

2 Promoting equal pay for work of equal value

Rose Khattar

This chapter presents an overview of equal pay legislation and the use of job classification schemes to promote equal pay in OECD countries. Almost every OECD country has established the right to equal pay for equal work and/or the right to equal pay for work of equal value, and many countries use job classification systems, particularly in the public sector, in an attempt to standardise pay across positions.

Key findings

- Almost all OECD countries have legally defined the concept of “equal pay for equal work,” and/or “equal pay for work of equal value,” using measurable, objective standards.
- Recent developments in some national courts have clarified what factors can be assessed in determining work of equal value in equal pay claims. They tend to reinforce that only characteristics related to work are permissible, such as skills, effort and responsibility, rather than characteristics related to the worker, such as gender and age.
- Job classification systems help promote equal pay by identifying the relative worth of jobs using objective criteria of work-related characteristics, not *worker*-related characteristics. They are mandated in certain contexts in 15 OECD countries in the public sector and six OECD countries in the private sector.
- Some countries do not require job classification systems, but such systems are still fairly common.
- Ten OECD countries mandate job classification systems to be explicitly gender-neutral if job classifications are used by companies and/or they are used to fulfil pay auditing obligations. Explicitly gender-neutral job classification systems can correct for gender biases in job valuations that might otherwise reinforce existing gender pay disparities.

For an individual worker, it is very difficult to know when she or he is being paid less than a comparable colleague doing work of equal value. Few OECD countries guarantee workers the right to learn what a comparable colleague is earning, and even when this is allowed, it is difficult to determine who should be considered a “comparator” (see Chapter 1). In practice, this means that while an employee may be allowed to ask a colleague how much they earn, an employee is usually unable to ask their human resources departments what other colleagues, or groups of colleagues, earn. In lieu of guaranteeing this right to know a comparator’s earnings, governments have introduced a range of measures that proxy for this knowledge.

This chapter discusses two such measures:

1. The use of legislation to ensure equal pay for work of equal value.
2. The use of job classifications to make the value of a given job more transparent, with a focus on ensuring that such classifications be gender-neutral, i.e. use “objective” criteria that are tied to work-related characteristics, such as effort or skill, not worker-related characteristics, such as gender and age.

Equal pay legislation and the application of gender-neutral job evaluation and classification systems can help to eliminate some of the discriminatory element of the gender pay gap by asking employers to use measurable and observable criteria to determine pay. These measures give employees some degree of transparency about the remunerative value of specific jobs, and they can also be used as part of an equal pay claim that seeks to redress gender-related disparities in pay.

2.1. Most countries guarantee a right to equal pay for equal work or work of equal value

Twenty-seven OECD countries report in the OECD GPTQ that they have clarified the concept of equal pay for equal work and/or work of equal value in national law.¹ They are: Australia, Canada, Chile, Costa Rica, the Czech Republic, Denmark, France, Germany, Hungary, Iceland, Ireland, Israel, Italy, Korea, Lithuania, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Spain, Sweden,

Turkey, the United Kingdom and the United States.² The use of legislation to ensure equal pay for work of equal value can help to close the gender pay gap by providing a clear concept to assist with determining fair pay irrespective of an employee's gender.

Several countries have not explicitly clarified the concept of equal pay for equal work (or work of equal value) through *legislation*, but in practice support this principle. This list includes Austria, Belgium, Colombia, Finland, Greece, Japan, Latvia and Switzerland (OECD GPTQ 2021, see Annex A). Nevertheless, laws may set equal pay obligations without an explicit definition of work of equal value.

Sometimes the concept has been defined through the court system (such as in Austria, Belgium, Greece, Finland and Latvia). For instance, in Belgium, national courts interpret the concept of work of equal value in accordance with European Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment despite there being no legislative definition. Similarly, in Greece “work of equal value” is defined and interpreted by national courts.

Determinations around what qualifies as “work of equal value” are usually assessed and compared based on objective (or at least measureable) criteria, such as education, professional and training requirements, skills, effort and responsibility, work undertaken and the nature of tasks involved (see Box 2.1). This means that a worker's characteristics such as their age, gender or parenthood status should not be considered. In Europe, laws and policies may be influenced by the EU Directive 2006/54/EC calling for “a range of factors, including the nature of the work and training and working conditions” to be considered when assessing whether workers are in a comparable work situation and, correspondingly, whether workers are performing the same work or work of equal value and receiving equal pay. These criteria are not only used in EU countries. For instance, in Korea, factors to be considered similarly include the skills, responsibility and conditions associated with a role.

Even in nations with definitions of “work of equal value”, those pursuing equal pay cases may face difficulties in practice in understanding what factors should be considered (see Box 2.2). The absence of a more explicit definition of the concept of work of equal value, including a clear indication of the evaluation, can be an obstacle to initiating legal proceedings. In many OECD nations, courts and governments have taken steps to further clarify what factors can be considered when assessing work of equal value in pay equity claims. Some noteworthy recent developments have taken place in Canada, Israel, New Zealand and the United States.

Box 2.1. The concept of “equal pay for work of equal value”

Research on the gender wage gap tends to emphasise the importance of ensuring equal pay for work of equal value, rather than simply equal pay for equal work. But what does this mean?

In practice, equal pay for work of equal value means that women and men should be paid the same amount if they do identical or similar jobs – but that they should *also* earn equal pay if they do completely different work that can be shown to be of equal value, when based on “objective” criteria. These objective criteria tend to encompass job-related characteristics such as skills, effort, levels of responsibility, working conditions and qualifications. In this way, ensuring “equal pay for work of equal value” can help to correct for the historic undervaluation of female-dominated labour. Men continue to be overrepresented in higher-paid sectors and women in lower-paid ones, despite many female- and male-dominated sectors having similar work-related characteristics and comparable value (EPIC, 2020^[1]).

As discussed in this chapter, a strong majority of OECD countries have sought to clarify the concept of “work of equal value” in national legislation. An explicit definition of “work of equal value” can then be implemented by organisations and tested in courts or alternative dispute resolutions, such as mediation, through equal pay claims when workers or workers’ organisations attempt to identify and remedy instances of unequal pay.

Below are two cases that highlight how courts across the OECD have dealt with pay equity claims and applied “work of equal value” in practice within the same organisation, or across different sectors.

In **Spain**, the Spanish Supreme Court (No. 2328/2013) in 2013-14 heard an equal pay claim from housekeepers working in a hotel. The housekeepers, who were mostly female, were arguing that they were underpaid relative to bartenders, who were mostly male, working in the same hotel. The Court found that the housekeepers performed work of equal value to that of the bartenders, as both jobs were classified within the same category in their collective agreement. Consequently, it held that the housekeepers deserved pay equal to that of the bartenders.

In **France**, in 2012, the high-level Court of Cassation (No. 09-40021), heard a case of a female Human Resources, Legal and Office Department Manager’s dismissal. The plaintiff argued that her salary was lower than her male counterparts despite them performing identical work. The Court found that the seniority, classification and responsibilities of the plaintiff’s role, compared to her male counterparts, were of equal value.

2.1.1. Canada

Canada’s new Pay Equity Act requires federally regulated private and public sector firms with 10 or more employees to take proactive steps to ensure they are providing equal pay for work of equal value. Each employer is required to develop and maintain a pay equity plan covering all of their employees that identifies difference in compensation between positions that are mostly held by women and those mostly held by men that are found to be of equal value. The legislation sets out how to determine which positions are predominantly male and female, how to value the work and calculate the compensation for those positions, and then then compare them. The value of work must be the composite of the skill, effort and responsibility required to perform that work and the conditions under which that work is performed. The same method must be used to determine the value of work for all of the positions covered by the pay equity plan, and that method must not discriminate on the basis of gender.

2.1.2. Israel

Israel's Equal Pay Law explicitly defines work considered equivalent by assessing the skills, effort and responsibility required to perform the work. In making this assessment, parties to an equal pay dispute may seek to use an expert. Recently, courts have adopted the notion that it is appropriate to ignore the influence of external factors in driving wage differences.³ These external factors include personal wage negotiations, requirement for wage increases during the work period and any "market" explanations for gender pay gaps. In effect, these courts have clarified that only the quality of work, the employee's skills and seniority should be taken into account when determining the value of work.

2.1.3. New Zealand

New Zealand's Equal Pay Act requires that payments for the same or substantially similar work make no differentiation based on the worker's sex. In pay equity claims, factors to be considered when undertaking a work assessment include skills, responsibilities, work conditions and effort.

Recent developments in New Zealand have sought to correct for historical pay discriminations by improving the pay equity process for women in occupations that have been economically disadvantaged compared to work of equal value done by men. Since November 2020, a new pay equity procedure guaranteed by the Equal Pay Amendment Act⁴ allows unions, or individual employees, to raise pay equity claims on the basis that the work the claim relates to is predominantly performed by women, defined as 60% of the workforce being female, and is currently, or has historically been, undervalued.

Once undervaluation has been established, the work can be compared with comparable work predominantly performed by men. There is no restriction on which sector male comparators can be drawn from and parties do not need to agree on male comparators – they are used by the parties as a basis for negotiation. This means that, if the work that is the subject of a pay equity claim is situated in an entire sector that is comprised of work that is female-dominated (and undervalued due to systemic sex-based discrimination), there is no issue finding comparators for the assessment process as these can be drawn from any sector. The amount of the undervaluation is then used for collective bargaining purposes. There is no mechanism to apply claims beyond the parties to a pay equity settlement, that is, across an entire sector.

New Zealand has also made it easier to pursue a pay equity claim by ensuring courts are a last-resort option. Workers or unions can make a pay equity claim by negotiating in good faith with employers, or if they cannot agree through mediation or other dispute resolution processes.⁵ To assist employers, employees and unions navigate the new system the government has provided guidelines, including how to initiate pay equity claims.⁶ Currently, a number of pay equity claims are progressing in health, education and the public sector generally. New Zealand offers a useful online guide for how to advance an individual pay equity claim⁷.

2.1.4. United States

The United States' Equal Pay Act requires that men and women in the same workplace be given equal pay for equal work.⁸ Equal work "requires equal skill, effort, and responsibility, and which are performed under similar working conditions".⁹ There is considerable variation across state equal pay laws, with all but one of the 50 US states (Mississippi) offering protections beyond federal laws.¹⁰ Some states, such as California, do not allow prior salary to be a justification for differences in current salaries and many states have removed pay secrecy laws.¹¹ The US Department of Labour publishes an online map illustrating the different forms of equal pay legislation across US states.¹²

In 2020, the US Ninth Circuit¹³ assessed what factors can be used as a defence to an equal pay claim and held that only job-related factors could be used. In holding that salary history was not a permissible defence

for pay differentials, the court stated that “setting wages based on prior pay risks perpetuating the history of sex-based wage discrimination.”

In addition, sex-based pay discrimination claims may also be brought under Title VII (and Executive Order 11246, which applies to federal contractors).

While the United States does not require employers to publish pay data, there are national laws that prevent discrimination against employees who enquire about such information.

Box 2.2. Equal pay claims face obstacles even when good legislation is in place

From 2013 to 2021, the Independent Education Union of Australia (IEU), litigated before the Australian Fair Work Commission on behalf of early childhood educators regarding an equal pay claim. This two-part case commenced with an argument that early childhood educators with four years of university education were underpaid relative to male primary school teachers and engineers. The Fair Work Commission ([2 021] FWCFB 2051) found against this equal pay claim citing that the union did not meet the strict requirements of the Fair Work Act, particularly when identifying a relevant comparator.

However, while the equal remuneration order was not granted, the IEU concurrently ran a “work value application” to increase the wages of teachers covered by the Educational Services (Teachers) Award 2020 (EST Award). In considering the IEU’s award variation (work value) application to increase wages for early childhood teachers covered by the EST Award, the FWC found there are indeed work value grounds justifying a variation and has proposed to vary the wage and classification structure. (The Fair Work Commission has reserved its decision in the matter.)

This Australian example illustrates that the existence of equal pay laws, while important, do not necessarily mean that making an equal pay claim will be easy. In fact, equal pay cases are relatively scarce (Burri, 2019^[2]). For instance, in Australia, only one equal pay case has been successful in 30 years at the federal level (Mathews, 2021^[3]).

There is a range of reasons why legal protections can be insufficient to ensuring equal pay (Burri, 2019^[2]), including:

1. Obtaining pay information to learn what a comparator is earning is difficult (see Chapter 1);
2. Onus of responsibility placed upon female employees or their representatives;
3. Self-fulfilling prophecy whereby female employees and their representatives are deterred from initiating claims as they do not see others pursuing equal pay cases, or if they are pursued seeing them not succeed;
4. Judicial inconsistencies as to the application of what is considered work of equal value;
5. A lack of explicit and clear definition of equal work;
6. Difficulties in finding a suitable comparator, with some countries requiring the identification of only a male comparator;
7. Cost of pursuing an equal pay claim is high in terms of financial, mental, and time costs.

2.2. Job classification systems are useful for promoting equal pay, even if they are not explicitly gender-neutral

Employers may use job classification systems as a systematic and consistent way to determine pay structures and, consequently, individual employee pay outcomes. Job classification systems can simplify the process of determining the value of a job by ranking each job within an organisation against objective

criteria that relates to the required skills, effort, responsibilities, working conditions, education, and difficulty of a role, amongst other observable characteristics (see Box 2.3). Job ranks can then correspond to pay scales (European Commission, 2017^[4]).

While job classification systems tend to be developed and implemented by a company's human resources department, they are often developed by social partners and/or commercial management consultancy companies (European Commission, 2017^[4]). In some cases, governments can mandate the use of a job classification system. This tends to be the case in the public sector. In the private sector, it is usually left up to companies or social partners, including during collective bargaining, to decide whether they want to use a job classification system (European Commission, 2017^[4]). When this happens, governments may be able to mandate, or issue guidelines on (such as in Australia¹⁴ and the United Kingdom¹⁵), what factors should and should not be considered.

How are job classifications relevant to pay equity? A job classification system helps to support the principle of work of equal value by assessing the relative worth of jobs in a gender-neutral manner. Job classification systems rely upon an objective *work*-related criteria, which means they should not factor in the characteristics of *workers* most likely to hold a given job, such as their gender. In this way, job classification systems should lead to male- and female-dominated work being paid in a similar manner if their job-related characteristics are the same. This is more likely to occur if job classification systems are explicitly set up in a gender-neutral manner (see Box 2.4).

Box 2.3. The role of job classifications in evaluating the value of a job

The European Commission identifies two primary methods to evaluate the value of a job: 1) job classifications, in which jobs are “graded taking the whole job description at once” into account, and 2) factor-based or analytical job evaluations, where job descriptions are graded “for every factor found relevant for the value of jobs, such as the skills needed, the amount of responsibility involved, the necessary education level, working conditions that apply, the degree of leadership called for, the accuracy required, and so on. The job can earn points for every factor and in the end the points will be added up and the job will be ranked on a grid on the basis of total points earned” (European Commission, 2017^[4]). The second analytical method is recommended by the ILO for pay equity purposes (ILO, 2008^[5]). This chapter focuses on both job classification systems used in OECD countries for determining the value of a job.

Notably, Article 4 of the Directive 2006/54/EC of the European Parliament and of the Council expresses that “where a job classification system is used for determining pay, it shall be based on the same criteria for both men and women and so drawn up as to exclude any discrimination on grounds of sex.”

There is considerable variation across OECD countries with respect to when mandated job classifications take place, how widespread they are in practice and if they are explicitly considering gender.

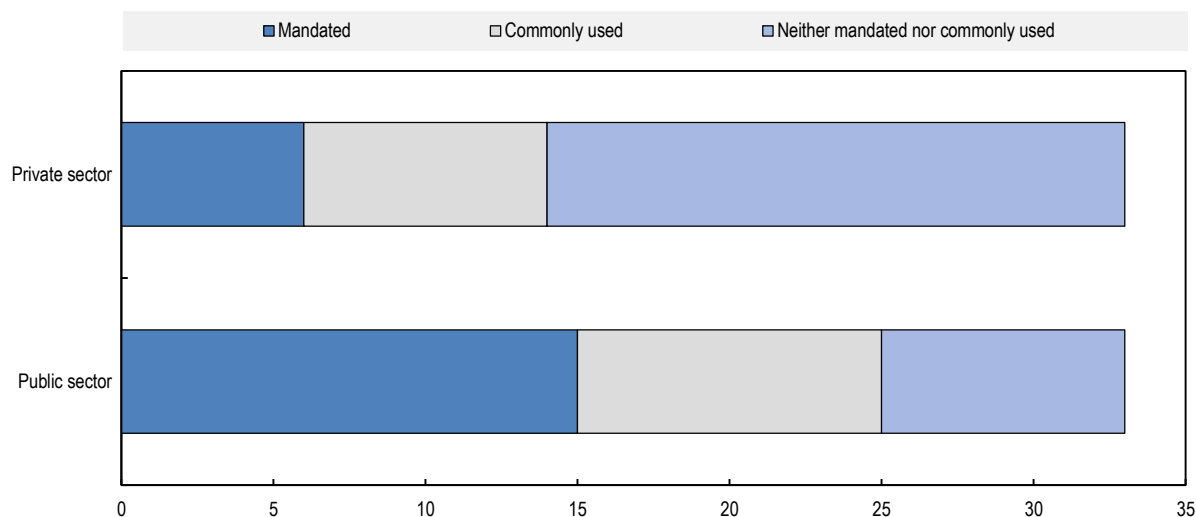
As public sector jobs are often federally regulated and characterised by set salary scales, job classification systems are most commonly found in the public sector (Figure 2.1). Fifteen OECD countries use job-classifications systems in the public sector (Austria, Canada, Costa Rica, the Czech Republic, Finland, France, Hungary, Iceland, Japan, Latvia, Mexico, Poland, Portugal, Spain and the United States) and an additional nine countries (Australia, Colombia, Germany, Israel, Italy Lithuania, the Netherlands, New Zealand and Sweden) report that they are commonly used in certain contexts.

Six countries mandate job classifications in the private sector in certain contexts (Canada, Finland, France, Iceland, Spain and Portugal). While some countries do not have mandatory job classifications requirements in the private sector, job classifications can still be commonly found at the company level or

as part of collective agreements (Figure 2.1). In Poland, for example, while not mandatory, job classifications are most commonly used by large companies.

Figure 2.1. Job classification systems in the public and private sectors

Frequency counts of job classification systems in the public and private sectors, select countries based on responses to the OECD GPTQ 2021



Note: For the public sector, 15 countries (Austria, Canada, Costa Rica, the Czech Republic, Finland, France, Hungary, Iceland, Japan, Latvia, Mexico, Poland, Portugal, Spain and the United States) mandate job classifications, 10 countries (Australia, Colombia, Germany, Israel, Italy, Lithuania, the Netherlands, New Zealand, Switzerland and Sweden) report that job classification systems are commonly used and 8 countries (Belgium, Denmark, Ireland, Luxembourg, Norway, the Slovak Republic, Turkey and the United Kingdom) report that they do not mandate or commonly use job classification systems.

For the private sector, 6 countries (Canada, Finland, France, Iceland, Portugal and Spain) mandate job classifications, 8 countries (Australia, Belgium, Germany, Italy, Lithuania, Luxembourg, the Netherlands, and New Zealand) report that job classification systems are commonly used and 19 (Austria, Colombia, Costa Rica, the Czech Republic, Denmark, Hungary, Ireland, Israel, Japan, Latvia, Mexico, Norway, Poland, the Slovak Republic, Sweden, Switzerland, Turkey, the United Kingdom and the United States) report that they do not mandate or commonly use job classification systems.

Five countries (Chile, Estonia, Greece, Korea and Slovenia) did not respond to this section of the OECD GPTQ.

Source: OECD GPTQ 2021.

2.3. Some OECD countries mandate explicitly gender-neutral job classifications

Ten OECD countries (Belgium, Canada, Finland, France, Germany, Iceland, Portugal, the Slovak Republic, Spain, the United States) report that they have mandated that job-classification systems must be *gender-neutral* if companies use job classification systems or if job classification systems are needed to fulfil equal pay auditing obligations (Chapter 4).

In some countries (Belgium, Germany, Portugal, the Slovak Republic and the United States), if job classifications are used, the law requires that they be gender-neutral – even though job classifications do not need to exist in the first place. Additionally, in countries with equal pay auditing systems (Chapter 4), job classification systems are often used to help to identify pay discrimination. Canada, Finland, France, Iceland, Spain and Portugal all embed job classifications as part of pay auditing processes helping ensure job classifications become more widespread.

Box 2.4. Why does it matter if job classifications are explicitly gender neutral?

Not all job classification systems will have gender-neutral outcomes. There is a risk that job evaluation systems “prioritise the content of male-dominated work and, in doing so, exclude and devalue much of the content of jobs typically performed by women.” (Wagner, 2020^[6]) This is because the process of defining the value, or relative value, of a job may still have gender biases with traditionally ‘male work’ seen to be more valuable than ‘female work’. Those undertaking valuations can themselves bring conscious and/or unconscious bias to the process. As a consequence, job classification systems may not deal with the pay inequity consequences of horizontal segregation. In essence, job classification systems may not actually implement the principle of work of equal value (see Box 2.1) and can sometimes even reinforce or exacerbate the gender pay gap (ibid).

Research has shown that when designed with equal pay considerations in mind, job classification systems are more likely to achieve equal pay for work of equal value goals (Wagner, 2020^[6]). The ILO recommends and provides a step-by-step guide for employers, human resources personnel and social partners on how to administer this with a notable emphasis on the need to analyse the gendered nature of work (ILO, 2008^[5]). Researchers in the European (European Parliamentary Research Service, 2015^[7]) and Australian (Workplace Gender Equality Agency, 2012^[8]) contexts have found that ensuring those evaluating jobs are mixed-sex and have adequate training beforehand helps mitigate against bias creeping into the process. But best practice requires more than applying a gender lens – it requires that job classification systems are checked and verified by a government body for gender biases and that penalties for non-compliance exist and are sufficient to ensure companies fulfil their obligations (Wagner, 2020^[6]).

If job classification systems actually are gender-neutral and do in fact ensure that workers performing work of equal value are paid the same, pay equity claims may no longer need to be litigated. This would mean that workers and their representatives can avoid many of the obstacles associated with initiating such claims (see Box 2.2).

In Finland’s pay survey process, for example, an employer must explain pay differences if a review of groups based on job grade, duties or other grounds in the pay survey reveals clear differences between pay for women and men. If the workplace has established a remuneration system, the central components are inspected in order to clarify the reasons for gender differences. Similarly, in Iceland, the Equal Pay Standard requires companies to build their equal pay system based on a gender-neutral job classification system (see Chapter 4). Iceland’s move from a voluntary Equal Pay Standard around job evaluations to a mandatory system has seen gender-neutral job classifications gradually become more common. Canada’s new pay auditing system (see Chapter 4) requires federally regulated private and public sector employers with ten or more employees to establish a pay equity plan that: identifies positions that are mainly held by women or by men; values those positions using the gender-neutral criteria of skill, effort, responsibility and working conditions; and compares the compensation of male- and female-predominant positions of comparable value to find and measure pay equity gaps.

Belgium, France, Germany, Japan and the United States include mandated job-classification systems in either the private and/or public sector in an effort to help close the gender pay gap.

2.3.1. Private sector measures

Belgium

Under the Equal Pay Act 2012, Belgium seeks to ensure that sectoral job classifications are gender-neutral by measuring classifications against a control instrument established in collaboration with experts. To aid

in this, the Institute for the Equality of Women and Men has developed a checklist that employers can use to verify that their classification systems are indeed gender-neutral.¹⁶ This includes avoiding gender references in job titles or classifying high grading jobs simply as those most likely to be completed by men. The Institute for the Equality of Women and Men recommends the use of a job classification expert and that companies work to ensure the committee establishing the classification system is proportionate and balanced with respect to job and gender.

The Federal Public Service of Employment, Labour and Social Dialogue (SPF ETCS) is in charge of enforceability. If a job classification is not gender neutral, the agreement is included on a “name and shame” list. This list must be forwarded to the Minister of Employment and the Institute for Equality of Women and Men and is then published online. Belgium reports that since the introduction of these measures, most sectoral agreements include gender neutral classifications with only a few remaining on the list.

France

In France, organisations bound by collective agreements meet at least once every five years to consider revising job classifications. As part of this revision, they need to account for gender equality in their workplace. France reports that social partners must analyse and evaluate current job classification criteria in order to identify any gendered aspects and, subsequently, work to correct these. This is an effort to ensure that the skills of employees are taken into account in determining pay, not their gender.

Germany

In Germany, when job classifications exist, they must be designed in a way to exclude any discrimination based upon gender. To do so, the remuneration systems must include the following four considerations: objectively consider the work activity; use common criteria for female and male employees; use individual characteristics in a discrimination-free manner; and be transparent.

However, gender-neutral job classifications are not mandatory in collective agreements. This is because, under the German Constitution, the principle of free collective bargaining ensures that social partners have considerable freedom to implement processes. This situation is similar in many other countries. Nevertheless, in practice most collective agreements in Germany around salary tend to ensure salary is determined by the position of the employee, not the employee’s gender. To achieve this, the tasks and skills associated with the position are considered.

Further, as part of mandatory auditing schemes (see Chapter 4), private employers with more than 500 employees are called upon by the German Government to assess their remuneration provisions and applications, on a regular basis, to ensure they are compliant with the principle of equal pay for women and men (although pay statistics are not mandated to be reported).

2.3.2. Public sector measures

Japan

Employees in the Japanese public sector, at both the local and national level, are paid through a gender-neutral remuneration scheme. Under Article 62 of the National Public Service Act and Article 24 of the Local Public Service Act, remuneration for a given job within the public sector is determined on the basis of the duties and responsibilities associated with that job, regardless of gender. The national government utilises common salary schedules¹⁷ for national public employees. Local governments utilise common salary schedules¹⁸ in each local government for local public employees. As in most OECD countries, pay discrimination by gender in the public sector is explicitly prohibited.¹⁹

United States

In the United States, Title VII of the Civil Rights Act prohibits job classification or differential treatment in the terms, conditions, or privileges of employment based on sex. Employers are not required to use job evaluation or classification systems, but to the extent that they do so, such systems cannot be based on sex.

In the public sector, the federal government is required²⁰ to follow a statutory plan for classification of positions to determine the rate of pay an employee will receive in accordance with the principle of equal pay for substantially equal work. Information about the federal government's position classification and qualifications system²¹ and salary scales²² are publically available.

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Annex 2.A. Policy table: Defining the concept of equal pay across countries

Annex Table 2.A.1. Summary policy table: Equal Pay Obligations

Summary of national legislation supporting obligations of equal pay for equal work or work of equal value, 2021

Country	Measure and date created	Description	Objective standard	Developments
Austria	Equal Treatment Act, 1979	Covers discrimination based on grounds of sex, amongst others, at work and includes equal pay for equal work. Right to equal pay for equal work or work of equal value developed through national case law.	Yes	The Ombud for Equal Treatment published a legal opinion on the definition of "work of equal value" in 2019. Equal Treatment Act has been amended several times.
Australia	Fair Work Act 2009	Provides the Fair Work Commission with the power to vary modern awards if necessary to achieve the modern awards objective on a number of grounds, including if the variation of modern award minimum wages is justified by work value reasons. The Fair Work Act allows the Fair Work Commission to make Equal Remuneration Orders to ensure that there will be equal remuneration for men and women workers for work of equal or comparable value.	Yes	There is a work value application currently before the Fair Work Commission for some early childhood teachers.
Canada	Equal Wages Guidelines 1986 and Pay Equity Act 2021	<p>The Equal Wage Guidelines require employers to assess the skill, effort, responsibility and working conditions of their workforce to determine if they are protecting their employees' rights to pay equity. The Guidelines are often referred to in case law.</p> <p>The Pay Equity Act applies to public and private federally regulated employers with 10 employees or more, including parliamentary institutions, Minister's offices and the Prime Minister's office. The Act requires employers to proactively examine their compensation practices to determine whether there is a difference in compensation between positions that are mostly held by women and those mostly held by men that do work of equal value according to a gender-neutral assessment of the skill, effort, responsibility and working conditions of those positions. If differences in compensation exist, employers are required to increase the compensation of affected employees and, then, maintain pay equity. The Pay Equity Commissioner, supported by the Pay Equity Unit within the Canadian Human Rights Commission is responsible for the administration and enforcement of the Act and its supporting regulations.</p>	Yes	Equal Pay Act came into force in August 2021.
Chile	Labour Code	An employer must comply with the principle of equal remuneration for men and women who perform the same job, objective differences in remuneration based, among other reasons, not being considered arbitrary, capabilities, qualifications, suitability, responsibility or productivity.	Yes	No response
Costa Rica	Law on the Promotion of Social Equality for Women; Labour Code Law N. 2, Article 167.	Law states women shall have the right to equal pay with men for work of equal value under the same employer, whether it is the same position or different positions of equal value, or in similar or reasonably equivalent functions. Differences in remuneration based on objective criteria duly demonstrated and justified ... will	Yes	Bill No. 22 522 amending Article 167 of Act No. 2, Labour Code of 1943 to incorporate equal pay in work of equal value.

Country	Measure and date created	Description	Objective standard	Developments
		not be considered arbitrary.		
Czech Republic	Labour Code 262/2006	As defined in Section 110, "for equal work or work of equal value, all employees should be valued equally. The equal work or work of equal value is understood as same or similar difficulty, responsibility and complexity, which is carried off in the same or similar working conditions, same or similar effectivity and working outcomes."	Yes	Supreme Court Judgement published in 2020 (21 Co 3955/2018-228) elaborated on same or comparable working conditions for same or comparable work.
Denmark	Equal Pay Act	As defined, "assessment of the value of work must be made on the basis of an overall assessment of relevant qualifications and other relevant factors."	Yes	No response
France	Article L3221-4, Labour Code	Provides how to assess equal value and defined as "the work which requires of the employees a comparable set of professional knowledge established by a title, a diploma or a professional practice, capacities resulting from acquired experience, responsibilities and physical or mental stress."	Yes	No response
Germany	Transparency in Wage Structures Act	The Act creates a clear legal basis for the principle of equal pay and also states definitions "work of equal value".	Yes	No
Hungary	Section 12 of the Act I, 2012	It states that "the equal value of work" for purposes of the principle of equal treatment shall be determined based on the nature of the work performed, its quality and quantity, working conditions, the required vocational training, physical or intellectual efforts expended, experience, responsibilities and labour market conditions".	Yes	No
Iceland	Equal Pay Standard, 2018	It is mandatory to implement the Equal Pay Standard within all companies and public institutions with 25+ employees.	Yes	No
Ireland	Section 7 of the Employment Equality Act	Defines the criteria whereby 'like work' is assessed for the purpose of equal pay.	Yes	No
Israel	Equal Pay Law	Defines work considered equivalent as, "if they are equivalent, inter alia in terms of the skills, effort and responsibility required to perform them and the environmental conditions in which they are performed are similar."	Yes	Courts ignore external factors like wage negotiations, and only the quality of work, employee's skills and seniority are considered.
Italy	Article 28 of legislative decree n. 198/2006, Article 37 of the Italian Constitution	This prohibits wage discriminations related to the same job, as well as to job of equal value. The principle of non-discrimination is also defined in the Italian Constitution, which states: "the female worker has the same rights and, for equal work, the same pay as the male worker".	No	No
Korea	Equal Employment Opportunity and Work-Family Balance Assistance Act	Standards for equal-value work shall be skills, labour, responsibility, working conditions, etc. required for the performance of duties, and employers shall, in setting such standards, hear opinions of the member representing the employees at the labour-management council.	Yes	No
Lithuania	Article 140 (5) of the Labour Code	Same job means performing work activity that, according to objective criteria, is the same or similar to other work activity to the extent that both workers can be exchanged at no added cost to the employer. Equivalent work means that it is no less skilled and no less important to the employer in achieving its operational goals than other comparable work.	Yes	No
Mexico	Federal Labour Law	Equal work, performed in the same position, working day and efficiency conditions, must correspond to the	Yes	No

Country	Measure and date created	Description	Objective standard	Developments
		same salary.		
The Netherlands	Article 7:646 of the Civil Code, Law on equal treatment of men and women (Article 7-12), 1980	There are multiple (collective) possibilities for the enforcement of equal pay for men and women. For example, the works council ('ondernemingsraad') of an organisation has the legal task to promote the equal treatment of men and women (Article 28 WOR). Enforcement of equal pay is possible through (collective or individual) legal proceedings through the civil courts. Employees or the Works Council can also ask the Netherlands Institute for Human Rights ('College voor de Rechten van de Mens') for an opinion if they believe that there is unequal pay. It is up to the employee to put forward facts that may suggest a distinction, after which it is up to the employer to prove that there is no unequal pay.	Yes	A recent evaluation by the Netherlands Institute for Human Rights ('College voor de Rechten van de Mens') and discussions in Parliament (2018 Kamerstuk 34338, nr. 3 Overheid.nl > Officiële bekendmakingen ²³ .
New Zealand	Equal Pay Act	Requires pay equity claims that are considered to be arguable to undertake a work assessment based on specified factors, including skills, responsibilities, work conditions and effort, to determine whether there has been sex-based undervaluation.	Yes	No response
Norway	Equality and Anti-Discrimination Act	Whether the work is of equal value is determined by means of an overall assessment in which emphasis is given to the expertise that is required to perform the work and other relevant factors, such as effort, responsibility and working conditions.	Yes	No response
Poland	Articles 18 ^{3c} § 1 and 18 ^{3c} § 3 of the Polish Labour Code	Work of equal value means work that requires from employees not only comparable professional qualifications, certified by documents provided for in separate provisions or by practice and professional experience, but also comparable responsibility and effort.	Yes	No
Portugal	Articles 23 and 270 of Labour Code	Work of equal value is one in which the functions performed at the service of the same employer are equivalent, considering, in particular, the qualification or experience required, the responsibilities attributed, the physical and psychological effort and the conditions under which the work is performed.	Yes	No
Slovak Republic	Section 119a Labour Code, n. 311/2001 Coll.	Looks at work performed in the same or comparable working conditions and at producing the same or comparable capacity and results of work in employment relationship for the same employer.	Yes	No response
Spain	Article 4 of Royal Decree 902/2020	Establishes the obligation to respect the principle of equal pay for works of equal value, and the criteria to determine when works are of equal value	Yes	No, law is new.
Sweden	Discrimination Act	Equal value is regarded as of equal value to other work if it can be deemed so based on an overall assessment of the work, such as knowledge and skills, responsibility and effort. In assessing the nature of the work, particular account is to be taken of working conditions.	Yes	No
Turkey	Labour Act, 5 Article 2003	As defined in the Act, "No discrimination based on language, race, sex, political opinion, philosophical belief, religion and sex or similar reasons is permissible in the employment relationship. Except for biological reasons or reasons related to the nature of the job, the employer must not make any discrimination, either directly or indirectly, against an employee in the conclusion, conditions, execution and termination of his (her) employment contract due to the employee's sex or maternity. Differential remuneration for similar jobs or for work of equal	Yes	The "National Monitoring and Co-ordination Board for Women's Employment" was established in accordance with the Prime Ministry Circular No. 2010/14 to identify existing problems regarding the employment of women and to monitor, evaluate and ensure co-ordination and co-operation of all relevant parties in order to

Country	Measure and date created	Description	Objective standard	Developments
		value is not permissible. Application of special protective provisions due to the employee's sex shall not justify paying him (her) a lower wage."		solve these problems.
United Kingdom	Equality Act, 2010	Equal pay provisions outlined in the law, with subsequent employment tribunal cases adding to this understanding.	Yes	Recent cases of public sector employers and supermarkets have centred on which roles can be considered as comparators for the purposes of 'work of equal value' cases.
United States of America	Equal Pay Act (EPA), at 29 U.S.C. 206(d)(1)	Equal work assessed as jobs in which "the performances require equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex"	Yes	The Ninth Circuit court recently held that salary history is not a factor other than sex that may be used to justify pay differentials. The Supreme Court declined to review the employer's appeal of this decision.

Note: Twenty-seven OECD countries (Australia, Canada, Chile, Costa Rica, the Czech Republic, Denmark, France, Germany, Hungary, Iceland, Ireland, Israel, Italy, Korea, Lithuania, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Spain, Sweden, the United Kingdom and the United States) clarify the concept of equal pay for equal work (and/or equal value) in national law. Most other countries support this principle through case law. Three countries (Slovenia, Luxembourg and Estonia) did not respond to this section of the OECD GPTQ 2021. Other sources report that Estonia, Luxembourg and Slovenia do not have a legally defined objective criteria for assessing work of equal value ((European Commission, 2017^[4]; The World Bank, 2020^[9]).

Source: OECD GPTQ 2021.

Annex 2.B. Policy table: The use of job classification schemes to promote equal pay

Annex Table 2.B.1. Policy table: Job classification systems

Summary of mandatory and related job classification schemes in OECD countries, 2021

Country	Measure	Sector	Explicitly gender neutral	Description	Developments
Austria	Section 137 (respectively in Section 143 or 147) of the Federal Civil Servants Act 1979 (BDG 1979).	Public	No	Federal Civil Service uses an analytic job evaluation system that determines that the job evaluation must take into account the knowledge requirements associated with the job, the mental capacity required to implement the knowledge and the responsibility.	No
Belgium	Gender Pay Gap Act, 2012	Private	Yes	In order to ensure that sectoral classifications are gender neutral, this law establishes a control of the classifications of sectoral functions. This control is carried out on the basis of a control instrument established by experts in collaboration with the service which carries out this control.	At sectoral level if job classification is not gender neutral, they are included on a "name and shame" list. This list is forwarded to the Minister of Employment and the Institute for Equality of Women and Men and published online.
Canada	Pay Equity Act 2021	Public and private federally regulated employers with 10 employees or more	Yes	Employers establish a pay equity plan that: (i) identifies jobs that are mainly held by women or by men; (ii) values those jobs using the gender-neutral criteria of skill, effort, responsibility and working conditions; and (iii) compares the compensation of male- and female-dominated jobs of comparable value to find and measure pay equity gaps.	This is a new law.
Costa Rica	Wages fixed by executive decree	Public	No	The fixing of some wages in the public sector is established by executive decree.	Currently moving towards defining wages through the Public Employment Act, which will enable unification of base salaries in government to target the principle of equal pay for equal work.
Czech Republic	Wages fixed by government regulations	Public	No	Pay levels are defined by government regulations, based on various criteria, such as level of education, practice and	No

Country	Measure	Sector	Explicitly gender neutral	Description	Developments
				competences. There is also catalogue of jobs/positions in public sector that includes the recommended pay levels.	
Finland	Equality Act, 2014	Private and public sector employers with 30 employees or more	Yes	Part of pay auditing obligations.	No
France	Article L. 2241-15 of the Labour Code, Regulation of Remuneration by the General Statute of the Public Service.	1. Private and 2. public	Yes	1. Organisations bound by agreements, meet at least once every five years to consider revising classifications and part of this is to account for gender equality. 2. Remuneration linked to grade classification. Also can be used in pay auditing obligations.	Equality Index
Germany	Transparency in Wage Structures Act	Private	Yes	Remuneration system if they exist must be designed in a way to exclude any discrimination on gender.	No
Hungary	Act CXXVI/2018 on Governmental Administration, Act CXCVI/2011 on Public Servants	Public	No	Statutory classification and pay scale systems are operated in all areas of the budgetary sector. They do not differentiate between men and women. The remuneration system of officials in the Hungarian public administration is based on the duties and responsibilities of their positions regardless of gender.	No
Iceland	Equal Pay Standard	Private and public, 25 or more employees	Yes	Part of pay auditing obligations. Requires companies to build their equal pay system to be based on gender neutral job evaluation system.	This is a development.
Japan	Article 62 of National Public Service Act and Article 24 of Local Public Service Act	Public	Yes	The remuneration of Japanese public sector employees is paid on the basis of the duties and responsibilities of their positions regardless of gender.	
Latvia	Remuneration of Officials and Employees of State and Local Government Authorities 2010	Public	No	Pay is set by levels.	
Mexico	Standard for the Description, Profile and Valuation of Posts, 2005	Public	No	The process of creating job descriptions is outlined. The process of valuing positions is also defined and includes assigning positions a value in points in order to classify them into groups and grade classifications.	No
Poland	Art. 84.1, Civil Service Act of 21 November 2008 (Journal of Laws No. 227, item 1 505)	Public	No	Positions in the polish civil service are subject to description and evaluation.	No

Country	Measure	Sector	Explicitly gender neutral	Description	Developments
Portugal	Law no. 60/2018	Private and public	Yes	Part of pay auditing obligations. In the private sector, companies must ensure the existence of a transparent remuneration policy, founded on the assessment of the components of functions, based on objective criteria, common to men and women. In the public sector, there is a remuneration table exists for general career with three different categories according to skills, responsibilities and functional content of performed jobs.	No
Slovak Republic	N. 311/2001 Coll., section 119a Labour Code	Private	Yes	If a job-evaluation system is used, it must be used without sex discrimination using an objective standard.	No response
Spain	N/A	Employers with 50 employees or more, those compelled by a collective agreement or a decision of the labour authority.	Yes	Part of pay auditing obligations.	Yes, Royal Decree-law 6/2019, of 1 March, and Royal Decree 902/2020, of 13 October.
United States	1. Title VII of the Civil Rights Act of 1964 (private sector) and 2. 5 U.S.C. 5 101 et seq (public sector)	1. Private and public and 2. public	Yes	1. Title VII Prohibits job classification or differential treatment in the terms, conditions, or privileges of employment based on sex. Employers are not required to use classification systems, but to the extent that they do so, such systems cannot be based on sex. 2. Federal government is required to follow a statutory plan for classification of positions to determine the rate of pay an employee will receive in accordance with the principle of equal pay for substantially equal work.	No

Notes: For the public sector, 15 countries (Austria, Canada, Costa Rica, the Czech Republic, Finland, France, Hungary, Iceland, Japan, Latvia, Mexico, Poland, Portugal, Spain and the United States) mandate job classifications, 10 countries (Australia, Colombia, Germany, Israel, Italy, Lithuania, the Netherlands, New Zealand, Switzerland and Sweden) report that job classification systems are commonly used and 8 countries (Belgium, Denmark, Ireland, Luxembourg, Norway, the Slovak Republic, Turkey and the United Kingdom) report that they do not mandate or commonly use job classification systems. For the private sector, 6 countries (Canada, Finland, France, Iceland, Portugal and Spain) mandate job classifications; 8 countries (Australia, Belgium, Germany, Italy, Lithuania, Luxembourg, the Netherlands, and New Zealand) report that job classification systems are commonly-used; and 19 (Austria, Colombia, Costa Rica, the Czech Republic, Denmark, Hungary, Ireland, Israel, Japan, Latvia, Mexico, Norway, Poland, the Slovak Republic, Sweden, Switzerland, Turkey, the United Kingdom and the United States) report that they do not mandate or commonly use job classification systems.

Five countries (Chile, Estonia, Greece, Korea and Slovenia) did not respond to this section of the OECD GPTQ.

Source: OECD GPTQ 2021.

Notes

¹Estonia, Luxembourg and Slovenia did not respond to this section of the OECD GPTQ 2021. Other sources report that Estonia, Luxembourg and Slovenia do not have a legally defined objective criteria for assessing work of equal value (European Commission, 2017^[4]) (The World Bank, 2020^[9]).

² In the United States this is referred to as work of “comparable worth.”

³ Relevant cases include 1758/11 Orit Goren et al. V. Home Center (Do It Yourself) Ltd. et al., 7582-05-17 State of Israel v. Ety Alshivili (14.8.19), 36943-08-16 Ety Assulin v. National Health Services and No. 969-08-15 S.Z. v. L.A. Ltd.

⁴ Details on New Zealand’s 2020 Equal Pay Amendment Act are available at: <https://www.mbie.govt.nz/business-and-employment/employment-and-skills/employment-legislation-reviews/equal-pay-amendment-act/>.

⁵ These are incorporated within the Equal Pay Amendment Act: <https://www.mbie.govt.nz/business-and-employment/employment-and-skills/employment-legislation-reviews/equal-pay-amendment-act/>.

⁶ More details available at: <https://www.employment.govt.nz/assets/Uploads/tools-and-resources/publications/pay-equity-employees-employers.pdf>.

⁷ See page 9 at <https://www.employment.govt.nz/assets/Uploads/tools-and-resources/publications/pay-equity-employees-employers.pdf>.

⁸ This does not include the right to claim equal pay for work of equal value, as job duties are required to be “substantially equal.”

⁹ More information available at <https://www.dol.gov/agencies/wb/equal-pay-protections>.

¹⁰ More information available at at <https://www.dol.gov/agencies/wb/equal-pay-protections>.

¹¹ See, for example, California Labour Code § 1197.5(b)(4).

¹² An interactive map of state-level equal pay protections is available at <https://www.dol.gov/agencies/wb/equal-pay-protections>.

¹³ Rizo v. Yovino, 950 F.3d 1 217 (9th Cir. 2020), cert. denied, 141 S. Ct. 189 (U.S. 2 July 2020).

¹⁴ Available at: <https://www.wgea.gov.au/sites/default/files/documents/Guide%20to%20Australian%20Standards%20on%20gender-inclusive%20job%20evaluation%20and%20grading.pdf>.

¹⁵ Available at https://www.equalityhumanrights.com/sites/default/files/gd.13.101-1_gender_neutral_jes-ig_18-03-14_final.pdf.

¹⁶ Available at: http://genderpaygap.eu/documents/Belgium_Checklist_ENG.pdf.

¹⁷ This is defined by the Law on Remuneration for National Public Employees in Regular Service and Rules of the National Personnel Authority.

¹⁸ This is defined by the Local Public Service Act, and prefectural ordinance and municipal ordinance.

¹⁹ This is defined in Article 27 of the National Public Service Act and Article 13 of the Local Public Service Act.

²⁰ See 5 U.S.C. 5 101 et seq.

²¹ Available at: <https://www.opm.gov/policy-data-oversight/classification-qualifications/>.

²² Available at: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>.

²³ Available at <https://zoek.officielebekendmakingen.nl/kst-34338-3.html#ID-854360-d36e89>.



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