

Pay Transparency: Anticipating the new obligations

Directive (EU) 2023/970 of May 10, 2023 on pay transparency¹ must be transposed into French law by 7th June, 2026.

It sets out minimum requirements to ensure that the gender equality principle for the same work or work of equal value is upheld.

Here's a summary to help you anticipate future legal requirements 📌

The Directive applies to **all public and private-sector employers**, and imposes **two main obligations** on them:

1. Transparency on pay criteria:

- Employers will have to communicate clearly, in an accessible way, the **objective and gender-neutral criteria** used to set and increase salaries.
- Examples of criteria: **skills, effort, level of responsibility and working conditions**. Any other factor relevant to the position concerned may be used.

2. Enhanced right to information for employees:

- All employees will be able to request and receive written information on:
 - their individual level of remuneration;
 - the average remuneration levels (broken down by sex) of employees performing the same work or work of equal value to theirs.
- The employer must respond **within a reasonable period**, set by the Directive at a maximum of 2 months.
- The employer will have to inform employees each year of their rights to information on remuneration.

📖 **Please note:** Employees will be able to obtain this information through their representatives or an equal treatment institution.

¹ 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.

Other obligations:

💡 **Obligation to inform job applicants**

Job applicants will have the right to receive, from the prospective employer, information relating to:

- the initial remuneration or its range;
- the relevant provisions of the collective agreement applied (holiday bonus, 13th month salary, seniority related benefits, etc.).

📄 This information that may, for example, be communicated in the job offer prior to the job interview.

💡 **Calculation and communication of indicators**

Employers must provide and/or publish the following indicators:

1. Average pay gap between women and men
2. Average pay gap between women and men on variable or supplementary pay
3. Median pay gap between women and men
4. Median pay gap between women and men on variable or supplementary pay
5. Breakdown of women and men in salary quartiles
6. Proportion of recipients of variable or supplementary pay by gender
7. Gender pay gap by category of workers

Initial obligation and communication frequency of indicators according to company's size:

- **≥ 250 employees:** annually from **2027**.
- **150-249 employees:** every **3 years** from **2027**.
- **100-149 employees:** every **3 years** from **2031**.
- **< 100 employees:** **optional** communication

📄 **Please note:** The EU allows Member States to lower the 100-employees ceiling when transposing the Directive.

💡 **Joint remuneration assessment**

In the event of an average pay gap equal to or greater than 5%, not justified by objective and gender-neutral criteria, the employer must:

- initiate a **joint assessment** with employee representatives;
- identify the causes and implement **remedial measures** (within a reasonable timeframe);
- forward the assessment to employees, their representatives and the monitoring authority, and make it available to the **labour authorities** and the **equal treatment institution** on request.

💡 Penalties

Member States must provide for **effective, proportionate and dissuasive penalties** for **breaches of the rights and obligations** under the principle of equal pay. Examples are given in the Directive:

- Fines **calculated on the basis of turnover or on the employer's total payroll**.
- Exclusion from any public tender procedures in the event of **repeated breaches**.

Need help with compliance?

We'll be happy to assist.

Gabrielle Ménard
Avocat – Counsel
gmenard@sofradec.fr



Fanny Vançon Ziad
Avocat – Counsel
fvancon@soffal.fr



Stéphanie Mabilde
Director, Social Hub
smabilde@sofradec.fr



Emilie Campbell
Deputy Director, Social Hub
ecampbell@sofradec.fr



Nicolas Ehlert
Legal Counsel –
Labour Law
nehlert@sofradec.fr



Oumar Diallo
Legal Counsel – Labour Law
odiallo@sofradec.fr

