



Beyond the Directive: Practical Strategies for EU Pay Transparency Compliance

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Seyfarth Shaw LLP

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S P E A K E R S



Today's Agenda

- 1 Overview of EU Pay Transparency Directive & Status of Transposition
- 2 Deviations from the Directive
- 3 Practical Solutions for Compliance

EU Pay Transparency Directive

Pre-Employment Transparency

- Disclose initial pay range in job postings or prior to interview
- Cannot ask applicants about pay history
- Gender-neutral job titles and job vacancy notices

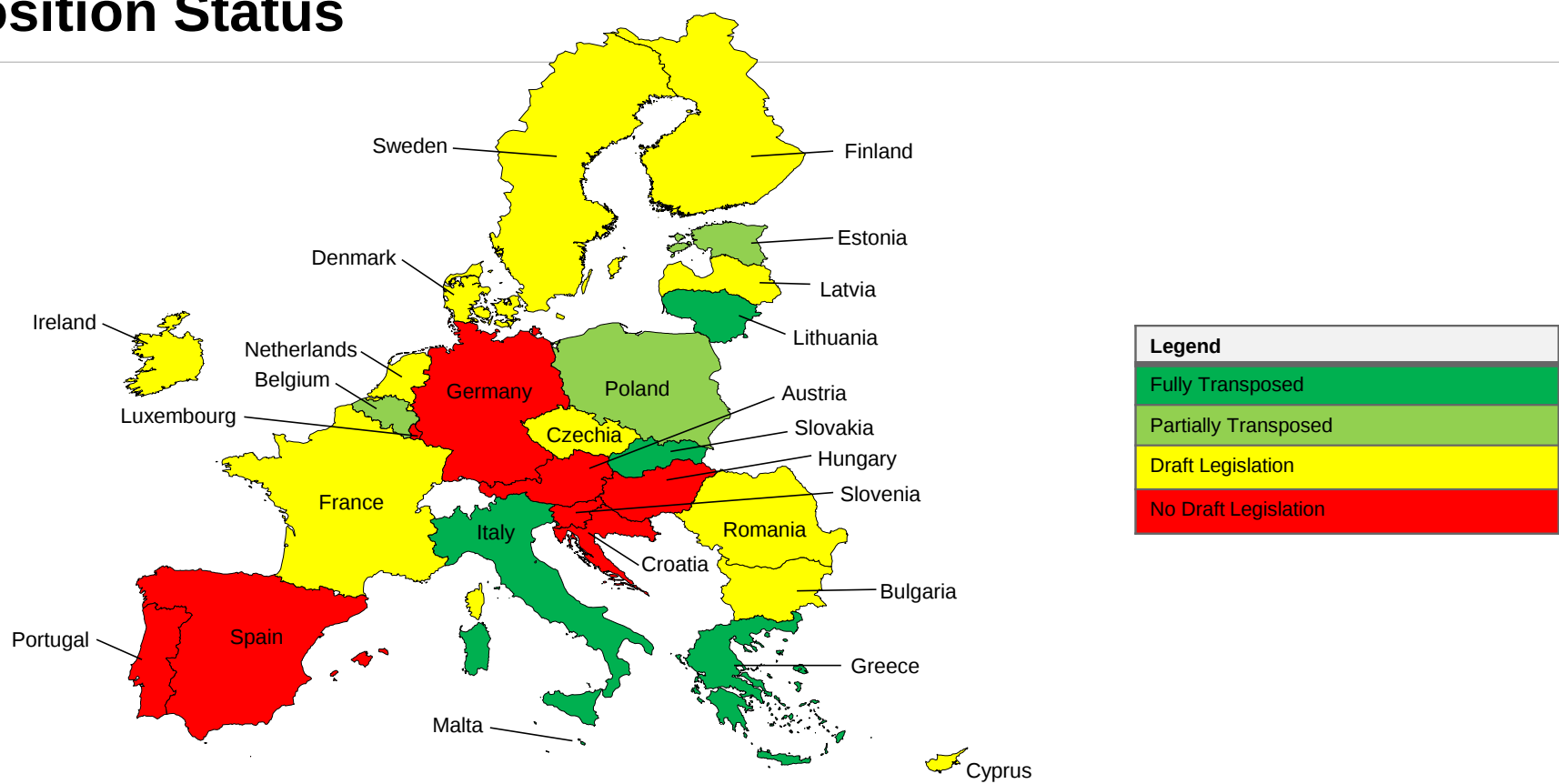
Rights to Information

- Right to request and receive within 2 months individual pay and comparator averages by sex
- Annual notice of right to information
- Employee access to criteria used to determine pay, pay levels, and pay progression.

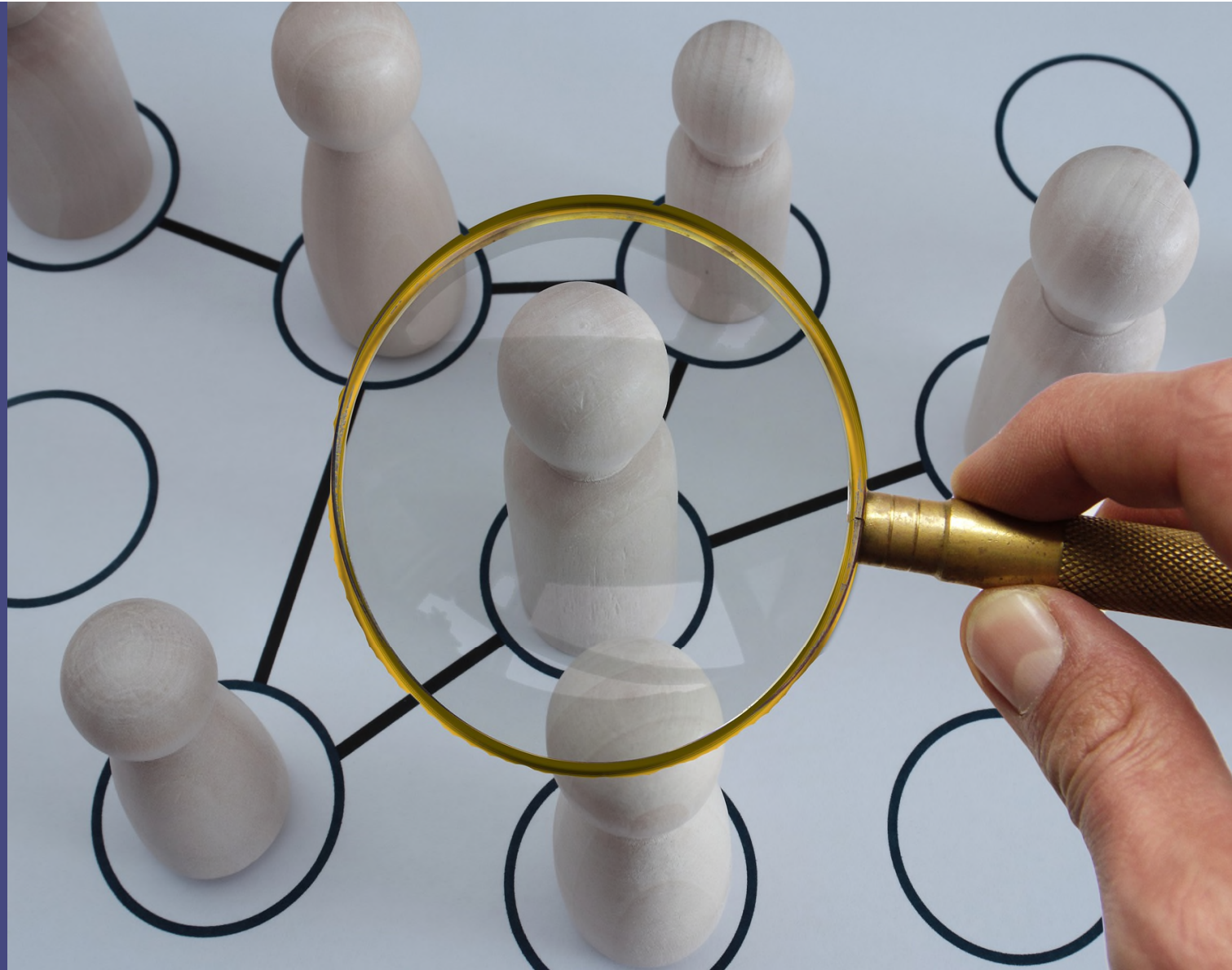
Pay Gap Reporting & Remediation

- Mean & Median Gender Pay Gap
 - Salary/Hourly Wage
 - Complementary or Variable Components
- Gender Pay Gap By Category of Workers
- Proportion of females/males receiving complementary or variable pay
- Proportion of females/males in each quartile pay band
- Joint Pay Assessment

Transposition Status



Deviations from the Directive



Definition of “pay”

Directive

- The Directive adopts a broad definition of pay, covering all components of remuneration.
- The notion of salary level refers to the employee's gross remuneration.
- There is no distinction between the concepts of pay and salary level.

ITALY

- Definition of pay is the same as the Directive (all components of the salary)
- BUT the definition of the salary level (the one relevant for the right to information) excludes individual, discretionary and temporary pay components

OTHER EXAMPLES

- Malta – like the Directive
- Lithuania - Broad definition of remuneration but introduces the concept of a "single source" for comparing pay conditions across group companies

Equal work – Work of equal value

Directive:

Equal Work and Work of Equal Value is assessed based on objective and gender-neutral criteria, like skills, effort, responsibility, working conditions.

Criteria agreed with Workers' Representatives, if appointed.

Why it's relevant:

Right to information

Involvement of Workers Representatives
(NOT in ITALY)

BIG DEVIATIONS
(Italy – strong
reference to
collective bargaining
agreements)

Pay reporting

Possibility to use Companies' internal pay
architecture

Pre-Employment Transparency Requirements

The Directive:

- Applicants have the right to receive information about:
 - initial pay or range
 - relevant provisions of the collective agreement applied to the position
- Purpose is to ensure informed and transparent negotiation on pay
- Information can be provided in the job posting, prior to interview

Examples:

- Narrower view: information must be in job postings
- Base salary only vs. variable components
- Additional obligations

Right to Information Requests

Directive:

- Right to request information on individual pay level and average pay levels, broken down by sex, for categories of workers performing the same work or work of equal value
- Employers to provide response in writing within two months from the date request is made
- Requests can be made through worker representatives or an equality body
- Right to request clarification and details on data provided and must receive a substantiated reply (no timeframe)
- Employers to inform employees annually of RTI right and steps to do so
- Member states may permit information access only to worker representatives, labor inspectorate or equality body if disclosure of information would lead to disclosure of the pay of an identifiable worker

Transposition Trend: Shorter Response Time

Privacy Considerations

Other Example Deviations in Transposed Laws

Operationalizing RTI Requests

Pay Gap Reporting

Directive:

Employers with **250+** workers by June 7, 2027 and every year thereafter
Employers with **150 to 249** workers by June 7, 2027 and every 3 years thereafter
Employers with **100 to 149** workers by June 7, 2031 and every 3 years thereafter
Reporting for employers with less than 100 workers is voluntary

Transposition Trends:

Delayed Timing

Government
Involvement in
Calculations

Inclusion of Temporary Workers

Aligning with Existing Reporting
Requirements

Specific Response Timelines

Joint Pay Assessments

Directive:

Joint Pay Assessment required when:

- (1) Difference in average pay level of at least 5% in any category of workers,
- (2) Employer has not justified difference on the basis of objective, gender-neutral criteria, and
- (3) Employer has not remedied unjustified difference within 6 months of submission of pay reporting.

Joint pay assessment must include:

- (1) Analysis of the proportion of female and male workers in each category of worker
- (2) Information on average female and male pay levels and complementary or variable components for each category of worker
- (3) Any differences in average pay levels between female and male workers in each category of workers
- (4) Reasons for such differences in average pay levels
- (5) Proportion of females and males who benefited from any improvement in pay following return from maternity or paternity leave, parental leave or carers' leave
- (6) Measures to address unjustified differences in pay
- (7) Evaluation of effectiveness of measures from previous joint pay assessment

Transposition Trends:

Triggers generally align with Directive

Content of assessment generally aligns with Directive

Specific Timelines

Involvement of Employee Representatives

Worker representatives and their role in the directive

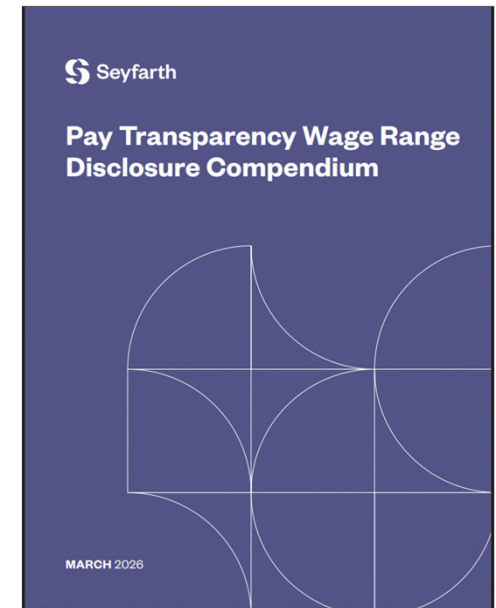
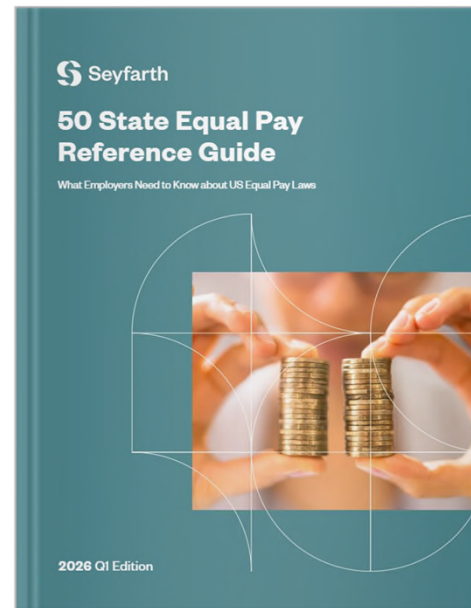
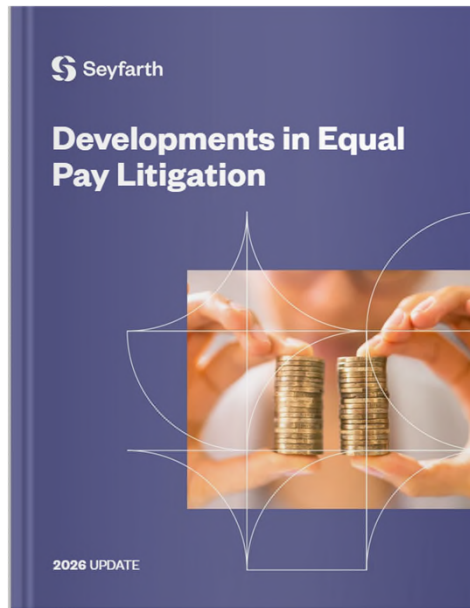
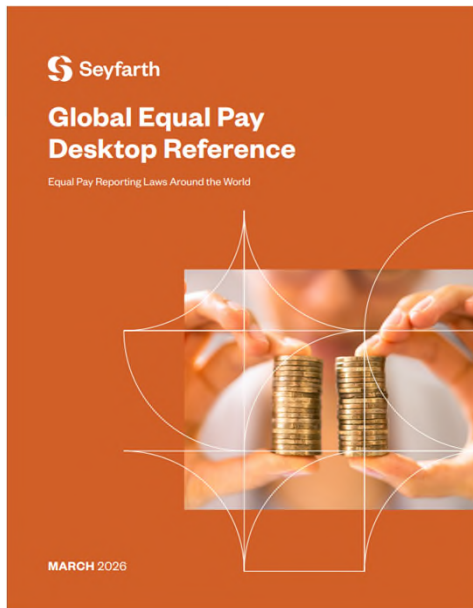
Where the Directive Requires Involvement

- Article 4
- Job evaluation criteria should be agreed with employee representatives where they exist.
- Article 7
- Employees may exercise right to information through representatives.
- Article 9
- Employee representatives must be consulted on gender pay reporting. They must have access to the methodology used.
- Article 10
- Joint Pay Assessments must be conducted together with employee representatives.

Practical Solutions for Employers: What To Do Now

- 1 Align on company priorities
- 2 Job posting review and update
- 3 Right to Information process planning and operationalization
- 4 Training planning
- 5 Review categories of workers / existing job architecture
- 6 Pay data analysis
- 7 Pay reporting preparation

Seyfarth Thought Leadership - Four Resources





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