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DG Employment, Social Affairs and Inclusion

Peer Country Comments Paper – Portugal

Beyond a progressive normative framework: challenges to increase pay transparency and tackle the gender pay gap

Peer Review on “Reducing the gender pay gap through pay transparency - legislative measures and digital tools targeted at employers”

Online, 15-16 April 2021

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1 Introduction

This paper has been prepared for the Peer Review on "Reducing the gender pay gap through pay transparency: legislative measures and digital tools targeted at employers" within the framework of the Mutual Learning Programme. It provides an overview and assessment of the policy situation in Portugal relative to that in the host country (Estonia). Considering that the legislative and policy developments seem to be more consolidated than in the Host Country, a systematic comparative analysis relative to the situation in Estonia has not been undertaken.

The paper starts (Section 2) by providing an overview of the main employment patterns and of the gender pay gap in the country and presents the main factors underlying the gender pay gap. Section 3 describes and analyses the legislative and non-legislative instruments and measures intended to support equal pay for equal work or work of equal value. Considerations for future policies and initiatives are outlined in Section 4. Finally, some questions to the host country are presented.

2 Situation in the peer country

As far as women's participation in employment is concerned, Portugal has been described as a singular case in the context of the European Union (EU), combining relatively high female employment rates, a pattern of full-time work and continuous employment trajectories (e.g. Addabbo *et al.*, 2015; Casaca & Perista, 2017). Female employment rates have been above the EU average and closer to the Nordic countries than the Southern European Member States. In 2019, the female employment rate (15-64 years) was 67.6%, only 6 percentage points below the male employment rate (73.6%), with data showing a converging trend in the gender employment gap over the years.

Full-time employment is the predominant working time regime for both women and men. Only 10.9% of women and 5.4% of men work on a part-time basis (as employees). Moreover, contrary to the main pattern in many EU countries, Portuguese women tend not to interrupt their employment trajectories after childbirth. In 2019, the employment rate (20-49 years) of women with children aged under 6 was higher (82.7%) than that of women without children (81.6%), and the third highest among all the EU Member States (after Sweden and Slovenia). Moreover, when compared with the employment rates of men with children aged under 6 (94.6%), the gender gap in Portugal is the lowest within the EU (-11.9 p.p.) (Eurostat, Labour Force Survey¹).

The quality of employment, however, is low for a large number of workers. Even though women tend to perform more temporary jobs than men, the gap has narrowed since 2012, in the aftermath of the severe labour market crisis that hit the country particularly after 2009 (Addabbo *et al.*, 2015). According to the latest available data, for 2019, more than a fifth of men and women in employment (20.6% and 21.1%, respectively) were working on temporary contracts (Eurostat, Labour Force Survey).

The gender segregation index is 26.1% for occupations and 21.5% for economic activities (which is above the European average (EU-28) in both situations - 24.1% and 18.8% respectively) (European Commission, 2019: 69). Women are overrepresented in less skilled occupations that offer poor career prospects (Casaca & Perista, 2017). Regarding women's representation in the highest decision-making bodies of the largest listed companies, a result of the gender quota law (Law n.º 62/2017 – *Regime da representação equilibrada entre mulheres e homens nos órgãos de administração e de fiscalização das entidades do setor público empresarial e das empresas cotadas em bolsa*), which came into force in January 2018, is that the proportion of women increased

¹ Latest available data, for 2019

by around 10 p.p. between 2017 and 2020 to 26.6%; however, it is still below the EU average (30%) (EIGE, 2020).

In 2018, the most recent year for which data are available, despite the decreasing trend in the gender pay gap (as a simple measure)² women earned 14.5% less than men (basic wages). The gap is higher when it comes to overall earnings (17.8%) (Annex 3, Figure 1).³ The gap increases with the qualification level: the more qualified the workforce, the higher the gender pay gap in favour of men, with this figure (in relation to overall earnings) being 27.3% (calculated on the basis of the "Quadros de Pessoal" (Personnel Records), delivered by GEP/MTSSS, 2020a).⁴ It is worth noting that, due to methodological differences, these data differ from those provided by Eurostat⁵ – 8.9%, in 2018 and 10.6% in 2019 (the latest year available), below the EU-27 average of 14.4% and 14.1%, respectively (European Commission, 2021a).

Official bodies and researchers tend to use the "Quadros de Pessoal" database, as it better represents the working conditions and the employment practices in the country. The Strategy and Planning Office/Ministry of Labour, Solidarity and Social Security (GEP/MTSSS) has recently estimated the factor-weighted gender pay gap, to go beyond the simple summary measure (raw gender pay gap). In this case, women and men are sub-divided into homogenous groups (by educational level, qualification level, occupation, economic activity and seniority), the gender pay gap is calculated for each group and the overall gender pay gap is weighted by the respective proportion of men and women. For 2018, the estimated factor-weighted gender pay gap was 11.1% for basic wages and 13.8% for overall earnings (GEP/MTSSS, 2020b).

Drawing on other previous studies in which more sophisticated analytical techniques were applied, and using the "Quadros de Pessoal" database for 2018, a recent study⁶ estimated the adjusted gender pay gap by controlling the effect of observable individual characteristics, namely age, educational level and seniority, concluding that this is higher (21.97% for full time employees, 21.23% for all employees) than the raw gender pay gap (17.8%, as mentioned above) (Tables 1, 2 and 3 – Annex 3). A decomposition model was also applied (Blinder-Oaxaca), considering the following observable characteristics: age, seniority, educational level (individual characteristics), working time regime, type of job contract, occupation and qualification level (job-related characteristics), and economic activity, workplace size and region (employers' characteristics). When monthly overall incomes are taken into account, 59% of the gender pay gap is unexplained by the observable characteristics (for the explained part, the largest explanation is provided by differences between men and women in terms of working time regimes). When hourly overall earnings are taken into account, the unexplained component is remarkably high (83%)⁷. In the case of the explained component, it is worth noting that the largest explanation is provided by the economic

² Data reflect the payment differentials (presented as percentages) between men and women on a monthly basis, considering not only the basic wage, but also overall earnings (productivity and performance-related bonuses, as well as other payments, such as overtime and tenure-related payments).

³ On 8 March 2021, updated information on men and women's wages and earnings was officially published, although it came from a different source (social security declarations by employers). We have opted for the use of the most convenient database for the estimation of the gender pay gap.

⁴ Data relate to an annual survey conducted by the GEP (*Gabinete de Estratégia e Planeamento*) – Strategy and Planning Office/Ministry of Labour, Solidarity and Social Security, as an administrative procedure, and provide information on firms, establishments and workers in mainland Portugal. The information collected includes data relating to age, sex, education, skill level, occupation, recruitment date/tenure, contracts, earnings, working hours, payments (basic wages and overall earnings), in addition to the sector of activity, location and size of the establishments/companies, their sales volume, ownership and legal framework. The survey is compulsory for all establishments and companies with wage earners (except for central, regional and local public administration and public offices, and employers of domestic service workers).

⁵ Source: Structure of Earnings Survey: the unadjusted gender pay gap is defined as the difference between the average gross hourly earnings of men and women, expressed as a percentage of the average gross hourly earnings of men. It is calculated for enterprises with 10 or more employees.

⁶ <https://genderpaygap-elimination.pt/>

⁷ Detailed information available at: <https://genderpaygap-elimination.pt/primeiros-resultados/> (accessed on 22 March 2021).

activity, which points to the effect of horizontal segregation on the grounds of sex on the gender pay gap (Figures 2 and 3 provide further details – Annex 3).

The gender pay gap has for long been on the government's policy agenda, but there has been a lack of any wide debate on the topic, involving the State, the national equality bodies, the social partners and other relevant stakeholders (including academia and research institutions) (Casaca & Perista, 2017).

3 Legislative and policy measures to support equal pay

3.1 Current provisions of national legislation

The principle of equal pay for equal work is enshrined in the 1976 Constitution of the Portuguese Republic. The Labour Code provides clarification on the principle of equal pay for equal work or work of equal value (Article 31).⁸ Equal work is one in which the functions performed at the service of the same employer are the same or objectively similar in nature, quality and quantity. Work of equal value is one in which the functions performed at the service of the same employer are equivalent, considering the qualification or experience required, the responsibilities attributed, the physical and psychological effort and the conditions in which the work is carried out (Article 23, paragraph 1, c) and d)).

Article 258 of the Labour Code defines pay as the benefit to which, under the contract, the rules governing it or the uses, the worker is entitled in return for his/her work. The pay comprises the basic wage and other regular and periodic payments made, directly or indirectly, in cash or in kind. Any benefit from the employer to the worker is deemed to constitute pay.

Other national normative instruments have been enacted to support equal pay. This is the case of the Resolution of the Council of Ministers n.º 18/2014⁹, that adopts measures aiming at the promotion of equal pay between women and men. It recommends to private companies with more than 25 employees that they carry out a quantitative and qualitative analysis of the pay differences between women and men and based on this to devise a strategy to correct any unjustified pay gaps. It also determines that state-owned companies should prepare a gender pay report (every three years) with a view to diagnose and prevent unjustified pay gaps. This report should be internally disclosed and be made available on the company's website. The impact of this normative instrument has not been evaluated, thus the number of state-owned companies that fulfilled this legal obligation is unknown.

More recently, a Law on Equal Pay was adopted (Law n.º 60/2018¹⁰, published on 21 August 2018 and in force since 22 February 2019), following the core references of the EC recommendation (European Commission, 2014). It approves a set of measures to promote equal pay between women and men for equal work or work of equal value.

- It determines that the employer must ensure the existence of a transparent pay policy, grounded on the evaluation of the components of the functions, based on objective criteria, common to men and women.
- It requires that the Strategy and Planning Office of the Ministry of Labour, Solidarity and Social Security (GEP/MTSSS) shall make available on annual basis:

⁸ Law n.º 7/2009 of 12 February. Available at: <https://data.dre.pt/eli/lei/7/2009/p/cons/20190904/pt/html>

⁹ Resolution of the Council of Ministers n.º 18/2014 of 7 March. Available at: <https://data.dre.pt/eli/resolconsmin/18/2014/03/07/p/dre/pt/html>

¹⁰ Law n.º 60/2018 of 21 August. Available at: http://cite.gov.pt/asstscite/downloads/legislacao/Lei_60_2018.pdf

- statistical information¹¹ about pay disparities, in general and by economic activity (barometer);
- and by company, occupation and qualification level (balance).¹²
- Following the publication of the statistical data indicated above, if the Labour Inspectorate (ACT) detects pay differences in a company, it notifies the employer to present an evaluation plan of the pay differences in the company that is intended both to justify those pay differences and to eliminate those with no objective justification.
- This evaluation plan will be put in place for a period of 12 months and should be developed on the evaluation of job components, based on objective criteria, in order to exclude any possibility of discrimination on the grounds of sex.
- The regime described in the two previous paragraphs applies, during the two first years of validity of the law, to companies with 250 employees or more; and from the third year of validity of the law onwards, to companies with 50 employees or more.
- Following the 12-month period, the employer shall communicate to the ACT a report on the results of the implementation of the plan, demonstrating the justified pay differences and the correction of those with no objective justification.
- The ACT may, whenever necessary, articulate with the Commission for Equality in Labour and Employment (CITE) and may request information to the employees' representatives and to the employers.¹³
- Either employees perceiving that they are facing pay discrimination or trade union representatives may submit a request to CITE for issuing a binding legal opinion. The request has to be well-founded, based on the claimant making a direct comparison with the worker(s) from the different sex in relation to whom s/he presumes to be discriminated against. This request may only be submitted six months after the date the law came into force.¹⁴
- The principle of reversed prove is applied. It is the employer who has to demonstrate that pay practices are not discriminatory.
- In the event of a legal opinion of pay discrimination on the ground of sex, issued by CITE, the employer is compelled to eradicate it. Non-compliance may constitute a serious violation of the law and may prevent participation in public tenders for a period of up to two years.
- The worker who submits the request is protected against retaliation or dismissal throughout the first year after he/she has asked for the CITE's legal opinion.

According to the current legal framework, the employer must make information on pay available to the employees. However, in practice, this information is only made available upon the workers' request. Furthermore, each worker is only informed about his/her remuneration, which may limit the right to obtain information on pay levels and therefore restrict pay transparency at the workplace level.

¹¹ This statistical information is developed based upon legal and administrative sources, notably the Personnel Records (Quadros de Pessoal) - due by the employers every year, as detailed above.

¹² These two instruments will be detailed below, in 3.2.

¹³ There is no public information on legal remedies in pay discrimination cases. However, the Law foresees that the Courts should immediately communicate to CITE guilty verdicts for pay discrimination on grounds of sex, which have been *res judicata*.

¹⁴ According to the latest information made available by CITE, there is no record of issuance of any binding legal opinion on pay discrimination on the grounds of sex, under the Law n.º 60/2018 (CITE, 2020). Information also available at: <http://cite.gov.pt/pt/acite/pareceres.html> (accessed on 7 April 2021).

Trade unions are legally entitled to have access to information on pay by company, upon request, but only for workers who are unionised. This limitation was introduced by Law in 2010 (Portaria n.º 55/2010, that established the obligation to employers of submitting the Single Report – *Relatório Único*). Before – over almost the previous two decades – the access to the information on pay was possible for all the workforce. Furthermore, until 2010, it was mandatory for employers to display in a public company setting the pay sheet.

According to the Labour Code (article 25), the employer may not discriminate, directly or indirectly, on account of any of the factors mentioned in article 24, paragraph 1 – descent, age, sex, sexual orientation, gender identity, marital status, family status, economic situation, education, social origin or condition, genetic heritage, disability, chronic illness, nationality, ethnic origin or race, territory of origin, language, religion, political or ideological beliefs and union membership. The violation of the principle of non-discrimination constitutes a very serious legal infringement.

As far as case law is concerned, the information made available by CITE does not refer to any case explicitly on alleged pay discrimination on the grounds of sex, since 2008¹⁵.

3.2 Non-legislative instruments and measures

The annual report on the wage differentials in the various economic activities, announced in the Resolution of the Council of Ministers n.º 13/2013,¹⁶ which approves a set of measures aiming at guaranteeing and promoting equal opportunities and results between women and men in the labour market, was published only once (Governo de Portugal, 2014). Following this first study, a qualitative study on wage differences by economic activity was produced (Casaca & Perista, 2014) that included recommendations for public authorities and social partners. This report was presented and discussed in the Standing Committee for Social Concertation. The outcome of this discussion was not made available to the public.

In July 2017, the government announced the Agenda for Equality in the Labour Market and Companies.¹⁷ This relates to the government's programme commitment to introduce, with the social partners, provisions related to work-family reconciliation and the prevention and fight against gender inequalities into the instruments of collective bargaining (currently very few collective agreements include provisions on the reduction of gender pay gap). The government pointed out five strategic areas of intervention, which it considers that they should be the subject of measures to be defined, among which the strategic area of intervention of combating inequalities and wage disparities.

Some relevant initiatives relating to social partners/collective agreements are described below:

- The General Confederation of Portuguese Workers – National Inter-Union (CGTP-IN) promoted a project funded by the EQUAL Initiative, 'Revaluing Work to Promote Equality', between 2005 and 2008, developed within a tripartite partnership. As a result of this project, the guide *The value of work and gender equality. Guide to applying a methodology for assessing the value of work free from gender bias* was published (CGTP-IN, 2008). This guide describes the process of development of such a methodology in the restaurants and beverages sector.

¹⁵ Available at: <http://cite.gov.pt/pt/acite/jurisnacion.html> (accessed on 7 April 2021).

¹⁶ Resolution of the Council of Ministers n.º 13/2013 of 8 March. Available at: <https://data.dre.pt/eli/resolconsmin/13/2013/03/08/p/dre/pt/html>

¹⁷ Available at: <https://www.portugal.gov.pt/pt/gc21/comunicacao/documento?i=20170727-madj-igualdade-trabalho>

- In 2011-2012, the same methodology was adopted in the textiles, wool and footwear sectors by the trade union federation FESETE / CGTP-IN, in partnership with the employers' sectoral associations, and in cooperation with CITE.¹⁸
- As an outcome of the former, a collective agreement for the sectors of footwear, components, bags and gloves was published in 2017 to enshrine a restructuring of the wage grid that eliminates the occupational and pay discrimination of women in the sector.
- A new project promoted by FESETE / CGTP-IN, funded by EEA Grants 2014-2021, is currently in progress applying a similar methodology in the apparel and leather industries.
- Finally, the CGTP-IN's Commission for Equality Between Women and Men in September 2018 disseminated a document focusing on reference clauses for collective bargaining (this is an updated and revised version of a similar previous publication, published in September 2010). Equal pay is one of the domains in which the introduction of new clauses or the adjustment of existing ones has been suggested.

Current policy measures to promote gender equality are framed by a national action plan for equality between women and men 2018-2021 (PAIMH). One of the national action plans is included in the National Strategy for Equality and non-Discrimination 2018-2030 – ENIND – Portugal+Iguar.¹⁹ The PAIMH 2018-2021 includes strategic objective 2 – "To guarantee the conditions for full and equal participation of women and men in the labour market and in professional activity". Moreover, specific objective 2.2 states that it should "Eliminate income disparities between women and men, which covers notably the following measures: measure 2.2.3 – "Development of white papers, studies, projects promoting the elimination of pay gap between women and men; and measure 2.2.4 "Dissemination of job evaluation methods free from gender bias". An impact indicator designed in this domain points to the target of reducing the gender pay gap to 10% in 2030.

As mentioned above, due to the Law n.º 60/2018, the Barometer on Pay Disparities between Women and Men was recently launched. The Barometer is meant to improve the statistical data publicly available, raise awareness and promote a wide-ranging debate on equal pay among key stakeholders. The Barometer includes general and sector-level data on the factor-weighted gender pay gap, thus it provides an innovative source of information on this subject.²⁰

As to the Balance of Pay Disparities between Women and Men by company foreseen by the same legal instrument, an app was recently developed by the initiative of GEP/MTSSS. The Balance Sheet (micro level, of the company) is aligned, in terms of indicators and results, with the information that is made available on the Barometer (macro level, national statistics). A second, more complete, version of the Balance, with additional indicators, is expected to be available soon.

The Balance of Pay Disparities between Women and Men by company is produced by GEP/MTSSS on the basis of the information on pay included in the Single Report, following the respective mandatory annual submission by the employer. In this sense, since information about the company and its response is a legal obligation, it is available for consultation only by the company itself and, for inspection purposes and/or preventive activity, by ACT. It is also foreseen by GEP/MTSSS to make available to ACT

¹⁸ Available at: <http://fesete.pt/dialogo/index.php/blog>

¹⁹ Resolution of the Council of Ministers n.º 61/2018 of 21 May, Aprova a Estratégia Nacional para a Igualdade e a Não Discriminação 2018-2030. Available at: <https://data.dre.pt/eli/resolconsmin/61/2018/05/21/p/dre/pt/html>

²⁰ Given the relevance of the Barometer, this practice will be detailed in Annex 2.

a file that systematises a set of information based on balance sheets by company, relevant to its inspection and/or preventive activity.

Still with regard to non-legislative initiatives, the project Equality Platform and Standard, funded by the Programme Work-life Balance and Gender Equality of EEA Grants 2014-2021, aims at building the Portuguese Standard Management System for Equal Pay between Women and Men. This process is ongoing. The Standard is expected to be published before February 2023.

The National Equal Pay Day is celebrated every year to raise public awareness in order to reverse the persistent gender pay gap, disseminating information on pay inequalities between women and men among the main stakeholders within the labour market, enterprises and employers' associations of the major economic activities as well as the social partners. However, the indicator adopted is the basic wage, which minimises the real dimension of the gender pay gap.

The most recent National Campaign for Equal Pay – *Eu mereço igual (I deserve the same)*²¹ was presented on 27 June 2019. This campaign emphasizes that reconcile the interests of female and male workers and of employers is a clear priority in the law on the promotion of equal pay for women and men, stressing that equality between women and men is a right and not a privilege. The campaign was disclosed on television, radio, social networks and billboards in September 2019 (as part of the celebration of the 40th anniversary of the CITE) and in November 2019, celebrating the National Equal Pay Day.

3.3 Digital tools to support employers to address the gender pay gap

The Resolution of the Council of Ministers n.º 13/2013 announced that an electronic tool would be made available to companies, by the Commission for Equality in Work and Employment. This gave rise, in 2015, to the Gender Pay Gap Calculator (Calculator DSG). This device was designed to provide the following key outputs: descriptive statistics on the workforce, regarding personal male and female employees' characteristics, job attributes, working hours and remuneration, broken down by its components; and estimation of the gender pay gap and the respective underlying factors. This tool, however, has never been fully functional. It has been going through an upgrading process in the last few years and, thus, it has not been available on the CITE webpage.

The Calculator DSG was accompanied by a second web tool, the Self-Assessment Survey on Equal Pay between Men and Women in Companies.

The web tools' main aims are: supporting employers to conduct a self-assessment exercise on equal pay between men and women; measuring the gender pay gap within companies; identifying specific situations of pay gap between women and men; knowing whether or not pay differences are explained by objective factors or by gender-related discrimination. The tools are expected to enable employers to self-evaluate and self-regulate in this matter and voluntarily adopt measures and practices in order to correct any gender pay gap identified.

3.4 Results of the existing legislation and policy measures in improving pay transparency and/or reducing the gender pay gap

The results of the existing legislation and policy measures in reducing the gender pay gap are still to be assessed. The Law n.º 60/2018 will be evaluated for the first time in 2021 (and then every four years). This evaluation will be conducted by CITE and social partners will be consulted.

Pay transparency at national level, by region and economic activity, has seen significant improvements in recent years. For example, two editions of the Barometer on Pay

²¹ Available at: <http://cite.gov.pt/pt/destaques/noticia928.html>

Disparities between Women and Men created by Law n.º 60/2018 were released. The first edition was presented on 27 June 2019, reporting on data for 2017, and the second edition was launched on 6 March 2020, reporting on data for 2018.²²

As to the Balance of Pay Disparities between Women and Men by company resulting from the same legal instrument, the app developed was made available for the first time on 10 November 2020 to all employers that submitted the 2019 Personnel Records (part of the Single Report – *Relatório Único*). These employers were able to generate their 2019 Balance of Pay Disparities on the *Relatório Único*'s website.²³

Furthermore, an effort to improve pay transparency with the publication of statistical information on remunerations by sex, notably by GEP/MTSSS, is noticeable in recent years. As an example, on 8 March 2021, a technical note on the gender gap in pay and in pensions, for the last decade, was published.²⁴

4 Considerations for future policies and initiatives

Despite the current legal framework and the provision of a more sophisticated gender pay gap estimation (factor-weighted gender pay gap, as detailed in Section 2 and Annex 2) for the different main geographical regions and economic activities, there is room for future policy developments to strengthen pay transparency, particularly at the company/organisational level. The terms of the current equal pay law display some conceptual ambivalence in their reference to "a plan for the evaluation of pay differences at the company". It should be clarified that it is not an "evaluation plan" that is required, but a full gender pay analysis – or a gender pay audit, followed by corrective measures in the event of the detection of unjustified gender pay gaps. Moreover, clear guidelines should be given to employers and social partners about how to implement gender-neutral job evaluation and classification systems (an initiative that is now under development). In a similar vein, and complementary to the aspects mentioned in the Labour Code, more precise and clear criteria should also be provided for assessing the value of work of equal value. The Portuguese Standard Management System for Equal Pay between Women and Men, under development, is intended to provide for that.

The recent Equal Pay Law does not make any specific reference to the fundamental role of collective bargaining agreements and social dialogue in reducing/eliminating the gender pay gap. Encouraging joint initiatives would also be fundamental, particularly in terms of the implementation of a gender-neutral job evaluation with a view of ensuring the principle of equal pay for equal work or work of equal value.

As mentioned before, there has been no impact evaluation of important normative instruments. This is the case with the Resolution of the Council of Ministers n.º 18/2014, stating that all state-owned companies had to elaborate a diagnostic report on the pay differences between men and women, every three years, internally disclose this same report, publish it on the internet, and design corrective measures to eliminate any unjustified discrepancies on the grounds of sex. In addition to the requirement for an impact assessment at the targeted companies, the same obligation of regular gender pay audits and reports, disclosed to all employees and workers' representatives, should be applied to large companies to increase pay transparency, in line with the European Commission Recommendation (European Commission, 2014). The Balance of Pay Disparities between Women and Men by company will not be publicly disclosed by the

²² The effects of the COVID-19 pandemic implied an extraordinary extension of the deadline for the submission of the 2019 Personnel Records by employers; this led to a delay in the third edition of the Barometer.

²³ Available at: <http://www.gep.mtsss.gov.pt/-/disponivel-o-balanco-por-empresa-das-diferencas-remuneratorias-entre-mulheres-e-homens-10-novembro-2020>

²⁴ Available at: http://www.gep.mtsss.gov.pt/documents/10182/80545/Remuneracoes_e_Pensoes_2010_2020.pdf/4b270e6a-8045-4285-95b1-f2a298b1e67a

Strategy and Planning Office of the Ministry of Labour, Solidarity and Social Security (GEP/MTSSS) due to the requirements of the data protection regulation. Alternative initiatives should therefore be considered in order not to compromise pay transparency at a company/organisational level. For example, the provision of aggregate information on pay levels by occupation, skill level and job position to the employees and their representatives should be mandatory for companies employing more than 50 employees, in the line with the European Commission Recommendation. The full availability of operational digital tools would be fundamental in enforcing such requirements.

From 2021 onwards, companies employing 50 or more employees will also be legally bound to report on wage differentials in the event of detected gender pay gaps. However, considering the particularities of the economy, at least companies with more than 25 employees should also be actively encouraged – in line with RCM n.º 18/2014 – to carry out a quantitative and qualitative analysis of the wage differences between women and men and, following that diagnosis, design and implement corrective measures to eliminate any unjustified gender pay gaps. Non-compliance could, for instance, function as an impediment to participation in public calls for tenders.

In line with the recent European Commission proposal for a Directive on pay transparency (European Commission, 2021b), all employers should be obliged to provide information about the initial pay level – or its range – in their advertisements for a job vacancy or before the job interview.

Moreover, all the official information provided regarding the civil servants should also openly provide information on pay by job position and skill level, broken down by sex. Even though the information on civil servants' wages by job category is totally transparent, as in Estonia there is no regular official information on average pay by job position and skill level broken down by sex.²⁵

Since reducing/eliminating the gender pay gap requires a comprehensive gender mainstreaming strategy to tackle all the patterns of segregation on the grounds of gender at the workplace, companies with more than 25 employees should be encouraged to undertake exhaustive gender organisational assessments (or gender audits), as well as to design and implement well-articulated gender equality action plans.

National campaigns are particularly important in terms of raising awareness of relevant stakeholders and society in general. In this regard, there is room for improvement as campaigns could have been more widely disseminated.

The availability of different estimates for the gender pay gap, particularly between the data provided by the Eurostat and those provided by the GEP/MTSSS, has made it difficult for the media and the general public to draw a clear picture of the gender pay gap as a key national issue. Even at the EU level, better statistical sources, fully representing all employees and employers, irrespective of being from the public or private sector, as well as of companies' size, would be fundamental to provide a comprehensive picture for all countries. Furthermore, all EU Member States should agree on a harmonised formula for the calculation of the gender pay gap, at both European and national levels. More sophisticated statistical methods should be used in order to adjust the figures on the pay gap and to determine the gender-based discriminatory part of it (Perista & Casaca, 2016).

²⁵ DGAEP - Direção-Geral da Administração e do Emprego Público (Directorate general for administration and public employment]. <https://www.dgaep.gov.pt/index.cfm?OBJID=ECA5D4CB-42B8-4692-A96C-8AAD63010A54>

5 Questions

- What are the monitoring and controlling mechanisms foreseen in the draft law for amending the Gender Equality Act?
- What has been the actual role of social partners and collective bargaining in reducing the gender pay gap and increasing pay transparency?
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Annex 1 Summary table

The main points covered by the paper are summarised below.

Situation in the peer country

- Low gender employment gaps.
- Continuous employment trajectories for both women and men.
- Most female and male employees work on a full-time basis.
- Declining gender pay gaps, but still high, particularly among highly skilled workers.
- Horizontal segregation on the grounds of gender is the main explanatory factor of the gender pay gap.

Legislative and policy measures to support equal pay

- The criteria underlying the principle of equal pay for equal work or work of equal value is provided for in the Labour Code.
- A 2014 normative instrument adopts measures to increase pay transparency through the requirement of gender pay audits and reports to state-owned companies, including a recommendation to private companies with more than 25 employees.
- A Law on Equal Pay came into force in 2019 intended to increase pay transparency and to follow the core references of the 2014 European Commission recommendation.
- The largest Trade Union Confederation (CGTP-IN), in partnership with employers' associations, promoted a project that applied the methodology for assessing the value of work free from gender bias. This methodology has been described as a good practice. It was initially implemented in the restaurants and beverages sector; it has been replicated in the textiles, wool and footwear sectors, and currently in the apparel and leather industries.
- The Barometer on Pay Disparities between Women and Men was recently created. The Barometer is meant to improve statistics, raise awareness and promote a wide-ranging debate on equal pay in the Portuguese society.

Considerations for future policies and initiatives

- There is room for future policy developments to strengthen pay transparency, particularly at the company/organisational level.
- Clear guidelines should be given to employers and social partners about how to implement gender-neutral job evaluation and classification systems.
- The obligation of regular pay audits and reports, disclosed to all employees and workers' representatives, should be applied to large companies in order to increase pay transparency.
- The full availability of operational digital tools would be fundamental in enforcing such requirements.
- Better statistical sources, fully representing all employees and employers, would be crucial to provide a comprehensive picture of the gender pay gap in all economies, at the EU level.

Questions

- What are the monitoring and controlling mechanisms foreseen in the draft law for amending the Gender Equality Act?

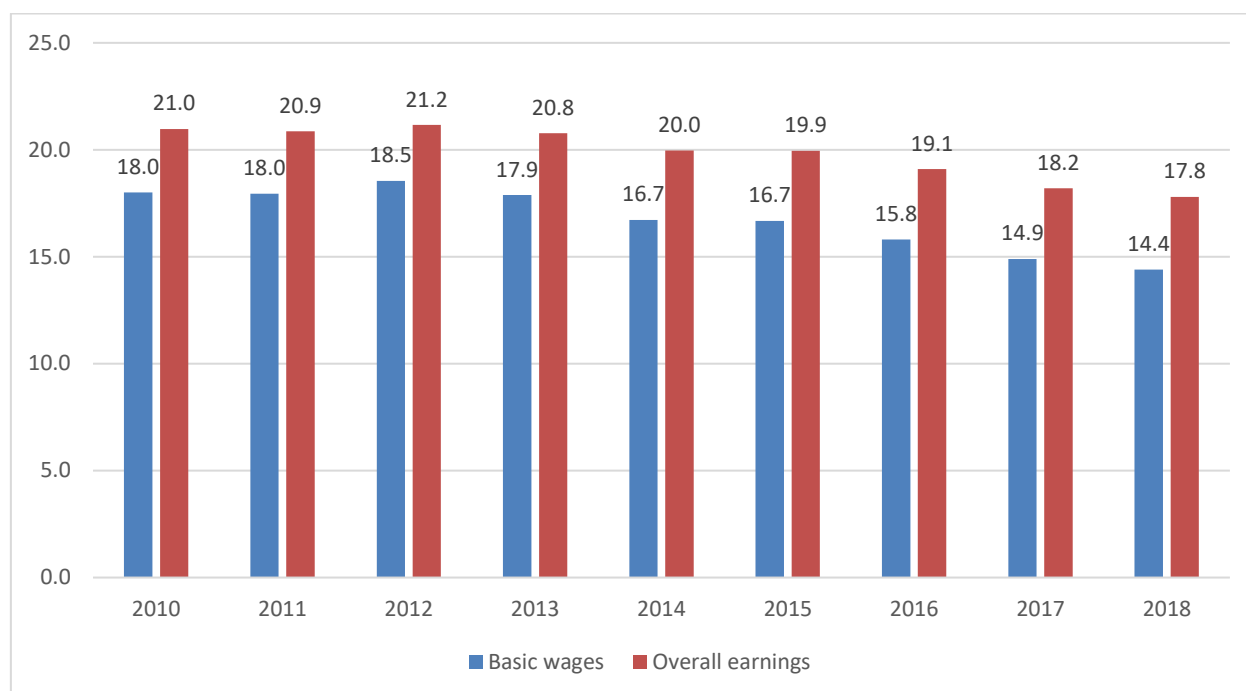
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Annex 2 Example of relevant practice

Name of the practice:	Barometer on Pay Disparities between Women and Men (created by Law n.º 60/2018)
Year of implementation:	2019
Coordinating authority:	Strategy and Planning Office of the Ministry of Labour, Solidarity and Social Security (GEP/MTSSS)
Objectives:	<p>The Barometer is meant to support the reflection, monitoring and promotion of equal pay between women and men by work of equal value, by:</p> <ul style="list-style-type: none"> • improving statistics, with the production of regular data on pay disparities at sector and company level (including disaggregated data by occupation and qualification level); • raising awareness; • promoting a wide-ranging debate on equal pay in the Portuguese society; and • providing employers with updated, reliable and detailed data that enables them to better understand how their respective economic activity is positioned in terms of pay disparities.
Main activities:	<p>Production of two editions of the Barometer:</p> <ul style="list-style-type: none"> • http://www.gep.mtsss.gov.pt/documents/10182/86981/BAROMETRO.xlsx • http://www.gep.mtsss.gov.pt/documents/10182/86981/BAROMETRO2020.xlsx • Production of two synthesis with the main results: • http://www.gep.mtsss.gov.pt/documents/10182/86981/Barometro_27_06_2019.pdf • http://www.gep.mtsss.gov.pt/documents/10182/86981/Barometro2020_destaque_06_03_2020.pdf <p>International seminar, where the first edition of the Barometer was presented:</p> <ul style="list-style-type: none"> • http://www.gep.mtsss.gov.pt/-/seminario-internacional-sobre-igualdade-salarial-entre-homens-e-mulheres-palacio-foz-lisboa-27-de-junho-de-2019 <p>Presentation and dissemination of the Barometer in different forums.</p>
Results so far:	Knowledge, more detailed and accessible to the general public, about the situation and evolution of the gender pay gap in Portugal.

Annex 3 Complementary information on the raw gender pay gap and adjusted gender pay gap in Portugal

Figure 1. Evolution of the gender pay gap (2010-2018)



Source: own calculations based on data provided by the "Quadros de Pessoal" database (GEP/MTSSS).

Note: Raw gender pay gap. Data reflect the payment differentials (presented as percentages) between men and women on a monthly basis, considering not only the basic wage, but also the overall earnings (productivity, performance-related bonuses, as well as other payments – overtime and tenure-related payments).

Table 1. Adjusted gender pay gap - full-time employees, 2018

	Mean (Men)	Mean (Women)	Adjusted gender pay gap
Monthly earnings	1,268.76 €	1,043.78 €	21.97%
Hourly earnings	7.40 €	6.19 €	20.69%

Source: Based on data provided by the "Quadros de Pessoal" database (GEP/MTSSS).

Results from: [Project Gender Pay Gap – Elimination - Primeiros Resultados | Gender Pay Gap - Elimination \(genderpaygap-elimination.pt\)](#)

Table 2. Adjusted gender pay gap - part-time employees, 2018

	Mean (Men)	Mean (Women)	Adjusted gender pay gap
Monthly earnings	494.70 €	411.00 €	6.78%
Hourly earnings	6.42 €	5.04 €	11.98%

Source: Based on data provided by the "Quadros de Pessoal" database (GEP/MTSSS).

Results from: [Project Gender Pay Gap – Elimination - Primeiros Resultados | Gender Pay Gap - Elimination \(genderpaygap-elimination.pt\)](#)

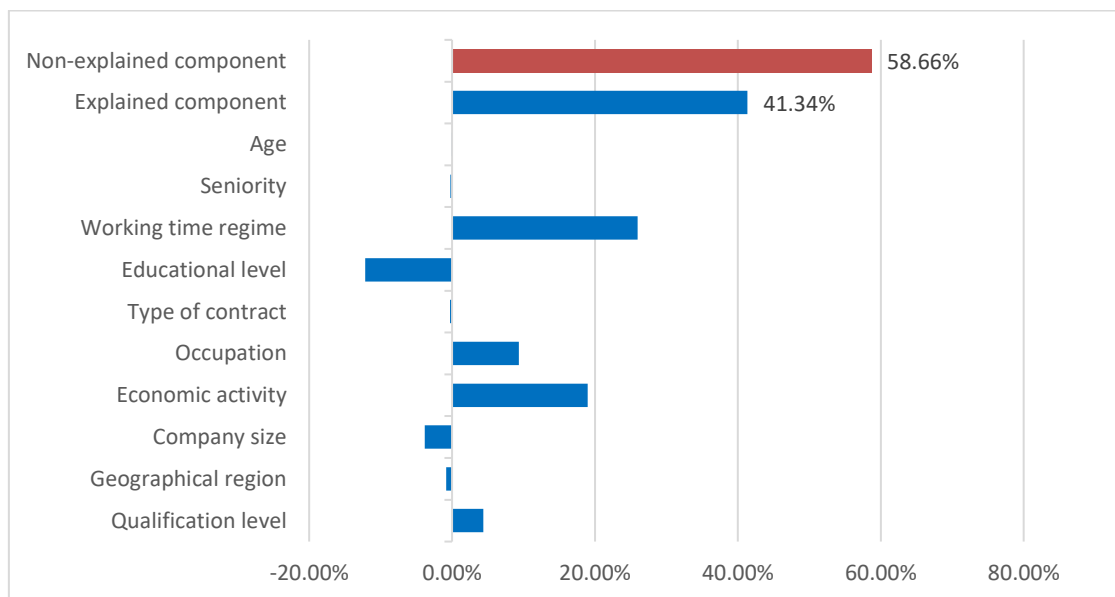
Table 3. Adjusted gender pay gap - Total workforce, 2018

	Mean (Men)	Mean (Women)	Adjusted gender pay gap
Monthly earnings	1,238.72 €	982.96 €	21.23%
Hourly earnings	7.36 €	6.08 €	20.12%

Source: Based on data provided by the "Quadros de Pessoal" database (GEP/MTSSS).

Results from: Project Gender Pay Gap – Elimination - Primeiros Resultados | Gender Pay Gap - Elimination (genderpaygap-elimination.pt)

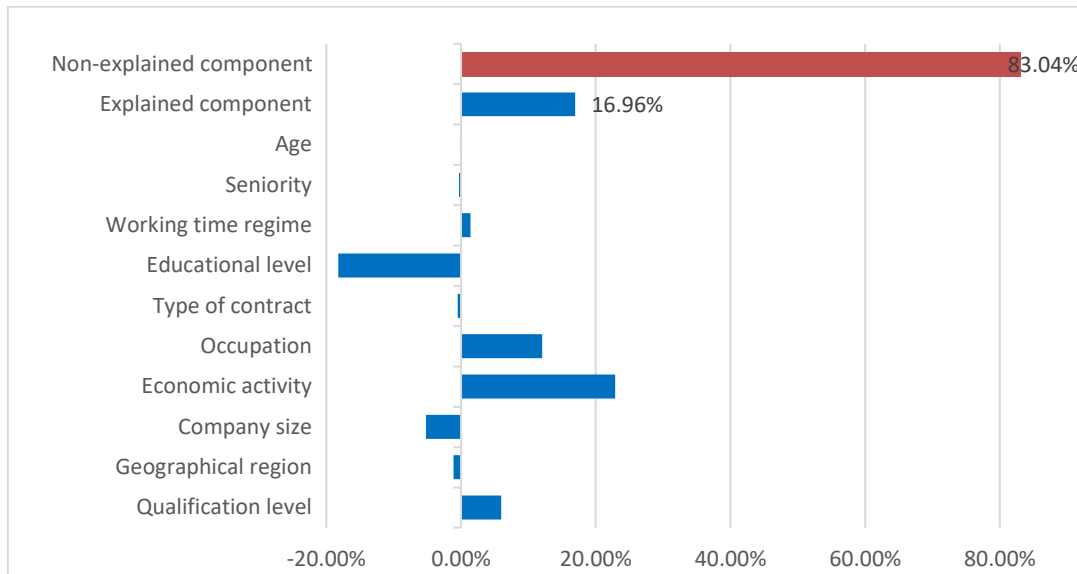
Figure 2. Gender Pay Gap Decomposition (Blinder-Oaxaca) (monthly earnings, 2018)



Source: Based on data provided by the "Quadros de Pessoal" database (GEP/MTSSS).

Results from: Project Gender Pay Gap – Elimination - Primeiros Resultados | Gender Pay Gap - Elimination (genderpaygap-elimination.pt)

Figure 3. Gender Pay Gap Decomposition (Blinder-Oaxaca) (hourly earnings, 2018)



Source: Based on data provided by the "Quadros de Pessoal" database (GEP/MTSSS).

Results from: [Project Gender Pay Gap - Elimination - Primeiros Resultados](#) | [Gender Pay Gap - Elimination \(genderpaygap-elimination.pt\)](#)

