

## **Article 22 of the Constitution of the ILO**

Report for the period ending 30 April 2018,  
made by the Government of Denmark, on the

### **EQUAL REMUNERATION CONVENTION, 1951 (NO. 100)**

(Ratification registered on 10 June 1960.

The ratification does not cover Greenland and the Faeroe Islands)

#### **I**

##### **Legislation on equal remuneration**

Executive orders are highlighted as bold and amendments to the list of regulations in the latest report are presented in italics.

##### **The Danish Ministry of Employment**

###### *Act on Equal Pay*

The Act on Equal Pay (Consolidated Act no. 899 of 5 September 2008 with later amendments) was amended in February 2016.

The amendment narrowed the scope of the provisions on gender-segregated pay statistics from enterprises with 10 full-time employees and at least 3 men and 3 women employed, to enterprises with 35 employees and at least 10 men and 10 women classified at the most detailed levels of the nomenclature DISCO-08.

The 2016-amendment is a return to the previous thresholds for enterprises set out in the Equal Pay Act prior to the amendment in 2014, which was mentioned in the previous report. However, the new service to enterprises in the 2014-amendment according to which the wage statistics would be provided automatically and free of charge to enterprises was maintained when the act was amended in 2016.

Below are links both to the consolidated act and the amendment from 2016:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=121176>

<https://www.retsinformation.dk/Forms/R0710.aspx?id=177383>

#### **II**

No observations. Reference is made to previous reports.

#### **III**

No observations. Reference is made to previous reports.

## IV

2018

### **Ligebehandlingsnævnet**

J. nr. 2017-6810-22191. Af en virksomheds barselspolitik fremgik, at kvindelige medarbejdere havde ret til fuld løn i mellem to og tolv uger i forældreorlovsperioden, mens mandlige medarbejdere havde ret til løn op til 26.000 kr. månedligt i seks uger i forældreorlovsperioden. Dette klagede en mandlig medarbejder over til Ligebehandlingsnævnet. Nævnet vurderede, at bestemmelserne om forældreorlov i virksomhedens barselspolitik var i strid med ligelønsloven. Manden fik derfor medhold i klagen. Efter en samlet vurdering af sagen fandt nævnet ikke grundlag for at tilkende manden en godtgørelse.

## V

No observations. Reference is made to previous reports.

## VI

### **Workers' and employers' organisations which have receive a copy of this report**

Copies of this report have been communicated to Local Government Denmark (KL), The Confederation of Danish Employers (DA), The Danish Confederation of Trade Unions (LO), The Confederation of Professionals in Denmark (FTF) and The Danish Confederation of Professional Associations (AC).

Employers' organisations:

- The Danish Employers' Confederation, Vester Voldgade 113, DK-1790 Copenhagen V
- Local Government Denmark, Weidekampsgade 10, P.O. Box 3370, DK-2300 Copenhagen S

Workers' organisations:

- The Danish Confederation of Trade Unions, Islands Brygge 32D, DK-2300 Copenhagen S
- The Confederation of Professionals in Denmark, Niels Hemmingsensgade 12, DK-1010 Copenhagen K
- The Danish Confederation of Professional Associations, Nørre Voldgade 29, P.O. Box 2192, DK-1358 Copenhagen K

## Comments to Direct Request, 2015

### Direct Request 1

*The Committee requests the Government to continue to provide up-to-date information on the evolution of the gender pay gap and its causes and on the measures taken or envisaged to improve the access of women to a wider range of job opportunities at all levels, including sectors in which they are currently absent or under-represented, with a view to reducing inequalities in remuneration that exist between men and women in the labour market.*

Regarding addressing the gender stereotypes influencing choices about education, the government is especially focused on getting more women to choose subjects within IT. According to the data on accepted students from the Ministry of Higher Education and Science there were 28 pct. new female students in the IT subjects in 2017. According to data from the Danish Business Authority there will be a demand for 19.000 IT specialists by 2030.

In February 2018, the Department of Equal Opportunities in the Ministry of Foreign Affairs held a conference on the subject together with the National Agency for IT and Learning and one of the Danish IT Universities, in order to give inspiration to possible ways of making girls more interested in technology. The Department of Equal Opportunities will also be launching a social media campaign in 2018, addressing gender stereotypes regarding women in IT and encouraging more women to apply for an education within IT.

The Department of Equal Opportunities will also relaunch a social media campaign from 2016, focusing on getting more men to study to become a pedagogue and work in nursery schools and kindergartens. According to the data on accepted students from the Ministry of Higher Education and Science, 31pct. of the new students studying to become a pedagogue in 2017 were men.

Furthermore, the Department of Equal Opportunities is cooperating with the Danish Diversity Council, on a role model campaign called "Lead the future". The role model campaign has gathered relevant female leaders from 8 different both private and state owned work places. The role models stories are shared on the web page [www.leadthefuture.dk](http://www.leadthefuture.dk) and they participate in talks and events at relevant educational institutions, in order to inspire young women to become leaders, including by choosing educations that are more relevant to a career in leadership.

### Direct Request 2

*The Committee requests the Government to clarify if the wage statistics allow a comparison of different jobs of equal value, including between the public and private sectors, and to provide information on the identification and elimination of any discriminatory pay differences with the help of the wage statistics. Please include information on any cases brought before equal pay tribunals or the courts on the basis of the wage statistics.*

According to the Equal Pay Act, employers must provide equal pay to men and women for equal work or work of the same value. Thus, the legislation concerns the individual employer's responsibility to comply with the Equal Pay Act with respect to his/her own employees.

The obligation to produce gender-segregated wage statistic is an enterprise-level obligation. Thus, the wage statistics are relevant for employees within the same enterprise but is not envisaged as a tool for cross-company or cross-sector comparison.

This is also due to the fact that there is no statutory minimum wage in Denmark. Pay and working conditions in Denmark are regulated by the social partners in collective agreements, which in the private sector will often be at enterprise-level. As a consequence, pay conditions may vary in companies which otherwise operate in the same sector or field. An employer is only responsible under the Equal Pay Act for the remuneration within his/her own enterprise. The fact that other employers may provide more attractive pay-packages for the same type of job does not constitute an infringement of the Equal Pay Act.

The wage statistics are envisaged as a tool for cooperation between management and shop-stewards within the enterprise regarding the wage formation in that particular enterprise.

The Ministry of Employment is not aware of any cases brought before equal pay tribunals on the basis of the wage statistics.

### **Direct Request 3**

*Noting the need expressed by the social partners for the adoption of appropriate techniques and criteria for objective job evaluation, the Committee requests the Government to seek the cooperation of the social partners, to promote the development and use of objective job evaluation methods, as envisaged under Article 3, and to report on any progress made in this regard.*

In line with the comments made in previous reports, Denmark does not apply any measures in relation to objective job evaluation methods. Furthermore, no measures are foreseen in this respect for the future.

It is noted, that in Denmark, pay is regulated by the social partners through collective agreements. Thus, the development of job evaluation methods requires close cooperation of the social partners. If the social partners wish to embark on the development of criteria for job evaluation methods, the Government will be willing to start a dialogue with the social partners about Government contributions in this respect.

It is also noted that in 2001, the Government published a report on job evaluation systems and how they can be applied at enterprise level.

The Danish trade unions have also translated the ILO manual on job evaluation – a step-by-step-guide – into Danish. The largest trade union in Denmark, 3f, has also published a short guide to job evaluation which is available on-line.

Please also see the comments made under “Contributions from the social partners”.

#### **Direct Request 4**

*The Committee requests the Government to continue to provide information on the functioning of the equal pay tribunal and on any further action taken by the social partners to establish equal pay tribunals in other sectors of activity, including any obstacles encountered.*

Please see the comments made under “Contributions from the social partners”.

#### **Direct Request 5**

*The Committee requests the Government to provide information on the results of the 2015 study on the gender-segregated labour market and any follow-up action given.*

The main findings in the 2015-report on the gender-segregated labour market are summarised below<sup>1</sup>.

##### Horizontal gender segregation in the labour market

The Danish labour market is gender-segregated horizontally with women and men differentiated by sectors and industries. Men still represent the majority of private sector employees, while women represent the majority of public sector employees.

More than half of the women are employed in the "Public administration, education and health" sector, while men are more diversified in industries, among other things, one quarter of the men are employed in the trade and transport industry. The horizontal gender segregation has not been significantly reduced in the last 20 years.

##### Vertical gender segregation in the labour market

The Danish labour market is also gender-divided vertically: Men are ranked higher in the job hierarchy than women. The vertical gender division appears to have been smaller in the last 20 years.

##### Sector mobility

Generally speaking, the Danish labour market is considered flexible with a high degree of mobility between jobs. This mobility, however, occurs only to a very limited extent between sectors. In other words, the Danish labour market is relatively inflexible in relation to the movement between the women-dominated public sector and the dominated private sector.

##### Gender segregation at education levels

Gender-segregated educational choices are one of several explanations of the gender-divided labour market: More and higher education to women in particular, and thus a more equal gender distribution at the education levels over the last 20 years, helps explain that the vertical gender segregation in the labour market has declined.

##### Gender segregation on education

Gender distribution in education, especially in vocational and medium-term education, has become a little more even over time. However, it is still the case that women primarily educate themselves in areas where public sector employment is most likely, and men are more likely to choose an education that can be used in the private sector.

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<sup>1</sup> <https://www.sfi.dk/publikationer/et-koensopdelt-arbejdsmarked-11749>

### Transition from education to labour market

The trend toward a slightly more equal gender distribution within individual educational programs does not lead to a smaller degree of horizontal gender segregation in the labour market. This may be explained by the fact that gender-specific sectoral choices - men are overrepresented in the private sector, while women in particular are employed in the public sector - also appear among women and men with the same education.

Please also see the comments made under Direct Request 1.

Furthermore, a new periodic report on the gender pay gap (GPG) was published in May 2018 by the Danish Centre for Social Science Research. The report was commissioned and financed by the Ministry of Employment<sup>2</sup>.

The main findings of this report are the following:

The gross wage GPG has declined significantly since 2007. By 2016, the gross wage GPG was 10-15 pct. depending on the pay concept used, which is a decrease of up to 5 percentage points since 2007. This corresponds to a reduction of the gross wage GPG by between 1/4 and 1/3 depending on the wage concept used.

An important factor in the decline in the gross GPG is that women are increasingly moving up to the job hierarchy, for example by having managerial responsibility or positions that require specialised high-level knowledge. Women, on average, also have a higher education than men, and this has increased over the past ten years. In the previous period from 1997 to 2006, the gross wage GPG did not change significantly.

When the gross wage GPG across the labour market as a whole is adjusted for the different characteristics of women and men, for example education, work experience, sector, industry and work function, the residual GPG is 4-7 pct. depending on the pay concept used.

50-60 pct. of the gross wage GPG across the labour market can thus be explained by different characteristics. The report finds that the residual GPG may be linked to the fact that men and women are paid differently despite the same characteristics and / or that men and women are different or are paid differently depending on circumstances that cannot be taken into account for example, informal qualifications.

Gross wage GPG is higher for employees with a high hourly salary: For employees in the lowest hourly salary bracket, the gross wage GPG is 4 pct. against 17-25 pct. for those in the highest hourly salary bracket.

*The Committee further requests the Government to provide information on the impact of the "Danish Model" on achieving gender balance in boards and committees in the public and private sectors, including statistics on the number of women on the boards and committees covered by the legislation.*

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<sup>2</sup> <https://www.sfi.dk/publikationer/forskelle-mellem-kvindes-og-maends-timeloen-14157/>

The legislation on achieving gender balance in boards and committees in the public and private sectors called “the Danish Model” was passed in 2012. The law applies to about 1.600 of the largest private companies and to all 1.200 governmental companies and institutions.

The included companies and institutions are required to set targets for the proportion of the underrepresented gender in their supreme governing body and must develop policies to increase the proportion of the underrepresented gender in their general managements. In 2017 the effects of the legislation was evaluated in both the private and the public sector.

For the included 1.200 governmental institutions the evaluation shows, that the percentage of female board members has gone up from 39.4 pct. in 2012 to 40.9 pct. in 2016. The evaluation further shows, that about half of the included public institutions and companies (51 pct. in 2016) have boards with an equal gender composition.

For the companies and institutions that do not have an equal gender composition, and therefore have to set a target for the proportion of the underrepresented gender and develop policies, the average target is 39.9 pct.

*Please provide information on any other measures taken or envisaged with a view to narrowing the gender pay gap and addressing gender stereotypes influencing women’s and men’s choices about education and employment, and on the impact of such measures.*

Please see the comments made under Direct Request 1.

## **Contributions from the social partners**

### *Danish Confederation of Trade Unions (LO) and Confederation of Professionals in Denmark (FTF)*

#### **Direct request: Article 2(2). Implementation of legislation**

LO and FTF regret that the Act on gender-segregated wage statistics for companies with a minimum of 10 employees and with at least 3 employees of each gender was rolled back by the Danish government in 2015. The amendments to the Act mean that the rules on gender-segregated wage statistics now only apply to companies with a minimum of 35 employees and with a minimum of 10 employees of each gender within the same work function.

The amendments to the Act mean that significantly fewer companies and workers are covered by the Act. In addition to this, the requirement for there to be 10 men and 10 women within the same job function means that many small- and medium-sized companies are not covered by the rules since they often have employees that are categorized under a number of different Danish ISCO-codes. In addition to this, it will be a challenge for a number of companies to meet the requirement for a minimum of 10 employees of each gender, and they can therefore avoid the requirement for gender-segregated wage statistics.

LO and FTF therefore call on the Danish government to reintroduce the requirement for companies with a minimum of 10 employees and with a minimum of 3 employees of each gender to prepare gender-segregated wage statistics.

Furthermore, LO and FTF find it problematic that the gender-segregated wage statistics are based on index figures. Index figures cannot be used to compare wages across companies and do not allow for comparisons of different jobs of equal value. Furthermore, it is objectionable that the statistics can be submitted in confidentiality by the companies.

Also, it is a major problem that there is freedom of choice when it comes to the method for preparing gender-segregated wage statistics, including the remuneration concept, as the Act allows companies to calculate the statistics on the basis of the concept of remuneration “earnings per hour worked”. This concept of remuneration does not count in the reimbursements that the employer receives from the state in connection with absence due to maternity leave, child’s first day of sickness etc. The costs of women per hour worked will thus be higher as this group has more absence due to maternity leave, the child’s first day of sickness etc. Wage statistics based on earnings per hour worked will therefore minimise or even camouflage wage gaps.

LO and FTF find that it should be a statutory requirement for companies to use a gender-neutral concept of remuneration such as, for instance, standardized hourly earnings, in cases where companies carry out gender-segregated wage statistics on their own.

LO knows of one case where a legal action was brought on the basis of wage statistics. A settlement was reached before it reached the Equal Pay Board.

#### **Direct request: Article 3(1). Objective job evaluation**

LO and FTF wish to promote objective and gender-neutral job evaluations in cooperation with the employers and the government. LO and FTF believe that it continues to be a major challenge in connection with equal pay that there is no objective job evaluation in Denmark. Gender-neutral job evaluation can, among other things, contribute to promoting an objective setting of wages -



both collectively and individually - and make it easier to identify and bring cases on work of equal value.

LO and FTF find it to be problematic that there has been no progress in this area since the Pay Commission in 2010. For example, the government has not defined the concept of “work of equal value”. Nor has it launched any initiatives with a view to promoting the use of gender-neutral job evaluation tools.

LO and FTF consider it to be a serious problem that Danish law does not, in practise, provide any guidance on how to determine the value of the work because the lack of a definition is an obstacle to conducting equal pay cases. There is thus a need for a clarification of the concept "work of equal value". A clarification could, furthermore, include a reference to objective job evaluation as a tool to promoting equal pay.

In connection with the 2018 collective bargaining round, Local Government Denmark's Pay- and Personnel Committee (KL) and the collective bargaining forum agreed to discuss experiences from other countries on the use of job evaluation systems, including experiences from Sweden and Iceland.

**Direct request: Article 4. Cooperation with the workers’ and employers’ organizations**

In accordance with the Industrial Agreement, an Equal Pay Board was set up. Here, cases regarding equal pay can be pursued in accordance with the Industrial Agreement and the Collective Agreement for Salaried Employees in Industry.

No rulings have been made in the Equal Pay Board established on the industrial area. There have been two cases of preliminary procedures in the system for industrial procedure regarding equal pay. However, those cases were settled before or in connection with bringing them before the Equal Pay Board. LO and FTF find that the Equal Pay Board has a preventive effect as employers prefer settlements to having cases brought before the Board.

The system that has been established seems to work. The few cases that have been mounted have been resolved on their way through the system. The challenge is, meanwhile, to strengthen the focus on equal pay at the workplace and to get workers to pursue equal pay cases. The lacking wage statistics and the lacking clarification of the work-of-equal-value concept make it difficult for the individual to identify any equal pay gaps. Another complication is that talking about pay is generally a taboo. A survey from the Institute for Human Rights from May 2017 shows that six in ten workers don’t discuss pay with their colleagues. The survey also points to the fact that a lack of openness regarding pay stands in the way of obtaining equal pay. Knowledge of other people’s wages is necessary in order to be able to compare and assess whether a wage difference is illegal. LO and FTF believe that openness about wages, increased requirements for gender-segregated wage statistics and a clarification of work of equal value can contribute to bridging the gender wage gap and to increasing the number of equal pay court cases. 3

During the newly concluded collective bargaining round for local authorities and regions, recruitment- and equal pay funds were established with a view to raising wages in women’s professions.

*The Confederation of Danish Employers (DA)*

The ILO Committee of Experts on the Application of Conventions and Recommendations has posed a direct request concerning the implementation of the Equal Remuneration Convention,

1951 (No. 100) in Denmark. The Confederation of Danish Employers (DA) has the following remarks:

- Danish wage statistics are detailed and fully sufficient for comparing similar jobs.
- The scope of using objective criteria to explain wages is limited. The convention does not mention job evaluation criteria and we find that such practices are not relevant in Denmark.
- The Danish collective agreements for the private sector introduced equal pay tribunals in 2010. In the eight years of their existence, the tribunals have not reached any decisions. Similarly, the Labour Court, and the Danish legal system in general, have almost no cases about equal pay.
- On the Danish labour market, wages are determined by collective agreements concluded by the social partners. The agreements can contain a minimum pay rate, and the actual wages are mostly set locally between representatives of unions and companies or individually on a basis of minimum wages and supplements agreed in the collective agreements.

### **Direct request: Article 2(2). Implementation of legislation**

Danish firms with more than 35 employees and more than 10 employees of each gender within a given job category (ISCO) are by law or collective agreements required to provide gender disaggregated wage statistics. This is provided as an index, i.e. average wages for women in a given job category as a percentage of average wages for men in the same category.

For sectors, branches and job categories (ISCO), Statistics Denmark provides detailed and publicly available wage statistics for men and women. This is in the form of hourly and monthly wages. See, for instance, LONS20 at [www.statistikbanken.dk](http://www.statistikbanken.dk) (also available in English).

At the macro-level, the Danish Center for Social Science Research (VIVE) publishes recurrent analyses of gender specific wages, including gender segregation in terms of education, sector of employment etc.

Finally, Statistics Denmark provides access to detailed administrative microdata, including wage data, for public authorities, political parties, NGOs etc. This allows for very detailed analyses.

Danish wage statistics are sufficient for comparing similar jobs. They show that discriminatory pay practices are not a real issue on the Danish labour market. This is supported by the fact that there are almost no equal pay cases in the Danish courts (see Section 3).

### **Direct request: Article 3(1). Objective job evaluation**

The direct request mentions a “need expressed by the social partners for the adoption of appropriate techniques and criteria for objective job evaluation”, cf. Article 3 of the Convention.

First, the Danish social partners have not expressed a common need for this. The trade unions (LO and FTF) may find such measures productive but the employers (DA) disagree.

Second, contrary to the direct request, Article 3 of the Convention does not mention criteria for objective job evaluation. Instead, it mentions a need to “promote objective appraisal of jobs”. We find that this differs entirely from a formalized system of criteria.

Third, Article 3 states that measures should only be taken “where such action will assist in giving effect to the provisions of this Convention.” We find that this is not the case in Denmark. Equal pay cases are virtually non-existent and the collective agreements, which set wages on the Danish labour market, have incorporated the EU’s Equal Pay Directive and the Danish Equal Pay Act.

Fourth, the concept of objective job evaluation criteria suggests that a job consists of a series of components, such as skill, effort and responsibility, which ultimately allow for an objective comparison of all jobs. We disagree. For example, working as a nurse requires health related skills, empathy, customer service skills etc. Conversely, working as a plumber requires technical skills, physical strength, customer service skills etc. Even though the two jobs are completely different, the idea of objective job evaluation criteria seems to be that customer service skills should somehow be valued equally for the two. It seems obvious to us that this does not make sense. Customer service skills, and other job components, have very different value according to the context and do not compare across jobs.

We find that formal job evaluation criteria are not part of the Convention and that such practices are not relevant for the Danish labour market.

**Direct request: Article 4. Cooperation with the workers’ and employers’ organizations**

The collective agreements for the private sector introduced equal pay tribunals in 2010. The intention was to establish fast-working legal entities, as a supplement to an already effective Labour Court system, in order to make it easier to open a case if a person feels subject to discrimination.

The process of establishing the tribunals was not characterized by unusual obstacles. To this date – eight years after the introduction – the tribunals have not reached any decisions. Likewise, the Labour Court, and the Danish legal system in general, have virtually no cases about equal pay. The status of the legal system suggests that discriminatory pay practices are not an issue on the Danish labour market.

*Local Government Denmark (KL)*

**Direct request: Articles 2(2). Implementation of legislation**

In the municipal sector, the social partners have had numerous projects analyzing the different structures of payments in the municipal sector with focus on the gender aspect. In the municipal sector, there is an ongoing awareness of the effect of the segregation by gender. In the collective agreements in 2018, it is expected to be agreed to give leave with full salary for mourning due to a child's early death and leave for fertility treatment.

As regards decentral wage negotiations, pay statistics are divided by both gender and institution. The equal pay is documented by equality pay statistics from KRL (Kommunernes og Regionernes Løndatakontor). The equality statistics are released continuously on a monthly basis along with other pay statistics and has its own section on the homepage [www.krl.dk](http://www.krl.dk).

KL-Local Government Denmark is not aware of any cases brought before the courts or arbitration tribunals on the basis of the wage statistics. KL has not examined whether there have been brought any such cases before the Danish Board of Equal Treatment – if there have been any such cases they are published on the board's webpage.

**Direct request: Article 3(1). Objective job evaluation**

No further action has been taken to establish equal pay tribunals. Any questions concerning equal pay are well handled in the existing system.

**Direct request: Article 4. Cooperation with the workers' and employers' organizations**

No further action has been taken to establish equal pay tribunals. Any questions concerning equal pay are well handled in the existing system.

KL-Local Government Denmark is not aware of any cases brought before the courts or arbitration tribunals relating to the principle of equal remuneration. KL has not examined whether there have been brought any such cases before the Danish Board of Equal Treatment – if there have been any such cases they are published on the board's webpage.