

# Pay Transparency: A Real Breakthrough or a New Headache?

On 10 May 2023, the European Union took a major step forward in tackling pay inequalities between women and men with the adoption of Directive (EU) 2023/970. This directive imposes new obligations on employers, both during recruitment and throughout the course of the employment relationship, to promote greater pay transparency and more effectively combat inequalities.

## What Will Change for Employers

### At the Recruitment Stage

- ✓ Employers must now provide clear information in job postings: the initial salary amount or a salary range, based on objective and non-gender-biased criteria, as well as applicable collective bargaining agreement provisions (e.g., bonuses, benefits, minimum salary scales, etc.).
- ✗ It will no longer be permissible to state in job offers that "salary will depend on the candidate's profile."
- ✗ Employers will no longer be allowed to ask candidates about their **salary history** (e.g., previous remuneration) or **salary expectations**.

### During Employment

- ✓ Employers must make available to employees the **objective and non-gender-biased criteria** used to determine pay, as well as information on salary levels and how salaries progress within the company.
- ✓ Employees will be entitled to request information about:
  - their **individual pay level**;
  - the **average pay levels** by gender, for categories of workers performing the same or equivalent work.

Employers must respond **in writing within two months**, and this right must be **reminded annually**. Responses must be clear and complete to avoid repeated or escalated requests — particularly from employee representatives — and to prevent litigation risks.

### Reporting Pay Gaps

The current Gender Equality Index is being replaced by **new, more detailed indicators**:

1. Gender pay gap
2. Pay gap for variable and supplementary components
3. Median pay gap
4. Median pay gap on variable and supplementary components
5. Share of workers receiving variable/supplementary pay

## 6. Gender distribution within each pay quartile

These six indicators must be published on the company's website or made publicly available by another means. They will be automatable and derived from DSN (French digital payroll reporting).

## 7. Job classification by value:

Employers will be required to classify employees into categories performing work of **equal value**. This data will only be shared with employees and staff representatives, and made available to labour inspectors or the national equality body upon request. This indicator is **not automatable**, and the reporting frequency will depend on the company's size.



Where a **pay gap exceeds 5%** and cannot be objectively justified, the employer will be required to implement **corrective measures** within a reasonable timeframe, potentially in consultation with staff representatives, labour authorities or the equality body.

This will require the creation of **job evaluation and classification tools** to assess and compare the value of different roles. Employers will need to develop **pay grids** that include all pay elements and group jobs of equivalent value.

It is highly likely that **industry-wide collective agreements** will need to be revised accordingly — for some, this will mean yet another round of negotiations.

For the first time, the directive incorporates the concept of **intersectional discrimination**, based on the work of Kimberlé Crenshaw. This allows for the recognition of multiple, overlapping forms of discrimination (e.g., based on both gender and ethnicity). However, this will likely prove complex to apply in practice.

## When?

France must transpose the directive into national law by **7 June 2026**. A draft bill is expected around **September 2025**, with adoption likely by **end of the year**.



## Sanctions and Litigation Risks

Member States must introduce effective, proportionate, and dissuasive sanctions. These must consider aggravating or mitigating factors — including intersectional discrimination where applicable.

This directive significantly reshapes the litigation landscape:

- Reversal of the burden of proof: employers must demonstrate the absence of discrimination.
- Full compensation must be provided (including back pay, moral damages, etc.).
- Associations, trade unions and equality bodies may take legal action on behalf of or in support of employees.

This may lead to an expansion of class action-type procedures in France, especially in pay discrimination cases, and a greater role for employee representatives in collective litigation.

A national equality body will also be established to oversee implementation, alongside labour inspections and social partners. While the French Defender of Rights is a likely candidate, a newly created body is also a possibility.

## How to Prepare

Employers must anticipate now and begin preparations, including:

- Conducting an audit of the current pay policy to identify any unjustified gaps and assess financial impact
- Training HR teams and managers on pay transparency obligations
- Classifying employees performing the same or equivalent work
- Creating pay grids by job category, incorporating all remuneration components and objective, gender-neutral criteria
- Defining transparent pay determination processes at hiring
- Developing internal communication strategies around the new remuneration policy

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