Pay Transparency Directive in Italy: Provisions and Compliance

On June 6, 2023, the Pay Transparency Directive (Directive EU 2023/970) took effect in Italy and across the European Union (EU), marking a pivotal moment in the push for gender pay equality. This directive aims to establish the fundamental right to equal pay for women and men performing 'work of equal value.' By mandating transparent, gender-neutral criteria to determine wages and increasing pay transparency, employer obligations, and employee protection, the directive lays the groundwork for ensuring gender pay equality in all companies.



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Key Provisions of the Pay Transparency Directive

1. **Pay Transparency**
    - Companies must disclose criteria used to determine pay, pay levels, and pay progression.
    - Criteria must be gender-neutral.
    - Applicants have the right to know initial pay and are not required to share current or prior pay history.
    - Employees can request—either personally through their representatives or an equality body—information on their pay level and the

average pay for work of equal value, broken down by gender.
    - Employers must give them the information within two months of the request

- Employers must inform workers annually of their rights and how to exercise them.

2. **Prohibition of Wage Secrecy**
    - Employees cannot be prevented from sharing information about their pay for the purpose of upholding the principle of equal pay.

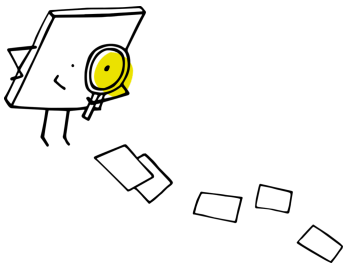
3. **Reporting Requirements**
    - Companies must provide information on the gender pay gap to Italian Labor Inspectorate:
        - By June 7, 2027, for companies with at least 150 workers.
        - By June 7, 2031, for companies with 100-149 workers.
        - Voluntarily for companies with fewer than 100 workers.

    - Information must be grouped into categories of workers and broken down into fixed and variable pay components and must be provided, on request, to the Labor Inspectorate and equality bodies, such as the Department for Equal Opportunities of the Italian Presidency of the Council of Ministers.
    - The Labor Inspectorate and equality bodies may request clarification, additional information from companies, corrective measures for companies if pay differences are not justified by objective, gender-neutral criteria.

4. **Compulsory Pay Audits**
    - Required if the gender pay gap exceeds 5% and is not justified by objective, gender-neutral criteria.
    - Employers must cooperate with trade unions to identify solutions and remedy the unjustified pay differences within six months of the date of submission of the pay reporting.
    - Employers must make the assessment available to the Labor Inspectorate and the equality body upon request.

Safeguards and Legal Protections

The Pay Transparency Directive expands the right to claim equal pay violations to not only include employees, but their trade union representatives, associations, and equality bodies in Italy.



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introduces a facilitated evidentiary mechanism that makes it easier for employ

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1. **Initial burden on employee:** Employee must present factual elements or evidence suggesting that discriminatory conduct *likely* occurred. These elements do not need to conclusively prove discrimination but should be sufficient to create a presumption of discrimination.
2. **Shift of burden to employer:** Once the employee has presented these factual elements, the burden of proof shifts to the employer. The employer must then prove in court that the alleged discrimination *did not* occur.

When workers suffer from pay discrimination due to their gender, they are entitled to full compensation for the financial losses they incurred. This includes:

- **Pay Differences**: The difference in pay they should have received compared to what they actually received.
- **Bonuses and Fringe Benefits:** Any additional bonuses and fringe benefits that were affected by the discriminatory practices.
- **Immaterial Damages:** Workers may also receive compensation for non-financial harms, such as emotional distress or reputational damage, resulting from the discrimination.
- **Default Interest:** The interest that accumulates from the time the payment was originally due until time it is actually paid. It serves as a penalty for the delay in payment by accounting for the lost opportunity to use or invest the money that was wrongfully withheld.

The directive also requires Member States to implement specific, effective, proportionate and deterrent sanctions for violations of equal pay regulations and employees and their representatives cannot be punished, fired, or treated unfairly for exercising their rights under the directive.

Implications of the Pay Transparency Directive in Italy



Currently, Italy partially complies with the directive through Law Decree Number 162/2021. This decree requires companies with over 50 employees to submit biennial reports on employee demographics and pay data, enables equality bodies to take action, applies a facilitated evidentiary regime, and establishes a gender equality certification for companies. However, additional measures mandated by the directive will need to be implemented in the future. Companies should start

preparing now to avoid future costs associated with non-compliance because implementing the directive’s provisions demands significant restructuring and time.

Preparation Steps for Foreign Companies in Italy

1. **Assess Current State:**
    - Evaluate pay transparency and gender equality within the company.
    - Analyze gender wage gap data, specifically focusing on equal pay for equal value of work.

2. **Identify and Address Issues:**
    - Revise policies and structures to address identified issues.
    - Implement gender-neutral criteria for new hires and pay adjustments.

3. **Budget and Resources:**
    - Allocate budget and resources for necessary adjustments and compliance measures.
    - Understand the economic and reputational costs of non-compliance, including penalties and sanctions.

4. **Engage Stakeholders:**
    - Collaborate with trade unions and employee representatives.
    - Ensure transparent communication and consultation mechanisms are in place.



Partner with A.L. Assistenza Legale for Smooth Compliance and Gender Equality

As the Pay Transparency Directive in Italy unfolds, preparation becomes paramount for foreign companies, who may be unfamiliar with the dynamic landscape of Italian labor law. While full compliance is not required until several years from

now, proactive measures are essential. At A.L. Assistenza Legale, we are committed to closing the gender wage gap and offer tailored legal support to ensure adherence to the directive’s provisions. Protect your company against legal pitfalls and reputational risks and uphold equal pay rights by partnering with us.