

# PAY TRANSPARENCY DIRECTIVE

## STOP THE CLOCK: A PREREQUISITE FOR SIMPLIFICATION

BusinessEurope calls for a “**Stop the Clock**” regarding the transposition of the Pay Transparency Directive (PTD). Additional time is required to ensure a proportionate, coherent and workable implementation for both Member States and employers, while also allowing for the identification and consideration of potential simplification measures.

Given that the current transposition deadline is 7 June 2026, BusinessEurope members urge the legislators to grant a two-year extension. Such an extension would provide Member States and employers with adequate time to adapt systems, procedures and legislation to the requirements of the Directive, ensuring a proportionate and effective transposition across the EU.

In this context, BusinessEurope proposes a targeted set of amendments aimed at ensuring that the Directive can be implemented in a proportionate, operational and legally coherent manner. The proposed amendments come in two parts, namely, **1. Collective Bargaining – Presumption of Compliance** and **2. Other Simplification Priorities**. The former covers amendments that accommodate preexisting industrial relations infrastructures to avoid duplication and disproportionate burdens for companies already subject to well defined requirements due to their adherence to collective agreements covering similar issues. The latter presents further amendments that are essential to making the directive operational for all companies, including those that do not adhere to collective agreements.

## 1. COLLECTIVE BARGAINING - PRESUMPTION OF COMPLIANCE

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### RATIONALE

In many Member States, job classification frameworks established through Collective Agreements (CAs) **already apply objective and gender-neutral** criteria such as skills, responsibility, effort, and working conditions. These systems have been developed jointly by social partners precisely to guarantee fairness and transparency in pay determination, also delivering gender-neutral pay structures.

Given CAs role in ensuring pay equity, companies applying such CAs could be **presumed compliant** with several of the obligations contained in the Pay Transparency Directive (PTD). To reflect this reality, and as is further explained below, a **presumption of compliance** should be established in the PTD for companies adhering to collective agreements. Not only would this result in a massive administrative burden reduction in the specific case of the PTD but, it would also constitute an incentive to engage in collective bargaining and thereby, in the long term, increase collective agreement coverage throughout the EU.

This is very much in line with both the European social market model and the EU’s simplification agenda.

Under this presumption:

- Companies adhering to CAs are to be deemed compliant with Article 4(4), unless proven otherwise. This presumption of compliance would also cover the Directive's Articles 6 (**Transparency of pay setting and pay progression policy**), 7 (**Right to information**), 9 (**Reporting on pay gaps**), and 10 (**Joint pay assessment**).
- The **burden of proof** in Article 18 should not shift automatically to employers where CAs apply. Instead, employees should first establish a *prima facie* case suggesting non-compliance.

**Proposed amendments:**

**1.1 ARTICLE 4: ADD A PARAGRAPH ESTABLISHING A PRESUMPTION OF COMPLIANCE FOR COMPANIES ADHERING TO COLLECTIVE AGREEMENTS**

**Explanation:** This approach would reduce unnecessary administrative duplication while maintaining employee's rights to challenge alleged discriminations. Such a rebuttable presumption would strike a fair balance between pay transparency and the recognition of social dialogue mechanisms that already deliver gender-neutral pay structures.

**NEW ARTICLE 4 – Concept of equal work and work of equal value**

➤ **adding a new paragraph 4.5**

**Where an employer adheres to a collective agreement that contains job classification or pay structures established jointly by the social partners and based on gender-neutral criteria, the employer shall be presumed to comply with this Article.**

**1.2 ARTICLE 6: ADD A PARAGRAPH ALLOWING EMPLOYERS ADHERING TO COLLECTIVE AGREEMENTS TO FULFIL THE INFORMATION REQUIREMENT ON PAY PROGRESSION BY MAKING A SIMPLE REFERENCE TO THE RELEVANT SECTION OF THE COLLECTIVE AGREEMENT**

**Explanation:** Article 6(1) requires employers to make easily accessible to their workers the criteria that are used to determine workers' pay, pay levels and pay progression. However, for companies bound by collective agreements, **this obligation is redundant**, as these criteria are already defined in the collective agreements negotiated between social partners. Employers would therefore comply with Article 6 by referring to the relevant section of the applicable collective agreement, rather than reproducing the information separately.

This technique of fulfilling information obligations by reference is also applied in other EU Directives. For instance, Article 4(3) of the Directive on Transparent and Predictable Working Conditions allows certain information to be provided by reference to laws, regulations, or collective agreements. Similarly, a comparable approach appears in Article 18 of the Working Time Directive, which enables derogations from several provisions to be introduced through collective agreements. This reflects the broader EU practice of recognising collectively agreed frameworks as valid mechanisms for fulfilling or adapting regulatory obligations.

## NEW ARTICLE 6 – Transparency of pay setting and pay progression policy

### ➤ adding a new paragraph

Employers adhering to collective agreements as described in Article 4 for pay determination, pay levels, and pay progression shall be deemed to comply with the information requirement set out in paragraph 1. In such cases, employers may fulfil their obligation by referring to the relevant provisions of the collective agreement that establish these criteria.

## 1.3 ARTICLE 7: INTRODUCE AN EXEMPTION FOR COMPANIES ADHERING TO COLLECTIVE AGREEMENTS

**Explanation:** Art. 7.1 creates a disproportionate right to information requirement for companies adhering to collective agreements, as collective agreements already guarantee that identical or comparable tasks are classified in the same pay category and compensated equally, irrespective of the individual or gender. The revised approach ensures proportionality between transparency and administrative feasibility, recognising that collective agreements already guarantee equal pay for equal work and gender-neutral job classification systems.

## NEW ARTICLE 7 – Right to information

### ➤ adding a new paragraph

Employers that adhere to collective agreements which are presumed to comply with Article 4 shall be exempt from the individual information obligation set out in paragraph 1. In such cases, a reference to the relevant provisions of the collective agreement shall be deemed sufficient to meet the employer's obligation to provide information on pay levels.

## 1.4 ARTICLE 9: ADD A PARAGRAPH EXEMPTING COMPANIES COVERED BY THE PRESUMPTION FROM REPORTING OBLIGATIONS AND IN PARAGRAPH 6 INSERT A SENTENCE STATING THAT A HEARING OF EMPLOYEE REPRESENTATIVES IS NOT REQUIRED IN COMPANIES THAT ADHERE TO COLLECTIVE AGREEMENTS

**Explanation:** A simplified reporting is needed to give companies entering into collective agreements a clear advantage in terms of reduced reporting burdens:

## NEW ARTICLE 9 – Reporting on the pay gap

### ➤ adding a new paragraph

Employers adhering to collective agreements covered by the presumption of compliance under Article 4 shall limit reporting to the overall gender pay gap (Article 9(1)(a)) and shall be exempted from Article 9(1)(b-g)

**Explanation:** Clarify the consultation requirements in paragraph 6 to ensure that companies adhering to collective agreements are not subject to redundant procedures and that obligations remain proportionate. In particular, the Directive should recognise that where employers already apply collective agreements, the hearing of employee representatives is unnecessary.

#### REVISED ARTICLE 9, paragraph 6

6. The accuracy of the information shall be confirmed by the employer's management, after consulting workers' representatives. Workers' representatives shall have access to the methodologies applied by the employer. **Consulting workers' representatives shall not be required in companies that are adhering to collective agreements.**

### 1.5 ARTICLE 10: ADD A PARAGRAPH EXEMPTING COMPANIES COVERED BY THE PRESUMPTION FROM JOINT PAY ASSESSMENTS

**Explanation:** Article 10 creates redundant wage disparity evaluations for companies subject to collective agreements negotiated at regular intervals as set by social partners. The objective is to avoid duplication and ensure that the Directive recognises the value of collective bargaining frameworks that already guarantee gender-neutral and transparent pay structures, while maintaining workers' rights to information and consultation.

#### NEW ARTICLE 10 – Joint Pay Assessment

##### ➤ adding a new paragraph

**Employers adhering to collective agreements covered by the presumption of compliance under Article 4 shall be deemed to comply with the obligations set out in paragraphs 1 and 2 of this Article. In such cases, employers may fulfil the requirement to conduct a joint pay assessment by referring to the relevant provisions of the collective agreement, and/or through equivalent comparison procedures aimed at preventing, identifying and remedying unjustified differences in the average pay levels between female and male workers, in accordance with national laws and/or practices, without being required to carry out any additional assessment under this Article.**

### 1.6 ARTICLE 18: ADD A PARAGRAPH CLARIFYING THAT NO SHIFT OF THE BURDEN OF PROOF APPLIES WHERE CAS ARE IN PLACE AND A CORRESPONDING RECITAL

**Explanation:** BusinessEurope calls for the introduction of a presumption that, given that concluded jointly by the social partners, companies **that adhere to CAs** should not be subject to a shift of the burden of proof since the collective agreement's content is deemed to be compliant, unless proven otherwise.

## NEW ARTICLE 18 – Burden of proof

### ➤ adding a new paragraph

In cases where an employer adheres to a collective agreement covered by the presumption of compliance under Article 4, the burden of proof shall not shift to the employer. In such cases, the complainant shall first provide sufficient, precise and consistent evidence suggesting that provisions or the application of the collective agreement may not be in line with the principle of equal pay.

## NEW RECITAL should be added stating that:

In many Member States, collective agreements already contain gender-neutral job classification systems and pay structures negotiated jointly by social partners. These systems ensure transparency, fairness, and objective pay setting based on gender-neutral criteria, such as skills, responsibility, effort, and working conditions. To recognise the effectiveness of such systems, undertakings applying such collective agreements should be presumed to comply with the obligations of this Directive, unless proven otherwise. This presumption should be rebuttable and without prejudice to employee's rights to challenge potential cases of discrimination.

## 2. OTHER SIMPLIFICATION PRIORITIES

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### 2.1 ARTICLE 4 - EQUAL WORK AND WORK OF EQUAL VALUE

Article 4(4) establishes a list of criteria to be used when assessing work of equal value. Making this list mandatory may limit the flexibility of employers to rely on existing job classification systems and sectoral practices. An optional approach would allow the Directive to accommodate different national systems while ensuring that the overarching principle of gender neutrality is respected.

The provision should also be clarified to ensure that the criteria can be applied in a manner consistent with national law and/or practices on the role of workers' representatives. This approach avoids introducing any unintended obligations for co-decision or procedural requirements (as further explained in paragraph 2.5 below).

#### PROPOSAL

Make the list of criteria **optional** rather than mandatory.

In addition, clarify the wording to ensure that the provision is applied in accordance with national law and practice, without creating new co-decision obligations for workers' representatives.

#### Proposed amendment

- Replace “shall” with “may” in Article 4(4), allowing employers to apply the listed criteria where appropriate, without being required to follow them exhaustively, and delete “if appropriate”.

- Delete the word “agreed” and replace with “set in consultation with”, followed by “in accordance with national law and/or practice”, and delete “where such representatives exist”.

#### REVISED ARTICLE 4 – Equal work and work of equal value

4. Pay structures shall be such as to enable the assessment of whether workers are in a comparable situation in regard to the value of work on the basis of objective, gender-neutral criteria **agreed set in consultation** with workers’ representatives **in accordance with national law and/or practice** ~~where such representatives exist~~. Those criteria shall not be based directly or indirectly on workers’ sex. They ~~may~~ **shall** include skills, effort, responsibility and working conditions, and, ~~if appropriate~~, any other factors which are relevant to the specific job or position. They shall be applied in an objective gender-neutral manner, excluding any direct or indirect discrimination based on sex. In particular, relevant soft skills shall not be undervalued.

## 2.2 ARTICLE 6 - TRANSPARENCY OF PAY SETTING AND PAY PROGRESSION POLICY

Article 6(2) allows Member States to exempt employers with fewer than 50 workers from certain obligations. Leaving this exemption **optional** risks uneven implementation and unnecessary burdens on micro and small enterprises. According to EU’s simplification agenda, the Commission has set the targets to reduce reporting burdens by at least for 35% for SMEs.

### PROPOSAL

Make the exemption **mandatory** for all companies with fewer than 50 employees.

**Proposed amendment:** Replace “may” with “shall” in Article 6(2) and make the **exclusion obligatory**.

#### REVISED ARTICLE 6.2 – Transparency of pay setting and progression policy

2. Member States ~~may~~ **shall** exempt employers with fewer than 50 workers from the obligation related to the pay progression set out in paragraph 1.

## 2.3 ARTICLE 7 – RIGHT TO INFORMATION

Article 7 poses a potential risk of unproportionate use of right to information, as it does not specify any timeframe, presumably allowing employees to assert claims for information repeatedly.

### PROPOSAL

Introduce a **limit on the frequency** of employees’ information requests, such as a minimum **waiting period of one year** before allowing another request for information to employees.

**Proposed amendment:** adding a new paragraph limiting the frequencies of employees’ information requests.

## NEW ARTICLE 7

### ➤ adding a new paragraph

Member States shall provide that a request for information under paragraph 1 may be submitted no more than once within a twelve-month period.

## 2.4 ARTICLE 9 - REPORTING ON PAY GAPS

The current reporting framework under Article 9 is **overly detailed** and not proportionate to company size or data capacities.

### PROPOSALS

**Raise the threshold** so that reporting obligations apply only to companies meeting the threshold established in the CSRD (i.e. 1000 employees), ensuring consistency with its requirements. Companies with fewer workers should not fall within the scope of this Article, in order to avoid disproportionate administrative and financial burdens.

**Proposed amendment:** Replace paragraph 2 and delete paragraphs 3, 4, and 5 to ensure consistency with CSRD requirements.

## REVISED ARTICLE 9 – Reporting on pay gaps

2. **Employers meeting the employee threshold set out in Directive 2022/2464/EU of the European Parliament and of the Council shall provide the information set out in paragraph 1 in accordance with the reporting period and modalities foreseen for the management report, established under the Directive 2022/2464/EU of the European Parliament and of the Council. Employers with 250 workers or more shall, by 7 June 2027 and every year thereafter, provide the information set out in paragraph 1 relating to the previous calendar year.**
- ~~3. Employers with 150 to 249 workers shall, by 7 June 2027 and every three years thereafter, provide the information set out in paragraph 1 relating to the previous calendar year.~~
- ~~4. Employers with 100 to 149 workers shall, by 7 June 2031 and every three years thereafter, provide the information set out in paragraph 1 relating to the previous calendar year.~~
- ~~5. Member States shall not prevent employers with fewer than 100 workers from providing the information set out in paragraph 1 on a voluntary basis. Member States may, as a matter of national law, require employers with fewer than 100 workers to provide information on pay.~~

## 2.5 ARTICLE 12 – DATA PROTECTION

Article 12 creates inconsistencies with GDPR requirements, as it does not adequately protect against the risk of individualisation of the pay data that must be disclosed mandatorily. The co-legislators did not take into account the European Data Protection Supervisor's (EDPS) key observation ([Observations of 27/04/2021](#)), which recommended "adding in the substantive part of the Proposal, as a separate paragraph under Article [12], the specification contained in the recital [44]".<sup>1</sup>

<sup>1</sup> Extract from Recital [44] : " Specific safeguards should be added to prevent the direct or indirect disclosure of information of an identifiable worker".

Introduce a minimum number of comparative employees. The thresholds already in place in certain Member States, varying from 3 to 10, must be preserved, in particular pursuant to Article 27, which prohibits any reduction in the level of protection when transposing the Directive (standstill obligation). Thresholds are already applied in countries such as Belgium, Denmark, Finland, Germany, Greece, Norway and Spain.

**Proposed amendment:**

- Introduce a minimum number of comparative employees (data protection), allowing each Member State to decide that number. For example, the German Pay Transparency Law requires at least six employees of the opposite sex for comparison.
- Delete in paragraph 3 the references to workers’ representatives and equality bodies, and replace them with “*the labour inspectorate, judicial bodies and/or other relevant bodies advising workers, in accordance with national law and practices*”.

**NEW ARTICLE 12 – Data protection**

**➤ adding a new paragraph**

**To ensure compliance with data protection requirements and prevent the identification of individual workers, the disclosure of pay information shall only be permitted where a minimum number of comparative employees is met. Member States shall determine the minimum number of employees required for disclosure, ensuring that data cannot lead to the direct or indirect identification of individual pay levels.**

**REVISED ARTICLE 12, PARAGRAPH 3 – Data protection**

3. Member States may decide that, where the disclosure of information pursuant to Articles 7, 9 and 10 would lead to the disclosure, either directly or indirectly, of the pay of an identifiable worker, only the labour inspectorate, judicial bodies and/or other relevant bodies advising workers, in accordance with national law and practices, shall have access to that information. ~~The workers’ representatives or the equality body~~ **Such bodies** shall advise workers regarding a possible claim under this Directive without disclosing actual pay levels of individual workers performing the same work or work of equal value. For the purposes of monitoring pursuant to Article 29, the information shall be made available without restriction.

**2.6 ARTICLE 16 – RIGHT TO COMPENSATION**

Compensation must be limited to harm for which the employer can be held directly accountable. This includes remuneration paid in connection with the employment relationship. Hypothetical future losses linked to pension entitlements arising after the employment contract has ended cannot reasonably be attributed to the employer. Pension entitlements do not constitute a missed opportunity caused by the employer.

## PROPOSAL

Remove the reference to compensation for lost opportunities, as it goes beyond the employer's responsibility and introduces liability for elements outside the employment relationship.

### Proposed amendment:

Delete the second sentence of paragraph 3.

### REVISED ARTICLE 16 – Right to compensation

3. The compensation or reparation shall place the worker who has sustained damage in the position in which that person would have been if he or she had not been discriminated against based on sex or if there had been no infringement of any of the rights or obligations relating to the principle of equal pay. ~~Member States shall ensure that the compensation or reparation includes full recovery of back pay and related bonuses or payments in kind, compensation for lost opportunities, non-material damage, any damage caused by other relevant factors which may include intersectional discrimination, as well as interest on arrears.~~

## 2.7 ARTICLE 19 – PROOF OF EQUAL WORK FOR EQUAL VALUE

The concept of a “single source” for establishing comparable pay conditions is unworkable and incompatible with decentralised wage-setting systems. It would undermine flexibility and the ability to reward individual performance.

## PROPOSALS

For the purposes of assessing whether workers perform the same work or work of equal value, **comparisons shall be limited to workers employed by the same employer or within the same undertaking or organisation**, where the employer exercises effective control over pay-setting decisions.

Comparisons with **hypothetical workers** shall not be used to establish a presumption of discrimination.

In applying this Article, Member States shall ensure that the assessment of work of equal value respects **national wage-setting systems** and the autonomy of social partners to define remuneration structures through collective bargaining.

The requirement of a “single source” shall not apply. Employers shall not be required to compare workers employed by different entities, legal persons, or undertakings not under their direct control.

### Proposed amendments:

- Delete the “**single source**” requirement in Article 19(1).
- Remove references to any **external and hypothetical comparators** in Recital (28).
- Clarify that employers are only required to compare workers **within the same organisation or company** and for a **limited time retrospectively**.

## REVISED ARTICLE 19 – Proof of equal work for equal value

1. When assessing whether female and male workers are carrying out the same work or work of equal value, the assessment shall ~~not be limited to situations in which female and male workers work for the same employer, but shall be extended to a single source establishing the pay conditions. A single source shall exist where it stipulates the elements of pay relevant for the comparison of workers~~ **be limited to workers employed by the same employer or within the same undertaking or organisation, where the employer exercises direct control over pay-setting.**
2. ~~The assessment of whether workers are in a comparable situation shall not be limited to workers who are employed at the same time as the worker concerned.~~
3. Where no real comparator can be established, any other evidence may be used to prove alleged pay discrimination, including ~~statistics or~~ a comparison of how a worker would be treated in a comparable situation **within the same undertaking or organisation** and, for a limited time, retrospectively.