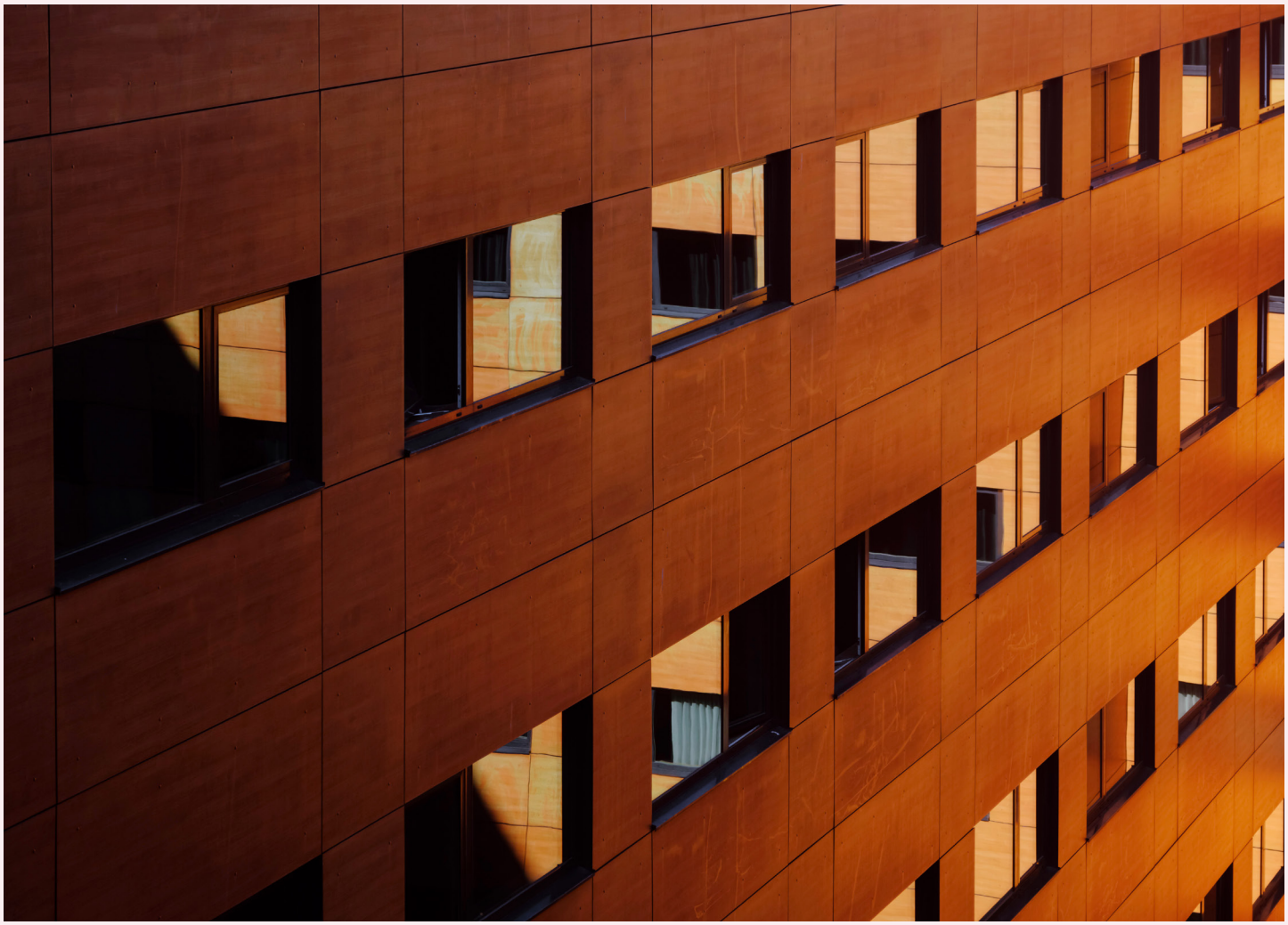
Clifford Chance

Thought leadership

EU Pay Transparency Directive and equal pay – where are we now?

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EU Pay Transparency Directive and equal pay – where are we now?

Key takeaways

1. Multinationals need a co-ordinated but country-specific approach as EU member states adopt different rules and timelines.
2. Employers must be able to objectively assess and justify whether different jobs constitute work of equal value.
3. Employers should review job classifications, pay setting processes and employee representative engagement now to reduce claims risk.

Although many member states missed the 7 June 2026 deadline to transpose the provisions of the EU Pay Transparency Directive – which was adopted in 2023 – into their national lawbooks, the directive and the principles it embodies are already shaping conversations and claims trends regarding equal pay. The key concept in the directive is 'work of equal value', which will need to be determined through gender-neutral job evaluation exercises based on, as a minimum, skills, effort, responsibility and working conditions. Some countries have implemented the directive; others are still debating legislation; and some have yet to see draft legislation.

Equal pay and pay transparency are global issues, and multinationals need to balance how global or local of an approach to take. In addition to the implementation of the EU directive in member states, the UK has an ongoing reform agenda following consultation on transforming its pay discrimination framework, and employers with a US presence have a patchwork of obligations across different states to contend with.

The approaches companies take are being watched closely, in the context of ESG / DEI agendas (to some extent) stalling in some parts of the world, as well as employers in various sectors seeing large-scale claims. This briefing examines where implementation of the EU Pay Transparency Directive stands in various jurisdictions across the continent, and what employers should be doing now to be compliant and to mitigate the risk of claims. The jurisdictions covered reflect those represented at a recent Clifford Chance Perspectives seminar; however, Clifford Chance is able to advise on a broader range of jurisdictions.

Jurisdiction snapshots

France

A draft bill implementing the directive was initially published in March 2026. It was amended in September and is currently before the French parliament. The law builds on existing pay gap reporting obligations for companies with 50 or more employees, and will take effect during a phased timetable, with some items coming into force up to six years after it is promulgated. Key details yet to be determined include the threshold at which a pay gap triggers corrective obligations, and the minimum size for categories of employees performing equal work, below which employers may refuse to report details of pay.

Italy

Italy is the key large European jurisdiction that has already implemented the directive. Legislators struck a balance between full compliance with the directive and maintaining a framework that minimises difficulties for companies. The resulting decree confirms the central role of national collective bargaining agreements (CBAs), although these provide only a baseline framework, leaving room for significant pay discrepancies in practice. There is ongoing debate, both about the role of national CBAs and which employees are within the scope of the decree; for instance, self-employed and independent contractors remain out of scope. Further ministerial decrees on how the directive is to be implemented are expected.

Spain

A draft Royal Decree on pay equality between women and men was published on 3 August; this would partially transpose the directive by updating the existing pay transparency framework. In its current form it would introduce, among other things, a right for individuals to receive pay data in writing and a gender pay gap reporting obligation, as well as updates to existing pay register, job evaluation and audit rules. However, this draft would not incorporate all the provisions required under the directive. It is also unlikely the law will be passed until late 2027 or early 2028, due to ongoing legislative deadlock.



Netherlands

A draft implementation act is being discussed by the Dutch parliament, with enactment postponed until 1 January 2027 and employers with 150 or more employees first reporting in 2028. Some guidance on pay structures has been issued, but more is anticipated, including a draft decree clarifying the definition of 'pay'. Dutch works councils have also been given more extensive approval rights than those required by the directive with regards to how unjustified pay gaps are remedied.

Germany

Germany has yet to implement the directive, and the timeline for it doing so is uncertain given the issue is just one of many challenges facing the German government at present. In the absence of draft legislation, companies can inform their preparation by looking to the final report of the expert commission, presented to the German government last year, as well as appeals court rulings.

UK

The directive does not apply in the UK (although it may impact UK-headquartered employers with employees in members states).
A gender pay gap reporting regime has been in place since 2017. In July 2026, the UK government published a consultation on equal pay reforms and measures to combat race and disability pay discrimination. Some of the measures included in this – if taken forward – would bring the UK position closer to that of the directive.



What is the role of employee representatives?

The EU Pay Transparency Directive gives a significant role to workers' representatives, such as works councils and trade unions. Job evaluation criteria must be agreed with workers' representatives, and representatives must also be informed and consulted on pay reporting outcomes. In instances where unjustified pay gaps are not quickly remedied, a joint pay assessment must be carried out in cooperation with workers' representatives. The European Commission has also confirmed that the equal pay principle applies even where pay is set through collective bargaining, and collective bargaining agreements cannot justify pay gaps. Beyond this, the specific role of works councils, trade unions and other representative bodies is left to member states and is therefore highly jurisdiction specific.

For non EU-headquartered employers, which may be less familiar with the role of works councils and trade unions, understanding the consent, consultation and co-determination rights of workers' representatives will be a key challenge. Companies will not be able to roll out a purely management-driven pay policy, and will need to allow for this in their implementation timelines.

What steps should employers be taking?

The jurisdiction-specific nature of how the directive is being implemented and enforced – with varying deadlines, thresholds and definitions – limits the ability of employers spanning more than one country to take a uniform approach.

Certain aspects of preparing to comply can be approached on an EU-wide basis, while also taking account of local specifics where they are relevant. One of the first things employers need to do is establish or amend recruitment policies, update contracts and formulate internal guidelines. HR must play a key role in recruitment and negotiations; different parts of the business recruiting and determining pay levels for themselves increases risk.

Another is coming up with a job classification system that benchmarks jobs using objective, gender-neutral criteria such as skills, effort, responsibility and working conditions, as well as any other factors relevant to the specific job position. This may also entail adjusting job descriptions and titles. The European Institute for Gender Equality has issued helpful guidance on this exercise, including advising that organisations with more than 250 employees establish a job evaluation committee.

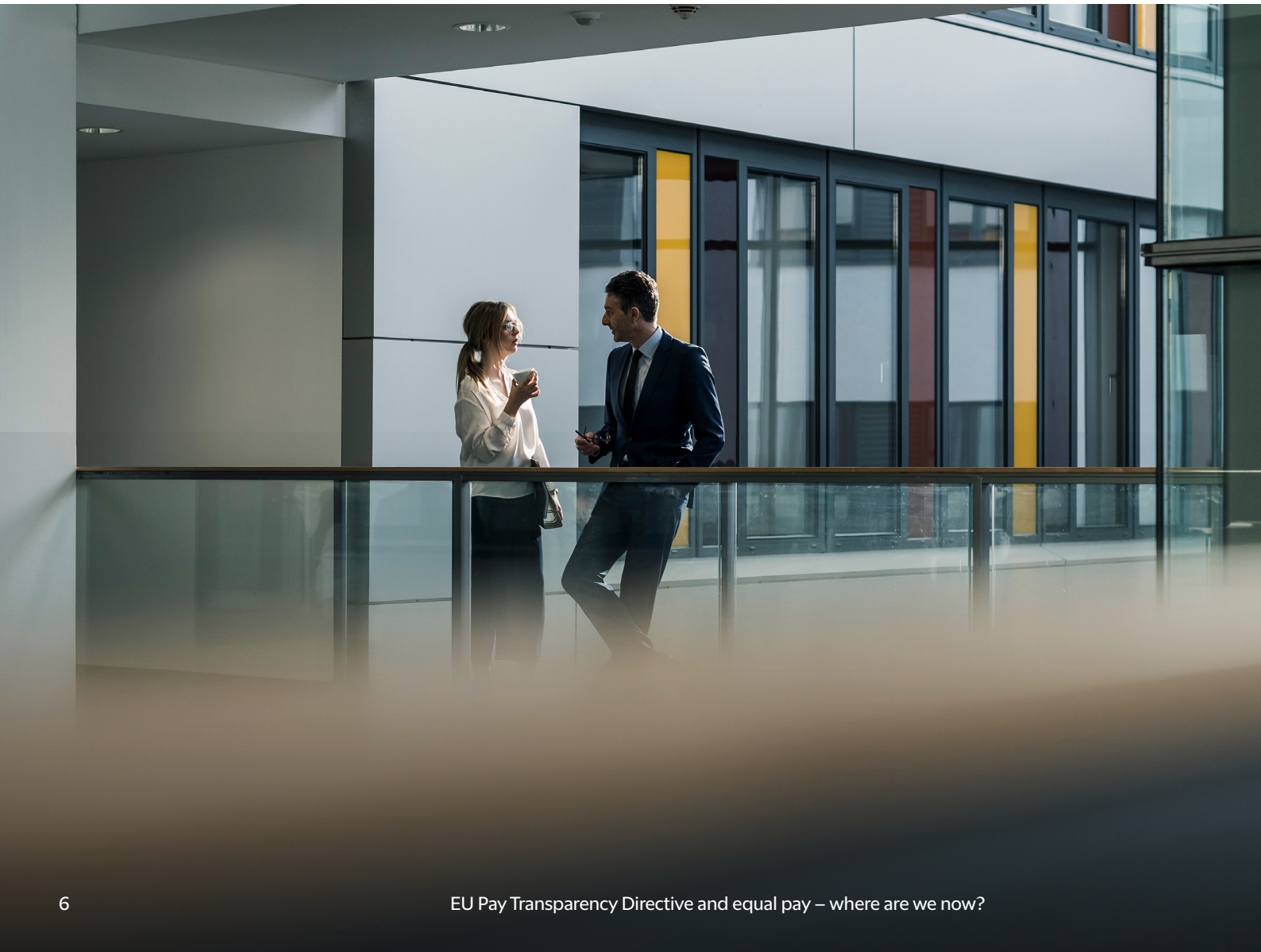
Companies should also take steps to prepare for information requests, establishing a process to provide information within two months of a request. This should include creating a template response and a brief pay policy document that can be provided together with the information requested. Employers should also prepare HR guidelines for the steps to be followed when such requests are made and incorporate the means of making a request for pay information into employee handbooks, company intranets or other internal communication channels.

Litigation trends

Although many member states have yet to fully implement the directive, companies are already seeing major legal claims in the context of equal pay. While many of these are based on pre-existing legal frameworks, it is also possible that employees feel emboldened by upcoming changes to pursue claims, and courts may be willing to make more favourable interpretations in light of prospective legislation. Employee information requests and information on pay in job advertisements might also be used to frame claims. Key for employers is effective justification of their approach in order to pre-empt or prepare for challenges.

There have been a number of large class actions in the supermarket/retail sector, where, for example, predominantly female store-floor workers argue that their roles are of equal value to those of higher paid, male-dominated distribution centre roles. However, equal pay cases are not limited to the retail sector. The spillover impact of the EU PTD is likely to be felt across sectors and employers need to have managing this type of litigation (some of which may be large-scale) on their risk registers.

All of this underscores the fact that it is not too soon for employers to ensure that their governance frameworks are in place. “This is something where employers may want to take a global approach; there are some ways in which this can be done and we know there is a desire to see things holistically. But, actually, there will likely need to be regional and local variations,” says London-based Partner, Amy Bird.



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