Frequently asked questions on the Pay Transparency Directive (2023/970)

This document provides answers to frequently asked questions by stakeholders related to Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023 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.

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Overview of the Pay Transparency Directive

The requirement of **equal pay between female and male workers for the same work or work of equal value** exists since 1957, when the Treaty of Rome was adopted.

Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023 **aims 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. It establishes minimum requirements on pay transparency and includes measures for workers to be aware of their right to equal pay and, where appropriate, exercise that right. It also enables employers to assess whether their pay structures comply with the principle of equal pay and whether these are free from hidden bias and discrimination. The Directive strengthens enforcement mechanisms and promotes greater attention to potential unjustified pay differences between women and men performing the same work or work of equal value.

President von der Leyen announced binding pay transparency measures as one of her political priorities for the 2019-2024 Commission. Following the Commission's proposal, negotiations, and agreement by the co-legislators, the Directive entered into force in June 2023. Member States must **transpose it by 7 June 2026**.

The commitment to ensure the right to equal pay through pay transparency was reaffirmed in the Roadmap for Women's Rights endorsed by all Member States and EU institutions in October 2025. The Gender Equality Strategy 2026-2030, adopted by the European Commission in March 2026, emphasized the Commission's support to Member States in the effective and timely implementation of the Pay Transparency Directive.

How does the Pay Transparency Directive benefit workers?

Pay transparency empowers workers to claim their right to equal pay. The Directive enhances access to justice for potential victims of pay discrimination.

The Directive provides new **rights for workers and for jobseekers**:

- **To obtain information** about initial pay or pay range for jobseekers – through a vacancy notice or before a job interview.
- **To ask and receive information about average pay levels** of female and male workers in the same pay category (directly or via worker representative or equality body).

- **To have easily accessible information** about criteria to determine workers' pay, pay levels and pay progression.
- **To be assisted and represented** in administrative or court proceedings by workers' representatives or equality bodies.
- **To claim full compensation** in case of gender pay discrimination, including full recovery of backpay.
- **To be protected against victimisation** and adverse treatment, including as a witness.

The Directive also **prohibits employers** from:

- **Asking job applicants about their pay history** during their current or previous employment relationships.
- Applying **confidentiality clauses** that would prevent workers from disclosing their pay for the purpose of the enforcement of the principle of equal pay.

How does the Pay Transparency Directive benefit employers?

Pay transparency **increases job applications** and **reduces recruitment costs** by clarifying salary expectations upfront.

It boosts employers' reputation as fair, transparent, and socially responsible actors, and therefore **attracts talent**.

It improves **job satisfaction and performance** of workers through clearer career trajectories, which in turn enhances **employee retention** and reduces turnover-related costs.

It promotes **consistent pay practices**, preventing and reducing the risk of discrimination claims and litigation costs.

Do pay transparency measures apply to all employers?

The Directive applies to employers in **both public and private** sectors.

All employers are bound by the obligation to:

- **have pay structures ensuring equal pay** for equal work or work of equal value between women and men – the assessment of whether workers are in a comparable situation concerning the value of work should be based on objective, gender-neutral criteria including: **skills, effort, responsibility and working conditions**. Relevant soft skills must not be undervalued;

- **provide job applicants (through a vacancy notice or prior to the job interview) with information about the initial pay or its range**, based on objective, gender-neutral criteria, to be attributed for the position concerned;

- **refrain from asking job applicants about their pay history** during their current or previous employment relationships;

- **refrain from using confidentiality clauses** that would forbid their workers disclosing their pay for the purpose of the enforcement of the principle of equal pay.

- **answer to worker's request for information** on their individual pay level and the average pay levels, broken down by sex, for the category of workers performing the same work as them or work of equal value to theirs;

- **inform their workers, on an annual basis**, of their right to receive information on their individual pay level and the average pay levels, broken down by sex, for categories of workers performing the same work as them or work of equal value to theirs;

- **make easily accessible to their workers the criteria that are used to determine workers' pay, pay levels and pay progression** (Member States may exempt in their national law employers with fewer than 50 workers from the obligation related to <u>pay progression</u>);

The coverage for pay reporting and joint pay assessment under the Directive is limited to employers having at least 100 workers.

The **frequency of pay reporting** is tailored to the employers' size and will be gradually introduced**:**

- Employers with at least **250 workers** will report **every year** as of June **2027**;
- Employers with **150 to 249 workers** every **three years** as of June **2027**;
- Employers with **100 to 149 workers** every **three years** as of June **2031**.

Smaller employers (fewer than 100 workers) are not required to report on their pay gaps under the Directive, unless they are already subject to pay reporting under existing national measures in Member States.

Moreover, Member States are required to provide support, in the form of technical assistance and training, to employers with fewer than 250 workers and to the workers' representatives concerned, to facilitate their compliance with the obligations of the Directive.

Does the Directive apply to self-employed workers?

A priori the scope of the Directive does not include self-employed workers. However, **bogus self-employed** workers may be covered by the directive, if they should in reality be considered as workers based on the criteria formulated by the Court[1].

Does the Directive provide flexibility to Member States in the implementation?

Under the Directive, Member States may exempt employers with fewer than 50 workers from the obligation to make accessible to their workers the criteria that are used to determine workers' pay progression.

In addition, Member States may replace employers' pay reporting obligation by extracting and compiling the required data from administrative data available to the national tax inspectorates and social security institutions.

Member States may entrust social partners with the implementation of the Directive, provided that the results sought by the Directive are guaranteed at all times.

Finally, Member States may introduce or maintain provisions that are more favourable to workers than those laid down in the Directive.

[1] Lawrie-Blum v Land Baden-Württemberg, C-66/85.

Does the Directive apply to employers and workers covered by collective agreements?

The principle of equal pay for the same work or work of equal value between women applies to all employers according to the Directive – even when pay is set through collective bargaining. This has been confirmed in a number of rulings from the Court of Justice of the EU (see cases *Royal Copenhagen* C-400/93 and *Defrenne v Sabena* C-43/75). Therefore, employers covered by collective agreements are not excluded from the scope of the Directive.

Which elements of pay must be included for the purposes of pay transparency measures?

In line with the case law of the Court of Justice, the Directive defines ‘pay’ (Art3(1)(a)) as the **ordinary basic or minimum wage or salary**, but also any other consideration, whether in cash or in kind, which a worker receives directly or indirectly in respect of his or her employment from his or her employer. In other words, **complementary or variable components** constitute an integral part of the definition of pay. The same definition is used in the Recast directive.

At the same time, the **objective and function of the pay transparency measures** is to help **identify and assess potential instances of pay discrimination**.

Concerning the pay reporting (Article 9 of the Directive), it involves providing an overview of the situation within an organisation regarding:

- **current workers** employed in the organisation;
- a **given reporting period** (the ‘previous calendar year’ referred to in Article 9 of the Directive);
- **actual pay** (Recital 22 of the Directive).

For the purpose of pay transparency measures, in line with the objective sought by the Directive, the scope of the concepts used (‘pay level’ or ‘gender pay gap’ or ‘median gender pay gap’) may be considered in a way that takes into account the **objective and the function** of these pay transparency measures.

Against this background, when implementing the pay transparency measures, the starting point should be that to calculate pay levels or gender pay gaps, **all elements of pay related to workers employed during the reporting period should be included**. It may be necessary to assign a specific monetary value to **each benefit in kind** for the purpose of pay transparency measures.

Employer's contributions to occupational schemes always need to be taken into account for pay transparency purposes. The latter are indeed always **paid for current workers** in a given **reporting period** and therefore always constitute actual pay (in the context of both equal pay and pay transparency).

In line with the objective of the Directive and in view of the pay transparency measures under Articles 7, 9, and 10 it **may not be useful to include**:

- Payments and benefits in cash or in kind that are not subject to any **eligibility criteria** and are **collectively paid to all employees without any exceptions** (same amount or benefit to every employee). For example, lunch vouchers, smartphones, laptops, Christmas gift cards, collective learning courses, etc. would not need to be included, provided that they are benefits that **are available to all workers without preconditions or exceptions**;

- Payments and benefits in cash or in kind that are accessible to workers on a **voluntary basis**, **without eligibility criteria and without exception** (e.g. gym membership).

In line with CJEU case-law, **statutory social security benefits** and benefits deriving from them, are not considered as pay[2].

Does pay transparency comply with the General Data Protection Regulation (GDPR)?

The Directive does not prevent employers from sharing pay information lawfully, in compliance with data protection rules (GDPR).

The Directive does not ever require disclosing individual pay data, only average pay levels in categories of workers. In situations where there might be a risk of disclosure of personal data, when the number of comparators (co-workers performing the same work or work of equal value) is very small, the Directive does not infringe the General Data Protection Regulation.

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[2] See for example, in the judgment C-170/84 — Bilka-Kaufhaus, the CJEU confirmed that benefits deriving from a statutory social security scheme were outside the scope of Article 157 TFEU (see also case WA C-450/18 (p. 28)).

The collection of payroll data and its disclosure constitute 'processing' of personal data within the meaning of the GDPR if such data allows the identification, directly or indirectly, of an individual. Any processing of personal data must be done in compliance with the GDPR, as also indicated in Article 12(1) of the Directive.

To be compliant with the GDPR, the processing must be based on one of the legal grounds under Article 6(1)c) and e) of the GDPR, such as a national law which provides for a legal obligation or a task carried out in the public interest for which it is necessary to process personal data. Under Article 6(3) of the GDPR, that law must meet an objective of public interest and be proportionate to the legitimate aim pursued. In the case of a legal obligation, such a law must also determine the purpose of the processing. In that regard, ensuring compliance with the equal pay principle, as a Treaty principle and a fundamental right, represents an objective of 'public interest' within the meaning of Article 6(3) of the GDPR and the processing of the payroll data is necessary for achieving this objective**.**

Based on **Article 12(2)** of the Directive, the processing of payroll data **must have a legal basis and** be **limited** to the purpose of enforcing the equal pay principle.

Article 12(3) of the Directive provides the possibility for Member States to **set an additional safeguard** for situations where the disclosure of aggregated payroll data could lead, either directly or indirectly, to the disclosure of personal data in relation to an identifiable individual. This additional safeguard under Article 12(3) of the Directive allows a Member State to decide that only workers' representatives, labour inspectorates or equality bodies shall have access to the information to let the worker know whether pay discrimination based on sex can be presumed. The safeguard **is optional** for Member States and could be envisaged in the implementation of Article 7, 8, and 9 of the Directive, or only for Article 7.

What is a category of workers?

For the purpose of the Directive[3], the categorisation of workers should be based on the **value of work** assigned to them within the organisation. Workers performing the **exact same work** would, by definition, fall within the same category. However, there may also be workers within the organisation who perform different types of work, that are nevertheless of the **same value**. In such cases, these workers should be considered as belonging to the **same category and pay range**, because the value of their work is the same.

This assessment should be done by employers in a way that is not arbitrary, and that is based on gender-neutral criteria. Such criteria should be at least: **skills, effort, responsibility and working conditions**. Beyond these minimum requirements, employers

[3] Including articles 7, 9, 10 and 24 refer to "category of workers".

may include **other relevant gender-neutral and bias free factors** and are free to **weigh each criterion differently** depending on their relevance for evaluating the job role.

It is up to employers to define categories of work of equal value, based on a combination of weighted criteria in cooperation with workers' representatives where they exist.

To facilitate this work and limit administrative burden, Member States are required by the Directive to ensure that analytical tools or methodologies are made available and are easily accessible to support and guide the assessment and comparison of the value of work in accordance with the criteria.

The European Commission, together with EIGE, has updated the EU-wide guidelines on gender-neutral job evaluation and classification, and produced a toolkit that translates the legal requirements of the Directive into voluntary and practical, ready-made step-by-step support for employers, workers and social partners.

Are the updated EU-wide guidelines on gender-neutral job evaluation mandatory?

The legal obligation for employers is to have pay structures that comply with the principle of equal pay for equal work or work of equal value between women and men. The Directive does not prescribe a specific tool for that purpose. It however requires using at least these four criteria – skills, effort, responsibility, and working conditions – for the assessment of value of work (see Article 4(4)).

The EU-wide guidelines, presented as a step-by-step toolkit, are **a voluntary tool** and **practical resource** aimed at supporting organizations in the process of establishing non-discriminatory pay structures. They aim to help organizations meet the requirements of the pay transparency Directive without the need for external consultancy. Employers are free to adapt the provided templates in ways that best suit their context, as long as they ensure that the principle of equal pay for equal work or work of equal value between women and men is respected, and that pay structures are based on objective and gender-neutral criteria, as required by EU law.

Can there be other factors used to assess work of equal value going beyond the four criteria mentioned in the Directive?

The Directive refers to **mandatory four criteria** when assessing the value of work: **skills, effort, responsibility, and working conditions**. These four mandatory criteria should be set as a minimum legal requirement for employers and should be sufficient to evaluate jobs. Although all four mandatory criteria must be taken into account, individual employers may **weigh each criterion differently** depending on their relevance for evaluating the job role.

Article 4(4) also specifies that employers may go beyond these minimum requirements and include **other relevant factors**. This gives employers flexibility to take into account specific circumstances in their organizations. However, in line with the existing Court of Justice case-law, when considering additional elements, the employer must be able to justify the **importance and relevance** of such element; this element must be **gender-neutral** and **non-biased**; and its application must be **proportional**.[4]

While **market conditions** could influence the determination of the level of pay of a worker, they are less likely to be directly linked to the intrinsic value of the job itself and should be treated with caution.

Will employers or social partners lose their discretion to negotiate and set pay due to the Directive?

Since the entry into force of the Treaty of Rome in 1958, and the inclusion of the requirement of equal pay for equal work or work of equal value, social partners and individual employers in the EU have been required to ensure compliance of their pay settings and relevant clauses in collective agreements with this principle. The Directive only aims to ensure better implementation of the equal pay principle and its enforcement – through legal clarity and pay transparency, and by enabling workers better access to justice.

The Directive does not put into question employers' discretion to pay workers doing the same work or work of equal value differently, as long as the pay difference between female and male workers is justified by objective, gender-neutral and bias-free criteria, applied in a proportional manner.

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[4] See Enderby v Frenchay Health Authority and Secretary of State for Health (C-127/92) in that regard.

Who can assist workers in case of alleged pay discrimination?

The Directive aims to strengthen access to justice for potential victims of discrimination. All relevant **associations, organizations, equality bodies and workers' representatives or other legal entities** with a legitimate interest in ensuring equality between women and men should be able to act both on behalf of and in support of a worker (with that person's approval).

How is the Commission supporting the implementation of the Directive?

Since the Directive entered into force in June 2023, the Commission services have held a series of **implementation workshops** with Member States and social partners to provide technical assistance and support and facilitate the transposition of the Directive. The Commission continues to work closely with national authorities and stakeholders to promote clear and consistent implementation across Member States.

In cooperation with the European Institute for Gender Equality, the Commission prepared **EU-wide guidelines on gender-neutral job evaluation and classification, presented as a step-by-step toolkit**. This toolkit is tailored to employers of different sizes and offers three separate pathways with ready-made templates adapted to the complexity of different organisations (micro-employers, small and medium organisations, and large organisations). It also offers a guide to trade unions and workers for equal pay negotiations and talks.

The guidance is designed to make the job evaluation process structured, fair, transparent and free from gender bias, supporting the application of the equal pay principle in practice.

The relevant tools and hands-on support material are available here:

- Web toolkit available here.
- Excel ready-made templates for employers available here
- Video tutorials for micro-organisations, small and medium-sized organisations and large organisations, and large organisation case study.
- PDF publication available here.
- Factsheet available here.
- Webinar available here.
- Policy brief available here.

https://eige.europa.eu/gender-mainstreaming/toolkits/gender-neutral-job-evaluation

In addition, funding has been made available under the 2024 and 2026 **CERV Gender Equality calls** to develop practical methodologies and digital tools at national level, as well as further support capacity building and training on the application of equal pay principle and pay transparency measures, including among social partners.

Ongoing projects related to the implementation of the principle of equal pay and pay transparency under CERV 2024:

- Pay day – Italy – EU Funding & Tenders Portal
- eValueJobs – Cyprus – EU Funding & Tenders Portal
- BE-MAGIC – Belgium – EU Funding & Tenders Portal
- DEFH – France – EU Funding & Tenders Portal
- Palk – Estonia – EU Funding & Tenders Portal
- EqualPAYTransparency – Portugal – EU Funding & Tenders Portal
- FAIR PAY – Greece – EU Funding & Tenders Portal
- Compass-W – Germany – EU Funding & Tenders Portal

For more information, please visit EU action for equal pay.