



A Guide to the EU Pay Transparency Directive

Start building a more equitable workplace and prepare your company for the new legislation.



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Key takeaways

This guide helps companies learn about the new requirements and prepare to comply with the new EU Pay Transparency Directive. It will help readers understand:



- What are the new pay transparency requirements.
- Key points to consider when you prepare.
- Pay equity reporting requirements.
- What happens if your company has a pay gap.

The EU Pay Transparency Directive is advancing workplace equity

In 2021 the European Commission proposed a new Pay Transparency Directive to help make sure that workers receive equal pay for work of equal value, regardless of gender. In this effort, the directive draws inspiration from pay equity legislation introduced around the world in recent years, including public disclosure of pay gaps (as in the UK), a focus on employees' pay after return from parental leave (as in France), and placing the burden of proof on the employer, not the employee, during pay disputes (as in the US state of California).

The directive will apply to EU companies with 100 or more employees of any type, including part-time and contract workers. There are two key areas where these employers will need to take action: pay transparency and pay equity. For many organizations, compliance with the directive will require adaptation and preparation. For instance, companies may need to change the way they articulate their own pay structures and communicate with employees and job applicants, and/or they may need to give targeted raises over a period of time to close the gender pay gap. With these needs in mind, our team has compiled this short guide to help companies start preparing a successful response to the EU Directive.



Before we go into more detail, we want to note that some aspects of the directive may vary by country within the EU. The legislation was passed on March 30, 2023, and EU member nations have three years to transpose the directive into national law. This means that implementation timelines might differ. Member nations will also set their own penalties for noncompliance. Lastly, we note that while our legal and pay equity experts have written this eGuide, it does not constitute legal advice.

Pay Transparency requirements

As we mentioned, pay transparency is one of two key action areas for employers. The EU Directive's Pay Transparency requirements will change the way that employers and employees communicate about pay – starting before the employee is even hired. In job announcements and postings or prior to an interview, employers will be required to inform applicants of the starting pay or pay range. During the interview process, employers will not be allowed to ask candidates about their pay history.

Once a job candidate becomes an employee, they will be allowed to ask their employer for information about the company's pay ranges, broken down by gender, for categories of workers doing the same work or work of equal value. Employers will need to provide this information within a reasonable timeframe and will also need to annually inform all their employees that they have a right to receive this information.

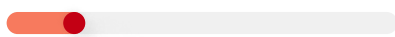


When making decisions about the pay structure and career progression, employers will need to use specific, gender-neutral criteria, and employees will be allowed to review those criteria. Employers will also no longer be able to prohibit employees from disclosing their pay (e.g., by using confidentiality or pay secrecy clauses).



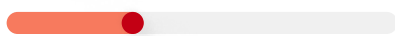
Information on what criteria are used to determine pay levels and pay progression needs to be made available to workers. The pay progression refers to the process of how a worker moves to a higher pay level. Criteria related to pay progression may include, for instance, individual performance, skills development, and/or seniority.

H1 2023



20

H2 2023



35

H1 2024



45

H2 2024



70

H1 2025



90

All workers will have the right to obtain information, upon their request, on their pay and on the average pay level, broken down by gender, for the category of workers doing the same work or work of equal value.

How do you determine the categories of workers?

The "category of workers," as defined in the EU Pay Transparency Directive, refers to a group of workers performing the same work or work of equal value. The grouping must be done in a non-arbitrary manner, meaning it should not be based on discriminatory criteria such as gender, race, or age. These objective criteria must consider skills, effort, responsibility, working conditions, and any necessary additional elements critical to the particular job. In particular, it has to be assured that necessary soft skills are recognized.

According to the Directive, the Member States must take the necessary steps to make sure that methodologies are readily available and accessible to support and direct the evaluation and comparison of the value of work.



Working conditions

Responsibility

Effort

Skills

Employers preparing for the EU Directive will need to do a few things:

1. Revisit the pay philosophy

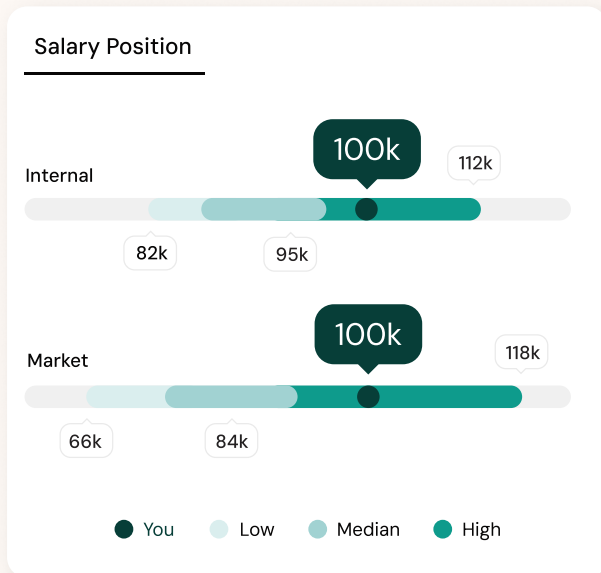
They will need to revisit their pay philosophy. In other words, the organization will need to ask the sometimes difficult question: "What are we paying each of our employees, and why do we pay what we do?" The company's pay structure needs to be articulated clearly.

This may mean making some changes as necessary so that the company's entire pay architecture is logical and internally consistent. As part of this process, the employer should make sure they are using gender-neutral criteria in determining pay ranges and that they can describe those criteria clearly.

Where a job evaluation and classification system is used for determining pay, it shall be based on the same objective and gender-neutral criteria for workers in all their diversity and shall be drawn up so as to exclude any form of discrimination, and to ensure that skills associated with female-dominated jobs are not undervalued.



2. Provide information on individual and average pay levels



The employer will need to review their current employees and how they align with the pay structure.

Does each current employee fall within the specified pay range for their job role? And if so, are they appropriately situated within that range based on their experience, performance, skills, and other attributes that the company values?

If not, then corrective action should be taken. Here too, there is an associated reporting requirement: for each employee, the employer needs to be able to provide "clear and complete information on their individual pay level and the average pay levels, broken down by gender, for categories of workers performing the same work as them or work of equal value to theirs".

3. Prepare for open conversations regarding the reasoning behind pay

Now that the organization has clarified its pay structure internally, it should be ready to talk with each employee about why they get paid what they get paid.

This may also necessitate training managers on how to successfully have these conversations. While such dialogue may be challenging, it meets a growing need: some European employers have observed that their employees want to talk more about money. Plus, preparing for these conversations will also ensure that the organization is ready to list its starting pay and pay ranges in its job postings.

4. Prepare for external reporting

There is also an external transparency requirement, requiring companies to externally disclose e.g. their overall gender pay gap. Some of these external reporting requirements are similar to current UK laws, but companies should be aware that they will need to report on additional data as well, such as raises given after return from parental or carer leaves (a requirement recently implemented in France).

Employers with at least 100 workers or fewer if defined at a national level, shall monitor and provide the following information concerning their organization.



- a The gender pay gap
- b The gender pay gap in complementary or variable components
- c The median gender pay gap
- d The median gender pay gap in complementary or variable components
- e The proportion of female and male workers receiving complementary or variable components, broken down by gender
- f The proportion of female and male workers in each quartile pay band, broken down by gender
- g The gender pay gap between workers by categories of workers broken down by ordinary basic salary and complementary or variable components
- g.a The proportion of workers who benefited from a pay rise following their return from maternity leave, paternity leave, parental leave, and carers leave broken down by gender
- h The average pay levels by category of workers broken down by gender

Pay Equity requirements

As the second major facet of the EU Directive, pay equity compliance requires employers to measure and publish the pay gap between female and male workers within each job category. Beyond taking raw measurements, the company can account for objective factors, including the gender-neutral criteria previously described (like experience and performance). The employer should be ready to publish this information and to share it with employees, who will have a right to receive it under the EU Directive.



If the raw gap is 5% or greater, but

drops below 5%

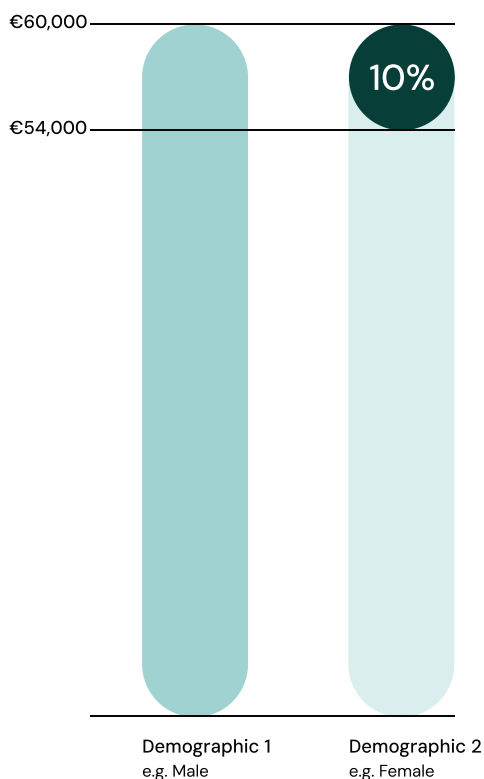
after accounting for objective, gender-neutral factors.

Then no other immediate pay equity action is necessary according to the act.

However, if the gap remains

5% or greater

Then the Directive outlines additional steps.



Unadjusted Pay Gap

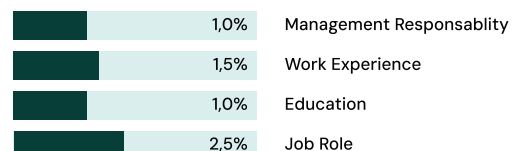
10%

4%

Adjusted Pay Gap or Equal Pay Gap

6%

Explained Pay Gap



The measurement that the EU Directive is most concerned with is along the lines of what we call the equal pay gap or adjusted pay gap: gender-based differences in pay that cannot be accounted for by objective factors like job role or experience. This is in contrast to the unadjusted pay gap or gender pay gap — the raw difference between what men make and what women make. (For a fuller explanation of the two types of pay gap, please see [this article](#).)

If the employer accounts for objective factors and still finds a pay gap of 5% or more within any job category, it can either:

- Correct the gap within six months after publishing its measurement.
- Or conduct a pay assessment and create a gender action plan. This plan would outline the pay adjustments the company would make in order to close its gender pay gap. As the company follows its plan and successfully closes the gap, some further reporting may be necessary.



The directive also strengthens pay equity by supporting employees who experience gender-based pay discrimination. For instance, as mentioned earlier, the directive will shift the burden of proof onto employers, who will need to be able to show why an employee's pay is what it is. Employees who are found to have experienced gender-based discrimination will be entitled to compensation, including back pay.

These pay equity requirements all mean that EU employers should get ready to do several things.

1. They should develop a plan for measuring their pay gap. Some companies may even want to conduct preliminary measurements before the directive actually takes effect in their country. These measurements may drive **proactive action to shrink the pay gap below 5%**, which could preempt the need for further steps. In fact, many EU employers are taking this proactive approach, which also dovetails with the directive's pay transparency requirements. In other words, as a company goes through the process of clarifying its pay structure and becoming internally transparent with its employees, it may already need to start improving its pay equity.
2. Although proactivity may be the safest approach, some employers may find that an eventual gap measurement of over 5% seems inevitable and they are not in a position to start changing pay structures at the moment. Such companies may want to think ahead about what the best choice will be: either be ready to correct the pay gap within six months of publication or conduct a pay assessment and develop a gender action plan.
3. In the long term, **all employers, even those with pay gaps below 5%, should be ready to take further action on pay equity.** It's possible that future legislation may require the pay gap to be closed even further.



PayAnalytics by beqom helps you prepare for the EU Pay Transparency Directive and build a more equitable workplace

The new EU Pay Transparency Directive represents a major shift in what companies communicate about their pay structures and to whom — and as such, compliance will take some work for most employers.

Yet research has shown that pay transparency efforts do help close the gender pay gap. And completely aside from the intrinsic value of increased equity, pay transparency has benefits: it improves employers' reputations and increases productivity and retention rates among female employees.

As the directive has moved through the European Parliament, we have been carefully reviewing each new draft, remaining aware of the latest proposed requirements and supporting EU employers. Now that the directive has recently been finalized, we are happy to say that PayAnalytics by beqom satisfies its criteria for pay equity analysis: our platform is based on fairness principles and supports using gender-neutral evaluation criteria.

We can work with employers at all stages of the compliance preparation process, of all sizes, and with any scope of anticipated needs, from simple measurement and reporting tools to extensive gender action plans. If you would like to discuss how we can help you get ready for the EU Pay Transparency Directive and build a more equitable workplace, please contact us.



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