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European Chemical Employers Group's (ECEG) statement on the European Commission's proposal for a Directive "to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms" (COM(2021) 93 final)¹

ECEG fully recognizes that gender equality is a fundamental value of the European Union and a key principle of the European Pillar of Social Rights. Gender discrepancies in terms of remuneration and working conditions are therefore inadmissible. However, the association identifies some issues in the Commission's proposal that are of the most concern for chemical employers:

¹ The proposal for a Directive is available at:
https://ec.europa.eu/info/sites/info/files/aid_development_cooperation_fundamental_rights/com-2021-93_en_0.pdf, 04 March 2021.

- A Directive will **intervene on social partners' autonomy** and it will **undermine collective bargaining negotiations**, which are already activity-based, gender-neutral and transparent in the chemical sector. The proposed initiative would interfere with long established national practices and industrial systems, intervening in Social Partners' autonomy and betraying the principles of subsidiarity and proportionality. Employers applying or bound by collective agreements should therefore be excluded from the scope of the regulation².
- **Difficult to assess what is "same work" and "work of equal value"**, especially across economic sectors. Besides the objective criteria mentioned by the Commission (Art. 4(3)), more complex factors need to be taken into account when considering differences in salary between men and women, such as sector specific work organisation (i.e. work in night shifts), productivity and performance. Moreover, differences exist in terms of wage setting systems between public and private sectors. A one-size-fits-all approach should be avoided.
- **Pay transparency prior to employment** (Art. 5) would not provide employers with the flexibility to negotiate with future employees and to attract and retain suitable candidates.
- **Reporting obligation on pay gap** (Art. 8) on an annual basis will put additional administrative burden on companies. The Commission underestimates the challenges posed by COVID-19 on businesses and it fails to consider the consequences of such an initiative on employers.

According to the report of the National Swedish Audit Office (NAO)³, the obligation for employers to produce a documented pay survey and analysis on an annual basis imposes

² According to Art. 2 of the Commission's Proposal for a Directive (COM(2021) 93 final): "1. *This Directive applies to employers in the public and private sectors.* 2. *This Directive applies to all workers who have an employment contract or employment relationship as defined by law, collective agreements and/or practice in force in each Member State with consideration to the case-law of the Court of Justice.*", p. 32.

³ "The Discrimination Act's equal pay survey requirement – a blunt instrument for reducing the gender pay gap", RIR 2019:16, 2019.

heavy administrative burden on employers⁴. The NAO's audit highlights that the work behind equal pay surveys is quite demanding and it creates a lot of problems not only for SMEs, which lack the necessary HR functions to carry on the surveys, but also for bigger enterprises.

In conclusion: ECEG strongly supports all the initiatives which promote equal opportunities, close the gender pay gap and increase women participation in the labour market. Contrasting gender pay gap has always been a priority for the chemical sector and sectoral collective agreements already guarantee that the principle of equal pay is respected. However, the association questions the added value of the proposed Directive, which will pose considerable challenges for employers and could potentially encourage the increase of disputes in courts (Art. 12 - 15), without addressing the root causes of the gender pay gap, i.e. gender segregation and stereotypes, women's participation in the labour market, different career choices and lacking (child-)care possibilities.

⁴ The Swedish Discrimination Act (2008:567) requires that employers with at least 10 employees have to submit an annual report in order to "discover, remedy and prevent unfair gender differences in pay" (Section 8). Few years ago, the interval for companies to produce a survey and analysis has been shortened from three years to every year.

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About ECEG

ECEG, the European Chemical Employers Group, founded in 2002, is a recognised European Sectoral Social Partner, representing the chemicals, pharmaceuticals, rubber and plastics industries in Europe. Our sector provides approximately 3.3 million direct jobs in more than 94.000 enterprises.