**The Act to promote Transparency in Wage Structures**

**(*Gesetz zur Förderung der Transparenz von Entgeltstrukturen*)**

**Article 1 – Wage Structure Transparency Act**

The Act **to promote Transparency in Wage Structures between Women and Men (*EntgTranspG*)** is based on four pillars:

1. **The creation of a clear legal basis for the principle of equal pay and the definition of essential terms**

* Establishing the rule of equal pay for equal work or work of equal value by women and men in unambiguous, transparent terms, in a separate core Act
* Defining the main principles and terms concerning the principle of equal pay between women and men, in particular when it comes to transposing the stipulations contained in Article 157 (1) and (2) TFEU, as well as in Directive 2006/54/EC and in the settled case-law of the Court of Justice (ECJ), including the following:
* prohibition of direct and indirect pay discrimination on grounds of sex,
* definitions of direct and indirect pay discrimination,
* criteria for establishing what constitutes equivalent work, as well as
* requirements as to non-discriminatory pay systems.

1. **Entitlement to request pay information**

* Introduction of an individual right to disclosure for up to 14 million private-sector workers, as well as for public-service employees[[1]](#footnote-1).
* **Conditional on:** the establishment having more than 200 employees
* The right to disclosure may be asserted repeatedly after 2 years if the statutory preconditions are satisfied (e.g. major changes).
* The right to disclosure includes
* the **criteria and procedures for pay-setting** (own pay + benchmark pay to which the enquiry refers), as well as
* the **amount** of the benchmark pay to which the enquiry refers.
* In addition to the average monthly gross income, the enquiry can refer to **up to two separate pay components**.
* The extent of the right to disclosure depends on whether the employer is bound by a collective pay agreement, or the employer voluntarily applies such an agreement, within the meaning of the Act:
* **if the employer is bound by a collective agreement or voluntarily applies such an agreement (section 14):** 
  + with a works council: The enquiry is answered by the works council as a matter of principle, but the employer can provide the response, or can be requested by the works council to provide it; the employer is then to provide comprehensive information to the works council with regard to its response.
  + without a works council: The enquiry is answered by the employer as a matter of principle, but the possibility exists for an agreement to be reached between representatives of the parties to the collective agreement and the employer according to which the latter exercises the right to disclosure.
  + no determination required to assess whether workers are performing work of equal value with regard to the benchmark work to which the enquiry refers 🡪 sufficient to state the remuneration or pay group or grade
  + Benchmark pay is to be stated as a **statistical median of the average monthly gross pay** of all employees of the respectively other sex in the **same pay grade** as the employee requesting the information.
* **if the employer is not bound by a collective agreement and not voluntarily applying a collective agreement (section 15)** 
  + without a works council: The enquiry is answered by the employer.
  + with a works council: The enquiry is answered by the works council as a matter of principle, but the employer can provide the response, or can be requested by the works council to provide it; the employer is then to provide comprehensive information to the works council with regard to its response.
  + determination required to assess whether workers are performing work of equal value with regard to the benchmark work to which the enquiry refers required to be carried out by the employer or works council
  + Benchmark pay is to be stated as the **statistical median of the average monthly gross pay** of all employees of the respectively other sex performing the respective benchmark activity.
* The right to disclosure **should** apply **from the** 6st of January 2018 (six months after the Act has entered into force as a preparatory period for employers, works councils and parties to collective agreements).

1. **Internal company pay reviews**

* Private-sector employers with more than 500 employees are called on to carry out pay reviews to verify and create equal pay.
* Implemented at employers’ own responsibility, with the involvement of the employees’ representatives
* Employees and the works council are to be informed of the outcome of the procedure.

1. **Obligation to report on pay**

* Introduction of an obligation to report on equality and equal pay of women and men for employers with as a rule more than 500 employees if they are obliged to file a management report in accordance with the Commercial Code (*Handelsgesetzbuch*)
* Roughly 4,000 companies will be obliged to report regularly on
* the measures for promoting equality of women and men and their impact,
* the measures to establish equal pay, for instance via the applicable pay arrangements and job evaluation procedures,
* Employers bound by a collective agreement and those voluntarily applying such an agreement draw up the report every five years; all others every three years.
* The first report should be drawn up for 2016 in 2018.
* The reports are to be published in the Federal Law Gazette (*Bundesanzeiger*) and appendixed to the management report.

**Article 2 – Amendment of Book III of the Social Security Code (SGB III)**

The goal of gender-sensitive careers advice in employment promotion is also strengthened, and hence career selection without role stereotypes will be promoted.

1. Source: Unternehmensregister; Civil servants in the employ of the *Länder* are excluded from the right to disclosure. [↑](#footnote-ref-1)