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Labour RoundUp

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Trends

Salary Transparency: proposal to transpose the European Directive

On August 5th, the draft law that partially transposes the European Salary Transparency Directive into Portugal was published for public consultation. Among the main measures, the following are particularly noteworthy:

- Obligation to adopt a transparent remuneration policy, based on objective and gender-neutral criteria;
- Candidates' right to know salary information in advancebefore signing an employment agreement;
- Prohibition of asking candidates for information about their remuneration history;
- Obligation to inform employees of their rights of access to salary information and to disclose the criteria for setting and progressing remuneration;
- Strengthening reporting and monitoring obligations for women and men pay gaps applicable to companies with more than 50 employees;
- Establishment of mechanisms for justification, correction and joint evaluation of unjustified wage differences, with the intervention of the ACT;
- Declaration of nullity of clauses that restrict the disclosure of information on compensation by employees;
- Strengthening the supervisory powers of ACT and CITE;
- Protection of employees from retaliation related to exercise of their rights regarding equal pay;
- Tightening of the sanctioning regime, which may include loss of public benefits, tax incentives and exclusion from public tenders;
- Annual public disclosure of data on the gender pay gap, including information by employer.

Although the draft law is still under public consultation and may be subject to amendments during the legislative process, its content is an important indicator of how the Portuguese legislator intends to transpose the EU Pay Transparency Directive. In this context, employers are recommended to closely monitor the evolution of the legislative process, as well as to reflect in advance on the impact that these measures may have on their remuneration policies, recruitment processes and internal procedures. Deloitte Legal Telles' Labour and Social Security team will closely monitor developments in this matter and is available to support its clients in assessing the risks and challenges associated with the new legal framework, reviewing their remuneration practices and implementing the necessary measures to ensure compliance with future regulatory requirements, through solutions adjusted to the specificities and needs of each organisation. Furthermore, the proposal was submitted to public consideration with a short deadline, given the urgency invoked for the publication of the diploma, a circumstance that may indicate an intention to speed up the legislative process and ensure the entry into force of the new regime in a relatively short time horizon.

Is the tide of pay transparency about to rise?

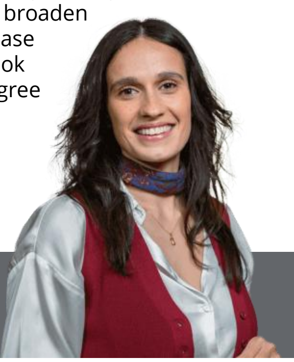
During the summer season, pay transparency is rising like the tide: what initially appeared to threaten only the largest employers may ultimately reach those who thought they were safely positioned on higher ground – and who may now need to start paying closer attention to the waterline. Although delayed, the draft bill preparing the partial transposition into Portuguese law of the Pay Transparency Directive has finally been published.

At first glance, the shoreline looks familiar: much of the framework mirrors the European text. But, on closer inspection, currents emerge that could sweep in more companies than initially expected. One of the most relevant provisions concerns the obligations to report information on pay disparities between women and men.

While the Directive focuses on employers with more than 100 employees, it allows Member States to extend the scope of these obligations. And that is precisely the door the Portuguese legislator has decided to open. The draft bill requires companies with 50 or more employees to also report information on pay disparities. In other words, the tide that seemed likely to pass them by may now reach their feet.

It is true that the legislation may still undergo changes. Nevertheless, the direction seems clear: broaden the scope of pay transparency and increase the number of companies required to look at their pay structures with a greater degree of responsibility.

Are companies ready for high tide?



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Social Security provides new functionality for managing MOE remuneration

Social Security provides a new feature on the Social Security Portal dedicated to the management of the remuneration of Members of the Statutory Bodies. This update allows employers and their representatives to register and update directly, online, the remuneration of these members, ensuring a simpler and more efficient management of information. The reported remuneration is now automatically considered for the purposes of calculating the contributions due, reducing the need for manual interventions. This measure reinforces transparency and rigor in the fulfilment of contribution obligations, while promoting administrative simplification and the autonomy of organisations in the management of procedures.

Effects of the nullity of the Exemption from Working Hours Agreement

The Coimbra Court of Appeal ruled on the effects of the invalidity of an agreement on exemption from working hours and on the possibility of reducing the respective remuneration of employees benefiting from such a regime. In the present case, the employee claimed the salary differences resulting from the reduction in the amount paid to him as an exemption from working hours, claiming that this violated the principle of irreducibility of remuneration. The Coimbra Court of Appeal first recognised that the initial agreement on exemption from working hours had been concluded outside the situations provided for by law and was therefore invalid. However, it emphasized that the invalidity of the agreement does not mean that the compensation paid on that basis automatically becomes part of the employee's remuneration in the strict sense. It added that the compensation linked to the exemption from working hours constitutes a remuneration component linked to specific conditions for the provision of the activity and not a remuneration portion protected by the principle of irreducibility of wages. In this context, the Court of Appeal understood that the nullity of the working hours exemption agreement does not determine that the benefit paid on that basis becomes part of the remuneration in the strict sense, benefiting from the protection of the principle of salary irreducibility. For this reason, it concluded that the employer could reduce the respective amount, especially taking into account that the change implemented at a later time was accepted by the employee through an express agreement between the parties.

Legislative changes

Law No. 36/2026, of July 27

Authorizes the Government to create the single social benefit (PSU) within the scope of the Social Security solidarity subsystem.

Partial transposition of Directive (EU) 2023/970

On August 5th, 2026, the Draft Law Proposal that partially transposes into into national law Directive (EU) 2023/970, of the European Parliament and of the Council, of May 10th, 2023, was published to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through remuneration transparency and mechanisms that ensure its application.

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