



# GMS Flash Alert

## Employment Law

2023-081 | April 11, 2023



# European Union – Directive on Gender Pay Gap Adopted

On 30 March 2023, the European Parliament adopted a new directive on pay transparency with 427 votes in favour, 79 against, and 76 abstentions.<sup>1</sup>

The new directive will require, among other things, more pay transparency from European Union (EU) companies in terms of their employees, which will allow them to compare salaries and expose existing gender pay gaps.

The new directive is expected to be approved by the Council of the European Union this spring. The EU member states will have three years to transpose the directive into national law once the official procedure for publication of the official text of the directive is completed.

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## WHY THIS MATTERS

The new directive on pay transparency will present new rules to companies to foster salary equality. Companies will have to be more transparent about salaries and they will be required to “fix” any gender-based inequalities.

Companies will have to report their salaries broken down by gender and EU member states will be able to sanction companies that violate the new rules on gender pay gap. Further, employees will be given access to compensation in a case of gender pay gaps and the burden of proof in such cases will be on the employer.

The pay transparency directive also recognises people identifying as non-binary, which is the first time in the history of EU legislation.

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## Key Elements for Pay Transparency

**Recruitment:** Companies will be banned from asking candidates about their pay history. On the other hand, companies will be required to provide information about the initial pay level or its range in the job vacancy to foster informed and transparent negotiation on pay.

**Reporting:** Companies with at least 100 employees will have to publish and submit information on the gender pay gap in their organisation. Companies with at least 250 employees will have to report annually; companies with 150-249 employees will have to report every three years; and companies with 100-149 employees will have to report every three years starting five years after the transposition of the directive into national legislation.

**Pay assessment:** If the reporting on pay exposes a gender pay gap of at least 5 percent and when this gender pay gap cannot be justified with objective gender-neutral factors, companies will have to carry out an assessment together with employees' representatives in order to remedy the gender pay gaps that cannot be reasonably justified.

**Right of employees to information from employers:** Employees will be able to request information from their employers on their individual pay level and on the average pay levels broken down by gender for categories of employees doing the same work or work of equal value. This right applies irrespective of the size of the company. Companies will have to annually inform employees about this right to information.

**Pay and career progression:** Companies will have to make information on the objective and gender-neutral criteria used to define pay and career progression easily accessible.

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## KPMG INSIGHTS

The new directive on pay transparency enjoys wide support and it is therefore likely that it will finally be adopted. Even though it will take a couple of years before the directive is transposed into national legislation, companies have no reason to postpone an analysis that will reveal their own status when it comes to gender pay gaps.

Further, companies can already begin to implement procedures to help ensure gender-neutral pay in their organisation by following what is outlined in the new directive.

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## FOOTNOTE:

1 Press release, European Parliament, "Gender pay gap: [Parliament adopts new rules on binding pay-transparency measures](#)," 30 March 2023.

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## Contact us

For additional information or assistance, please contact your local GMS or People Services professional\* or the following professional with the KPMG International member firm in The Netherlands:



**Daida Hadzic**

**EMA Head of Quality**

Tel. +31 6 532 54 599 (m)

[Hadzic.daida@kpmg.com](mailto:Hadzic.daida@kpmg.com)

*\* Please note that KPMG LLP (U.S.) does not offer legal services.*

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