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Salary Transparency: What will change in Portugal?

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LAW FIRM

The Government has recently made public the **draft bill** intended to partially transpose the European Pay Transparency Directive into the Portuguese legal framework.

The text was subject to public consultation and may still be revised during the legislative process.

The proposed framework is expected to introduce significant changes to Law No. 60/2018, strengthening employers' obligations regarding pay transparency and equal pay, from recruitment through to the implementation of the employment relationship.

In the table below, we highlight some of the key measures envisaged and compare the provisions of the Directive with the approaches set out in the Portuguese draft legislation.

■ Directive vs. Draft Transposition Bill

Topic	Directive (EU) 2023/970	Draft Transposition Bill
Transparency in recruitment 	Candidates are entitled to be informed of the initial pay level or pay range at a stage that ensures an informed and transparent negotiation . For example, this information may be provided in the job advertisement or before the interview.	The information must be provided to the candidate before the employment contract is concluded .
Pay history 	Employers must not ask job applicants about the pay they receive or have received in their current or previous employment relationships.	Employers are prohibited from asking job applicants about the pay they receive or have received in their current or previous employment relationships.

Topic	Directive (EU) 2023/970	Draft Transposition Bill
Transparency of pay-setting and pay progression policies 	Employers must ensure that workers have easy access to the criteria used to determine pay, as well as the respective pay levels and pay progression. Member States may exempt employers with fewer than 50 workers from the obligation to make available the criteria relating to pay progression.	Employers must display in a visible location or otherwise make available the criteria used to determine pay, pay levels, and workers' pay progression. Companies with fewer than 50 workers are exempt from the obligation to provide information relating to pay progression.
Workers' right to information 	Workers have the right to request and receive, in writing, information on their individual pay level and on the average pay levels, broken down by sex, for categories of workers performing the same work or work of equal value, within a reasonable period not exceeding 2 months. Employers are required to inform workers annually of this right and of the procedure for exercising it.	Right to request information on the worker's individual pay level and on average pay levels, broken down by sex, for groups of workers performing the same work or work of equal value. Employers must provide this information within 2 months of the worker's written request. Employers must inform workers annually about the procedure for exercising this right.

Topic	Directive (EU) 2023/970	Draft Transposition Bill
Disclosure of pay information 	Workers may not be prevented from disclosing their pay for the purpose of enforcing the principle of equal pay. Contractual clauses intended to restrict such disclosure must be prohibited.	Clauses in Individual Employment Contracts (IECs) that seek to prevent workers from disclosing information relating to their pay are null and void.
Mandatory reporting on pay gaps 	Applies to employers with at least 100 workers. Member States may extend the obligation to employers with fewer than 100 workers.	Applies to companies with 50 or more workers.
Protection against adverse treatment 	Member States must introduce the necessary measures to protect workers and their representatives from retaliation related to the exercise of rights concerning pay equality.	Presumption that disciplinary sanctions imposed within 3 years following a worker's complaint regarding non-compliance with rights related to pay equality are abusive.
Limitation periods 	Limitation periods for exercising rights relating to pay equality may not be shorter than 3 years.	The draft bill does not transpose a limitation period regime corresponding to that provided for in the Directive.

Topic	Directive (EU) 2023/970	Draft Transposition Bill
Sanctions regime 	Sanctions must be effective, proportionate and dissuasive, and include fines. Specific sanctions must be established for repeated infringements.	Several labour misdemeanours and ancillary sanctions are provided for breaches of the regime. <i>Examples of ancillary sanctions</i> include the withdrawal of tax and financial incentives and public benefits, as well as exclusion from participation in public procurement procedures.

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Insight

Salary Transparency



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