

Making an Impact – Fair Pay Guide

Building confidence – a focus on equal pay for HR leaders

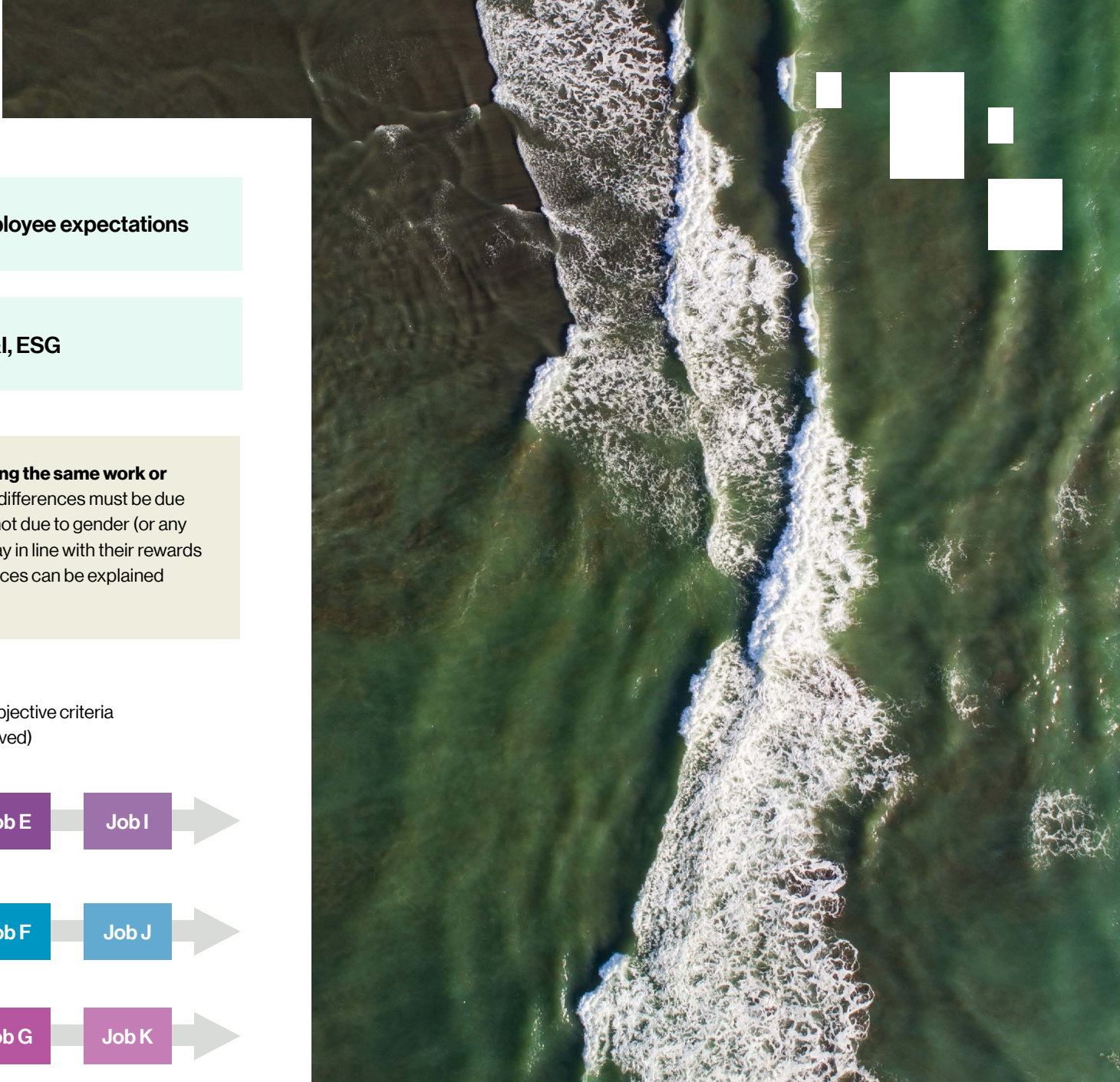
Building confidence – a focus on equal pay for HR leaders

Part one: Introduction

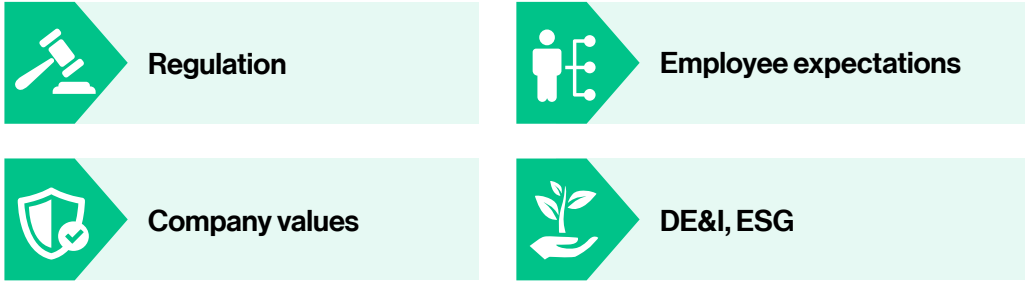
Around the world organizations are under pressure to demonstrate they are paying fairly. Governments are introducing new legislation, employees are demanding more transparency, and investors want reassurance and action. All this places pressure on pay policies to reflect inclusive, diverse and socially responsible objectives. Employers need better analytics, as well as stronger governance of pay processes and open communication. A core and common feature of fair pay is equal pay. This guide sets out everything you need to know about equal pay and how we can help.

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Equal pay drivers



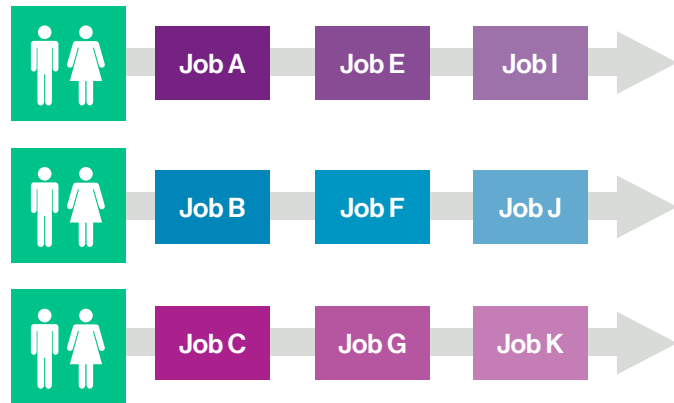
A reminder that equal pay does not mean employees performing the same work or work of equal value have to be paid the same. It means that any differences must be due to objective factors, such as skills, location and performance, and not due to gender (or any other protected characteristics). Employers can differentiate on pay in line with their rewards strategy, but need to be confident that individual employee differences can be explained based on objective, evidenced reasons.

Same and similar work



And work of equal value

Work identified as comparable by objective criteria (e.g. training, skills, effort, tasks involved)



Part two: Europe's increasing focus on equal pay

For 50 years equal pay for male and female workers doing equal work or work of equal value has been a core principle of the European Union (EU). In 2014 the EU recommended that member states act on the lack of progress. This led to the current range of different regulations across the EU (see Part 4).

In 2020 the European Commission (EC) reevaluated the situation and concluded that equal pay is still not being implemented or enforced in full. Critically, they concluded that this is due, in part, to a lack of transparency that often leaves workers unaware of how much others in equivalent roles are earning.

The result is the draft EU Directive on Pay Transparency, tabled in March 2021. **It is focused on greater pay transparency and improved enforcement mechanisms.**

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Equal work deserves equal pay. And for equal pay we need transparency. Women must know whether their employers treat them fairly. And when this is not the case, they must have the power to fight back and get what they deserve.

Ursula von der Leyen
President of the European Commission

The directive brings together current provisions and extends them in three key areas. **Together these mean that every employer across the EU will need to be confident they are delivering equal pay.**

See Part 4 for a summary of all provisions.



Every employee in the EU will have the right to receive information on average pay for their own category of workers, broken down by sex.



Every employer, in each member state, with 250+ employees will be required to share information externally on their overall pay gap and **internally on the pay gap between genders for each category of workers** (this is a more granular level than currently required). Employers will be required to assess and act if pay gaps exceed 5% and cannot be explained by objective reasons.



In any claim and subject to local legislation, the burden of proof will be on the employer to show there has been no discrimination and employees can receive compensation, including full recovery of back pay and related bonuses or payments in kind.

The draft directive is currently being reviewed by the European Parliament and European Council. When passed, there will be a two-year period for member states to adopt the provisions into local law. This means there is time for employers to prepare, taking into account other regulatory developments and their own agendas and needs.

Other external developments include the European Banking Authority revising its guidelines. In just the last few months, new regulations relating to gender equity have been introduced or are being proposed in seven U.S. States, Canada, Israel, UAE and South Africa. The Institutional Shareholder Services (ISS), a proxy advisory firm, now considers a company's pay gap due to gender, race or ethnicity when issuing voting recommendations. While this only concerns large U.S. companies at the moment, it suggests that similar guidelines will be prompted for European companies. Pay fairness is also being captured within the growing Environment, Social and Governance (ESG) discussion, as a factor in social responsibility.



For some employers, it is not regulation that is bringing equal pay and fair pay more broadly to the top of the agenda. It is recognizing what pay says about the company. Our own research highlights that fair pay is an essential part of the employee experience. More organizations want to be confident in saying they are delivering equal pay as an inclusive and responsible employer. This not only applies to gender: where data is available, equal pay should encompass ethnicity, age, social-economic background and other dimensions of diversity.

Willis Towers Watson High-Performance Employee Experience Model

 Excellence	Inspiration "I'm totally inspired by what we do"	Drive "We're transforming, agile and ahead of the market"	Growth "I'm achieving my potential"	Trust "I trust leadership and they trust us"
	Inclusion "I really fit in here, and we respect human differences"	Voice "I have a say in what we do"	Capability "I'm developing my capabilities"	Collaboration "We help each other, and work across boundaries"
	Understanding "I get it"	Organisation "We're efficient flexible, and continually improving"	Fair pay "I'm rewarded fairly for my performance"	Support "I feel supported, and have a good boss"
 Emphasis				
 Essentials				
	Purpose	Work	Reward	People

Where does this lead us?

Whether driven by company values and/or by regulation, what matters is for employers to pause and take stock before rushing to act.

Equal pay is just one outcome of good rewards management. Employers will have additional requirements too. A sustainable approach to equal pay involves taking account of the direction of regulation globally, integrating this with the employer's needs and the way rewards are managed, making adjustments to the latter as required.

We know the key levers to delivering equal pay.

Our approach for preparing for the upcoming EU directive is the same as we would take with any global company wanting to improve its position on equal pay. We start with articulating the company's long-term ambitions for Europe and beyond. We then analyse the current situation to determine not only the areas where pay needs adjusting but also where improvements to these key levers are needed. Delivering these improvements paths **the way to confidence** on equal pay in the longer term.





Key levers to equal pay



Part three: How we can help



Ongoing stakeholder engagement and refinement

 Ambition <i>"Where do we want to be?"</i>	 Analyse <i>"Where are we now? What needs to change?"</i>	 Act <i>"We are putting in place the changes needed"</i>	 Sustain <i>"We deliver equal pay and can be transparent"</i>
<p>Face the fact: create awareness with stakeholders.</p>	<p>Detailed equal pay reviews to identify individual and systemic areas for action.</p>	<p>Adjust individual pay as required.</p>	<p>Develop transparency, communication and requests approach, aligned with DE&I.</p>
<p>Define/update your pay equity ambition and roadmap.</p>	<p>Review underlying structures (job architecture, levels, segments, pay) and define "work of equal value."</p>	<p>Update pay policies, processes and practices.</p>	<p>Track and report progress across markets. Embed accountabilities.</p>
<p>Determine ownership and responsibilities.</p>	<p>Extend review to all EU member states and possibly all European markets.</p>	<p>Set the standards on governance, technology and operational excellence.</p>	<p>Educate employees, managers and leaders.</p>

How we can help – details



Ambition: Defining where you want to be

We run practical workshops for organizations to help them articulate their ambitions on equal pay and fair pay more broadly, as part of their approach to pay management and diversity, equity and inclusion (DE&I). Attendees can include talent, DE&I and legal colleagues as well as corporate and local rewards teams. We cover the key internal and external context, including the EU directive and what leading companies are doing. Within this context we confirm which aspects of fair pay matter most (is it pay equity, living wage, benefits for all or something else?), and we develop guiding principles and outline priority actions. With respect to equal pay, we build out the organization's current and desired situation on data, key levers to equal pay (see Part 2), ownership and transparency – all with the directive and other key regulations in mind. These elements combine to help us produce a road map on equal pay for you to test and refine with other key stakeholders.



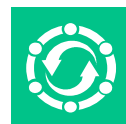
Analyses: Identifying where you are now and what needs to change

To gain an accurate and comprehensive view on the current situation we use advanced (multi-variate regression) analytics to carry out a full equal pay review across all key or relevant markets. We can do this under legal privilege, if required. We develop the methodology with you, based on leading practices and the need to balance global consistency with local flexibility. We identify where there are equal pay gaps, which ones you need to worry about, what individual pay changes you need to consider and the costs, alongside the improvements needed to pay structures and practices to remove future equal pay issues. Our analytics cover all pay elements, along with gender, race/ethnicities and age, and are adaptable to your size and geographic footprint. While we expect to lead the initial set of analytics, we can equip an organization with the methodology and third-party software to carry out future analyses as part of your ongoing pay governance.



Act: Making the necessary changes

We work through the individual employee remediation plans (which employees to prioritize, the level of adjustment and timings) with you and legal counsel and then move to engagement with local teams. With respect to improvements in pay structure and practices, we work with you to identify which will have the highest impact, which can be introduced in the next pay round, and which need to be incorporated into longer-term reward plans, for example, improvements in job architecture.



Sustain: Integrating with regular pay management and becoming transparent

For many clients this is a journey. It can take several years moving from a local compliance-driven approach to a globally integrated and sustainable approach to equal pay that meets the needs of the organization, employees and regulators. We support clients in building local buy-in to the approach, developing local tools and manager guidance, clear accountability, measures and reporting – all to support increased transparency.

Developing a strategy for how and what you will communicate is essential in the success of your journey. Expectations of pay transparency and the types of internal and external stakeholders you need to communicate to are growing. We work with organizations in crafting how, when and where to tell their fair-pay story as well as how to integrate it with their broader equity, diversity and inclusion agenda.

Why Willis Towers Watson

- A very active and expert global fair-pay team that is already taking account of the EU directive in its work
- Comprehensive and integrated approach including pay equity, benefit equity and career equity
- Global and local expertise that embraces support with local compliance alongside building a sustainable global approach
- Market-leading analytics resulting in practical pay actions and greater transparency
- Point of view on pay fairness: It's about good pay management and part of being a diverse, equitable and inclusive employer

Part four: Regulatory framework in Europe, U.S. and beyond

EU – draft pay transparency directive

- The EU Commission has issued a draft directive of Pay Transparency as part of the EU's Gender Equality Strategy 2020-2025 and its commitment to a gender-equal Europe. The Commission views as inadequate the implementation of current measures to ensure delivery of equal pay.
- The directive comprises a far-reaching set of measures to secure equal pay through (a) significantly increased pay transparency obligations for employers and (b) significantly enhanced rights for employees. It goes far beyond recent provisions of member states.
- The directive means that every employer, regardless of size, will need to be confident that their pay structures and processes are delivering equal pay for the same work and work of equal value in each EU member state.
- The draft directive is currently being reviewed by the European Parliament (representing EU citizens) and the European Council (representing member states). Once amended and/or approved by them, member states will have two years to transpose the directive into national law. Compliance may therefore not be required until 2024 or later.

EU – draft pay transparency directive



Scope of the draft directive

1. Which employers: All employers in the EU in the public and private sectors. The provisions relating to pay gap disclosure and assessment only apply to employers with at least 250 workers.

2. Which employees: All employees and workers who have an employment contract or an employment relationship.

3. What pay: 'Pay' means ordinary basic wage or salary and any other consideration whether in cash or kind.

4. Pay structures: Employers should have pay structures in place to ensure women and men are paid equally for the same work or work of equal value on the basis of objective criteria including education, professional requirements, skills, effort, responsibility, work undertaken and tasks.



Employers' obligations on pay transparency

1. Pay transparency for job seekers: Employers will have to provide information about the initial pay level or its range in the job vacancy notice or before the job interview. Employers will not be allowed to ask prospective workers about their pay history.

2. Right to information for workers: Workers will have the right to request information from their employer on their individual pay level and on average pay levels, broken down by sex, for categories of workers doing the same work or work of equal value.

3. Reporting on pay gaps: Employers with at least 250 workers must publish information on the pay gap between female and male workers in their organization. For internal disclosure, they should also provide information on the pay gap between female and male workers by employee category for the same work or work of equal value.

4. Pay assessment and action: Where pay reporting reveals a pay gap of at least 5% in any category of workers doing the same work or work of equal value and when the employer cannot justify the gap on objective gender-neutral factors, they will have to carry out a pay assessment, in cooperation with workers' representatives, with unjustified gaps remedied.



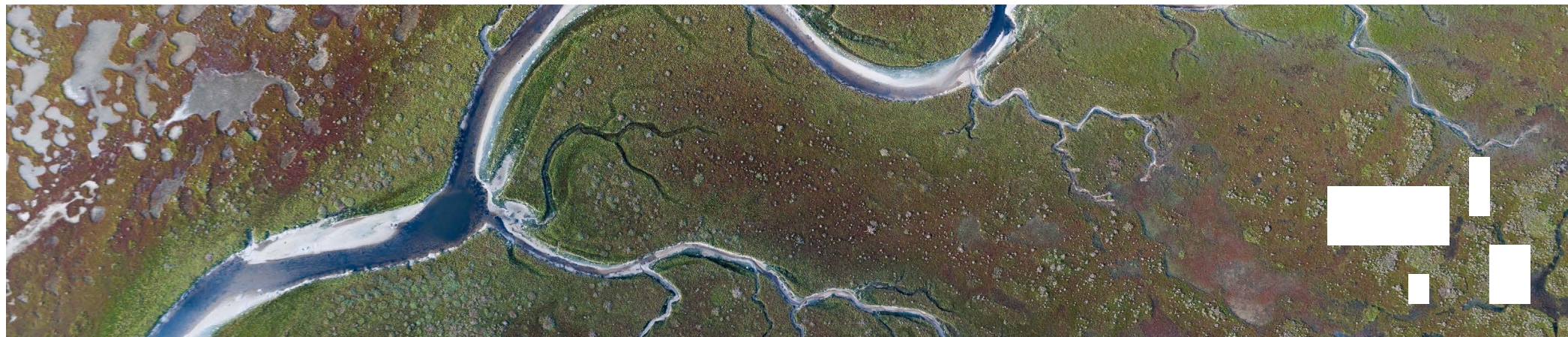
Employee rights for transparency and redress (subject to local legislation)

1. Compensation for workers: Workers who suffer gender pay discrimination can get compensation, including full recovery of back pay and related bonuses or payments in kind.

2. Burden of proof: It will be, by default, for the employer not the worker to prove that there was no discrimination in relation to pay.

3. Worker representation: Equality bodies and workers' representatives may act in legal or administrative proceedings on behalf of workers as well as lead on collective claims on equal pay.

4. Penalties: EU member states should establish penalties and fines for violations of equal pay rules.



Other European and global developments

- **U.S.:** A growing number of U.S. states and cities require employers to provide job pay range information on recruitment and forbid pay history requests: California, Colorado, Connecticut (effective October 1, 2021), Maryland, Massachusetts (proposed), Nevada (effective October 1, 2021), Washington State, the City of Toledo and the City of Cincinnati. Reporting requirements: California and Illinois.
- **Canada:** The new **federal** Pay Equity Act became effective from August 31, 2021 and will be phased in over a three-year period. The act applies to **federally regulated** workplaces with 10+ employees and requires equal pay for work of equal value for male and female employees. It requires employers to (a) establish a pay equity plan that examines any differences in compensation between positions of equal value that are mostly held by women and those mostly held by men; (b) eliminate differences in compensation identified in the plan; and (c) revise and update their pay equity plan at least every five years to ensure that no gaps have been reintroduced and to close gaps if they exist. These federal provisions are similar to current provincial requirements in Quebec and Ontario, for example.
- **Ireland:** The Gender Pay Gap Information Bill 2019, which introduces Ireland's first gender pay reporting and disclosure requirements, has now been passed into law. The next step is for the implementing regulations to be published, with the key details. It is expected that the regulations will apply first to larger employers (those with 250 or more employees) from 2022 unless further time is allowed.
- **Israel:** From June 1, 2022, employers with more than 518 employees must publish an annual report on the organization's gender pay gaps.
- **Italy:** A new Gender Pay Equity law is proceeding through Parliament and is expected to be published by the end of 2021. It is focused on reducing pay gaps related to gender with mandatory disclosure for companies with more than 100 employees.

- **Norway:** The Equality and Discrimination Act was amended in 2020 to include more detailed requirements on gender equality in the workplace, including the introduction of mandatory gender equality disclosure. Companies with 50 or more employees are required, every two years, to conduct and report on an internal analysis of gender distribution and gender-based reward differences by type, function and level.
- **South Africa:** In May 2021 the government announced it was close to finalizing regulation requiring disclosure of the ratio between the lowest and the highest-paid employees.
- **UAE:** Updated equal pay/equal value regulations that aim to strengthen the UAE's commitment to gender equality in the workplace.

Existing EU requirements

- **Belgium** – equal pay analysis
- **Denmark** – equal pay analysis
- **France** – pay equity reporting
- **Germany** – employee right to information
- **Portugal** – pay gap disclosure and action
- **Sweden** – equal pay analysis
- **Spain** – pay gap disclosure and action
- **Switzerland** – pay gap disclosure
- **UK** – pay gap disclosure

Conclusion

Thank you for reading this report.

If you'd like to find out how we can help you please contact:



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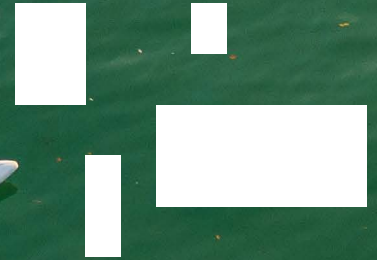
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