

Your World First

C/M/S/

Law . Tax

On your radar

Key employment issues across Europe and beyond: gender and pay special issue



July 2018

Welcome to our latest edition of On Your Radar. In this edition we focus on gender and pay across a range of jurisdictions, as we see how they are tackling their gender pay gap.

Employing staff across borders requires not only a local understanding of employment law, but also an appreciation of the wider context. In this special issue we highlight the key gender pay equality measures employers should be aware of when operating in different jurisdictions. For example, do you know if you need to submit an income report, or change how you design jobs? And what rights do employees have if they believe they are not being paid equal pay?

As you would expect, most countries taking part have equal pay laws, but many have gone further than this, requiring employers to introduce action plans. France, Belgium and Spain all have some form of obligation on employers to produce action plans on equality.

Belgium - with a very low pay gap of 6.1% - has an interesting approach by ensuring that certain job classifications are gender neutral. Germany has recently introduced a right for employees in large companies to make an information request to determine their colleagues' average remuneration where there are 6 or more colleagues carrying out comparable roles.

A number of countries are currently considering new legislation in this area. Portugal for instance has approved a draft law requiring employers to ensure that they have a transparent remuneration policy based on objective gender neutral criteria, and proposals have been made in the Netherlands for legislation on equal gender pay. Peru, facing a pay gap of just under 30%, has introduced a new law requiring employers to draw up tables with the categories and salaries of each job position including equality in occupational development and training plans.

We hope this special issue is of assistance to you. If you want to get in touch to find out more about a development in a particular country covered, or any other CMS jurisdiction, please speak to your usual CMS contact or e-mail employment@cmslegal.com

The CMS employment team

Index of countries

Please click on the country below to take you to that section.

[Austria](#)[Belgium](#)[Brazil](#)[Bulgaria](#)[Chile](#)[Columbia](#)[Croatia](#)[Czech Republic](#)[France](#)[Germany](#)[Italy](#)[Monaco](#)[Netherlands](#)[Peru](#)[Poland](#)[Portugal](#)[Slovakia](#)[Spain](#)[Turkey](#)[UK](#)[Ukraine](#)[United Arab Emirates](#)







Austria

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - In Austria new legislation on equality for women and men as non-executive directors on company boards came into force in January 2018. The Equal Treatment Act came into force in July 2004, and the Federal Equal Treatment Act came into force in March 1993.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - Gender pay gap for all employees: 37.9% (Statistik Austria, 2016). - Latest statistics from the EU (Eurostat, 2016): 20.1% of average gross hourly earnings of men.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - In Austria, the "Law on equality for women and men as non-executive directors on company boards" was adopted on 26 July 2017 and entered into force on 1 January 2018. It stipulates that the boards of publicly listed companies and companies with more than 1.000 employees must include at least 30% of both women and men. The 30% objective will apply to new mandates assigned after 31 December 2017 and the penalty for failure to meet it will be the "empty chair" rule, following the example of the German legislation (2015). Companies with less than 20% employees of either gender or with boards consisting of fewer than six members are exempt from the Law. - S.10a Equal Treatment Act / s.6a Federal Equal Treatment Act: Any employer that permanently employs more than 150 employees is obliged to prepare an income report every two years. - The income report must include the following data: <ul style="list-style-type: none"> - the number of women and men in the collective agreement classification and if available the years of service; - the average or median remuneration of women and men in the calendar year relevant to the collective agreement. The report shall be prepared in anonymous form. It must not allow any conclusions to be drawn about individuals.
	Additional comments	<ul style="list-style-type: none"> - In October 2018 there is a week known as the "Women's Petition", which is a form of public petition. - The demands in the petition cover the areas of work (equal pay) and economy, family and health as well as political participation. It also includes the demand for a legal minimum wage of 1.750 euros, the introduction of a 30-hour week, access to free contraceptives and the linking of the promotion of political parties in parliament to a 50% proportion of women. - Within a period of one week, 100,000 signatures of those entitled to vote must be collected. The National Council must then discuss the public petition, but it does not have to pass a favourable draft law in the sense of the referendum.



Belgium

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - The law of 22 April 2012 on combating the gender pay gap, came into force on 7 September 2012.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 6.1% (Eurostat Gender pay gap, 2016).
	How do these measures operate in practice?	<ul style="list-style-type: none"> - The Central Economic Council and the National Labour Council report on the development of the gender pay gap. - In Belgium there is an obligation to negotiate measures at an inter-professional level: the inter-professional labour agreements concluded between the social partners should include measures to make job function classification systems gender neutral. - Similar obligations exist to combat the gender pay gap at a sectoral level: Collective Bargaining Agreements at a sector level should include function classification systems that are gender neutral. Joint Committees are obliged to submit those CBAs to the general management of the Federal Public Service Employment, Labour and Social Dialogue. - Undertakings with, on average, a minimum of 50 workers, shall make a detailed analysis of their remuneration structure to show gender equality, if necessary in consultation with the work council. Based on this analysis, an action plan can be set up. - Organisations with, on average, a minimum of 50 workers may appoint an employee as mediator to support the drawing up of the action plan and assist employees who believe they are a victim of gender inequality.
	Additional comments	<ul style="list-style-type: none"> - In 2002 the Belgian Federal Institute for the Equality of Women and Men was created. It aims to guarantee and promote the equality of women and men as well as fight against any form of gender-based discrimination and inequality. The Institute consists of different units active in various fields of activity such as, gender mainstreaming, employment, combating domestic violence, and research. In addition, a legal unit has been set up to deal with complaints from victims of gender discrimination.



Brazil

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - In Brazil there are measures in place at national level which apply to equal pay but not yet to gender pay. The measures on equal pay were introduced by Art. 7 of the Federal Constitution and Art. 461 of the Labour Law no 5.452 of 1 May 1943, which was amended by Law no 13.467 of 2017. There is a bill on gender pay yet to be approved by the Brazilian Senate. This bill, if approved, will amend the labour law to include fines on employers for differences in pay between genders.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - According to the latest research undertaken by IBGE, the median gender pay gap is 22.8%, but this varies substantially between regions. For example, the gender pay gap in the north of Brazil is 12.1%, in the northeast it is 15.5% and in the southeast it 26.9%.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - The law on equal pay states that the same pay should apply for identical work of the same value, with the same employer and within the same establishment, with no distinction between the gender, ethnicity, nationality or age of the employees. <ul style="list-style-type: none"> - Whether work has the same value depends on productivity and technical standards between employees, and may take into account the length of service with the same employer and in the same function. - The equal pay law does not apply when the employer has staff organised in career plans, or where it has adopted, by way of internal company policy or collective negotiation, career and salary plans. - There is no duty for employers to report on equal pay measures. - If an employee considers that he/she has been discriminated against by reason of gender, he/she may report this to the employer with a view to reaching an agreement, or he/she may file proceedings in the labour tribunals to claim equal pay. - If the discrimination on pay is by reason of gender or ethnicity, not only must the employer pay the difference of pay between employees, but it may also be subject to fines payable to the employee who has been discriminated against. - The bill on gender pay which is yet to be approved by the Brazilian Senate would amend the Labour Law no. 13.467 of 2017, so as to include fines for the benefit of employees that have been discriminated against, up to 12 times their monthly salary.
	Additional comments	<ul style="list-style-type: none"> - One of the reasons for the difference in pay between genders is that women often enter the labour market later than men and more often take career breaks for maternity and child care. This is exacerbated by the relative lack of part time and flexible working opportunities. - The bill on gender pay may reduce the gender pay gap, but given recent political turbulence in Brazil, this has not been treated as a priority.







Bulgaria

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - The relevant measures include The Gender Equality Act, which came into force in April 2016 and The Protection Against Discrimination Act which came into force in September 2003 (and was amended in January 2018).
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 14.4% (for 2016). - 10.6% for 2017 (unofficial data).
	How do these measures operate in practice?	<ul style="list-style-type: none"> - All employers must comply with the equal remuneration requirements irrespective of the size of the enterprise. Employers are generally obliged to provide equal remuneration for identical and equivalent work. - There is no formal duty to report pay gaps. - The Council of Ministers determines the state policy on gender equality and adopts a National Strategy on Gender Equality, as well as plans for its implementation and temporary incentives. - The Minister of Labour and Social Policy maintains the system for gender equality monitoring and issues an annual report on gender equality. - The National Council on Gender Equality and the Commission for Protection against Discrimination are the relevant equality bodies in Bulgaria. - The Commission for Protection against Discrimination may issue mandatory instructions on an employer or impose fines up to approx. EUR 1,000.
	Additional comments	<p>For example:</p> <ul style="list-style-type: none"> - there are more women working in sectors where the average salary is below the average salary for the country (e.g. light industry; education); - the lower pay and shorter length of service (due to maternity and currently lower retirement age) results in a lower old age pensions gap for women; - the gender pay gap varies significantly between the sectors, e.g. for healthcare and social services the difference in 2016 was 30.2%, while for administrative and other supporting functions it was 24.6%; - despite the general rule of equal pay for equal work, a provision was repealed in 2012 from the Protection Against Discrimination Act which envisaged that, if there had been any general indexation of salaries in the enterprise, employees who returned from maternity had the right to the same indexation.



Chile

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - In Chile the Law on the Right to Equal Pay came into force on 19 June 2009 by incorporating a new article 62 in the Labour Code.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 21.1%.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - The law establishes that employers must comply with the principle of equal remuneration for men and women who perform the same functions. However, differences in pay based on objective reasons, including the skills and qualifications, ability, responsibility or productivity of employees, "shall not be considered arbitrary" for the purposes of the law. - The law requires companies with more than 200 employees to draft and maintain an official register specifying its positions, their functions and essential technical qualifications. However, small and medium businesses, which account for 80% of employment in Chile, are exempt from this obligation. - Employees who feel they are victims of gender-based wage discrimination must first file a written complaint with their employer, which has 30 days to respond in writing, in accordance with procedures which companies must incorporate into their internal processes. - If the employee is not satisfied, he or she can take the complaint to court.
	Additional comments	<ul style="list-style-type: none"> - Chile has one of the lowest rates in Latin America for female participation in the workforce: in 2017, only 48.4% of women of working age were economically active. - The gender pay gap is one of the most important issues currently being discussed in the political agenda. - Some employers refrain from hiring female employees due to the rights enjoyed by pregnant working women, which affects the costs of the company due to the obligation to have child care benefits, maternity leave, immunity from dismissal for a certain amount of time, etc. To avoid this perception, new laws are currently being discussed so these costs will also be transferred to male employees.







Colombia

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - There are a number of measures regulating gender and pay. The most notable is the Convention on the Elimination of All Forms of Discrimination against Women (Introduced in Colombia by Law 51 of 1981 and developed by Decree 1398 of 1990), and there have been a number of further laws and measures since then. Special consideration must be given to Law 1496 of 2011 which introduced relevant measures and penalties considering gender pay gap.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 7.1% (according to the gender wage gap indicator issued by OECD for 2016).
	How do these measures operate in practice?	<ul style="list-style-type: none"> - In Colombia all the employers (public and private sector) must comply with these measures/regulations. - To guarantee salary equality, private and public companies must keep records containing the following information: profile position per gender, job functions, remuneration and type of agreement. Allowances or bonus pay do not have to be included in this report. - Within companies, employers are required to consider the context, causes and relevant legal criteria to determine the remuneration per employee in accordance with the principle "equal pay for work of equal value" (Article 143 of the Colombian Labour Code). - According to Law 1496 of 2011 the Ministry of Labour may impose fines of up to 5000 where there is sex discrimination during recruitment, or a salary gap based on discriminatory criteria, or where there has been a failure to keep the required mandatory records. - Employees are entitled to claim that their pay should be equalised before a Colombian labour judge.
	Additional comments	<ul style="list-style-type: none"> - The balance between professional and personal life, maternity leave, traditional stereotypes, among others, have contributed to the increase in the gender pay gap. - Based on some relevant studies, Colombian women work 10.8 hours more than men, but they earn less than them even when they have the same position. Also, less than 20% of directors and senior managers are women. - The government has implemented a special programme called the National Program of Labour Equity with a Gender Differential Focus that promotes campaigns to explain the existing laws and regulations that protect women. This includes certain tax deductions when hiring women, and the promotion of gender equality policies within companies to ensure equal payment terms. - Under the scope of best governance practices, using HR policies, larger employers have adopted several measures to materialise gender commitments, for instance, neutral payment policies, home office benefits, mentoring, training programmes, strong penalties in case of labour harassment, among others.



Croatia

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - The Labour Act which came into force in 2014 (previously amended in 2017) and the Gender Equality Act which came into force in 2008, and was amended in 2017.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 8.7%.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - All private and public sector employers regardless of size are required under the Labour Act and the Gender Equality Act to pay equal remuneration to female and male employees for the same work or for work of equal value. - Any provision in an employment contract, CBA, employment by-laws or other legal act contrary to this obligation will be considered null and void, and the employee may request equal pay before a court. - The Gender Equality Office is in charge of drafting the National Policy of Gender Equality – a strategic framework setting out the implementation of the gender equality policy, which includes the mechanisms and action plans for creating equal opportunities in the labour market. - State bodies are required to educate their officials on gender equality, in addition to providing executive plans, strategies and bi-annual reports in order to comply with provisions of the National Policy of Gender Equality (this includes raising awareness of the importance of the principle of equal pay). - The special Ombudsman for Gender Equality is an independent body, appointed by the government, who is entitled to receive complaints from legal and natural persons regarding gender discrimination, as well as investigate the circumstances of these complaints up to the initiation of court proceedings.
	Additional comments	<ul style="list-style-type: none"> - The gender pay gap is influenced by horizontal and vertical segregation in the labour market, the trends of the later onset of women's employment and their earlier retirement in addition to the "double burden" imposed on women in relation to the workplace and maintaining a household. - A number of initiatives have been implemented by the government in order to increase the employment rates of women, as well as increasing the flexibility of the workplace (e.g. providing an option of part-time work, flexible working hours, work from home and introducing longer working hours in kindergartens and nurseries, etc.). - The success rates of these measures are as yet unclear. There is no available data to provide an insight on whether they will positively affect the number of women in the labour market and if they will lower the existing gender pay gap.



Czech Republic

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - The Anti-Discrimination Act (Act. No. 198/2009 Coll, as amended) requires employers to provide equal treatment in respect of salary and other forms of remuneration. The Anti-Discrimination Act became effective on 1 September 2009. - The Labour Code (Act. No. 262/2006 Coll, as amended) generally states that employees employed by the same employer shall be entitled to the same remuneration for the same work or work of equal value. - There are no special measures regulating gender pay.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 16.3% OECD (2018), Gender wage gap (indicator). Relevant data is from 2016.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - Any employee who is discriminated against on the grounds of gender or whose remuneration for work of equal value by the same employer is eligible to bring a claim against their employer. - In relation to remuneration for work of equal value, the Labour Code and associated case law provides for very basic guidance on what should be taken into consideration to determine whether the work is comparable or not. However, the overall assessment of the potential of such a claim remains unclear. - The employer then carries the burden of proof. However, in reality if such a claim is raised, the employer simply points out that the results of work differ, which results in the inequality in pay. - For those reasons, such claims are rarely raised and therefore almost no applicable case law is available.
	Additional comments	<ul style="list-style-type: none"> - Despite the statistics, the gender pay gap has not become a major political issue so far. There are no real cultural reasons for gender inequality in terms of pay and the current situation is mainly a result of historical developments in society. However, the number of women in executive positions and in politics is increasing. - The Czech Statistical Office publishes data on gender inequalities. - The Czech Government issued a Governmental Strategy for Gender Equality in the Czech Republic for 2014-2020. - The Ministry of Labour and Social Affairs launched several programmes and initiatives in order to support and encourage gender equal salaries in the private sector.



France

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - French labour law provides that employers must ensure equal pay between women and men carrying out the same work or work of equal value (Statute n° 72-1143, 22nd Dec. 1972). - In recent years France has introduced several measures in order to eliminate the pay gap between women and men including: <ul style="list-style-type: none"> - an obligation on companies to be covered either by a company agreement or an action plan on equality between women and men (Statute n° 2010-1330, 9 Nov. 2010); - measures relating to women returning from maternity leave which includes an entitlement to pay increases equivalent to other employees at the same grade.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 9.9% (source: Institute of Statistical and Economic Information).
	How do these measures operate in practice?	<ul style="list-style-type: none"> - The company agreement (or the action plan) has to provide targets and specific actions on equal pay. - In the absence of a company agreement (or action plan), the companies with at least 50 employees can be fined up to 1% of its payroll.
	Additional comments	<ul style="list-style-type: none"> - Future legislation will increase the obligations on companies with at least 50 employees regarding equal pay between women and men, including: <ul style="list-style-type: none"> - an obligation on companies to publish each year a report on wage differences (basic salary and benefits) between women and men according to a specific method that is defined by law; - if a company does not respect the principle of "equal work, equal pay" it will have to: <ul style="list-style-type: none"> - negotiate on catch-up measures or; - if an agreement cannot be reached, take unilateral measures; - breaching any of the obligations mentioned above exposes the company to a financial penalty of up to 1% of its payroll. In this situation, the company has three years to comply and achieve equal gender pay. If a difference above a threshold defined by law exists, the company is exposed to another financial penalty up to 1% of its payroll; - it has to be stressed that most of these provisions are still being discussed in Parliament. It is expected that they will enter into force at the latest on 1st January 2019.



Germany

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - The Transparency of Remuneration Act (Entgelttransparenzgesetz) came into force in July 2017. Employees have been entitled to demand disclosure since 6 January 2018, and the first Equal Remuneration Reports will be published in 2018.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 21% (unadjusted gender pay gap according to Eurostat). - The measurable difference in remuneration between sexes in comparable positions is 7% according to the German Federal Statistical Office.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - Employees have a claim against their employers for information regarding their colleagues' average remuneration if, in a German company with 200+ employees, comparable or equal work is performed by 6 workers of the opposite sex. - A comparable situation is based on a set of factors (type of work, training requirements, and working conditions) that are in fact essential for the job. - In the event of unequal treatment, the employer will be required to take steps to eliminate unequal treatment over time. - Employers with 500+ employees are requested to examine their remuneration arrangements. - Reporting obligations also exist in large German companies (500+ employees) to explain the total number of employees, how many employees are working full time and part time and on actions to promote equality.
	Additional comments	<ul style="list-style-type: none"> - The gender pay gap is partly explained by the fact that more women than men work in jobs that are not well paid (i.e. education and healthcare instead of engineering) and that many women work only part-time. While 94% of male employees with children work full-time, 66% of female employees with children work only part-time. - It remains to be seen whether the Act will have an impact on the gender pay gap. - So far, only a few employees have asserted their claim for information. Surprisingly, many of them work in companies subject to collective bargaining agreements and companies applying collective bargaining pay scales through a written agreement, where special regulations apply.



Italy

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - There are a number of laws that are relevant. These include the Italian Constitution (Cost.) of 1st January 1948, the Italian Legislative Decree No. 198 of 11th April 2006 (D.lgs. 198/2006) and Ministerial Decree of 3rd July 1996.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 5.5% According to Eurostat data presented by Istat.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - The principle of equal treatment and the prohibition of discrimination on the grounds of sex is contained in Art. 3 Constitution. - Working women have the same rights and, for equal work, the same wages as working men (Art. 37 Cost.). - There is an obligation on companies employing more than 100 people to provide trade union representatives with a report on male and female working (art. 46 D.lgs. 198/2006). - Companies can adopt specific measures to eliminate obstacles that prevent gender equality (Art. 42-43 D.lgs. 198/2006). - If employers fail to comply, they are required to pay an administrative sanction and their contributory benefits may be suspended for a year (art. 41 D.lgs. 198/2006).
	Additional comments	<ul style="list-style-type: none"> - Management and supervisory positions are overwhelmingly held by men. - Women take charge of important unpaid tasks, such as household work and caring for children or relatives on a far larger scale than men do. - Women tend to spend periods out of the labour market more often than men. - Occupations predominantly carried out by women, such as teaching or sales, offer lower wages than occupations predominantly carried out by men, even when the same level of experience and education is needed. - Pay discrimination, while illegal, continues to contribute to the gender pay gap.







Monaco

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - There are no specific regulations about the prevention of the gender pay gap, but a few general legal provisions relate to the wider issue of prohibiting discrimination: <ul style="list-style-type: none"> - Article 2-1 of law n°739 of March 16th 1963: provides equal pay for men and women who do the same job; - Ordinance n°5.392 of July 4th 1974 enables a labour inspector to verify compliance regarding equal pay; - Monaco has also signed international treaties on civil and political rights. - There are a number of reasons why there are no specific measures. Size is a relevant factor – the total workforce is approximately 54,000, and there are currently no official statistics explaining the gender pay gap. There are only 3 published court decisions about pay differences between workers, and only one concerning a man and a woman (Court of Revision, December 7th, 2016).
	What is your median gender pay gap?	<ul style="list-style-type: none"> - There are no official statistics about the gender pay gap. There are only statistics about the proportion of men/women workers in Monaco: 59.5% are men and 40.5% are women. - Unofficial estimates by a Monegasque women's rights association suggest the gap could be 20% in the private sector. Authorities claim that there is no gender pay gap in the public sector, as the job classifications are more regulated.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - In recent years alternative measures have been established which include: <ul style="list-style-type: none"> - general protections for female workers to include rest periods, limitation of night work, additional paid leave for mothers, and special protection against dismissal during pregnancy and maternity leave; - prohibition of harassment, sexual blackmail and assault in the work place (Law n°1.457 2017); - creation of a High Commissioner to protect human rights and fight against all discrimination (Ordinance n°4.524 of October 30th, 2013), however, until now, no complaint based on gender discrimination has been registered with the High Commissioner. According to this institution, the complaints about discrimination mainly concern discrimination based on sexual orientation or health conditions.
	Additional comments	<ul style="list-style-type: none"> - Regulations have been implemented to ensure rights of individuals considered as vulnerable, by protecting them from physical and mental abuse, and prohibition of domestic violence (Law n°1.382 of July 20th, 2011). - During the parliamentary elections of February 2018, all the political parties mentioned their willingness to improve women's rights in Monaco and to fight against gender discrimination. No new bills have as yet been introduced. If specific legislation was to be adopted, the High Commissioner and associations seem to be in favour of establishing an obligation to report and publish gender pay gap data, instead of establishing a quota policy.



Netherlands

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - The Equal Treatment (Men/Women) Act (the "ET Act") was first introduced on 15 March 1980. - Paragraph 2 of the ET Act further details the general rule of equality in employment relations as included in article 7:646 of the Dutch Civil Code.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 16.1%.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - Dutch legislation on equal treatment of men and women includes the prohibition of discrimination when offering an employment contract, the terms and conditions of employment, working conditions, promotion and dismissal. - The Netherlands Human Rights Institution rules on matters that relate to the compliance of equal treatment legislation in practice. Any employee can file a discrimination complaint after which the NHRI will start an investigation and render a non-binding decision. Often these non-binding decisions are at the request of the employee enforced by a court order. - Article 10 of the ET Act states that in a legal procedure in which the employee has filed a discrimination complaint, the burden of proof reverses from the employee to the employer as soon as the employee demonstrates a suspicion of discrimination.
	Additional comments	<ul style="list-style-type: none"> - The Netherlands is ranked 82nd on the global list of equal gender pay. Analysts say this is because of the high level of women working part time (more than 60% of women aged 15-35 work 35 hours or less per week). - The gender pay gap differs per industry. The gender pay gap is the lowest in water and waste management and highest in the financial sector and the healthcare sector. - Another explanation for the big gender pay gap is that women more often than men choose a profession that by definition has a high level of part-time jobs, which results in a lower wage. - The parties in the House of Representatives that do not take part in the government have recently proposed a bill observing equal gender pay in the Netherlands. The bill has not been lodged into the legislative process yet.







Peru

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - The Constitution of 1993 establishes the obligation on employers to respect the rights of workers to enjoy equal opportunities without discrimination. The Labour Productivity and Competitiveness Law of 1997 prohibits acts of discrimination based on sex, race, religion, opinion or language. - Law 28983 of 2007 recognises equality between men and women in labour matters and in all other aspects. - Recently, Law 30709 of November 2017 and its regulations approved by Supreme Decree 002-2018-TR of March 2018 prohibit salary discrimination between men and women and the introduction of measures to guarantee gender equality.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 29.2%, according to an official publication at the end of 2016.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - Law 30709 expressly prohibits pay discrimination between women and men. The Regulations apply to private and public employers. - It also obliges employers to draw up tables with the categories and salaries of each job position guaranteeing equality between men and women including equality in occupational development and training plans. - In addition, the law requires employers to inform each worker about the company's salary policy. - This law also requires employers to make decisions about promotion of their workers based mainly on objective considerations. - As of 2019, the Labour Authority will verify compliance with the obligations and prohibitions provided for by the new law. - The law also requires employers to take measures to improve female participation in the workforce, including flexible working and reviewing promotion criteria.
	Additional comments	<ul style="list-style-type: none"> - The gender pay gap has gained more visibility on the political agenda. This type of regulation pursues the implementation of best practices for workplace gender equality.



Poland

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - The gender pay gap in Poland at median earnings is one of the lowest in Europe. Therefore, it is not high on the political agenda. In addition, approximately 41% of managerial staff are women (the second highest in the EU). - Thus, interest in the gender pay gap is usually channelled into studies, the declaration of principles and awareness-raising programmes devoted to gender equality issues, rather than specific legal action.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 7.2% (Eurostat data 2016).
	How do these measures operate in practice?	<ul style="list-style-type: none"> - In Poland, there is no explicit law on the gender pay gap. Poland has however adopted some general legislative provisions aimed at preventing and reducing the gender pay gap, i.e.: <ul style="list-style-type: none"> - the Constitution of the Republic of Poland provides for equal pay for men and women for work of equal value; - the Labour Code provides for equal treatment of men and women at work and the right to equal remuneration for equal work (or work of equal value); - the Act on the implementation of certain EU regulations related to equal treatment provides for equal treatment of men and women in terms of conditions of taking up and pursuing professional or business activity.
	Additional comments	<ul style="list-style-type: none"> - In the case of a breach of the equal pay rule, an employee may claim compensation at a level determined on a case-by-case basis by the court, but cannot be lower than the national minimum wage (currently PLN 2,100). - In April 2017, the Polish Ministry of Family, Labour and Social Policy published a user-friendly free internet application, which allows the pay gap between women and men to be measured. The methodology used in the tool enables an employer to estimate the adjusted pay gap by taking into account the different characteristics of the workplace, employees and employers. It can be used by both private and public sectors.



Portugal

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - Republic Assembly Resolution No. 72/2018 recommends that the government should promote equality between women and men. - The government has approved a draft law regarding the promotion of equal pay for equal work or work of equal value. - The Ministers Council approved, on 11/01/2018, the Equality and Non-Discrimination National Strategy ("ENDNS") 2018-2030 – Portugal and Equal.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 17.5%.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - The draft law will introduce the following measures: <ul style="list-style-type: none"> - the annual provision of statistical information with the purpose of identifying pay differences, by sector and by company; - employers are required to ensure that there is a transparent remuneration policy based on objective criteria common to men and women; - companies with more than 100 employees may be notified by the Working Authority Conditions whenever wage inequalities are noted. Companies will then be obliged to follow a plan over a period of 2 years in order to correct such inequalities; - employees or its representatives may require the Work and Employment Equality Committee to issue an opinion concerning the existence of wage discrimination based on gender.
	Additional comments	<ul style="list-style-type: none"> - The draft law, if approved, will be implemented in phases. During the first 2 years it will apply to companies with more than 250 people and then be applied to companies with more than 100 employees. - Wage discrimination based on gender will be considered a serious fault and companies which are found to have acted in this way may be prohibited from entering into contracts with the public sector. - The National Strategy (2018-2030) is carried out within 4 global and structural action goals to be achieved by 2030: (i) integration of gender equality as well as action against discrimination on the basis of sexual orientation, gender identity and sexual characteristics; (ii) full and equal participation of women in the public and private sectors; (iii) equal scientific and technological development, inclusive and future-oriented; (iv) eradication of all forms of violence against women as well as domestic violence.



Slovakia

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - There is a general Anti-Discrimination Act (Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection Against Discrimination and the Amendment of Certain Acts), which regulates the principle of equal treatment and remedies for legal protection. It applies to labour law, social security, healthcare, provision of goods and services, and education. In relation to labour law, equal treatment includes the prohibition of discrimination in relation to remuneration on the basis of gender. - The Labour Code states that the salary conditions must be agreed without any discrimination on the basis of gender and that men and women are entitled to the same salary for the same work or work of equal value. - There are no special measures regulating equal pay/gender pay.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 20.5%.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - The results of a Eurobarometer survey from 2015 indicate that the most widespread type of discrimination in the workplace in Slovakia is age discrimination. - According to the Slovak National Centre for Human Rights, judging employees on the basis of their age is present in job advertisements, job position structures, criteria for job assessment, remuneration and benefits, as well as dismissals. - The most common type of age discrimination occurs during the hiring process. Two thirds of respondents aged 45-60 have experience of age discrimination when applying for a job.
	Additional comments	<ul style="list-style-type: none"> - On 20 November 2014 the Slovak government adopted the National Strategy for Gender Equality for 2014-2019 and the related Action Plan for Gender Equality for 2014-2019; the documents represent a comprehensive conceptual framework for the promotion of gender equality in practice. - The Statistical Office of the Slovak Republic publishes data on gender inequalities. - The Department of Gender Equality and Equal Opportunities of the Ministry of Labour, Social Affairs and Family of the Slovak Republic operates a website dedicated to gender equality. In relation to equal pay, the department ran a media campaign on equal pay entitled "When I grow up".



Spain

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - The Spanish Constitution regulates the general principle of non-discrimination, which is also included in the Spanish Worker's statute in terms of equal pay. - Even if there is no law which specifically regulates equal pay, this issue may be dealt with in a collective bargaining agreement and/or in the equality plans that companies with more than 250 employees are obliged to put in place. - Likewise, the Labour inspectorate has the power to investigate whether companies discriminate against women in any way (also in terms of remuneration). Thus, since there was only a general prohibition of discrimination and due to the lack of interest from a political/social perspective, the above has not made a significant impact.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 14.9%.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - Companies with more than 250 employees shall negotiate with employees' representatives an "equality plan", which shall contain specific measures in order to avoid all types of discrimination against women. These plans may regulate matters such as access to employment, professional groups, salary and prevention against harassment. Smaller companies are not obliged to adopt "equality plans", although they may do so. - The Labour inspectorate has defined as a strategic objective for 2018-2020 the requirement "to improve legal compliance relating to equality and non-discrimination", specifically referring to the gender pay gap.
	Additional comments	<ul style="list-style-type: none"> - Gender pay gap and non-discrimination against women at work currently occupy a relevant position in Spanish public debate. - On 8 March 2018, the first women's strike took place at a national level. - A preliminary draft of an act on gender pay equality was submitted on 10 November 2017. Therefore, it is likely that there will be changes in this regard in the following months.



Turkey

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - There are very few studies examining the gender pay gap in Turkey and this is because reliable data has not been shared with the public until very recently. Therefore, there is no awareness regarding this issue. - Also, in Turkey there are more pressing issues than gender pay gap in terms of gender equality in the workplace.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - As per the OECD data of 2014, the median gender pay gap in Turkey is 6.9%.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - Yes, there are other more important issues in Turkey. Some of them are: <ul style="list-style-type: none"> - the most important issue in terms of gender equality in workplaces is the participation of women in the workforce in Turkey. As per the studies, only around 20% of women are employed, which is the lowest among OECD countries; - there are several laws and regulations prohibiting female employment in certain sectors, such as heavy industry and mining, which contributes to the issue of high unemployment of women; - those prohibitions also lead to the unregistered and undeclared employment of women, which deprives them of basic employment rights.
	Additional comments	<ul style="list-style-type: none"> - Turkey has basic laws and regulations in relation to gender equality in the workplace. Article 10 of the Turkish Constitution states there is a principle of equality and people from all genders are equal before the law. Also, the Labour Law No: 4857 refers to the principle of equality and under Article 5, discrimination based on gender (and pregnancy) is expressly prohibited, including but not limited to recruitment, layoff, determining working conditions (e.g. equal pay for male and female employees working at the same/equivalent levels of jobs), paid leave or overtime work. Sanctions for breach of such provisions vary from paying compensation to administrative fines and imprisonment. - Also, attempts are being made to address the high unemployment rate of women by several new laws and regulations. This includes a ban on discrimination in recruitment procedures (from job announcement stage to interviews), which is regulated in more detail by the Law on Turkish Human Rights and Equality Commission No: 6701 and a regulation has been enacted for integrating household employees (who are mostly women) into the social security system. - However, there is no known initiative of the government to address the gender pay gap issue and no prospects or indications that this issue will be addressed in the near future.







UK

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - The UK first passed the Equal Pay Act in 1970 with a 5-year transitional period before it came into force in 1975. This inserts an equality clause into a contract of employment that women should be paid the same as men where they are engaged in like work, work of equal value or work rated as equivalent. - Following the failure of a voluntary initiative Think Act Report encouraging employers to report on the pay gap, the government introduced pay gap reporting regulations in 2017. The Equality Act (Gender Pay Gap Information) Regulations 2017 came into force in April 2017. The deadline for the first Gender Pay Gap reports was 5 April 2018 for private sector employers and 31 March for public sector.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 18.4%.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - The Regulations apply to private sector employers with more than 250 employees. The duty is to report annually, but there is no obligation to take any action to reduce the pay gap. - Employers are obliged to publish the gender pay gap, bonus pay gap, percentage of men and women in an organisation that received a bonus, and the distribution of men and women in each quartile of their organisation. - While employers are encouraged to write a narrative or a supporting statement explaining the context and causes of their gender pay gap, there is no obligation to do so. - Enforcement is through the UK's national equality body, the Equality and Human Rights Commission, who can instigate a range of enforcement action up to and including court proceedings and fines.
	Additional comments	<ul style="list-style-type: none"> - The gender pay gap has become politicised in recent years and is seen as one way of measuring the equality of an organisation. - In the UK, the first round of gender pay gap reports has attracted a great deal of media attention. For those employers who are in scope this has become a reputational issue. - Most employers have explained that their gender pay gap is because of the gender balance throughout their organisation. - It is too soon to say whether this will lead to more equal pay claims in the private sector. - Larger employers who have the resources have adopted a range of equality interventions to improve female participation in the workforce. This includes flexible working, reviewing promotion criteria and mentoring.



Ukraine

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - The Law of Ukraine "On Ensuring Equal Rights and Opportunities for Women and Men" (Equal Rights Law) dated 8 September 2005, and the Resolution of the Cabinet of Ministers of Ukraine On Approval of the State Social Programme for Ensuring Equal Rights and Opportunities for Women and Men for the period up to 2021 (State Equal Programme) dated 11 April 2018.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - 22% as of the first quarter of 2018 (according to the State Statistics Service of Ukraine).
	How do these measures operate in practice?	<ul style="list-style-type: none"> - The Equal Rights Law applies to all employers from private and public sectors. - Under the Law, employers are obliged to offer equal remuneration for women and men having the same qualifications and the same working conditions. - While employers are required to do so, there is no practical mechanism to enforce this obligation. - The State Equality Program introduces a set of provisions regarding the national strategy for ensuring equal rights and opportunities for women and men for the next few years, which includes equal pay.
	Additional comments	<ul style="list-style-type: none"> - In Ukraine, the gender pay gap has recently started to attract attention. - In April 2018, the government adopted the national strategy stating the intention of the government to pay additional attention to this issue. - Although neither the laws nor the national strategy currently provides for an effective mechanism for the enforcement of equal pay, the recent governmental steps would indicate that the situation may change in the near future.



United Arab Emirates

	Are there any measures which apply to gender pay or equal pay?	<ul style="list-style-type: none"> - UAE Constitution which came into force on 2 December 1971 and was permanently accepted in May 1996. - Gender Balance Guide launched by the UAE Gender Balance Council and the Organisation of Economic Cooperation and Development Guideline launched on 19 September 2017. The UAE Gender Balance Council (GBC) was set up in 2015. - UAE Federal Labour Law No. 8 of 1980 (the UAE Labour Law). - Federal Decree No 30 of 1996 setting up the International Labour Organisations Equal Remuneration Convention. - Cabinet approved a draft law on equal wages and salaries in March 2018 which is not yet in force.
	What is your median gender pay gap?	<ul style="list-style-type: none"> - In the 2017 World Economic Forum's (WEF) Global Gender Gap Report, the UAE had a parity score of 0.649 in 2017, which rose to 0.994 in the Education sector.
	How do these measures operate in practice?	<ul style="list-style-type: none"> - No proactive measures, but the UAE has publicly announced its active intention to close its gender pay gap. - The GBC undertakes several legal roles, including reviewing proposed legislation and policies addressing gender balance, and also seeks to balance rights like nationality rights, divorce rights, guardianship and custody rights, inheritance rights, freedom of movement, protection from child, marriage, and protection from gender-based violence. - The entitlement under the UAE Labour Law means that female employees can bring a labour dispute to claim equal pay. There are no public records of such disputes that we are currently aware of. - The draft law is not yet published so there is not currently any insight as to what the provisions will cover and how that would be implemented in practice. The Wage Protection System applicable to companies in onshore UAE is likely to play a significant role in monitoring pay.
	Additional comments	<ul style="list-style-type: none"> - The UAE constitution provides that "Equality, social justice and providing safety, security, and equal opportunities to all citizens are pillars on which the community stands." - The GBC guideline is not mandatory and provides mechanisms in order to achieve gender balance. The UAE Gender Balance Council has set up gender balance indicators which measure progress in three areas including (i) women in senior leadership; (ii) women in specialised technical fields; and (iii) work environment which supports gender balance. - The law expressly provides that female employees undertaking the same work as that of male employees should be paid the same wage. - The right to equal pay for equal work is already set out in existing legislation. However, this new law will be the first dedicated piece of legislation to address in detail issues surrounding equal pay and setting out specific requirements for employers in that regard.



Law . Tax

Your free online legal information service.

A subscription service for legal articles
on a variety of topics delivered by email.

cms-lawnow.com



Law . Tax

Your expert legal publications online.

In-depth international legal research
and insights that can be personalised.

eguides.cmslegal.com

CMS Legal Services EEIG (CMS EEIG) is a European Economic Interest Grouping that coordinates an organisation of independent law firms. CMS EEIG provides no client services. Such services are solely provided by CMS EEIG's member firms in their respective jurisdictions. CMS EEIG and each of its member firms are separate and legally distinct entities, and no such entity has any authority to bind any other. CMS EEIG and each member firm are liable only for their own acts or omissions and not those of each other. The brand name "CMS" and the term "firm" are used to refer to some or all of the member firms or their offices.

CMS locations:

Aberdeen, Algiers, Amsterdam, Antwerp, Barcelona, Beijing, Belgrade, Berlin, Bogotá, Bratislava, Bristol, Brussels, Bucharest, Budapest, Casablanca, Cologne, Dubai, Duesseldorf, Edinburgh, Frankfurt, Funchal, Geneva, Glasgow, Hamburg, Hong Kong, Istanbul, Kyiv, Leipzig, Lima, Lisbon, Ljubljana, London, Luxembourg, Lyon, Madrid, Manchester, Medellín, Mexico City, Milan, Monaco, Moscow, Munich, Muscat, Paris, Podgorica, Prague, Reading, Rio de Janeiro, Rome, Santiago de Chile, Sarajevo, Seville, Shanghai, Sheffield, Singapore, Sofia, Strasbourg, Stuttgart, Tehran, Tirana, Utrecht, Vienna, Warsaw, Zagreb and Zurich.

cms.law