The Pay Transparency Directive:

Provisions, transposition and opportunities for trade unions

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Recap: Pay Transparency Directive

- Adopted in April 2023, deadline of transposition: Spring 2026 (three year transposition period)

- **<u>Key objectives:</u>**

  - *Establishing pay transparency within organisations (such as: mandatory pay reporting, joint pay assessments, workers' rights to individually request information on pay,...)*

  - *"Facilitating the application" of the key concepts such as equal pay for work ok equal value*

  - *Strengthening enforcement mechanisms*

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ETUC priorities for the Directive

- Strengthening the role of trade unions and ensuring the right of women workers to chose their representatives.
- Guarantee that the right of trade unions to bargain to close the pay gap.
- Enforcing equal pay for work of equal value, incl. hypothetical comparator
- Remove the restrictions on pay transparency.
- Making sure that women workers are not left to themselves, alone up against the employer.

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ETUC campaign for the Directive

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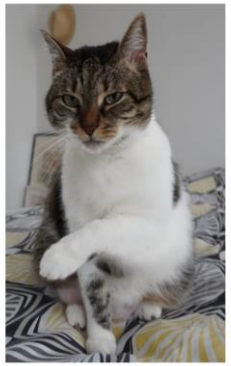
MISSING



Pay Transparency Directive

DESCRIPTION:
attacks
pay
discrimination

PLEASE CHECK:
European Commission offices

LAST SEEN:
Promised by Commission President Ursula von der Leyen within her first 100 days

REWARD:
Justice for undervalued & underpaid women workers

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EQUAL PAY NEEDS TRADE UNIONS!

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MANUFACTURING WORKER IN GERMANY

Same age, working full time with a permanent contract in a middle-sized company for a year.

MAN - AUTOMOTIVE	WOMAN - WHITE GOODS
Problem solving skills	Problem solving skills
Mechanical skills	Mechanical skills
Education: vocational training	Education: vocational training
Physical effort	Physical effort
Responsibility for goods and equipment	Responsibility for goods and equipment
Exposed to physical and safety hazards	Exposed to physical and safety hazards
Monthly salary (gross): 4.381€	**Monthly salary (gross): 3.516€**

MONTHLY GAP: 865€ (-19,7%)

industriAll

EQUAL PAY FOR WORK OF EQUAL VALUE

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EUROPEAN TRADE UNION @etuc_ces · Jun 21

Thank you @Kira_MPH for signing the #EqualPayNeedsTradeUnions pledge and for delivering a strong message to women workers in EU.
With your support as rapporteur, we put #EqualPay into the hands of women workers & their unions.

Who will be next? #SignThePledge

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BRIEFING NOTE

ETUC Response

to the European Commission 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

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Possible amendments	Why is this important?
Article 7 (5) Workers shall not under any circumstances be prevented from disclosing their pay to their colleagues and communicating it to their trade union.	In the interest of ensuring equal pay and identifying that there is pay discrimination in the first place, it is essential that workers are able to speak to others about their pay freely. This means that pay secrecy clauses should be prohibited. The current proposal, in Article 7(5), prohibits the enforcement of pay acy clauses, but only where workers are discussing their pay 'for the purposes of enforcing the principle of equal pay.' There is a danger here that this could be interpreted narrowly – for example, only where workers are contemplating the possibility of bringing an equal pay claim, but not in preliminary stages where they are still uncertain whether pay discrimination exists. This would mean that pay secrecy clauses are still enforceable in a wide range of circumstances and remain an obstacle to identifying pay discrimination. The amendment seeks to ensure that workers can speak freely about their pay.
Strike Article 7 (6) ~~Employers may require that any worker having obtained information pursuant to this Article shall not use that information for any other purpose than to defend their right to equal pay for the same work or work of equal value and not disseminate the information otherwise~~	Article 7(6) of the Commission proposal allows employers to prevent workers from disclosing to others information that may enable these others to identify pay discrimination. It also raises a similar issue, namely that use is limited to 'defending their right to equal pay,' which could again be construed narrowly. This provision could be relied upon to silence workers who have information that points to pay discrimination.

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What did we achieve?

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Transparency measures

- **Article 5 / Pay Transparency prior to employment**
- **Article 6 / Transparency of pay setting and pay progression policy**
- **Article 7 / Right to information**

1. Workers shall have the right to request and receive in writing […] 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.

[…]

5. *Workers shall not be prevented from disclosing their pay for the purpose of the enforcement of the principle of equal pay. In particular, Member States shall put in place measures to prohibit contractual terms that restrict workers from disclosing information about their pay.*

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Transparency measures

- **Article 8 / Pay reporting**

  - Employers with **250+ employees** - reporting every year (as of 2027)
  - Employers with **150 to 249 employees** - reporting every three years (as of 2027)
  - As of 2031, the obligation to report every three years will be extended to employers with **100 to 249 employees**

+ voluntary reporting for companies under 100
+ labelling (in recital)
+ Review clause in 10 years

- **Article 9 / Joint Pay Assessment**

Gender pay gap of 5 % triggers Joint Pay Assessment

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Equal pay for work of equal value

- **Article 4 / Equal Pay for Work of Equal Value**

  - Employers to put in place pay structures that ensure that men and women receive the same remuneration for the same work, or for work of equal value.

  - These pay structures need to be based on gender-neutral criteria that enable us to determine whether a worker (say, a woman) performs 'work of equal value' to that performed by a worker of the other sex (say, a man). These criteria must include – but are not limited to - skills, effort, responsibility and working conditions.

- **Article 19 /Proof of equal work or work of equal value ("hypothetical comparator")**

3. Where no real comparator can be established, any other evidence may be used to prove alleged pay discrimination, including statistics or a comparison of how a worker would be treated in a comparable situation.

→ In some cases, a woman worker in a highly feminised job may find it difficult to find a real male comparator, because there is no such person employed by her employer or whose conditions are determined by a single source. Where this is the case, paragraph 3 provides that the worker can bring forward other evidence to prove discrimination, or show how a male worker *would be* treated in a comparable situation.

Article 3 and Article 13

- **Article 3 / Definitions**

3 (l) ‘workers’ representatives’ means the workers’ representatives in accordance with national law and/or practice.

- **Article 13 / Social Dialogue**

1. Without prejudice to the autonomy of social partners and in accordance with national law and practice, Member States shall take adequate measures to ensure the effective involvement of social partners, through discussing the rights and obligations under this Directive, where applicable, upon their request.
2. Member States shall, without prejudice to the autonomy of the social partners and taking into account the diversity of national practices, take adequate measures to promote the role of social partners and encourage the exercise of the right to collective bargaining on measures to tackle pay discrimination and the adverse impact on the valuation of jobs predominantly carried out by workers of one sex.

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Roles for workers' representatives (depending on national law + practice)

- Consultation for determining **categories of workers** doing the same work or work of equal value by the employer
- Gender-neutral criteria for **pay structures** to be agreed with workers' representatives
- **Support workers in the individual request on pay**, incl. to request additional clarifications from the employer
- Access to **pay reporting** methodology + requesting clarifications, + involvement in possible remedial action
- Cooperation in **joint pay assessment**
- Receiving pay information **and advising workers** in case of data protection concerns
- To engage in any **administrative or judicial procedure on behalf or in support of a worker**

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Equal pay & collective bargaining

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GOOD PRACTICE 2

Type of good practice: Collective agreement

Signatories: VR/LÍV Trade Unions and the Icelandic Federation of Trade (FA) effective

Date: 1 APRIL 2019 TO 1 NOVEMBER 2022

Key elements:

1.3. Wages

c. When determining wages between the employer and the employee, the wage shall reflect the employee's work contribution, competence, educational qualifications and skills, as well as the nature of the job and the responsibility involved. Decisions regarding wages shall take account of the Gender Equality Act.

f. If it is considered that there is a significant mismatch in the total wage payments of groups of wage earners working in comparable companies under comparable conditions, both parties are entitled to refer such case to the wage committee.

h. Wages shall be determined in accordance with objectives stated in laws on wage equality.

i. The parties agree that in the cases where the association sees reason to initiate a wage equality case, an investigation into the workplace may be performed with the participation of both associations before the actual negotiations take place.

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NEW FRONTIERS FOR COLLECTIVE BARGAINING

BUILDING CAPACITIES TO BARGAIN IN CHANGING WORKPLACES

EQUAL PAY

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CHECKLIST

- [x] The organisation's equality policy includes a commitment to ensure equal pay for work of equal value.
- [ ] The wage system is transparent and broken into components that assist with an assessment of the gender pay gap and the value attributed to the work done by men and the work done by women.
  - Bonus
  - Overtime
  - Extra elements of pay
  - Pensions
  - Training / education
  - Benefits in cash or kind
- [ ] Workers are free to discuss both their pay and the content of their work with colleagues and their trade union(s).
  - Are pay secrecy clauses are banned by legislation in your country?
  - Is there a policy in your workplace that prevents workers from discussing their pay?
- [ ] Objective criteria, free from gender bias, are used for job classification and pay. The selected criteria correspond to the work actually performed and include at least:
  - **Skills** (including education, training, experience, knowledge, interpersonal skills, problem solving, organisational skills);
  - **Effort** (including physical, mental and psycho-social effort);
  - **Responsibility** (including accountability, responsibility for people, goods and equipment, information or financial resources);
  - **Conditions of work** (including the nature of the tasks involved, organisational environment, physical, psychological or emotional environment).
- [ ] The organisation conducts regular pay audits and reports on pay gaps between female and male workers.
  - Are the pay audits accessible to workers and their trade unions?
  - Does the organisation put measures in place to remedy the situation, in consultation with workers and their trade unions?
- [ ] The organisation has a responsive evaluation system in place.

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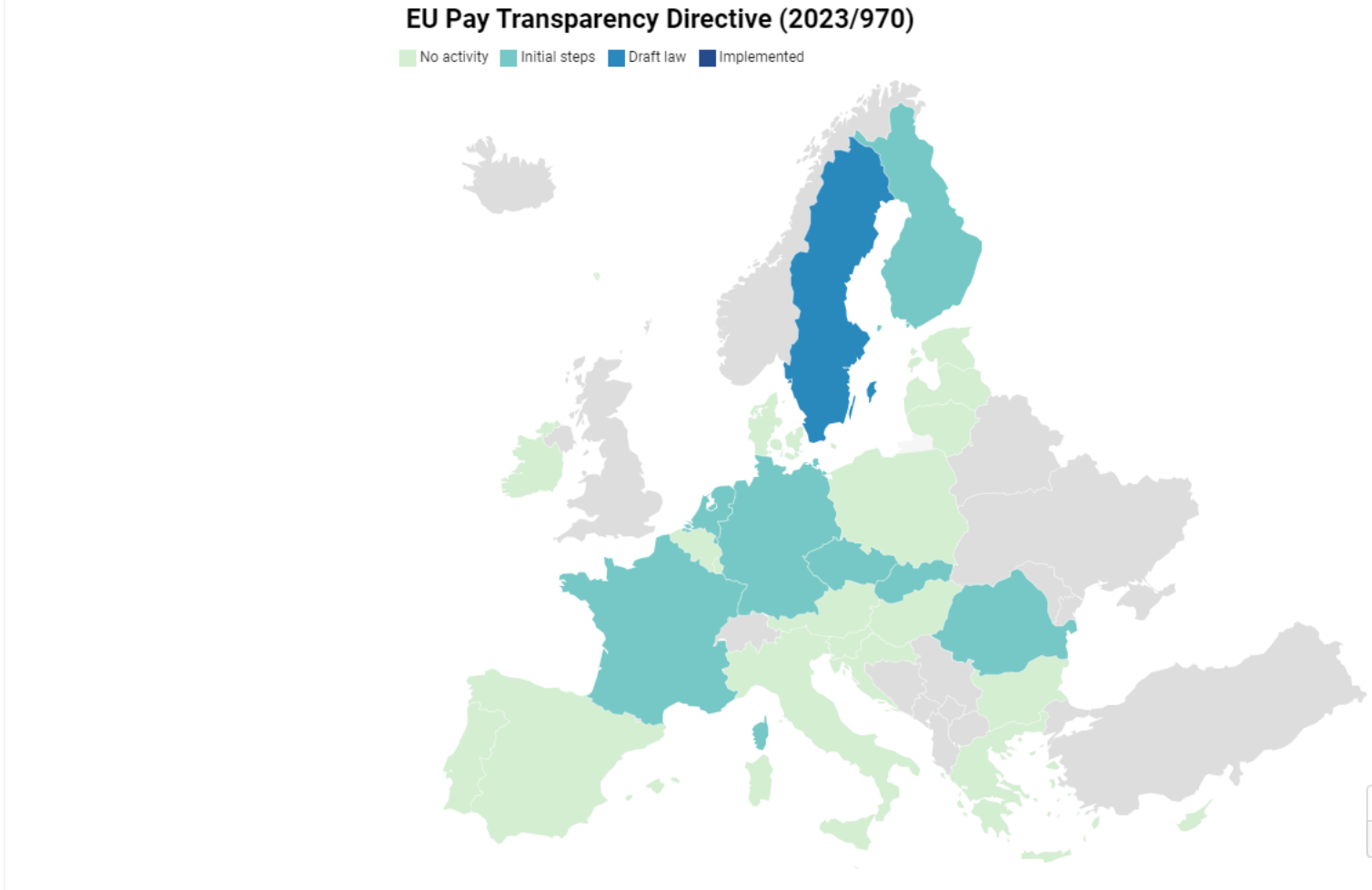
EU Pay Transparency Directive: which countries have implemented?



Source : EU Pay Transparency Directive: which countries have implemented? - Ius Laboris

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Swedish example (draft law)

Proposal for an Act to amend the Discrimination Act (2008/567)

Co-operation

12 §

Employers and employees must work together on pay surveys.

The criteria for job evaluation and the criteria for justifying pay differentials should be developed in consultation with the employee organisation to which the employer is bound by collective agreements.

Information needed for co-operation

13 §

The employer shall provide an employee organisation to which the employer is bound by a collective agreement with the information necessary for the organisation to be able to cooperate in the work on pay surveys and in the formulation of criteria for job evaluation and criteria for justifying pay differentials.

If the employer is not bound by any collective agreement at all and an employee organisation with a member at the workplace requests to cooperate in the work on wage surveys, the employer must provide the organisation with the information needed for cooperation. However, this does not apply if the employer is only temporarily not bound by any collective agreement.

Special rules for employers employing 100 or more workers

Wage reporting

14 §

Employers who employ 250 or more workers must compile an annual pay report.

Employers who employ between 100 and 249 workers must compile a payroll report every third year.

Wage reporting must be done in cooperation with the employee organisation to which the employer is bound by a collective agreement.

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Next steps : To support ETUC affiliates towards an ambitious transposition of the Directive

- Briefing note and toolkit
- Working Group on Pay Transparency
- Wage-Up project

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Project activities

Start of the project: 1st February 2024

End of the project: 31st December 2025

Common Track	AMWD Track	GPT Track
• **A kick-off conference** • **Workshop on the possible synergies and complementary aspects (deliverable: report)** • **Final Conference** • **4 Steering Committee meetings**	• **Workshop 1 (deliverable: report)** • **Workshop 2 (deliverable: report)** **Possible topics:** adequacy of minimum wages, public procurement, action plan for CB coverage, trade union density, access to the workplace, automatic indexation mechanism, extension mechanisms, employers organisation presence and willingness to negotiate, consultative bodies, etc. • **Final report** • **Online monitoring tool**	• **Seminar on pre-existing legal obligations and current practices** (based on the results of mapping exercise) • **Workshop on national action plans and priorities for the transposition of the GPT Directive (deliverable: report)** • **Final report (+ transposition guide)**

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SAFE AT WORK
SAFE AT HOME
SAFE ONLINE

TACKLING GENDER-BASED VIOLENCE AND HARASSMENT IN A CHANGING WORLD OF WORK

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SAFE AT WORK
SAFE AT HOME
SAFE ONLINE

A GUIDE FOR TRADE UNIONS TO ELIMINATE WORKPLACE HARASSMENT AND VIOLENCE AGAINST WOMEN

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Collective bargaining agreements addressing domestic violence as a work-related issue

Box 6 Collective Bargaining Agreement for gender diversity and professional equality of energy workers, 2021-2025 at EDF SA (France: CFDT, CFE-CGC, CGT, CGT-FO)

The CBA on gender diversity and professional equality concluded between energy operator EDF and major French trade unions in the energy sector establishes provisions for ensuring gender equality in working conditions and pay, as well as measures on combating gender-based and sexual violence and harassment in the company.
The agreement applies a gender dimension in the prevention of occupational risks. Key indicators in the area of OSH (accidents, absenteeism, occupational illnesses) are to be monitored by gender.
Moreover, the agreement envisages company support measures for victims of domestic violence, emphasising the company's awareness of the impact of domestic violence on the employment of victims. As such, the company has entered into a partnership with an NGO combating GBVH (FIT – une Femme un Toit) to help develop victim support measures such as: flexible working time arrangements, financial and social assistance, emergency or long-term accommodation, mobility, workplace safety, administrative and banking assistance, suspension and smooth return to employment, awareness raising campaign on the issue of domestic violence affecting women, also in the labour market, among others.

Safe at work, safe at home, safe online - a union checklist

- Does my workplace have a clear policy on gender-based violence and harassment?
- Does my workplace policy address face-to-face misconducts as well as abuse via ICT means?
- Does my employer recognise that it has a duty of care for victims of domestic violence?
- Has my workplace put in place an effective workplace complaint mechanism?
- Does my workplace collect, jointly with trade unions, data on the evolution of gender-based violence and harassment?
- Does my workplace carry out gender-sensitive risk assessments?
- Do collective agreements include supportive measures for workers who are victims of domestic violence?
- Do collective agreements include a chapter dedicated to gender-based violence and harassment?
- Do collective agreements on telework/remote work foresee strengthened cybersecurity protocols?
- Do collective agreements on AI and digital surveillance contain gender-specific clauses?
- Do existing awareness-raising activities include recent evolutions in gender-based violence and harassment?
- Do I need to update my own knowledge on the gender impact of digitalisation?
- Am I aware of my union's policy on litigation?

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Thank you!

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