

PAY TRANSPARENCY DIRECTIVE

AFEP MAIN COMMENTS ON THE COMMISSION'S PROPOSAL

On 4 March 2021, the European Commission presented a directive proposal on pay transparency to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women.

AFEP **fully agrees on the need to reduce the gender pay gap and fight pay discrimination**. Paying men and women differently for performing the same work or work of equal value is already prohibited by existing EU and national legislation and should remain illegal. French large companies are committed to promote equal pay and fight all forms of discrimination at the workplace.

It is the full responsibility of companies to ensure respect for the right to professional equality, in the context of their **dialogue with employee representatives**. They are responsible for implementing the tools and methods that are most relevant to their organizations and their workforce.

The possibility of seizing a court to establish possible discrimination exists independently of any public mechanism. The potential improvement of this right through indicators and tools as envisaged by the directive proposal has not been demonstrated at all.

The proposal does not, as asserted by the Commission, provide for “minimal harmonisation of Member State systems”. The text should not be too prescriptive and should leave adequate discretion to Member States to implement it in a way that **takes account of their national context, social dialogue, collective bargaining and existing measures on pay transparency**, such as the French Equality Index, and that avoids additional reporting burden on companies.

The directive proposal is also too prescriptive on the data that can be communicated to employees and employee representatives of the same entity. Applying the principle of equal pay for equal work implies making comparisons within the same category of employees. However, when these categories are too small, the results are not significant and no objective interpretation can be associated with them. Sectors and geographical specificities should also be taken into account in the setting up of worker categories, and **criteria should allow for flexibility and be non-exhaustive**.

Moreover, the proposed directive may constitute an **invasion of the protection of privacy** even with a limitation of the disclosure of information allowing the identification of an individual worker to worker representatives. The dissemination of personal information to persons belonging to the same entity constitutes an infringement of the right to privacy.

Finally, AFEP is not convinced that this proposal alone will be the most efficient tool to enforce the principle of equal pay for equal work or work of equal value or will bring to light cases of discrimination.

The situation needs to be assessed objectively, looking at the **multifactorial causes of gender inequality and the gender pay gap** : it may occur due to many different factors, including above all gender segregation on labour markets, as well as gender stereotypes and unequal distribution of household and care duties.

ABOUT AFEP

Since 1982, AFEP brings together large companies operating in France. The Association, based in Paris and Brussels, aims to foster a business-friendly environment and to present the company members' vision to French public authorities, European institutions and international organisations. Restoring business competitiveness to achieve growth and sustainable employment in Europe and tackle the challenges of globalisation is AFEP's core priority. AFEP has around 110 members. More than 8 million people are employed by AFEP companies and their annual combined turnover amounts to €2,600 billion.

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