 2 percent higher than men's: 50 percent of men's working hours were paid at a net hourly wage of no more than 16.64 euros, while 50 percent of women's working hours were paid at a net hourly wage of no less than 16.95 euros. The fact that women do relatively better in terms of net wages is due to the fact that higher-paid jobs are relatively more heavily taxed. Men are over-represented in higher-paid job and therefore pay a relatively larger share of wage taxes and social insurance contributions. Since 2015, women's median net hourly earnings have been higher than men's." (<https://www.cbs.nl/en-gb/news/2020/18/gender-pay-gap-stillnarrowing>).

Nevertheless, the aim is an equal position for men and women on the labor market and pay differences should be reduced further. Several measures have been taken. See answer to question 7. Pay transparency could contribute to decrease the gender pay gap. The effect of identifying the differences will contribute to raising awareness among companies, organizations and employees. It will also initiate discussion about the gender pay gap at both social and organizational level. Up to now there is no regulation on pay transparency.

The Dutch Cabinet is awaiting the submission of a proposal of Members of Parliament ('Equal pay for women and men') by some opposition parties. Further, the focus is on sharing and more often applying good practices on how the conversation can be initiated and which measures will work best. In addition the ministry of Social Affairs and Employment is exploring possible measures to promote transparency.

**4) Please provide information on the out-of-Court cases related to pay discrimination (e.g. cases reported to the equality body/labour inspectorate) in your country – how many cases are registered per year (over the last 10 years)?**

The Institute for Human Rights protects, advances, monitors and sheds light on human rights in the Netherlands. The Institute is an independent supervisor of human rights in the Netherlands. (<https://mensenrechten.nl/nl/netherlands-institute-human-rights>). Since 2010, the Institute has received 67 requests about pay and ground 'gender', and it has delivered 29 judgments.

**5) Please provide information on the Court cases related to pay discrimination in your country – how many cases are registered per year (over the last 10 years)?**

Unknown

**6) Do you think the numbers in the two previous answers reflect accurately possible gender pay discrimination in your country?**

Please explain

Partly. For example, the Institute for Human Rights registers multiple data. Questions and reports to their Front Office, the requests for an opinion and the judgments themselves. So it is also important to view the data in its entirety. For example, there are far more questions and reports than statements and not every investigation ends in an opinion. Also, not everyone who believes there is unequal pay will take action and not everybody will be aware if they are paid less for work of equal value.

**7) What measures did you take to disseminate information about the right to equal pay among persons concerned, including at the workplace (pursuant to Article 30 of [Directive 2006/54](#))?**

Closing the gender pay gap starts with offering equal opportunities for women and men and stimulating policy for labor market and emancipation. For example, the Dutch Cabinet is lowering charges on labour, expanding the maternity leave for partners and investing in childcare for example to stimulate and enable women with (young) children to work more hours.

In 2018 a new Implementation Plan for labor market discrimination was presented. Promoting equal pay between men and women is part of that strategy and several measures have been taken/announced. For example, Works councils and HR officers are encouraged to work with equal pay. The government launched a campaign ("Verderkijkers"), in which it collaborates with a radio broadcaster, to generate attention for this topic amongst other.

With a subsidy from the Ministry of Education, Culture and Science, Women Inc activates women and employers through various activities to work on equal pay for equal work. Women Inc. investigated in collaboration with experts and stakeholders and also investigate how parties can be enabled to implement improvements. Women Inc. launched a campaign (#15percentminder) on Equal Pay Day 2019 and offer an instrument for employers (Gelijk Loon Check). The program started in 2018 and ended at the end of 2019.

The Labor Foundation would like to inform its supporters actively about the underlying causes of pay discrimination. The Labor Foundation offers them tools to work on this issue. For example, it does so by updating the "Equal pay checklist" tool and making it available to different target groups, such as labor organizations (both large and small), members of entrepreneur councils and workers.

There is also online information about the right to equal pay. For example: <https://www.rijksoverheid.nl/onderwerpen/gelijke-behandeling-op-het-werk/regels-gelijke-behandeling-op-het-werk>.

## Possible modalities of the forthcoming EU initiative on binding pay transparency measures

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### 8) Different combination of options could be set to achieve a minimum level of requirements on pay transparency at EU level.

**What combination of the options listed below do you think would be the most effective and would best support a better enforcement of the equal pay principle in the EU?**

(multiple answers possible)

- Employees have the right to access information on pay levels and gender pay gaps of categories of individuals performing the same work or work of equal value
- Employer reports regularly on pay levels and gender pay gaps per employees' category
- Employers and employees representatives analysing information about pay levels and gender pay gaps per employees' category in regular pay audits
- Gender-neutrality of job evaluation and classification systems
- Obligation to include equal pay matters in collective bargaining
- Confidentiality clauses on disclosing individual pay should be forbidden in working arrangements
- Employers should be forbidden to ask for compensation history of employees
- Every employer who advertises a publicly advertised job vacancy should include information about the expected salary for the position or the range of expected salary for the position



Please explain your choice of options

Pay transparency can contribute decreasing the gender pay gap. The effect of identifying the differences will contribute to raising awareness among companies, organizations and employees. It will also initiate discussion about the gender pay gap at both social and organizational level. Reporting on pay levels and gender pay gaps per employees' category can contribute on that. Other measures mentioned above might contribute as well, like gender-neutrality of job evaluation and classification systems and not asking for compensation history of employees. However, binding resolutions are not necessarily advisable.

**9) Would you think of other possible modalities of options to be set at EU level?**

Please give details and explain

Not at EU level. On national level it is important to focus on sharing and applying good practices on how the conversation can be initiated and which measures will work best.

**10) The frequency of the modalities could vary, including the calendar year, fiscal year or a specific period (e.g. every 2 years).**

**What frequency would you prefer for the above-mentioned modalities?**

Please specify modality and frequency

The frequency depends on the proposed measures. For example the right to access information on pay levels and gender pay gaps of categories of individuals performing the same work or work of equal value should be continuous. That also applies for gender-neutrality of job evaluation and classification systems.

**11) Different organisation size thresholds could be applied to different legal obligations being imposed on the organisations. What thresholds would you find adequate to apply for pay transparency measures listed below?**

	0-9 employees	10-49	50-249	250+	Do not know
Right to access pay information (employees have the right to access information on pay levels and gender pay gaps of categories of individuals performing the same work or work of equal value)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Pay report (employer reports regularly on pay levels and gender pay gaps per employees' category)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Pay audit (employers and employees representatives analysing information about pay levels and gender pay gaps per employees' category in regular pay audits)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Gender-neutrality of job evaluation and classification systems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Obligation to include equal pay matters in collective bargaining	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain

The above mentioned measures may possible contribute decreasing the gender pay gap. However, binding resolutions are not necessarily advisable.

**12) Apart from organisation thresholds, what exemptions or criteria to grant exemptions from applying pay transparency measures would you find adequate?**

Please explain

The privacy of employees; disproportionate burden on employers; possibility to ensure monitoring and ensuring compliance with the rules.

Addition to question 13: There is a difference between the role of the equality body and the role of the Inspectorate SZW. The answers to question 13 (1 - 4) relates to the role of the Inspectorate SZW. When it comes to the equality body the answers would be different; 1 and 4 could be 'quite effective'.

**13) Different national actors could be involved in supervising that the equal pay right is respected. How would you rate the below statements about the role of equality bodies/labour inspectorates?**

	Very effective	Quite effective	Not that effective	Not effective at all	Do not know
Equality body /labour inspectorate to initiate equal pay cases on behalf of individuals	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Equality body /labour inspectorate to represent victims in legal proceedings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Equality body /labour inspectorate to impose fines for non-compliance with equal pay provisions	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Equality body /labour inspectorate initiating and pursuing collective equal pay claims /actions on behalf of victims	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Other actor (public or private) initiating and pursuing a collective equal pay claim on behalf of victims	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

## Standardised solutions to pay transparency

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**14) Different national actors could be involved in implementing and standardising pay transparency measures. How would you rate the below statements about the role of different actors?**

	Very effective	Quite effective	Not that effective	Not effective at all	Do not know
Organisations reporting on pay gaps	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Equality body performing automated checks on pay gaps within organisations based on employment, tax and/or social security registers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Labour inspectorate performing automated checks on pay gaps within organisations based on employment, tax and/or social security registers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Social security body performing automated check on pay gaps within organisations	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Tax authority performing automated check on pay gaps within organisations	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Employers' organisations compiling pay statistics (pay reports and/or pay audits) for their members	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Trade unions compiling pay statistics (pay reports and/or pay audits) for their members	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Statistical office compiling pay reports on behalf of organisations	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

**15) According to your country's institutional setting, would it be possible to use existing national registers (tax, social security, ...) to compute the gender pay gap at organisation level?**

- Yes  
 No

**16) Would a labour inspectorate/equality body be able to perform automated checks on organisations, execute pay reporting or access the pay info in an individual case?**

- Yes  
 No

**17) Could public/subsidised IT tools be used to minimise the administrative burden of pay transparency measures?**

- Yes  
 No

**18) How long would it take to implement an IT application or tool that could compute gender pay gap at organisation level using social security or tax data, or other data, already available in the public administration?**

Please explain also the associated costs

Difficult to estimate. It depends on several things, like the data needed.

**19) If such IT system is already available, please provide details on time and resources invested in developing it as well as possible statistics in its use.**

Not applicable.

## Enforcement

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### **20) Knowing the institutional setting of your country and resources allocated to the enforcement of the equal pay right:**

Would equality bodies /labour inspectorates /other national body have the capacity to ensure compliance with pay transparency measures in an effective way?

If so, please explain the estimated costs

That would depend on the measures and what is meant by 'ensure compliance'.

If not, would those bodies require additional resources to carry out such task?

What would be the estimated costs?

See previous answer.

Would equality bodies/labour inspectorates/other national body be ready to run a dedicated governmental web where information/reports on pay gaps in individual organisations could be published?

If there is a government task here, it would be most likely to fit with the current tasks of the human rights committee or other national bodies, not the Inspectorate SZW.

### **21) In general terms, what is the current role of equality bodies and labour inspectorates in the enforcement and supervision of the respect of equal pay rights? How do they cooperate? Do you think their enforcement mandates are sufficient?**

In the Netherlands there is the Inspectorate SZW, the Board for Human Rights (College voor de Rechten van de Mens) and the Anti-Discrimination Facilities (Antidiscrimatievoorzieningen). They each supervise discrimination on the labor market on the basis of their own roles and powers. And, they also take action against this, each within their own mandate. These services are in close contact with each other and coordinate their activities (where relevant). Employers are obliged to pursue a policy to combat discrimination at work. The prohibition of discrimination (between men and women) in pay is part of that. The inspectorate SZW does not act in individual cases. Both the Board for Human Rights and the Anti-Discrimination Facilities can act in individual cases. The Board for Human Rights can give an opinion. The court will take this into account (weightly) in individual cases between an employer and an employee.

### **22) Would additional resources be required to help organisations comply with pay transparency rules, for example to produce reports (guidance, training for HR and trade unions, info pages,...)?**

That depends on the measures.

**23) Is there a possibility to make collective claims to enforce the equal pay right in your country?**

**Was it ever used?**

If Yes, please provide details

Yes, this is possible. It is possible to make a request to The Netherlands Institute for Human Rights (article 10, section 2, d and e Wet College voor de Rechten van de Mens). It is also possible to bring such a case before a civil court.

## Impacts

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**24) Do you agree/disagree with the following statements about the possible impacts of pay transparency measures?**

	Strongly agree	Somehow agree	Somehow disagree	Strongly disagree	Do not know
Pay transparency helps enforce the right to equal pay	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pay transparency reduces pay discrimination	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pay transparency contributes to raising awareness on equal pay issues	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pay transparency is a powerful tool for equality bodies/labour inspectorates /social partners to support employees in defending their right to equal pay	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pay transparency would encourage employers to take action to better implement the principle of equal pay for the same work or work of equal value	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pay transparency helps improve work climate	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pay transparency has a positive impact on employees' motivation and productivity	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pay transparency can result in salaries flattening or decreasing and greater wage moderation by organisations	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pay transparency might make it difficult to reward high-performing employees	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pay transparency limits employers' discretion	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Pay transparency creates significant additional administrative burden for organisations	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pay transparency must be part of wider equal pay policies	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Effectiveness of pay transparency depends on the size of the organisation	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pay transparency measures should be tailored to the size of the organisation	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**25) What in your opinion would be other possible impacts of pay transparency measures? Please explain**

The impacts mentioned are sufficient.

**26) Are there any relevant studies (such as ex-ante or ex-post assessments, research reports) that report on the benefits of national pay transparency instruments that you implemented or plan to implement?**

No.

**27) Are there any relevant studies (such as (budget) reports, ex-ante or ex-post assessments) that report on the costs anticipated or incurred for national administrations and individual organisations?**

No.

Please upload your position paper, if any, and any other relevant documents

The maximum file size is 1 MB

**Contact**

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