

LP ADVISORY

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IN THIS EDITION

1. EU Directive No. 970/2023 – Pay Equality and Transparency

1

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TO ALL CUSTOMERS

EU Directive No. 970/2023 – Pay Equality and Transparency

EU Directive No. 970/2023, which has the objective of reinforcing and ensuring the effective implementation of the principle of equal pay for men and women, must be transposed by Member States **by 07/06/2026** and is expected to entail significant organizational and managerial implications for companies.

Indeed, the provisions introduced by the European regulation establish binding reporting obligations as well as more effective control systems for employers. For workers, however, they provide rights of access to transparent information concerning their remuneration.

The main provisions of the Directive are summarised below.

1. Scope of application and salary transparency prior to recruitment

The Directive applies to private and public employers and to workers with an employment contract or employment relationship as defined by law, collective bargaining agreements, or current practices within each Member State. The Directive also applies to candidates during the selection and hiring process, who will have the right to receive from the potential employer comprehensive information concerning the initial remuneration (based on objective and gender-neutral criteria), the job title, and the provisions of the collective bargaining agreement applicable to the position.

Employers will also be prohibited from asking candidates for any information regarding their level of remuneration received under current or previous employment relationships.

Employers will need to ensure that vacancy notices and job titles are gender-neutral (limiting themselves to indicating job position, required skills and salary) and that hiring procedures are conducted in a non-discriminatory manner, so as to safeguard the right to equal pay for equal work or work of equal value.

2. Transparency in determining salaries, criteria for economic progression, and the right to information

Employers must make the criteria used to determine workers' wages, salary levels, and pay progression easily accessible to their employees. These criteria must be objective and gender neutral.

Workers will have the right to request (individually, through their workers' representatives or through an equality body – in accordance with national law and/or practice) and receive, in writing, information on their individual pay levels as well as the remuneration levels, broken down by gender, applicable to categories of workers performing the same work or work of equal value.

If the information received is inaccurate or incomplete, workers shall have the right to request further clarification and details regarding the data provided and to receive a duly reasoned response.

Employers shall provide workers with the above information within a reasonable timeframe, but in any case, no later than **two months** from the date on which the request is submitted.

Furthermore, employers should inform all workers on an annual basis of their right to obtain the above-mentioned information and of the procedural steps shallot be undertaken to exercise such rights.

Workers shall not be prevented from disclosing their pay for the purpose of implementing the principle of equal pay (prohibition of pay secrecy). In particular, Member States must adopt measures prohibiting contractual clauses that restrict workers' ability to disclose information relating to their remuneration.

Employers may, however, require that workers who have obtained access to information other than that directly relating to their own remuneration or pay level shall not use such information for purposes other than the legitimate exercise of their right to equal pay.

3. Communication obligations

Article 9 of the Directive provides for binding employers' reporting duties regarding the pay gap between male and female workers. Specifically, based on the provisions of the various Member States, the employer's reporting must contain the following information:

- the gender pay gap;
- the gender pay gap in complementary or variable remuneration components;
- the median gender pay gap;
- the median gender pay gap in complementary or variable remuneration components;
- the percentage of female and male workers receiving complementary or variable remuneration components;
- the percentage of female and male workers in each pay quartile;
- the gender pay gap between workers by category of workers broke down on the basis of the basic normal wage or salary and the supplementary or variable remuneration components.

The above communication obligation shall be implemented as follows:

Company staff	Expiration	Future periodicity
≥250 workers	07/06/2027	Annual
From 150 to 249 workers	07/06/2027	Triennial
From 100 to 149 workers	07/06/2031	Triennial
< 100 workers	No obligation	Voluntary communication

Workers, workers' representatives, labour inspectorates and equality bodies will have the right to request from employers' clarification and additional details regarding any data provided in the periodic communication, including explanations of any gender pay gaps.

Employers shall respond to such requests within a reasonable timeframe and provide a comprehensive response.

Where gender pay differences exist and are not justified based on objective and gender-neutral criteria, employers must take corrective measures within a reasonable timeframe in close cooperation with employee representatives, the labour inspectorate and/or the equality body.

4. Joint salary assessment

Employers subject to the obligation to report wage information as set out in point 3) shall, together with their workers' representatives, carry out a joint wage assessment if all the following conditions are met:

- information on wages reveals a difference in the average wage level between female and male workers of at least 5 % in any category of workers;
- the above difference was not justified by the employer based on verifiable and gender-neutral criteria;
- the unjustified difference in average salary level has not been corrected within six months of the date of disclosure of the wage information.

When implementing the measures resulting from the joint pay assessment, the employer will correct any unjustified pay differences within an appropriate timeframe, in close cooperation with workers' representatives, in compliance with national legislation and/or practice.

The labor inspectorate and/or equality body may be invited to participate in the procedure. Implementation of the measures shall include an analysis of existing gender-neutral job evaluation and classification

systems, or the establishment of such systems in order to ensure the elimination of any direct or indirect pay discrimination based on sex.

The joint wage assessment will be made available to workers and workers' representatives, who will communicate it to the monitoring body and, upon request, transmit this assessment to the Labor Inspectorate and the Equality Body.

5. Data protection

Article 12 of the Directive provides that data subject to "information requirements," "communication requirements," and "joint pay assessment" shall not be used for purposes other than the effective application of the principle of equal pay in compliance with the provisions of Regulation (EU) 2016/679.

Member States may decide that, where the dissemination of information involves the disclosure of the remuneration data relating to an identifiable worker, access may be granted only to the Labour Inspectorate, Workers' Representatives and the Equality Body.

6. Protection of rights, procedures to support workers, and reversal of the burden of proof in the event of non-compliance with the Directive

To ensure full implementation of measures to combat pay discrimination, the Directive provides for several binding measures aimed at guaranteeing the effective observance of the right to equal pay.

Those entitled to take legal action are not exclusively workers.

Associations, Organizations, Equality Bodies and Workers' Representatives, provided that they have a legitimate interest, are entitled to initiate judicial proceedings in order to ascertain the violation of the principle of equal pay.

Once a breach of equal pay obligation has been established, the worker will be entitled to compensation or full reparation, according to the provisions of the Member State, with the consequent recovery of outstanding wages (including bonuses and payments in kind) and any other damages (e.g., loss of opportunity, intangible damage, or gender-based discrimination).

Workers may file lawsuits by attaching factual evidence (including evidence based on mere presumptions) to their application regarding direct or indirect discrimination. In the event of alleged discrimination, the burden of proof is reversed: the employer must demonstrate the fairness of the treatment and the absence of the alleged harm and discrimination.

Also, regarding legal costs, in order not to discourage workers from asserting their rights, the Directive provides that courts may decide, in accordance with national law, not to order the worker to pay legal costs in the event of a losing case. Member States will be required to establish rules regarding effective, proportionate, and dissuasive sanctions in the event of violations of the provisions regarding equal pay.

Finally, reference must also be made to Article 25 of the Directive, which in order to further strengthen the established protections, provides for the prohibition of dismissal or other adverse or retaliatory measures in the event that workers and workers' representatives act to protect their rights.

7. Practical implications for businesses

The Directive introduces a set of detailed rules aimed at ensuring wage transparency and eliminating gender inequalities. This has numerous practical implications for companies, which will therefore need to anticipate change with structured and targeted compliance measures, specifically:

- reviewing or redesigning remuneration systems and job classifications to ensure gender neutrality;
- considering the voluntary adoption of gender equality certification (UNI/PdR 125:2022) with possible access to incentives;
- establishing transparent internal selection and career progression procedures;
- actively cooperating, from an industrial relations perspective, with workers and RSU/RSA on the rights and tools available, including through the implementation of specific company agreements.

The Firm remains available for any further clarification or assistance, as well as for specialized support in ensuring full compliance with the regulations.



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