

THE PATH TO TRANSPARENCY AND EQUAL WAGES IN THE EUROPEAN UNION

The path has been long, but the European Union has one goal in mind: transparency and equal pay.

We are awaiting the general vote on the Directive, which will come into force 20 days after publication in the Official Journal, with Member States having 3 years to transpose it into their legal systems.

CONTACTS

GUILHERME DRAY

GDRAY@MACEDOVITORINO.COM

ANA SANTIAGO

ASANTIAGO@MACEDOVITORINO.COM

ESTELA GUERRA

EGUERRA@MACEDOVITORINO.COM

JOANA FUZETA DA PONTE

JFUZETADAPONTE@MACEDOVITORINO.COM

M.^a CAROLINA MATOS

CMATOS@MACEDOVITORINO.COM

The path has been extended, but the European Union (EU), has one goal in mind: transparency and equal pay. In this sense, in March 2021 the Proposal for a Directive of the European Parliament and of the Council was presented, strengthening the application of the principle of equal pay for equal work or work of equal value between men and women through wage transparency and compliance monitoring mechanisms.

In December 2022, Parliament and the countries of the European Union managed to reach an agreement in negotiations on pay transparency measures.

A general vote on the Directive is awaited and it will come into force 20 days after publication in the Official Journal, with the Member States having 3 years to transpose it into their respective legal systems. We present below the main axes and measures of the Directive:

- **Pay transparency for job seekers**

Employers will now be required to provide information about the salary amount for the vacancy they advertise, and may do so in the vacancy announcement itself or at a time prior to the job interview.

In addition, the candidate may not be asked for any information regarding his salary history during any phase of the recruitment process.

- **Pay transparency and career progression in the employing entity**

Employees will now have the right to simple access to salary and career progression criteria, as well as to request information from the employer on their individual salary level and average salary levels, broken down by gender, for categories of employees performing the same functions as them or functions of equal value to them.

- **Salary transparency at an external level**

Employers with more than 250 employees will have to publicly report the gender pay gap in categories of employees performing the same job or jobs of equal value.

Employers who demonstrate a pay gap on the basis of these factors of more than 5% and who cannot justify such a gap with objective, gender-neutral factors must either conduct a joint pay review with employee representatives or, if not applicable, appoint one or more employees to do so.

Confidentiality clauses that do not allow employees to disclose their remuneration are also prohibited.

- **Consequences of violating pay transparency and equality**

Employers who violate the defined rules and whose employees suffer pay discrimination may be required to pay compensation to the employees concerned, including the amount of the pay gap they should have received as well as their bonuses.

Similarly, sanctions will be defined by the Member States for employers who violate the principle of transparency and equal pay, including the imposition of fines.

It should be noted that in cases of violation of these principles, the onus will be on the employer to prove that there was no wage discrimination.

This information is provided for general purposes only and does not constitute professional advice.

© MACEDO VITORINO