

CREATING MOMENTUM FOR FAIR PAY: ASSESSING POLICIES WITH LEVERAGE

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Policy Study published in February 2022 by

FEPS
FOUNDATION FOR EUROPEAN
PROGRESSIVE STUDIES



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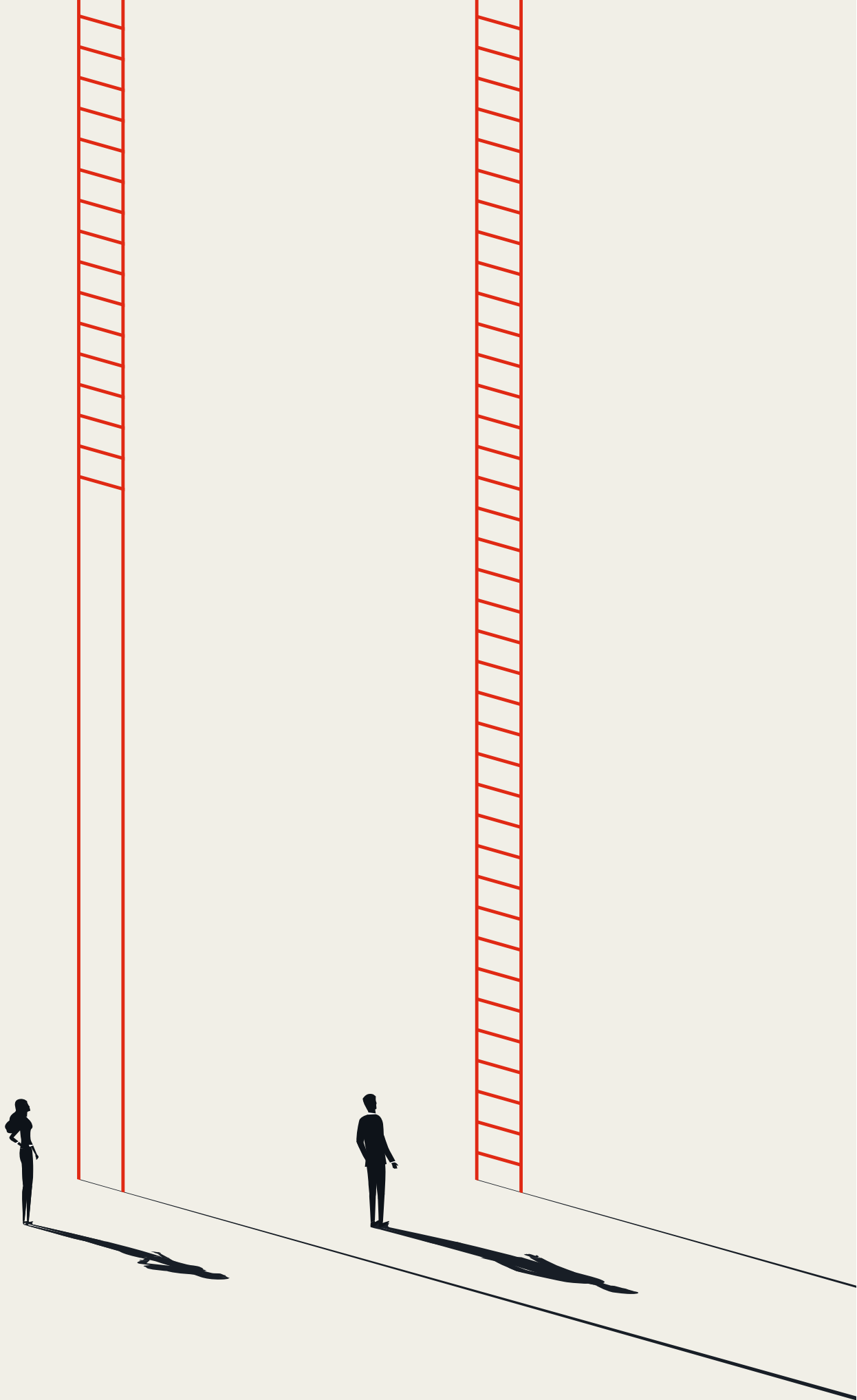
This Policy Study was produced with the financial support of the European Parliament. It does not represent the view of the European Parliament.

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Front page photo: Name of Artist / Agency / Stock agency (or relevant credit formula)
Copy editing: FEPS
Layout: Triptyque

ISBN: 978-2-930769-74-5 9782930769745

TABLE OF CONTENTS

SUMMARY	5
INTRODUCTION	6
FROM INDIVIDUAL RIGHTS TO INFORMATION TO TRANSPARENT WAGE SYSTEMS: APPROACHES IMPLEMENTING FAIR PAY	8
Individual action to empower employees	8
Spreading pay statistics to enable educated decision-making	9
Systemic analyses of pay structures to detect the roots of discrepancies	10
Standardizing fair pay and gender equality	11
Collective bargaining as means for neutral job evaluation	13
Policies beyond pay achieving equality	14
MOVING FORWARD: LEGISLATIVE INITIATIVES TO CLOSE PAY GAPS	16
MOVING BEYOND GENDER	17
CONCLUDING REMARKS	18
RECOMMENDATIONS FOR A FAIR FUTURE – OR HOW TO LEAPFROG INTO FAIR PAY	19
REFERENCES	20
ABOUT THE AUTHORS	23
ABOUT THE PARTNERS	24



SUMMARY

Fair pay has reached a critical point in debates and discussions: Many countries are sharpening their policies implementing fair pay and combining different approaches – from targeting single employees, corporate structures, collective agreements, or the dissemination of information. The goal of this policy paper is to assess the different policy instruments to ensure fair pay across Europe and the world as well as to discuss their leveraging effects.

This paper demonstrates that mandated analysis of remuneration systems is key to achieving fairness for all. Thereby, pay gaps can be monitored and decreased, and neutral job evaluation systems implemented. Those policies targeting remuneration systems on corporate levels are most effective, as putting fair pay into practice is a systemic issue and not an individual burden.

The European Union and many others have realized the need for political action on fair pay. It takes bold leadership to push for far-reaching policies that target structural impediments and many hope that the European Commission and France among others will take exactly this role – against all backdrops on gender equality. The most effective levers for fair pay are corporate action, regular analysis of pay systems, and benchmarks combined with fines – including the drive to get better by every analysis. The piece of art is not to close pay gaps, but to keep them sustainably closed.

Introduction

Fair pay has been part of national and international discussions for quite some time. This entire discussion only recently reached momentum as more laws and legal initiatives have been put on the table. From the European Union and its member states, such as France and Spain, to Canada and the USA or Australia. Many of these initiatives have one thing in common: Promoting pay transparency to finally close the gender pay gap – measured as the percentage differences of gross wages of women and men.

To date, no country has been able to entirely close its gender pay gap. The reasons behind these gaps are manifold, ranging from differences in labour market participation, in hours worked, segregation in occupations and career paths as well as an unequal share of care work. In addition, stereotypes about gender roles, discrimination based on gender among other grounds, or a lack of transparency regarding wages and corporate cultures persist (ILO, 2018).

This paper will assess different policy options to address the gender pay gap as such and the underlying causes. The goal is to compare different policies, their current state of implementation, and most importantly, their leverage effect for implementing fair pay. Additionally, current legislative approaches, such as put forward by the European Commission, will be tied to the policy options. The discussion is especially relevant, as there are a wide variety of causes and responses to the gender pay gap. Many countries follow differing approaches tied to very different fields of action – from individual levels to corporate actions and public infrastructures. Already recently, the OECD has shown that the corporate sector has a major part to play in closing pay gaps – a role that has been for a relatively long time been underestimated

(OECD, 2021). Recent research from France has supported this understanding (Palladino, Roulet, & Stabile, 2021)

Before moving into policies and a detailed discussion on their content, the latest political developments are worth mentioning: The European Commission published a draft directive on strengthening pay transparency in March 2021. Although the principle of equal pay for equal work and work of equal value has been enshrined in the Treaty of Rome and can now be found in Article 157 of the Treaty on the Functioning of the European Union¹, the gender pay gap is at 14 per cent (data for 2019) with only marginal decreases in past ten years (Eurostat, 2022b). The differences between the member states of the EU are remarkable – ranging from one percent in Luxembourg to 22 percent in Estonia (ibid.). To move the agenda forward, France – holding the presidency of the Council of the European Union in the first half of 2022 – announced already to schedule the debate among the responsible ministers on the directive in January 2022 (General Secretariat of the French Presidency of the Council of the European Union, 2022). The European Parliament is also very active in shaping the debate on pay transparency and has put forward a revised version of the directive that is bold and far-reaching – going beyond the gender binary and calling for an intersectional approach towards fair pay.

Moving from the EU to Canada, the latest legal requirements for companies with ten and more employees have entered into force in Canada in August 2021. Besides a long tradition of legislation on federal levels, now Canada introduced the obligation for federal employers to prove proactively that they pay the same wages for equivalent work as well as establish and implement a pay equity plan (Canadian Human Rights Commission, 2022).

¹ Treaty on the Functioning of the European Union, Art. 157: “Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.”

New laws have also been introduced in New Zealand and Spain: New Zealand now provides a framework to systematically review the undervaluation of female-dominated jobs and give employees and unions the possibility to put forward claims to test for pay equity (Ministry of Business, Innovation & Employment, 2020). In summer 2021, Spain has created the obligation for companies to regularly review their remuneration systems linked to significant sanctions in case of non-compliance (UN Women, 2021). Most interestingly, these legal adaptations have been framed as an economic booster to move out of the economic downturn

caused by the COVID-19 pandemic (Spiegel Online, 2021).

Recent legal changes and laws showcase the spectrum of responses to the gender pay gaps. For International Women's Day and various Equal Pay Days, this study assesses policy options leapfrogging into a fair future. As one thing is for sure: Fair pay is the key to equal opportunities for everyone, no matter where they come from, who they love, or what they believe in, whether they have children or how old they are.

From individual rights to information to transparent wage systems: Approaches implementing fair pay

The approaches to fair pay vary greatly among countries. This section will showcase the most relevant strategies and assess whether they prove successful. The level of implementation varies from individual action towards corporate levels. For this study, measures will be assessed starting from the smallest affected unit – the individual – and moving up towards structural impacts. The order does not mirror the leveraging effects of the respective measures. The different measures are often not applied in isolation but in combination of different measures.

Individual action to empower employees

Starting from the lowest level to address legislative measures ensuring fair pay, rights and actions for individual employees shall be considered first. In this bundle, measures are taken to empower individuals within the corporate structure to request information on their pay. Employers must provide this information and – depending on the legal framework – information on a group of comparable employees. The major goal of this measure is to detect differences in pay and ensure that employees can receive reliable information from the employer. Thereby, the employee can assess for themselves whether the organisation pays fairly at the individual level (European Commission, 2021).

Two countries follow this approach and have the right for information for employees integrated into their policy systems: Finland and Germany. In Finland, the Act on Equality between Women and Men² that

entered into force in 1986 sets out a comprehensive framework to foster gender equality. Among its measures, companies with 30 employees and more are required to establish a gender equality plan, an assessment of jobs, and a regular pay survey. In 2005³, Finland introduced additionally the indirect right to information for employers. Employee representatives or trade unions can request information on pay and employers must consent on which data is disclosed. In cases of conflict, the Equality Ombudsman can be involved in the process (Aumayr-Pintar, 2020).

In Germany, the Wage Transparency Act⁴ – introduced in 2017 – requires companies with more than 500 employees to report on the share of women and men in the company and invited them to review their pay structure. However, the major focus of this law was laid on the individual right to disclosure. Employees in companies with more than 200 employees can now ask for a comparative wage – receiving the median pay of a comparative group containing minimum six people of the opposite sex. In 2019, the effects of the Wage Transparency Act have been evaluated for the first time with poor yet promising results: Only four percent of the employees have used their rights to disclosure within two years and the law falls short of its expectations. Nonetheless, around 40 percent of companies have analysed their pay systems although they are not obliged to do so (Bundesministerium für Familie, Senioren, Frauen und Jugend, 2019). The main points for critique have been that it requires further individual action when pay discrepancies have been detected. The law does not entail immediate legal consequences, such as the

2 Act on Equality between Women and Men, 1986: https://finlex.fi/en/laki/kaannokset/1986/en19860609_20160915.pdf

3 Law 232 amending the Act on Equality between Men and Women, 2005: <https://www.finlex.fi/fi/laki/alkup/2005/20050232>

4 Gesetz zur Förderung der Entgelttransparenz zwischen Frauen und Männern, 2017 (Entgelttransparenzgesetz): <https://www.gesetze-im-internet.de/entgtranspg/BJNR215210017.html>

duty to analyse or offset the differences. If unequal payments are discovered, employees can though sue for a corresponding salary adjustment. This option is rarely used – only a few court cases have been opened since the enactment of the law.

As it can be seen from the number of countries applying this measure and that is integrated within a broader policy mix, the individual right to information as a stand-alone measure for fair pay is not considered as a necessary means to achieve fair pay. Individual information can detect single and broader pay inequalities, however, if employees do not take their right and ask, these inequalities may stay undetected. This measure may empower employees, nonetheless, fair pay does not derive solely from empowerment.

Spreading pay statistics to enable educated decision-making

A different approach to achieving fair pay is to ensure transparency at the corporate level. Companies can be legally forced to calculate and review their pay gaps. Depending on the legal framework, companies must publish their figures to their employees or the broader public. The rationale behind this measure is to push companies to get their pay gaps closed, as the mere figure creates pressure because no organisation can accept high pay gaps. Further pressure is put upon organisations by the force to publish pay gaps to a wider public. Then, companies can be publicly named and shamed for their results and citizens can make educated decisions on where to buy, work or invest.

The UK follows this approach: In 2010, the government brought together 116 different pieces of legislation protecting women and other groups from discrimination based on age, race, disability, and other factors in the Equality Act⁵. Part of this regulation is that private and voluntary-sector organizations as well as public bodies with 250 or more employees must publish their pay gap data on a yearly basis. Among these data points are the gender pay gap

as mean and median, the bonus gap as mean and median as well the distribution of women and men in the different wage quartiles. In a report, organisations have the chance to reflect on their data, and give an outlook on pay structures, hiring habits, or other factors influencing their number. In a final step, the organization's data is published on a government website available to all.⁶

The first year of reporting has triggered a huge interest in the gender pay gap and companies' performance. Naming and shaming of those with the lowest and highest pay gaps have taken up a large amount of space in the media. It seemed that the discussion on high pay gaps has turned the coin – towards fair working conditions for all. The reporting also triggered further advancements regarding the measurement of pay gaps based on disability, LGBTIQ+ or intersectional methods. However, time and COVID-19 have turned sides again. When the pandemic hit, the reporting deadline has been moved – creating the signal for organisations that gender equality and fair pay may be left aside during a global crisis. Regarding the time, the gender pay gap has reopened again and it remains so far in question how the widening of the pay gap can be fully explained, as the effects of the COVID-19 pandemic on the labour market participation and the gender pay gap cannot be fully captured so far (Office for National Statistics, 2022). Additionally, the lack of benchmarks or sanctions in case of non-compliance has caused no harm to reporting companies and the public interest in pay gaps has subsided.

Austria has followed a different path towards more pay transparency. In 2011, the legal obligation to publish the minimum wage level in job postings entered into force. The rationale behind this measure is to minimize the effect of bargaining and gendered effects in salary negotiations as well as to create a level playing field for all candidates (Bundeskanzleramt Österreich, 2022). The first evaluation in 2015 has shown that compliance with this measure is generally high. However,

5 Equality Act, 2010: <https://www.legislation.gov.uk/ukpga/2010/15/contents>

6 See <https://gender-pay-gap.service.gov.uk/>

effectiveness is mixed: Whereas the published salary indicates differences between industries and organisations, the company's position on fair pay can hardly be assessed. As only the minimum salary is required, the actual salary may still depend on negotiations and differences between applicants may occur. As there are no sanctions attached and only a very limited number of complaints, companies are left in current practice (Wentner, Aichinger, Kuncic, & Zeglovits, 2015).

Other countries have followed the path of creating broader reporting and pay analysis obligations. Australia has established a wide reporting obligation for companies with 100 or more employees that includes the gender pay gap among other variables, such as composition of staff, leadership positions or harassment (Workplace Gender Equality Agency, 2022). Overarching data on industry level as well as specific data from companies can be accessed and compared.⁷ This gives people and employees a powerful tool to assess corporates' position and progress to strengthen individual decision-making. Transparency of pay gaps and wages first breaks the taboo that hinders many from speaking about money. In the UK, transparency has been an essential driver stirring the public debate on fairness. In Austria, applicants start now on equal footing when starting a job, and in Australia, people can get the full picture on equality that companies must report. However, especially the measures in Austria and the UK have shown that transparency as well as naming and shaming can only be the first step towards fair pay or a part of an integrated policy framework, e.g., combined with reports, benchmarks, or sanctions.

Systemic analyses of pay structures to detect the roots of discrepancies

Many countries have moved along the path of pay analyses – in Europe and beyond. These

requirements can have very different shapes, e.g., a statistical analysis of pay gaps, an analysis of the underlying job evaluation system, a combination of both, voluntary or mandatory measures and tying all to reporting requirements. As reporting often follows pay analysis, these measures will be discussed in combination in this report.

Analysing the pay gaps from a statistical point of view results in calculating the gender pay gap and getting hints on the underlying reasons. The reasons may vary, and companies can assess which follow-up measures are best suited for them to close their gaps. This approach has been enshrined in Switzerland. With the effect of the Equality Act⁸ businesses with 100 or more employees are given a deadline to review their pay structures. By July 2021, companies must carry out a pay analysis, and repeat the analysis every four years. The Swiss Federal Office for Gender Equality provides a standard tool for analysis, Logib⁹, that allows companies from two employees onwards to run the analysis easily themselves. The results will be checked by an independent body, and in the private sector, they will be made available to employees and shareholders. The results for companies under public law will be published openly.

Already since 2006, Denmark requires companies with 35 or more employees to carry out pay analyses and to report on the results broken down by gender to their employees.¹⁰ Research has shown that the Danish law has decreased the gender pay gap by 13 percent and has positive consequences for women when entering a company or getting promoted (Bennedsen, Simintzi, Tsoutsoura, & Wolfenzon, 2019). Similar effects can be witnessed in Iceland that will be discussed later.

As with Switzerland and Denmark, many countries have followed a similar path and have legal requirements on pay analyses. So far, the statistical

7 See <https://data.wgea.gov.au/home>

8 Bundesgesetz über die Gleichstellung von Frau und Mann (Gleichstellungsgesetz), 2019: <https://www.fedlex.admin.ch/eli/oc/2019/515/de>
Verordnung über die Überprüfung der Lohngleichheitsanalyse, 2019: <https://www.fedlex.admin.ch/eli/oc/2019/516/de>

9 See <https://www.logib.admin.ch/home>

The tool can be used also outside Switzerland and is available in English, German, French and Italian.

10 Consolidation Act No. 156 on Equal Pay for Men and Women, 2019: <https://www.retsinformation.dk/eli/ta/2019/156>

analysis on pay gaps has been discussed in more detail. Such requirements are also present in Austria, Australia, Germany, Spain, or Sweden. Canada – at national and state levels – has followed a different direction in pay analysis. Recalling the principle of equal pay for equal work and work of equal value, Canada established a long tradition of corporate action on work of equal value and the valuation of jobs. The state of Ontario adopted the Pay Equity Act in 1990 that obliges companies with 10 or more employees to value jobs with a standardised and neutral job evaluation system and compare male- and female-dominated job classes. Additionally, the Act establishes the Pay Equity Commission that can proactively call on companies to review their pay schemes and resolve conflicts.¹¹ Quebec went a step further and established – next to a similar system – the obligation for employers to report, to establish a pay equity plan and sanctions.¹² Only recently in 2021, the Canadian Pay Equity Act at the federal level entered into force. Now, federally regulated employers with 10 or more employees are required to build a pay equity plan, value jobs against a standardized scheme, compare job classes and adjust pay when gaps occur. Updates must be filed every year.¹³ Considering job classes and evaluation schemes is equally important as assessing data on pay gaps. As the valuation of jobs tends to be gendered across countries (Lillemeier, 2017), a neutral job evaluation system, based on factors such as skills, efforts, responsibility and working conditions, and a thorough analysis thereof is key to achieve fair pay.

Analyses and reports differ greatly among countries, companies that are included in the legislation, the data to be compiled, the extend of detail or the level of publication. It has been found that easy requirements are favouring corporate action, as in the UK, while more detailed reports allow for more tailored actions and a higher degree of understanding for employees or the wider public (Eurofound, 2018).

Comparing the European, the Australian and the Canadian approaches to pay analyses, differences in company sizes are apparent as well as the focus either on statistics or on job evaluation schemes. A discussion on what option would trigger change more effectively has been in place for many years. However, a combined assessment of the remuneration system that includes both the statistical analysis and the job evaluation scheme would be an ideal situation that leaves no room for unequal treatment or unconscious pay decisions and would possibly trigger a broader revision of HR structures outside the pay scheme, such as hiring practices or promotions. This also corresponds to the conclusion that the OECD put recently forward: Corporate action to combat pay gaps have long been underestimated. Thereby, the OECD calls for more legislative action that targets companies at a structural level to find systemic inequalities and close them sustainably (OECD, 2021).

Standardizing fair pay and gender equality

Iceland and France have moved towards different approaches in standardizing fair pay. Iceland has combined the statistical pay analysis with the evaluation of jobs. The Icelandic government updated the Equality Act in 2017.¹⁴ Art. 19 of the Act requires external certification with the Equal Pay Standard ÍST85:2012. Modelled according to ISO standards 9001 on quality management and 14001 on environmental management, the Equal Pay Standard provides the basis for an audit and certification scheme, no matter the sector or composition of the company. Any entity that fails to comply with legal requirements must pay a fine of approx. EUR 400 per day for every day it remains uncertified. The certification must be renewed every three years and pay analysis must be conducted every year. Thereby, companies must prove to constantly update their remuneration systems to close pay gaps and keep them closed. The Centre for Gender Equality

11 Ontario Pay Equity Act, 1990: <https://www.ontario.ca/laws/statute/90p07#>

12 Quebec Pay Equity Act, 1997: <http://www.legisquebec.gouv.qc.ca/fr/tdm/lc/E-12.001?mode=detail>

13 Pay Equity Act Canada, 2018: <https://laws-lois.justice.gc.ca/eng/acts/P-4.2/page-1.html>

14 Regulation on the certification of equal pay systems of companies and institutions according to the ÍST 85 Standard – No. 1030 of 13 November 2017: https://www.government.is/library/04-Legislation/Regulation_CertificatinOfEqualPaySytems_25012018.pdf

maintains a register of certified companies¹⁵ and these companies now can show their efforts with the Equal Pay Logo. By January 2022, 348 companies have been certified that employ around 95,000 people. France has introduced the Gender Equality Index¹⁶ that companies with more than 50 employees must calculate on a yearly basis. Since 2018, companies are now obliged to calculate the index with max. 100 points. If companies fall under the value of 75 points, fines will be imposed, and changes are mandated to close the examined gaps. The following sub-indicators need to be calculated:

1. The gender pay gap (max. 40 points),
2. The difference in the distribution of salary increases (max. 20 points),
3. The difference in the distribution of promotions (only valid for companies with more than 250 employees; max. 15 points),
4. the number of employees increased on their return from maternity leave, (max. 15 points), and
5. The number of people of the under-represented sex among the 10 highest paid positions (max. 10 points).

The scores of companies with more than 250 employees can be accessed via a government portal. It allows further to compare the index scores and shows how companies are performing over time. Currently, the average index value is 86 points.¹⁷

In 2021, France announced to drive the initiative of creating an international standard on gender equality registered with the International Organization for Standardization (ISO). The standard will include – among other areas – the economic empowerment, the prevention of discrimination or access to education and training. Any organisation can implement the standard when accepted and showcase its efforts on equality (AFNOR, 2021). The goal is the same as with the Icelandic Equal Pay Standard: creating a universal

framework for any organisation based on a common language and methods.

Focusing on standards to achieve gender equality or fair pay is a rather unique approach – so far. It will be expected that more of these approaches will be seen soon due to multiple advantages: First, standards, especially management standards, can be applied in any organization, no matter of size or industry, and independent of national legislation. This is especially relevant for larger organisations working in more than one country. Second, standards create a common basis – within and beyond single companies. Today, the quality management system ISO 9001 has created a common denominator to assess corporate action at an international level. Investors or customers can build further ties on shared ground. And third, standards are designed for proper implementation and being tied to corporate structures. Companies are used to applying and integrating standards into their daily business – from quality management to information security and occupational health and safety – and know the methods of implementation. These aspects can help to lever change at the corporate level more effectively than dealing with equality and fair pay from the mere perspective of legal compliance. Nevertheless, the main pitfalls of this approach are that it requires time for standards to be integrated within the ISO framework – approx. two to three years – and then it takes further time until first organisations are certified due to the voluntary nature of standards. Another pitfall might be the cost for external certification that comes inevitably along with applying standards. The European Commission has considered the Icelandic approach to fair pay and concluded that it has a major leveraging effect for fair pay, though, the cost at the corporate level has been regarded as too high (European Commission, 2021) – a position that is not shared anymore in Iceland. Still, this approach is promising as management standards – especially in human resource management – increasingly gain importance.

15 See <https://www.jafnretti.is/is/vinumarkadur/jofn-laun-og-jafnir-moguleikar/listi-yfir-adila-sem-hlotid-hafa-vottun>

16 LOI n° 2018-771 du 5 septembre 2018 pour la liberté de choisir son avenir professionnel : <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000037367660/>

17 See <https://index-egapro.travail.gouv.fr/consulter-index/>

Collective bargaining as means for neutral job evaluation

Moving up the structural ladder, collective bargaining and tariff agreements have been cited numerous times as an effective lever for fair pay, see among others the ILO (ILO, 2018). Various approaches to integrate unions and employers' organisations have been applied and different policies are used. Studies have also shown that if trade unions are present or companies have a structured workers' representation or companies are tied to collective agreements, pay gaps tend to be smaller than without these measures. However, the gender pay gap does not close entirely (Frodermann, Schmucker, & Müller, 2018).

Belgium has a very strong approach to collective agreements and fair pay. Since 1975¹⁸, Belgian tariff partners are obliged by law to integrate fair pay in their negotiations and those tariff partners work actively towards the elimination of discrimination. And since 2012¹⁹, companies with 50 or more employees are obliged to analyse their remuneration system every two years. In case differences between women and men are discovered, companies must create an action plan to close these differences. The approach shows success, as the gender pay gap in Belgium is one of the smallest among European countries – with 5.8 per cent (data for 2018) (Eurostat, 2022b).

With the Pay Transparency Act in Germany, collective agreements have been granted a special status. Those companies applying collective agreements can refer to these agreements when employees ask for comparative wages. This exemption takes the argument that collective agreements are per se more effective in creating fair pay than remuneration systems that are not tied to tariff agreements. Additionally, and not only in Germany, collective bargaining often remains autonomous – without the interference of the state. Three major challenges arise from these notions:

First, putting tariff agreements in special status assumes that trade unions and employers' organisations integrate fair pay in their negotiations. A qualitative experiment conducted in Germany has exemplarily shown that trade unions and employers' organisation negotiate primarily in their interest – representing their members. If fair pay is not part of the internal discussion of these organisations or they mostly represent men in male-dominated environments, the impact in tariff agreements on fair pay is limited (Gärtner, Grimm, Lang, & Stephan, 2014). Further, smaller unions did not cover fair pay in their discussions at all, while larger unions often have a broader framework on gender equality (ibid.). Second, the valuation of work has been widely discussed and tariff agreements offer a system to group and evaluate jobs based on a set of defined criteria. Such a system creates a common basis for all employees covered under this framework. If done properly, collective agreements create a blueprint for neutral job evaluation. The Industrial Union of Metalworkers in Germany together with the Employers' Organisation on Metalworkers have created a framework that enables neutral evaluation regardless of the tasks people perform. The evaluation is done based on e.g., education, tenure, responsibility, or leadership. This allows also to combine people working in different areas in one framework (IG Metall, 2022). While the collective agreement in metalwork presents a best practices example, the Food, Beverages and Catering Union in Germany has carried out a project to assess fair pay and neutral job evaluation in all their collective agreements (Gewerkschaft Nahrung-Genuss-Gaststätten, 2022). The result: No agreement was free of biases or undervaluation. This presented a huge to-do list to the union and the related employers' organisation, however, not a single collective agreement has been changed so far, as no agreement between the tariff partners could be reached.

18 Collective Agreement No. 25 of the National Labour Council concerning Equal Pay for Male and Female Workers, 1975: <http://www.cnt-nar.be/CCT-COORD/cct-025.pdf>

19 Gender Pay Gap Act, 2012:

[http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=fr&la=F&cn=2012042229&table_name=loi&&caller=list&F&fromtab=loi&tri=d-d+AS+RANK&rech=1&numero=1&sql=\(text+contains+\(%27%27\)\)](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=fr&la=F&cn=2012042229&table_name=loi&&caller=list&F&fromtab=loi&tri=d-d+AS+RANK&rech=1&numero=1&sql=(text+contains+(%27%27)))

Third, as figure 1 clearly shows, the trade union density varies to a large extent and – with exemptions to Belgium and the Nordic countries – less than 40 per cent of employees are covered by collective agreements. Thus, no matter how far collective agreements regulate their area of application or

value attached to work, the majority of employees in most countries will not benefit. This trend is rather accelerating as trade union density decreased for years.

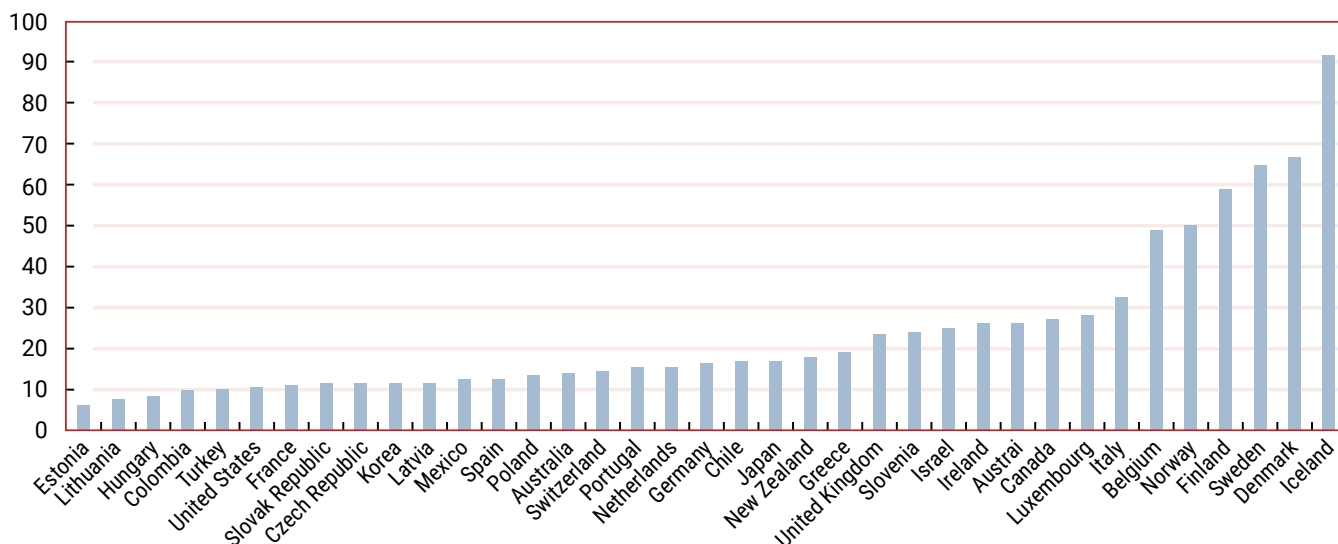


Figure 1: Trade union density in OECD countries (data for 2020-2015; OECD, 2021)

A further thrilling fact is presented by Iceland: Although Iceland leads in terms of trade union density, the country still regulates heavily for fair pay at the corporate level and identifies the largest lever for fair pay in companies. This is the place where wages are paid and where frameworks regulating pay are put into practice. Anecdotal evidence suggests also for Iceland that collective agreements still face biases that can be rectified at the corporate level applying the Icelandic Equal Pay Standard.

Besides these challenges, collective agreements create a framework that leaves hardly room for discriminatory practices (OECD, 2020). And trade unions have been a major driver in the discussion around fair pay in many countries constantly putting emphasis on further action (Rubery & Johnson, 2019). The lever for fair pay comes with the force to regularly assess fair pay in collective agreements as in Belgium, combined with a thorough evaluation of pay equity and value that is attached to work. In essence, collective agreements can reduce the gender pay gap, but only for those falling under their

umbrella and if the framework in which they operate is guiding towards fair pay.

Policies beyond pay achieving equality

So far, this paper has presented various approaches to pay transparency – from individual measures to structural policies. As fair pay is such a wide field, other approaches that might not be even intended to ensure fair pay shall be discussed as well.

Before moving into indirect policies targeting fair pay, a close look at New Zealand is made. In 2013, when a female employee working in a care home sued for higher pay because she attributed the lower wages paid to those caring for the elderly to the fact that it was predominantly women doing that work. It was possible to demonstrate the systemic discrimination, and the court ruled in favour of the claimant. Consequently, trade unions and the government announced their intention to create pay equality for all 55,000 people employed in caring for the elderly and the disabled and to equalize hourly wages. To achieve equal pay for all employees, the Equal Pay

Amendment Bill²⁰ was passed in August 2020 and is intended to curb gender-specific wage discrimination in sectors where women predominate. This ruling has been revolutionary: As cases of unequal pay before courts are mainly dealing with single persons or a class of people with shared characteristics, this case targets systemic undervaluation.

Following the introduction of a minimum wage, a discussion on its effects on gender equality and fair pay has been present in Germany and Poland. As the share of women in lower-paid professions and industries is higher, more women proportionately benefit from the introduction of a minimum wage. For Germany, it has been expected that the gender pay gap closes by two percentage points after the introduction of the minimum wage (Boll, Hüning, Lepin, & Puckelwald, 2015). This did not happen to such extent, still, the number of marginal part-time jobs (Mini Jobs) has decreased benefiting women (Herzog-Stein, Lübker, Pusch, Schulten, & Watt, 2018). In Poland, the same mechanism can be detected. Women and younger people in the labour market have benefited from the introduction of the minimum wage and the gender pay gap has decreased as result (Majchrowska & Strawiński, 2018).

The Nordic countries have laid the focus on family policies that create an equal footing for women and men. This model includes individual taxation e.g., in Sweden and Denmark, an equal share of parental leave and childcare and an increase in women's labour market participation. Thereby, the Nordic countries create a framework for families that actively breaks traditional gender stereotypes and enables both women and men to thrive pursuing their careers (Nordic Council of Ministers, 2019). The rationale behind these policies is not only people-centred, but also an economic imperative. By focussing on the individual and creating supportive infrastructures, people, especially women, are incentivised to work rather than to stay at home. Additionally, these infrastructures, such as care facilities, come with great costs that the Nordic welfare states shoulder (Gupta,

Smith, & Verner, 2006). Besides these supportive frameworks, pay gaps in the Nordic countries persist and range from 12 percent in Sweden to 14 percent in Denmark (Eurostat, 2022b). The reasons behind these gaps are still differences between industries and career choices.

Another driver of equality is working time. Large differences in aspired and actual working time can be seen e.g., in Germany (Holst & Bringmann, 2016). Still, gendered differences in working times are visible across Europe (Eurostat, 2022a). To close these disparities companies and countries alike have trialled and introduced the four-day working week or reduced the working hours. Companies across the world, such as Microsoft in Japan, Unilever in New Zealand, or Bolt, have moved into the four-day working week with no loss of pay. The effects have been tremendous. After a period of adjustment to the new framework, companies report that their employees are more productive and happier (Inman, 2022). Only recently, the UK announced to trail the four-day working week at large scale (ITV, 2022). Iceland is already one step ahead. The country enacted pilot projects on the 36-hour working week from 2015 to 2019 and introduced nation-wide the right to reduce working time to 36 hours per week in 2021. Now, 86 percent of the Icelandic workforce work at reduced hours – with higher levels of happiness, benefits in reconciliation and without losses in productivity (Haraldsson & Kellam, 2021).

There are more measures in place to nurture equality, such as quotas, leave policies or targeted care offers, that exceed the scope of this paper but shall not remain unnamed.

20 Equal Pay Amendment Act, 2020: <https://www.mbie.govt.nz/business-and-employment/employment-and-skills/employment-legislation-reviews/equal-pay-amendment-act/>

Moving forward: Legislative initiatives to close pay gaps

The different policy approaches presented above clearly show that achieving fair pay and equality is much more than to deciding on a measure, implementing it, and waiting for the gender pay gap to shrink. It takes an integrated policy mix that addresses the different underlying causes of the pay gap. The European Commission followed this approach. When the Commission published a draft directive on pay transparency²¹, it combined the best approaches practiced across Europe, including

- Setting a standard on pay transparency and reporting mechanisms;
- Requiring a gender-neutral job evaluation system;
- Establishing a right to information for workers;
- Shifting the burden of proof for fair pay on employers; and
- Setting sanctions and remedies in case of non-compliance;
- Despite the call for a policy mix, single policy measures shall be presented in their effectiveness in driving pay gaps down. Figure 2 summarises the different measures and the potential to close gaps. Some measures will appear multiple times – as a single measure and combined with fines and/or legal obligation.

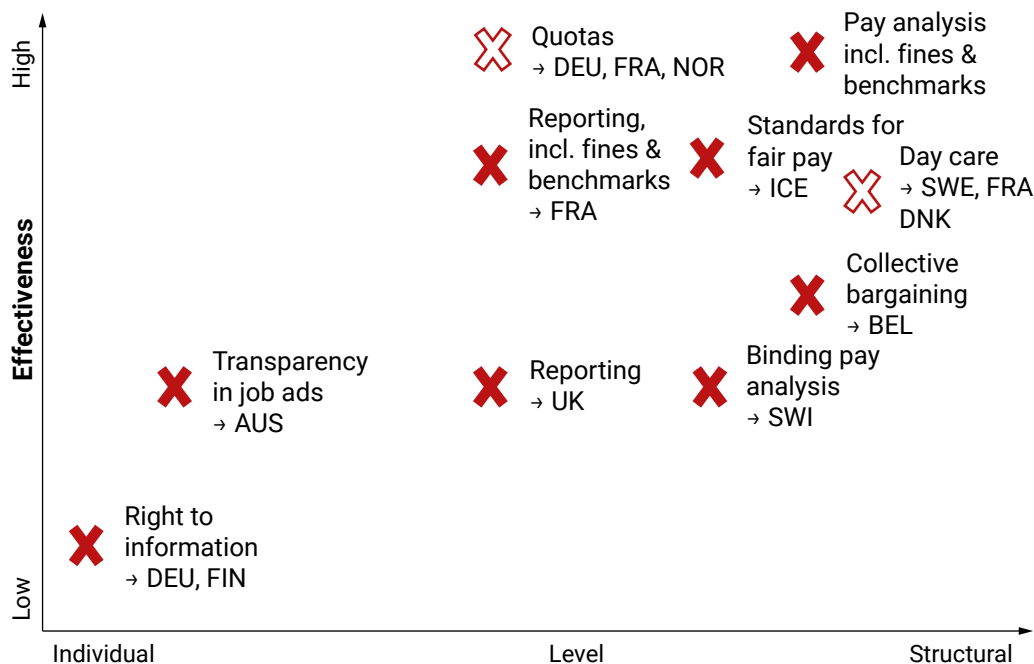


Figure 2: Level of effectiveness of measures for fair pay (filled cross → direct measures on fair pay; unfilled cross → indirect measures on fair pay; this figure does not claim to being complete)

21 Proposal for a Directive of the European Parliament and the 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 (COM(2021) 93 final)

Moving beyond gender

The current discussion on fair pay targets the gender pay gap that is measured as the difference between wages of women and men. Although this indicator is well established, it only shows the tip of the iceberg. Fair pay has many more dimensions – from including all genders beyond the binary to age, tenure, or ethnicity. Fair pay can essentially be used to create a fair working environment for everyone – while accelerating efforts on diversity, inclusion, and equity, while at the same time demonstrating what measures for increasing diversity truly work.

Iceland has already moved in this direction. The Equality Act²² has been updated in late 2020 – adding among other aspects the provision to ensure fair pay for all persons regardless of gender. This provision is revolutionary and unique in its design. Although the public debate on intersectionality and definitions beyond gender has gained focus in recent years, legal provisions have not been updated yet – except in Iceland. Thereby, the country demonstrates once again its leading position on equality and fair pay. The European Parliament has also taken up the discussion on intersectionality. In response to the European Commission's draft on pay transparency, the Parliament has worked on an updated draft including an intersectional approach to fair pay beyond the gender binary.²³

Australia, New Zealand, the UK, and the US measure pay gaps not only regarding gender but also include ethnic backgrounds and minorities in their considerations. Significant differences can be seen when including ethnicity as a distinct or second dimension to analyse pay gaps. In the UK, the ethnicity pay gap considering all minority groups is at 26.4 percent. The highest pay gap is calculated for people of Asian descent with 33

percent (Competitions and Markets Authority, 2022). In the US, gender and ethnic backgrounds are analysed in combination. Significant differences can be seen between ethnic groups, e.g., a 33 percent pay gap for Black women in comparison to white, non-Hispanic men (Foster, Murray-Close, Landivar, & deWolf, 2020). Australia and New Zealand take similar approaches to monitor pay gaps and to raise awareness of the differences between gender and ethnic groups.

The ILO has demonstrated that pay gaps also develop for migrant workers in comparison to nationals. These pay gaps vary considerably and have widened in past years. Especially women face a double penalty – as women and as migrant workers (Amo-Agyei, 2020). Another dimension that gained attention in past years is LGBTQ+: Studies show differences in pay and attribute the differences mainly to discrimination and stereotypes (Adrjan, 2021). These studies have been mainly conducted in the US, UK, or Australia; however, measurement remains difficult (Klawitter, 2015).

The different dimensions of fair pay displayed here are by far not complete and the discussion beyond gender is only evolving. It is expected to see a large increase in the coming years – in awareness, in measurement, and in discussion on how to close pay gaps acknowledging the intersections of different demographic factors.

22 Act on Equal Status and Equal Rights Irrespective of Gender: <https://www.government.is/library/04-Legislation/Act%20on%20Equal%20Status%20and%20Equal%20Rights%20Irrespective%20of%20Gender.pdf>

23 Draft Report on the proposal for a directive of the European Parliament and of the Council strengthening 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))

Concluding remarks

The discussion in this paper has shown: Pay transparency works – when applied at the right level and equipped with supporting measures and sanctions in case of non-compliance. The paper has further shown that fair pay is not an issue that can be shouldered by individuals, but systemic challenges shall also be dealt with at a systemic level. To leapfrog into fair pay, companies and organisations take the main responsibility to create fair remuneration structures for all employees ensuring equal opportunities for everyone – no matter where they come from, who they love, or what they believe in, whether they have children or how old they are.

Fair pay is both a value and economic imperative. For every percentage point the gender pay gap closes in the EU, the GDP may increase by +0.1 percentage points (Khan, et al., 2013). Already now, companies in Iceland do not find employees when they cannot demonstrate their position on equality and fair pay. This development will accelerate across countries. Additionally, the debate on intersectionality will gain ground calling for integrated action and combined measures.

The European Union and many others have realized the need for action on fair pay. It takes bold political leadership to push for far-reaching policies that target structural impediments and many hope that the European Commission and France will take exactly this role – against all backdrops on gender equality. The most effective levers for fair pay are corporate action, regular analysis of pay systems, and benchmarks combined with fines – including the drive to get better by every analysis. The piece of art is not to close pay gaps, but to keep them sustainably closed.

Recommendations for a fair future – or how to leapfrog into fair pay

The purpose of this paper is to assess the different approaches and their levers for fair pay. This section collects the recommendations – for policy leaders, corporate actors, and individuals to push for fair pay at every level:

- **Focussing on corporate action:** The OECD has impressively demonstrated that companies and organisations are the main drivers ensuring fair pay and that this potential has by far not been drawn upon (OECD, 2021). Therefore, regular analysis, reporting and assessment of pay gaps at the organisational level are key to implement fair pay.
- **Following a systemic approach:** Building on this further, it requires a systemic approach targeting remuneration systems. This can be implemented through regular analysis min. once per year combined with benchmarks and requirements for continuous improvements. In this sense, fix the system, not the people.
- **Establishing neutral job evaluation systems:** Besides the statistical analysis of pay gaps, a neutral job evaluation system is key driver for fair pay. Through such a system, indirect biases towards undervalued jobs, e.g., female-dominated jobs especially in the care sectors, can be eliminated.
- **Regular reporting:** Analysis – both statistical and on job evaluations – are critical to ensure fair pay at organisational level. It is also of value to show engagement for fair pay to employees, potential applicants, customers, or investors. Certifications, rankings, awards, or sustainability reporting that includes HR variables are increasingly important. Figures on revenues are side-lined by increasingly important indices on sustainability. Additionally, the gender pay gap reporting portal in the UK shows that easy reporting is used extensively.
- **Speaking about money:** Any time. Everywhere. Individuals can break the silence on money as well. It is important to share information on pay and jobs – starting from personal experiences to move further to using platforms for sharing. Additionally, it can go to actively educate children and young people and to live equality at home. Examples to thrive for do not have to be far away but can be very close.
- **Going beyond pay and gender:** The analysis has shown that equality is more than dealing with gender differences, and equally, more than dealing with fair pay. To live equality, it requires to share care and work on equal footing, to live equality as well as to move beyond the binary framework of current debates. Creating a people-centred approach benefits all and initiates exactly this move.

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The FPI ensures equal opportunities in every company and awards them the Universal Fair Pay Check. Our goal: fair pay for all people in the world.

We show possible solutions how to implement a pay system that is fair for all employees: Those who ensure neutral, objective, and stereotype-free structures leave no room for discrimination. In this way, wage gaps such as the gender pay gap, age gaps, or ethnicity gaps can be closed, and a renewed divergence of wage gaps is prevented. At the beginning of a remuneration strategy, there is always an analysis: On this basis, measures and instruments can be identified, implemented, and monitored in a tailored manner.

We are strongly convinced that equal opportunities are the key to achieving the international sustainability goals and that fair pay is key to equal opportunities for all people – no matter where they come from, who they love or what they believe in.

POLICY STUDY PUBLISHED IN FEBRUARY 2022 BY:



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