



June 2026

### Directive (EU) 2023/970 on strengthening the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms

Dear Reader,

The deadline for transposing Directive (EU) 2023/970 on strengthening the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms (the Pay Transparency Directive) expired on June 7, 2026.

Although the Directive entered into force on June 6, 2023, it has not yet been implemented into German law. Nevertheless, it is expected to fundamentally reshape employers' remuneration practices in Germany. This newsletter provides an overview of the Directive's key requirements, the current status of its implementation in Germany and the practical implications for employers.

#### I. Background

As part of the European Union's ongoing efforts to combat gender-based discrimination, Germany introduced the German Pay Transparency Act ("*Entgelttransparenzgesetz*") in 2017, supplementing the existing framework of the German General Equal Treatment Act ("*Allgemeines Gleichbehandlungsgesetz – AGG*").

The German Pay Transparency Act already imposed certain obligations—particularly on employers with more than 200 employees—to promote equal pay and reduce gender-based pay disparities.

The Pay Transparency Directive now aims to address the remaining gender pay gap by introducing significantly greater transparency in pay structures and strengthening enforcement mechanisms. In doing so, it seeks to strike a balance between enhanced employer accountability and the resulting administrative burden. However, the

obligations introduced by the Directive go considerably beyond those contained in the existing German legislation.

#### II. Status of Implementation in Germany

Despite the expiry of the implementation deadline on June 7, 2026, Germany has not yet transposed the Directive into national law.

The Federal Government has announced its intention to implement the Directive by early 2027. The reporting obligations and employees' statutory information rights are expected to apply for the first time in June 2028.

The delayed implementation does not mean that employers may simply disregard the Directive. Rather, the current legal uncertainty is likely to create additional compliance challenges for employers. Against this background, it is advisable for employers to familiarise themselves with the Directive's requirements and prepare for its implementation at an early stage.

#### III. Direct Effect of the Directive

Since June 8, 2026, the Pay Transparency Directive has had direct effect in relation to public-sector employers. Its direct effect is considerably more limited with respect to private employers. Employees cannot generally rely directly on the Directive against private employers, as directives only have vertical direct effect and therefore bind public authorities rather than private parties.

Nevertheless, the Directive already has practical relevance for private employment relationships. National courts, as organs of the state, are required to interpret existing national law, wherever possible, in conformity with the Directive. Accordingly, the provisions of German employment law

must be interpreted consistently with the objectives of the Pay Transparency Directive to the extent permitted by the wording of the applicable legislation.

#### IV. Key Requirements of the Directive

Irrespective of the current implementation status, the Directive establishes extensive obligations for employers, beginning with the recruitment process and continuing throughout the employment relationship:

##### 1. Pay Transparency for Job Applicants

Employers will be required to provide applicants, at an early stage of the recruitment process, with information on the initial salary or salary range applicable to the position as well as any relevant collective bargaining provisions. This obligation may, for example, be fulfilled by including the information in the job advertisement or providing it prior to the interview. Conversely, employers will no longer be permitted to ask applicants about their current or previous remuneration.

##### 2. Employees' Right to Information

Employees will be entitled to request information concerning their individual level of pay and the average pay levels, broken down by gender, for employees performing the same work or work of equal value. The information must be provided by reference to objectively defined categories of employees carrying out equal or equivalent work.

##### 3. Corporate Reporting Obligations

In future, employers with at least 100 employees will be required to publish information on the gender pay gap within their organisation. The reporting frequency will depend on the size of the undertaking: employers with 250 or more employees must report annually, employers with 150 to 249 employees must report every three years and employers with 100 to 149 employees will become

subject to the reporting obligation five years after expiry of the implementation deadline and will likewise report every three years.

Where the published data reveal an unjustified gender pay gap of at least 5% that cannot be explained by objective, gender-neutral criteria, the employer will be required—where appropriate together with the works council—to carry out a joint pay assessment. Employees affected by unlawful pay discrimination may claim compensation, including full recovery of unpaid remuneration as well as any related bonuses or benefits in kind.

##### 4. Compensation Claims and Sanctions

The burden of proving the absence of gender-based pay discrimination rests with the employer. The Directive therefore introduces a reversal of the burden of proof intended to facilitate the enforcement of employees' equal pay claims. Employers will need to demonstrate that any pay differences are based exclusively on objective, gender-neutral criteria.

By contrast, the specific sanctions for non-compliance remain a matter for the individual Member States. It therefore remains to be seen how the German legislature will implement these enforcement mechanisms.

##### V. Practical Implications

The Pay Transparency Directive imposes extensive obligations on employers. While most of these obligations will become directly binding on private employers only after implementation into German law, employers should already begin preparing for the forthcoming requirements. Central elements include the establishment of transparent remuneration systems based on objective, gender-neutral criteria as well as compliance with comprehensive reporting and disclosure obligations.

## VI. Preparing for Compliance

Although the Directive has not yet been implemented into German law, private employers are well advised to review their remuneration structures now and make any necessary adjustments in preparation for the new legal framework.

As a first step, employers should identify which positions within their organisation constitute equal work or work of equal value. The relevant comparison is not necessarily limited to employees within a single establishment but may also extend to employees within the same corporate group or those covered by collective bargaining agreements or works agreements. In certain circumstances, even hypothetical comparators may be relevant where no actual comparator exists.

While gender-based pay differences are prohibited, remuneration systems may continue to differentiate on the basis of objective criteria such as qualifications, responsibility, workload, professional experience, working conditions or comparable legitimate factors. Employers should therefore assess whether existing pay differences within comparable employee groups can be objectively justified or whether adjustments are required to comply with the principle of equal pay.

It remains to be seen from which employer size onwards German law will require employers to disclose, upon request, the criteria used to determine

remuneration, pay levels and pay progression.

Regardless of company size, however, all employees will have the right to obtain information about their own remuneration in comparison with the average remuneration of employees performing equal work or work of equal value. Employers will furthermore be required to inform employees of both the existence of this right and the procedures for exercising it.

Accordingly, employers of all sizes should already begin conducting a comprehensive review of their remuneration systems and develop objective, gender-neutral criteria for determining pay.

Please do not hesitate to contact us. Our Employment Law team will be pleased to advise you on any questions concerning the Pay Transparency Directive and its practical implementation.

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## Employment Law

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