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EU Directive on Pay Transparency: Key Challenges and Risks for Companies with EU-Based Employees

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Adopted in May 2023, and coming into force in **June 2026**, European Directive 2023/970 (the “Directive”) imposes new rules that dictate how employers must **prevent and address gender-based pay gaps across Europe**. While the Directive does not explicitly specify whether it applies to non-EU companies or to foreign employees posted to the territory of a Member State, a combined reading of applicable EU directives strongly suggests that **it will extend to non-EU employers with EU-based employees, including U.S. companies**.

By seeking to strengthen equal pay for equal work through upfront transparency and strong enforcement, the Directive imposes key obligations on employers, including **pay range disclosure in hiring, employee access to pay information, and reporting of pay gaps**.

The anticipated cost, complexity, and social tensions associated with the implementation of this Directive explains why EU companies and other companies with EU-based employees are struggling to implement these rules, even though it will come into force in **the coming year**.

Beyond its objective of narrowing the gender pay gap, the Directive ushers in far-reaching **pay transparency from the recruitment stage and through the entire employment relationship**. The practical impacts will extend well beyond the sole prism of "gender equality" and will lead to major changes in terms of **HR practices and compensation management**. It will also profoundly change remuneration practices.

- **ENHANCED EMPLOYEE PAY INFORMATION RIGHTS**

Starting June 2026, regardless of company headcount, employees in EU countries will gain an unprecedented right of access to pay information: employers with EU-based employees will be required to make easily accessible the **criteria used to determine pay, the pay levels, and rules governing pay progression**. Employees will also be able to request information **on their individual pay level and on average pay levels, broken down by gender, for their category**.

And these new rules cannot be hidden from employees. In fact, the Directive mandates EU-based employees will have to be reminded of this right **annually**, and this applies to employees **fixed salary, as well as variable compensation**. Although employees will gain access to valuable and confidential information regarding minimum salary scales or levels by job type, **no confidentiality obligation may be imposed on employees** to try to prevent the wider disclosure of this information within the company. At this stage, the Directive only provides that employers may require workers who have obtained information other than that relating to their own compensation not to use it for purposes other than exercising their right to equal pay.

The release of this data will inevitably fuel internal comparisons, heightening the risk of social tensions within the company. For example, in a survey of 600 companies in France conducted last June, more than half of the managers surveyed reported they would struggle to explain certain pay differences within their team and fear conflicts and a deterioration in the social climate[\[1\]](#). And this is likely the case with many companies that will be affected by the Directive.

This new right to pay information will undoubtedly constrain managerial discretion in setting pay, bonuses, and individual increases, which in turn will potentially weaken traditional levers of engagement and motivation for employees.

And the Directive will also impose an additional challenge on employers: to implement this right to pay information, employers will have to define **categories of employees performing the same work or work of equal value**. However, the **concept of "work of equal value"** remains vague. The Directive merely suggests the factors to be considered for such an evaluation, such as **"skills, effort, responsibilities, and working conditions"**.

Employers with EU-based employees will therefore need to carry out **an in-depth**, but above all **strategic**, analysis and **classification of jobs**, likely requiring updates to job descriptions and internal classification grids. This will be a time-consuming exercise that **should be anticipated and carried out in consultation with staff representatives**. The use of external experts will also prove indispensable both to secure the process and to limit the risk of errors or litigation.

- **SANCTIONS FOR NON-COMPLIANCE?**

Sanctions for violations of rules in the Directive remain to be determined by each national legislation but are foreseeable: **administrative fines corresponding to a percentage of the total payroll and full compensation for damages** (back pay, damages) seem likely as possible sanctions.

Litigation risks will be amplified by the fact that **the Directive reverses the burden of proof**: in the event of a violation by the employer, it will be up to the employer to prove that there was no discrimination or that the violation of its obligations was unintentional and minor.

- **HOW TO PREPARE FOR TRANSPOSITION AND IMPLEMENTATION?**

For employers with EU-based employees, **the practical horizon is now**. With the Directive coming into force by June 2026, employers should already be thinking about and engaging in **auditing their job architecture and pay-setting frameworks** to ensure they are gender-neutral, mapping comparator groups across business units, and testing their ability to produce reliable pay data. HR teams should prepare to **include pay ranges** in external communications and adjust hiring practices to exclude salary history inquiries. As this may expose discrepancies between employees, **work council dialogue** will become even more important than it is today.

Separately, **legal teams should review policies** on confidentiality, the handling of equal pay claims, evidentiary recordkeeping, and corrective measures, ensuring that remedial actions are timely, documented, and capable of demonstrating that any disparities are objectively justified by legitimate, gender-neutral factors. A few large companies have already begun this crucial preparatory work, but others will need to tackle these important steps well ahead of the June 2026 date.

Gibson Dunn stands ready to support companies in securing compliance, assessing anticipated risks, and turning regulatory constraint into a lever for attractiveness and social performance.

[\[1\]](#) *Association pour l'emploi des cadres* (Apec) survey on salary transparency, 18 November 2025.

The following Gibson Dunn lawyers assisted in preparing this update: Nataline Fleury and Fadéla Kaïlech.

Gibson Dunn lawyers are available to assist in addressing any questions you may have regarding pay transparency laws. Please contact the Gibson Dunn lawyer with whom you usually work, the authors, or any leader or member of the firm's Labor and Employment practice group in Paris:

Nataline Fleury (+33 1 56 43 13 00, nfleury@gibsondunn.com)

Fadéla Kailech (+33 1 56 43 13 00, fkailech@gibsondunn.com)

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