



# The EU Mutual Learning Programme in Gender Equality

## Tackling the gender pay gap

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### Comments Paper - France



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# Gender pay gap in France: from laws to practices

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## 1. The Roots of the Gender Pay Gap

### 1.1. General overview

#### 1.1.1. Measuring the gender wage gap

As in many EU countries, the gender pay gap in France, and more broadly gender inequalities in the workplace, has deep roots and is the result of multidimensional factors that are intertwined. Sexual division of labour within families and in the labour market are both key features of our societies. In 2013, the gender pay gap in full time equivalent employment for both private and public sectors was 19.9 % to the detriment of women, or 23.5 % in favour of men. There has been little change since 2000 (20 % and 19 % in 2010). As far as the annual wage in full time equivalent employment is concerned the gap is larger due to working time during the year: 22.9 % in 2013. But it has decreased significantly and regularly since the middle of the 1990 coming from 27 % in 1995 to 24 % in 2010 ([Insee](#)).

As one moves up the wage ladder, the gender pay gap increases in relation with the glass ceiling phenomena and the differences in career dynamic and promotion between men and women. The maximal wage of the 10 % lowest female wage is 8 % lower than the male one, whereas the wage of the 10 % highest female wage is 22 % lower than the male one. The role of statutory minimum wage systems in protecting workers and limiting the gender pay gap at the bottom of the wage distribution has to be mentioned.

**Few progresses were achieved during the last two decades with regard to a noticeable narrowing of the gender pay gap.**

#### 1.1.2. A multidimensional phenomenon

We identify five factors that explain the gender pay gap and its persistence. **Those factors are intertwined, and have to be solved at the same time to reduce the gender pay gap.** This non exhaustive list gives the major dimensions that have to be considered as far as tackling the gender wage gap is concerned. The French situation is described; some of the measures, laws or reforms implemented to address each of them are briefly outlined. In the private sector, female workers earn on average 18 % less than male workers in full time equivalent, this is partly due to the occupational segregation: more than 18 % of male positions are manager or CEO, whereas it is less than 13 % for women. And more than 30 % of positions held by men are unskilled workers or employees whereas it is the case for 63 % of women ([Insee](#)).

The wage gap between sectors has also to be taken into account: in sectors like research and development, finance and insurance, pharmaceutical industry, wages are higher (hourly gross wage between 25 and 35 EUR) than in sectors like public

administration, social issues, health, education, accommodation and food (between 13.5 and 15.6 EUR). Women are overrepresented in the latter sectors. Part of these differences is related to the fact that the workforce is more skilled in the first type of sectors than in the second one, and the gender bias in the classification of jobs has to be considered.

## 1.2. Factors of inequalities and French policies

### 1.2.1. Family pay gap: the reform of the French parental leave

The family pay gap measures the gender pay between parents and non-parents. The sexual division of labour within a couple limits the possibility to reduce the gender wage gap through 2 mechanisms:

- The fact that women are more involved in raising children prevents them from having the same career pattern as men (they are more likely to work part time, to interrupt their career, to refuse promotion, etc.).
- Difficulties women are facing to reconcile work and family life induce a discrimination process for all women, even those who do not reduce their involvement in their career: The statistical discrimination can be assimilated to a “reputational effect”: it implies that on average women are viewed by employers as being a less reliable workforce than men. ([Meurs, Ponthieux and Paihlé, 2010](#))

Childcare systems but also parental/maternity/paternity leaves are the key policies to rebalance the risk of parenthood between men and women and to limit the motherhood pay gap. The childcare system has been reinforced and the government has promoted the enrolment of under 3 years at the preliminary school. **But the reform of the parental leave in 2015 is expected to have counterproductive impact on gender equality as the lump sum payment (one third of the minimum wage) is not attractive for fathers, and the sharing rule between parents will not be effective.** The impact of the parental leave on the career of women is deeper for women in a precarious position, e.g. who hold a temporary job (CDD).

### 1.2.2. Working time and part time

In 2014, the [female part time rate was 30.8 %](#) (7.8 % for men). Working time explains almost half of the 28 % of unadjusted wage gap between women and men. Even when working at full time, women work less extra hours than men. Tackling the gender wage gap requires reducing this gap in working time. **The increasing flexibility of the labour market is not gender neutral, and should be analysed more deeply.**

### 1.2.3. Vertical, horizontal and sectorial segregations

Women are under-represented in the highest positions; this glass ceiling impacts their wage and increases the gap with men. In 2009, the law n°2011-103 has imposed a quota of 40 % of women on boards of listed firms to be reached before 2017. Despite the fact that this law has improved the representation of women in these boards, **the impact on wage is expected to be small.**

### 1.2.4. Tackling discrimination

Discrimination is prohibited by the law. The equality of treatment between men and women imposes that employers respect several principles:

- interdiction to discriminate during the recruitment process (job advertisement have to be gender neutral except for specific situations).
- no distinction must be made in terms of wage and career patterns.

Despite a large set of laws, the application of this principle is still complicated. The “[Défenseur des droits](#)” is the body that supports citizens who experienced discrimination. **The cases of discrimination on the basis of sex are rare: only 6 % of the cases handled by this body.** This might reflect the difficulties faced by women to sue their employer on the basis of discriminatory process, and assert their rights.

## 2. Gender equality in the workplace

### 2.1. French context and tools

#### 2.1.1. *Le Rapport de situation comparée and beyond*

The principle of equal pay for jobs of equal value is part of the French law since 1972 (in the labour code). The lack of effectiveness of this rule has led to increase progressively the obligations and the control of firms. The Law “Roudy” of 1983 has implemented the obligation for firms with more than 300 employees to produce a comparative analysis report (RSC) and a reduced one for firms with between 50 and 299 employees. This report has been enlarged by the following laws dealing with gender equality in the workplace (specially the law N°2006-340 23 mars 2006). The RSC has to include indicators that are listed by decree depending on the size of the firms (under or above 300 employees). Firms have the obligation to negotiate a gender action plan on the basis of the report RSC. « La loi du 4 août 2014 »: The issue of “gender equality in the workplace” has been enriched by the following topics: career patterns and diversity in employment. Requirements for firms with more than 50 employees:

- Elaborate a diagnosis to explain the gap between the positions of women and men in the firm;
- Design an action plan to improvement the situation on the basis of this diagnosis;
- Negotiate an agreement on gender equality in the workplace ([see the agreements signed by different firms](#));
- Up-date the diagnosis every year (same as the gender action plan), in the general framework of the mandatory annual negotiation;
- Renegotiate every three years;
- Representation of women in trade unions.

### 2.1.2. Sanction and application of the law

- The [law contains criminal sanction and civil penalty](#) in case of non-respect of the obligation in term of gender equality requirements.
- Firms with more than 50 employees are subject to penalties to be borne by the employers if they have not provided an agreement or an action plan in terms of gender equality. The financial penalty represents 1 % of the payroll for each month of delay.
  - The reinforcement of controls and sanctions of the obligation to produce an agreement or a gender action plan has increased the credibility of the law: 2014 (introduction of the sanctions) to 2016, 106 firms have been sanctioned, 2,205 firms have received a formal notice. Finally, 13,192 firms have registered an agreement. In 2016, the coverage rate is 83 % of firms with more than 1,000 employees and 65 % of those with between 300 and 1,000 employees and 33 % for firms with between 50 and 299 employees (source: DGT).
  - To assess the effective impact on the gender pay gap, one should look into the component of each agreement in more detail ([Laufer and Silvera, 2006](#)).
- Eligibility to public tenders: firms have to respect the requirements of the law in terms of gender equality, to be eligible to public tenders for all contracts from the 1<sup>st</sup> of December 2014.
  - Firms with less than 50 employees are not subject to this obligation, they have to take into account the objectives in terms of gender equality in the workplace and adopt specific measures to achieve it. **The over representation of female workers in firms with less than 50 employees limits the impact of the law and of the different schemes to achieve gender equality, gender equal pay in particular.**

### 2.1.3. Information and toolkit

- To support and inform firms, trade unions and employees regarding gender equality, a toolkit is available: [www.ega-pro.fr](http://www.ega-pro.fr).
- Other non-profit organisations (ORSE, ARACT) produce documents and toolkit to support firms in this task.

**It is difficult to know to what extend these tools are used and support major stakeholders to promote gender equality.**

### 2.1.4. Gender pay gap and job classification

Despite the reinforcement of the principle “equal pay for jobs of equal value”, nothing concrete has been done to produce collective improvement in terms of wage grids and jobs valuation. Job classifications are not gender neutral and rely on social representation of painfulness of work and responsibility associated to each job. The code du travail (art. L.3221-4) exposes the criteria that should be used to compare jobs: Skills; Abilities acquired through experiences; Responsibilities; Painfulness (physical and mental burden).

The law imposes on social partners to re-examine the classifications in the perspective of gender equality in the workplace:

- National Inter-branch Agreement (ANI, 2004) on diversity and gender equality in the workplace;
- ANI on quality of work 2013;
- The “Loi du 4 août” reinforces this requirement.

The “Défenseur des droits” has produced a guide to support the process of re-evaluation grids and classification of job ([Becker, Lemière and Silvera, 2013](#)).

**It is not clear to what extent this legal obligation is applied by firms; no sanctions are targeted towards this requirement. Locally, some firms and some social partners are involved in this task. An evaluation to measure the efficacy of the law to this respect would be necessary.**

## **2.2. Public policies, laws and gender mainstreaming**

### **2.2.1. La loi du 17 août 2015**

This law aims at rationalising the negotiation process and to simplify the procedure for firms. The goal was to improve the quality of the social dialogue:

- Negotiations on gender equality in the workplace have been integrated in a broader frame of social bargaining with the topic of quality of working condition « *l'égalité professionnelle entre les femmes et les hommes et la qualité de vie au travail* ». The obligation is to negotiate in terms of gender equality and quality of work life.
  - **Firms can negotiate on both, or just one of the two topics. This might weaken the dynamic towards gender equality, as some firms can choose working conditions over gender equality.**
- The « *rapport de situation comparé* » has been integrated as a part of the annual consultation process on social policies of firms, no specific report is produced but there is an obligation to provide the mandatory indicators in terms of the gender gap.
- The « *comité d'entreprise* », the employee representative committee, which is in charge the bargaining process, may have the assistance of technical expert to prepare the negotiation.
- Small Firms (under 50 employees) received special support by the state to provide the report assistance.

### **2.2.2. Debate on the “Loi travail” (loi du 8 août 2016)**

The debate on the vote of the “Loi travail” has enlightened the increase in flexibility of the labour market, and the legal requirements in terms of gender equality. Several

points might reduce the scope and the efficacy of the legal framework to promote gender equality and more precisely equal pay:

- Flexibilisation of working time and the payment of extra hours
- Modulating working time
- The hierarchical order of the negotiations has been reverse (the rules negotiated at the firm level will be applied even if they are less favourable for employees than the rules negotiated at the sector level). This new principle does not apply to gender equality negotiations ([art. L 2232](#)).

**The impact in terms of gender equal pay will depend on the presence of trade unions at the firm level and their involvement in narrowing the gender pay gap. Impact studies aiming at measuring the gender effects of each new law are supposed to be produced; this tool has been promoted by the French Ministry of Women's rights. The *Loi travail* has not been analysed in a gender perspective; it is then difficult to estimate the consequences of the law on future negotiations and results on gender equality in the workplace. Nevertheless the impact should be moderated.**

### 3. Transferability aspects from Belgium to France

The two good practices proposed by Belgium have been already implemented in France, with different degrees and levels.

- **“The neutrality of job classifications”**: France possesses the legal framework but still needs to implement the obligation of rebuilding the jobs classifications. The two-steps process proposed by Belgium can be an option to engage a dynamic in this respect.
  - Rebuilding classification of jobs and wage grids is a structural tool to narrow the gender wage gap and create incentive to attract men to female sectors, thus increasing diversity and finally to limit the sex segregation.
- **“Report on pay structure and Gender breakdown of social balance sheet data”**: since 1983, France has implemented the obligation for firms to produce such data to enrich the social dialogue on gender equality. The tremendous increase of agreements should be mitigated, as it is not clear to what extent the gender pay gap is a key feature of these collective agreements.

## 4. Recommendations to promote gender equal pay

- Sanctions, credibility of the rules and the efficacy of laws:
  - **Hard laws** have to stay the major tool for tackling the gender pay gap. The trend to develop soft law (labelling process, good practices communication...) might help to narrow the gap.
  - **Sanctions** in the case of failure to comply with legal obligations have to be strong enough to discourage resistances. This implies to strengthen the control and the level of the sanction: blacklisted process is not expected to be sufficient. In France, the implementation of sanctions (financial penalties or ineligibility to public tenders) in 2014 has been followed by the increase in the registration of agreements on gender equality.
- **Special attention has to be paid to small firms** for which it is more difficult and costlier to narrow the gender wage gap. Big firms and public sector should innovate to promote gender equality in the workplace
- **Gender mainstreaming** has to be applied along with specific measures to tackle the gender pay gap. General laws and regulation of the labour market can neutralise or weaken the obligations or the efficacy of the legal requirements in terms of gender equality.
- **Increase the payment of extra hours for part-time jobs could be a lever to narrow the gender pay gap.**