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The gender pay gap in the European Union – Legal Framework and socio-economic effects

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Abstract

The gender pay gap issue among the workforce is a significant violation of human rights, yet it has not been eliminated from labour markets. However, in the different policy levels, reforms have been done to eliminate the gender pay gap-related discrimination, and the EU policy can be a benchmark example. This paper aims to assess the legal framework and whether the actions taken by the European Union are sufficient and effective. The author reviewed the literature and examined the most recent legal and policy frameworks related to the EU as the primary method of this paper. Thus, this paper provides a normative synthesis of the gender pay gap in the EU. According to Eurostat, using the European Commission's 2023 statistics, women in the European Union earned, on average, 12% less per hour than men. The main factors influencing the gender pay gap include sectoral segregation, unequal shares of unpaid work, the glass ceiling, and pay discrimination. Despite stipulating the Principle of Equal Pay for the same work and work of equal value for women and men in Article 157 of the Treaty on the Functioning of the European Union, and an extensive legal framework aimed at reducing the gender pay gap, the differences between individual EU countries are significant, and overall progress over the past decade has been rather slow. This paper will serve as a groundwork for further research on the gender pay gap in the EU, and, moreover, the research can be extended to include specific countries and sectors. The insights from the paper are highly relevant for legal students, practitioners, and policymakers

Keywords: Gender pay gap, EU Policy, Discrimination, Human Rights

Introduction

Gender-based pay inequality is a significant violation of human rights that exists in most countries around the world, yet it has not been eliminated from the labour market. It occurs when men and women are paid different wages for comparable jobs solely based on their gender. The gender pay gap is a broad concept that extends beyond pay discrimination to encompass other inequalities women face in the labour market. Despite legislation aimed at reducing it and securing equal pay for women, progress in closing the gap has been rather underwhelming over the last decade. This might suggest the need for a more holistic approach to addressing this issue.

1. Why do women earn less?

The gender pay gap is caused by a number of factors, such as gender stereotypes, the perpetuation of the ‘glass ceiling’ and the ‘sticky floor’, overrepresentation of women in low-paid service jobs, and unequal sharing of care responsibilities. In addition, the gender pay gap is partly caused by direct and indirect gender-based pay discrimination. Given the complexity of the gender pay gap, it is challenging to formulate a closed set of reasons underlying pay inequalities. Therefore, only the most prominent factors will be discussed.

1.1. Pay discrimination

Pay discrimination occurs when women earn less than men for doing the same work of equal value. Within the European Union, the principle of equal pay stems from Article 157 of the Treaty on the Functioning of the European Union. This article obligates the member states to ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied. Despite this principle being incorporated into one of the European Union's most crucial treaties, the issue of pay discrimination persists.

1.2. The glass ceiling and the sticky floors

The glass ceiling is a metaphor for a situation in which many women cannot reach a certain point in their careers, regardless of their qualifications or achievements (Purcell, MacArthur & Samblanet, 2010). Vast stereotypes, both conscious and unconscious, create several levels of barriers for women aspiring to managerial positions (Taparia & Lenka, 2022). Managers are a profession with the largest differences in hourly earnings in the EU. Women in those positions, on average, earn 23% less than men. On the other end of the spectrum, one might observe sticky floors, which, in contrast to the glass ceiling, are situations where the gender pay gap is wider at the bottom of the wage distribution (Christofides, Polycarpou & Vrachimis, 2010). Despite visible differences in gender pay gaps related to glass ceilings and sticky floors across member states, this phenomenon exists in all EU countries.

1.3. Feminised sectors of work

Highly feminised sectors of work tend to be systematically undervalued. According to the statistics, around 24% of the gender pay gap is related to the overrepresentation of women in relatively low-paying sectors. Those sectors include care, health and education. Historically and culturally, work performed predominantly by women is often undervalued (Arabadjieva, 2021).

1.4. Unpaid work

Women work more hours than men each week. This difference is often related to the unpaid work that they perform. It affects their career choices: women are more often than men in part-time jobs to accommodate care responsibilities, which are associated with lower hourly pay. To resolve this issue, the EU promotes work-life balance and equal sharing of parental leave.

These are only a few examples of primary factors underlying pay inequalities. Given the complexity of this socio-economic issue, it is important to note that the main causes of the gender pay gap may vary between different EU countries.

2. The gender pay gap in the European Union

The gender pay gap is an ongoing challenge in most countries worldwide. In the European Union, wage inequality between men and women for comparable jobs has changed only minimally in the last decade. Women still earn on average 12% less per hour than men in the EU. This fact highlights a persistent issue with sex based inequalities in the labour market. Nevertheless, it is important to note that there are considerable differences between EU countries. In 2024, the gender pay gap varied by 19.6% across EU countries. It ranged from -0.8% in Luxembourg to 18.8% in Estonia, with the negative unadjusted gender pay gap indicating that, on average, women's gross hourly earnings were higher than men's (Eurostat, 2024). Some of the countries with the largest difference between the average gross hourly earnings of male and female employees, as a % of male gross earnings, other than Estonia, included Czechia, Austria, Hungary, Finland, Slovakia, and Germany. On the opposite end of the spectrum, next to Luxembourg are Belgium, Romania and Poland. For the part-time workers, the gender pay gap varied from -8.3% in Bulgaria to 23.8% in Slovenia. It must be noted that information at this level of detail is not available for all EU countries. Significant differences in the unadjusted gender pay gap also exist between different sectors of the economy. In most EU countries, the gender pay gap in financial and insurance activities is higher than in the business economy as a whole. The gender pay gap in this sector ranged from 12.2% in Spain to 40.3% in Hungary. Nonetheless, some sectors recorded a negative gender pay gap in many EU countries. Those sectors include water supply, sewerage, waste management, remediation activities, and construction. Moreover the gender pay gap varies significantly between the private and public sectors. One reason for this might be that, in many EU countries, public-sector pay is determined by transparent wage grids that apply equally to men and women. The gender pay gap tends to be much lower for young employees entering the labour market and to widen with age. The increase in the gender pay gap with age might result from the career interruptions women may experience during their life. Overall, the decrease in the gender pay gap from 13.7% in 2019 to 11.1% clearly indicates the need for decisive measures to tackle this issue.

3. Legal framework in the EU and actions taken to tackle gender gaps in employment

The principle of equal pay in European Union law is derived from the Treaty on the Functioning of the European Union (hereinafter referred to as the TFEU). In accordance with Article 157 of TFEU, 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. The TFEU imposes an obligation on member states to guarantee equal pay for men and women performing comparable jobs. Moreover article 157 of TFEU provides a definition of pay as the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer and a definition of equal pay without discrimination based on sex as pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement; and pay for work at time rates shall be the same for the same job. This article, along with the definitions it provides, serves as a foundation for legislative and practical actions to reduce pay inequality, which remains a challenge.

3.1. The Pay Transparency Directive

Directive(EU) 2023/970 of the European Parliament and of the council of 10 May 2023 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 an enforcement mechanism, also known as the Pay Transparency Directive, is part of the EU legal framework designed to combat unequal pay. The directive stipulates that one of the reasons why gender related pay discrimination and bias go undetected in so many organisations is the general lack of transparency. It states that there is a clear need to implement binding measures to improve pay transparency and aims to clarify complex legal concepts such as pay and work of equal value. Provisions of this directive apply to employers in the private and public sectors, as well as to employees, including part-time workers, workers on a fixed-term contract, persons with a contract of employment or an employment relationship with a temporary agency, and workers in management positions, as well as applicants for employment. To ensure pay transparency, the directive requires that pay information be expressed in terms of gross annual pay and corresponding gross hourly pay. Moreover, it provides for workers to be represented by a representative to reduce the risk of victimisation in the application of the principle of equal pay. The pay transparency directive obligates employers to have a pay structure in place, ensuring that there are no gender-based pay differences between workers performing the same work or work of equal value that are not justified by objective, gender-neutral criteria, and to report data on pay inequality. The directive also seeks to strengthen the mechanisms for enforcing the right to equal pay by requiring the member states to introduce sanctions for violations of equal pay provisions. Pay transparency and sanctions are important steps toward reducing the gender pay gap (Wujczyk, 2023).

3.2. EU Action plan 2017-2019 - tackling the gender pay gap

In 2017, the Commission adopted the EU Action Plan 2017-2019: Tackling the gender pay gap (hereafter referred to as the EU Action Plan). The EU Action Plan was intended to address the gender pay gap holistically across the European Union. It identified various causes of the gender pay gap, including pervasive labour market segregation, unequal sharing of caring responsibilities, inadequate work-life balance policies, and insufficient pay transparency, all of which needed to be addressed. The EU Action Plan was divided into 8 main standards of action: improving the application of the equal pay principle; combatting segregation in occupations and sectors; breaking the glass ceiling: addressing vertical segregation; tackling the care penalty; better valorising women's skills, efforts and responsibilities; uncovering inequalities and stereotypes; alerting and informing about the gender pay gap; and enhancing partnerships to tackle the gender pay gap. The main reason for adopting the EU Action Plan was a stable level of the gender pay gap over the five-year period leading up to its adoption, despite the legislative measures taken. In March 2020, the Commission published a Report on its implementation (Report from The Commission to The European Parliament, The Council, The European Economic and Social Committee and The Committee of The Regions on the implementation of the EU Action Plan 2017-2019 on tackling the gender pay gap, 2020). Some of the examples of the actions taken under the EU Action Plan include the work-life balance initiative, the EU Platform for Change to increase female employment and equal opportunities in the transport sector, promoting institutional change through gender equality plans to foster equality in scientific careers, and improving the application of the equal pay principle. To ensure the effective implementation of the EU Action Plan, the Commission worked with the member states. The Commission highlighted the main causes of the gender pay gap in the member states through the European Semester process. As a result, in 2019, the gender pay gap was addressed in the country reports of 11 member states. In conclusion, the EU Action Plan enabled a meaningful evaluation of the equal pay legislation and data collection for further actions aimed at tackling pay inequality. The broad scope of actions and measures taken as part of it underscored the importance of a holistic approach to complex socio-economic issues.

3.3. Gender equality strategy 2026-2030

The European Commission adopted the Gender Equality Strategy 2026-2030 on 5 March 2026. It is the newest EU strategy that aims to achieve gender equality across all aspects of life. It aims to increase the Commission's action across different policy areas by tackling gender gaps in employment, as well as gender-based cyber violence and women's health gaps. One of the objectives of this strategy is to make the EU the most attractive place to work for women by launching an action plan on women in research, innovation, and startups. Another key step to achieving the closing of the gender pay gap outlined in this strategy is the continued support of member states and social partners in implementing the pay transparency directive. The Commission will also publish a toolkit on gender-neutral job evaluation and classification in 2026, including tools to help small and medium-sized companies implement it. What is more, the strategy will target the gender investment and financial literacy gaps as a next step to empower women in workplaces and entrepreneurship. These actions aim to tackle pay inequality and minimise the feminisation of poverty (Communication from the Commission to The European Parliament, The Council, The European Economic and Social Committee and The Committee of The Regions. Gender Equality Strategy 2026-2030., 2026).

3.4. The Work-life balance directive for parents and carers

Women spend more hours per week on unpaid work. Due to society's expectations, the responsibilities to care for children or frail elderly parents more often fall on women than men. This can often affect their career choices and ability to maintain work-life balance. The Commission's work-life balance initiative aims to address women's underrepresentation in the labour market and to encourage a more equitable sharing of caring responsibilities between women and men. This initiative sets out a package of complementary legal and policy measures, intended to address the work-life balance challenges faced by working parents and carers, most of whom are women. The proposal for a directive on work-life balance for parents and carers, adopted on 13 June 2019 and entered into force in July 2026, aims to modernise the existing EU legal framework in the area of family-related leave and flexible working arrangements. Some examples of taken legal measures include: introduction of paternity leave, strengthening of the existing right to 4 months of parental leave, by making 2 out of the 4 months non-transferable from a parent to another, introduction of carers' leave and extension of the existing right to request flexible working arrangements to all working parents of children up to at least 8 years old, and all carers. The work-life balance initiative included a set of policy measures meant to complement undertaken legislative measures, which consisted of ensuring protection against discrimination and dismissal for parents, mainly pregnant women, and carers, encouraging a gender-balanced use of family-related leaves and flexible working arrangements, and removing economic disincentives for second earners which prevent women from accessing the labour market or working full-time. This initiative benefits both parents, but is especially important when it comes to the challenges pregnant women and mothers face in the workplace.

Conclusions

Presented statistics and reports clearly show that wage inequality between men and women for work of equal value is a persistent challenge in the European Union that needs to be addressed. The measures implemented in the past decade have proven less effective than expected. The decrease in the gender pay gap from 13.7% in 2019 to 11.1% in 2024 indicates the need for more decisive measures to tackle this issue. The Pay Transparency Directive was an important step in reducing the gender pay gap as it promotes gender-neutral wage-setting structures (Veldman & Timmer, 2017). It obligates employers to have pay structures in place, ensuring there are no gender-based pay differences, allowing for the comparison of the value of specific jobs within the organisation. It remains to be determined whether the Pay Transparency Directive will be effective in reducing the gender pay gap.

Moreover, the complex socio-economic issue of the pay gap requires a holistic approach, given the wide range of factors underlying inequalities. Addressing the gender pay gap requires not only legislative and policy measures but also raising awareness. Discrimination of women in the workplace is often rooted in historical and cultural undervaluation of their work. There is still a need for campaigns that focus public attention on wage inequality between men and women. Some EU countries, such as Belgium and the Czech Republic, observe Equal Pay Day. Civil society organisations play just as important role in raising awareness of gender inequalities in the workplace. And it is also worth highlighting the importance of social dialogue. Collective agreements negotiated centrally tend to support equal pay. The above-mentioned actions constitute an essential component of efforts to address and combat pay inequality for equal work between women and men.

In conclusion, the gender pay gap remains a significant socio-economic issue and continues to be a persistent manifestation of discrimination against women in the labour market. Measures taken so far have proven insufficient, suggesting the need for a more comprehensive approach to the problem and the implementation of more decisive actions.

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