

Gender equal pay is a long-standing requirement in many countries, unequal pay between female and male employees for the same position being prohibited since 1975 in the UK, 1963 in the USA and 1972 in France.

Nevertheless, even if the gender pay gap has fallen over time, it is still a persistent reality. Therefore, many countries have recently decided to make their best efforts in order to narrow it down through very diverse legislation and initiatives implementing voluntary measures or financial penalties for non-compliance.

UK	USA	Australia	Germany	Portugal
<p>SINCE 2017</p> <p>Employers with at least 250 employees are required to publish each year 4 measures of information based on a 'snapshot' regarding gender pay gap on April, 5th:</p> <ol style="list-style-type: none"> average hourly rate of pay for women and men average bonuses paid to women and men proportion of women and men who were paid bonuses proportion of women and men in each quartile of the pay distribution. 	<p>IN 2016</p> <p>The EEOC adopted a rule requiring employers with at least 100 employees to include compensation data in their annual EEO-1 reports.</p> <p>In August 2017, the Federal Office of Management and Budget paused the planned EEO-1 compensation data reporting requirement in order to process further review.</p>	<p>SINCE 2012</p> <p>The Workplace Gender Equality Agency collects pay data annually from non-public sector organisations with 100 or more employees regarding superannuation, bonuses and other additional payments.</p>	<p>SINCE 2018</p> <p>Companies with more than 500 employees must publish regular reports on gender equality pay between female and male employees in the German Federal Gazette. The reports have to be prepared every three years and based on a three year period 'snapshot'.</p> <p>The first reports have been published in 2018.</p>	<p>SINCE 2019</p> <p>Employers with at least 250 employees are required to send an annual assessment of the remuneration of their female and male employees to a government agency. Any gender pay gap should be justified by a non-discriminatory cause or the employer should implement an action plan to correct gender pay gap. In case of non-compliance, employers will face a financial penalty.</p>

French Labour legislation and regulation are evolving as well and aim at enforcing equal pay and anti-discrimination policies. An accelerating number of legislations have been adopted: for instance, sexist behaviours are now strictly prohibited in the workplace and sanctioned by a criminal penalty for the perpetrator, sexist outrages (i.e. sexist statements or insults) are also prohibited by law in the workplace and trigger criminal liability as well.

Besides, employers with at least 50 employees are now legally required to measure differences in remuneration, raise, and promotion between female and male employees (i.e. gender pay gap measurement) and to take a range of actions to reduce the potential existing gaps¹.

The gender pay gap measurement – based on a 100 score – is obtained through calculations and according to a certain methodology recently set forth in a decree² which is applicable **as from January 8th, 2019**.

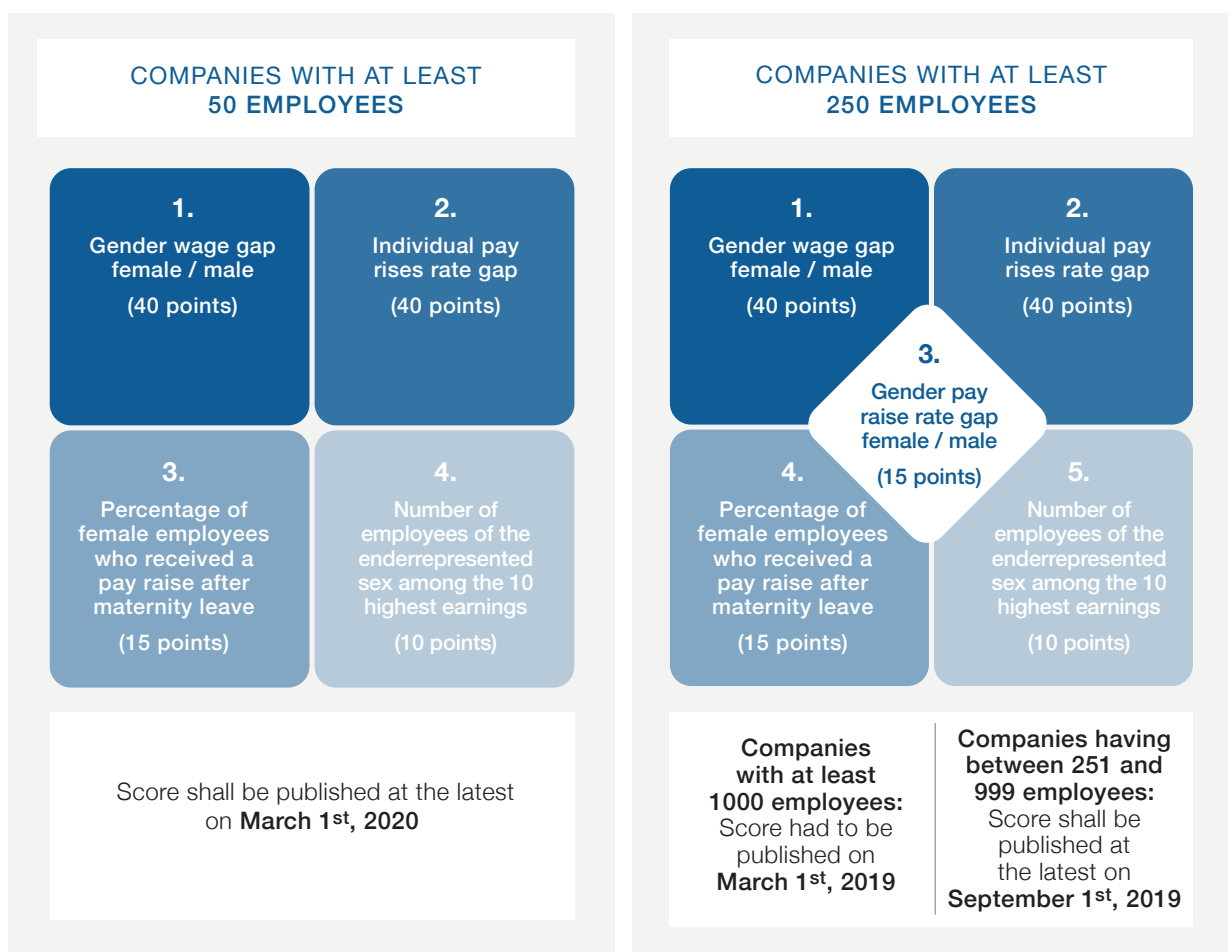
HOW TO OBTAIN A GENDER PAY GAP SCORE?

The calculations, hereunder detailed, facilitate the analysis on the rationale of the differences in pay between female and male employees. The score is based on a total of 100 points³ and **a civil penalty is applicable when the company's score is below 75 points**.

CALCULATIONS METHODOLOGY

Employees shall be split into groups depending on:

- **their age** (less than 30-year-old, between 30 and 39-year-old, between 40 and 49-year-old, and above 50-year-old);
- **their professional categories** (manual workers, non-manual workers, technicians and executives).



Hereinabove is the transitional calendar applicable for the first year of the gender pay gap measurement. The following years, the score must be published each year on March 1st.

Employers can choose the time period of the 12 consecutive months which will be the 'snapshot' of pay information in order to determine the calculations and the score.

THE SCORE SHALL BE PUBLISHED ON THE COMPANY'S WEBSITE AND THE DATA SHALL BE COMMUNICATED

The score shall be published each year on the company's website. In case the company does not have a professional website, the score shall be communicated to the employees by any means⁴.

Moreover, employers are required to communicate the calculations and the score to the employee representatives.

Employers are also required to communicate gender pay gap data (calculations and score) to the French Labour Ministry⁵ services and through the government gender pay gap⁶ reporting website⁷.

WHAT IS THE LIABILITY AT STAKE IN CASE OF NON-COMPLIANCE?

CORRECTIVE MEASURES AND COLLECTIVE BARGAINING AGREEMENT AT THE COMPANY LEVEL

When the company gender pay gap score is of at least 75 points, the employer is compliant and no further actions must be taken.

If the company gender pay gap score is below 75 points, the employer is required to take actions in order to be compliant so that a score of 75 points is reached within a 3-year time period.

To achieve this purpose, the employer has to:

- implement gender pay gap corrective policies and HR practices, and
- schedule annual or multiyear financial measures to correct the gender-related pay gap⁸.

CORRECTIVE MEASURES AND NEGOTIATION

As from the publication of the score, the employer has three years to reach the threshold of 75 points.

Otherwise, the financial penalty will apply, if the local labour inspector notices that the company score has been below 75 points for the past three years.

In this case, the employer would be fined up to **1% of the gross remuneration and earnings (social security charges included) paid to the employees during the previous calendar year**.

The penalty for non-compliance is also applicable in case of:

- non-publication of the score; or,
- non-conclusion of an agreement on professional equality between women and men at the company level or in the absence of an action plan.

However, the decree specifies that before notifying the sanction, the Labour Ministry services may grant to the employer an additional time period (up to 1 year) to comply with, submit observations and justify the reasons for its inability to remove the gender pay gap differences.

1. French Law n°2018-771 dated September 5th, 2018 « pour la liberté de choisir son avenir professionnel » imposes employers to analyse the drivers behind their gender pay gap and aims at reducing such gender pay gap (art. 104)
 2. Regulation n°2019-15 dated January 8th, 2019 regarding gender pay gap
 3. Art. D. 1142-2 et D. 1142-2-1 of the French Labor Code
 4. Art. D. 1142-4 of the French Labor Code
 5. Art. D. 1142-5 of the French Labor Code
 6. <https://travail-emploi.gouv.fr/demarches-et-fiches/formulaires-et-teledeclarations/entreprises/>
 7. Regulation dated January 31st, 2019, defining gender pay gap calculation details
 8. Art. D. 1142-6 of the French Labor Code