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Solving Wage Information Asymmetry: The Perspective of the European Union and Lithuania

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The search for criteria and mechanisms for resolving the pay gap between men and women is one of the main directions of the equality policy of the European Union. More than half a century after the establishment of the principle of the right to equal pay for the same work or work of equal value, it became apparent that the pay gap between men's and women's wages remains unsealed. One reason is the wage information asymmetry between the employee and employer. This asymmetry was corrected in the Pay Transparency Directive of the European Union.

The author examines the measures for adjusting information asymmetry on wages provided for in the directive. They are divided into three groups – the measures ensuring pay process transparency, the measures ensuring pay communication transparency, and the measures ensuring pay outcome transparency. Subsequently, obstacles and opportunities for the transfer of these measures to the Lithuanian legal system are discussed.

Keywords: wage, information asymmetry, employee, employer, transparency, pay, gap.

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Introduction

The gender pay gap remains a significant European social issue despite the legal efforts to address it. In 2022, the average pay gap of the European Union countries was 12.7 %, and Lithuania was firmly in the middle among EU countries with a 12 % gap to the disadvantage of women¹. This difference between Lithuanian men's and women's wages looks highly controversial when evaluated in the context of employment – the employment gap between men and women in Lithuania is small and, in 2022, was the smallest among EU countries.² It is obvious that women's wages in Lithuania are inadequate for their employment. This trend is detrimental to the position of women actively participating in the labour market and is no less relevant when they withdraw from active participation in work relations. Women's lower earnings result in a lower old-age pension or even an additional risk of poverty. According to the Lithuanian Statistics Department data, the poverty risk level for women aged 65 and over in 2022 was 46.9 %, whereas for men of the same age group – 23.6 %.³

In recent decades, the criteria and mechanisms to reduce the wage gap between men and women are actively sought in the Western world, including the European Union. When trying to implement the principle of equal pay, it has been found that one of the obstacles is the asymmetry of wage information between the employee and the employer, which lies in the nature of labour law. The employer not only has an incomparably more significant amount of information at his disposal (first of all, unlike an individual employee, he manages the information about the wages of all employees of the company) but also has a significantly greater power to dispose of this information, which is given to him by the pay secrecy culture. The term “pay secrecy culture” refers to heterogeneous factors, such as the widespread tendency in labour relations to attribute wages to confidential information and personal data, as well as the customary moral attitudes implying that one cannot disclose wages to third parties. Due to this culture, only the employer can decide to what extent and to whom to provide the information or a permission to disclose it. Clearly, such a situation is beneficial for the employer, as it gives an advantage when negotiating with the employee about wages, reduces the likelihood of competition, and helps to avoid dissatisfaction and conflicts in the workplace. However, when assessing the situation from the employee's point of view, the pay secrecy culture leads to a curious situation when the employee cannot freely dispose of salary information even directly pertaining to him or her (e.g. due to possible sanctions by the employer for breach of confidentiality obligations). More detailed information about the salary intended for a specific category of employees or the salary system applied in the company gives the employees a greater freedom and empowerment, furthermore, helping the employees feel more confident during negotiations with the employer and make informed decisions. Moreover, the employees can defend themselves against discrimination only with the information about co-employees' wages.

¹ Eurostat. Gender Pay Gap Statistics. Available: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Gender_pay_gap_statistics. [last viewed 14.03.2024].

² Eurostat. Gender Statistics. Available: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Gender_statistics [last viewed 14.03.2024].

³ Oficialiosios statistikos portalas, Skurdo rizikos lygis [Official Statistics Portal, At-risk-of-poverty Rate]. Available: https://osp.stat.gov.lt/statistiniu-rodikliu-analize?hash=cd5030e8-bd84-4826-bf16-b40788a8a458# [last viewed 14.03.2024].

These problems of information asymmetry about wages are solved in the European Parliament and Council Directive (EU) 2023/970⁴ (hereinafter – the Pay Transparency Directive). This directive tightened the previous European Union regulations on the principle of equal pay for men and women for the same work or work of equal value, the prohibition of discrimination through wage transparency, and strengthened enforcement mechanisms. One of the main tools used to ensure wage transparency is the adjustment of wage information asymmetry between the employee and the employer. However, the question arises whether the transparency measures established in the Pay Transparency Directive are sufficient and effective.

Lithuania already applied some national transparency measures before the adoption of the Pay Transparency Directive. However, the Directive's entry into force requires assessing the extent to which the existing Lithuanian measures are sufficient to implement it and, if not, what additional measures should be taken.

Therefore, the goal of this article is to determine what measures are used to correct the asymmetry of information about wages to reduce the gender pay gap in the EU Pay Transparency Directive, which of these measures are already provided for in Lithuanian labour law, and what obstacles and opportunities may arise when transferring them to the Lithuanian legal system.

The analysis presented in the article and the conclusions made regarding the implementation of EU transparency measures in Lithuanian law are expected to be useful for lawyers and decision-makers of other countries, especially the Baltic states.

1. Development of the principle of equal pay in EU legal regulation

The EU's policy on equal pay for men and women is dynamic. Although it started more than half a century ago, it has changed and developed throughout that time in search of new and appropriate measures to tackle the pay gap between men and women.

Anti-discriminatory wage policy in the European Union began to be developed as a demand for equal pay for the work of men and women. The first step was the declaration of gender equality. In 1957, Article 119 of the Treaty of Rome⁵ (currently – Article 157 of the Treaty on the Functioning of the European Union) stipulated the duty of each Member State to ensure that men and women receive equal pay for equal work. At the time, these provisions were only recognised as having a declaratory role – not surprisingly, later in doctrine, it was described as “Sleeping Beauty”⁶. The meaning of the requirement of equal pay for the work of men and women has been changed by the Court of Justice of the European Union in the *Defrenne v. Sabena* cases⁷.

⁴ Directive (EU) 2023/970 of 10 May 2023 of the European Parliament and of the Council to Strengthen the Application of the Principle of Equal Pay for Equal Work or Work of Equal Value between Men and Women through Pay Transparency and Enforcement Mechanisms. OJ, L 132, 17.05.2023, pp. 21–44. Available: <http://data.europa.eu/eli/dir/2023/970/oj/eng> [last viewed 14.03.2024].

⁵ Treaty of Rome. 11957E/TXT, 01.01.1958.) Available: <https://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/treaty-of-rome> [last viewed 14.03.2024].

⁶ *Ghailani, D.* Gender Equality, from the Treaty of Rome to the Quota Debate: Between Myth and Reality. In: *Social Developments in the European Union 2013*, *Natali, D.* (ed.). The European Trade Union, 2020, p. 163.

⁷ Not only did these cases become the first precedent for gender discrimination, but they formed three rules of principle that led to the further development of the legal policy of inequality, which recognised that the principle of equal pay was a fundamental Community provision; that it pursues not only the economic but also the social objective of ensuring social progress and achieving the continuous improvement of life and work; that Article 119 has horizontal direct effects and applies not only to

The second step in the anti-discrimination pay policy can be seen as Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation,⁸ prohibiting differences in gender-based treatment in remuneration for work. Article 4 of the Directive requires the elimination of all direct and indirect discrimination on grounds of sex in respect to all aspects and conditions of remuneration for the same work or work of equal value. It is also provided that, where a job classification system is used in determining remuneration, it must be based on criteria that are the same for women and men and designed to not discriminate on grounds of sex.

However, more than half a century after the establishment of the right to equal pay for the same work or work of equal value, it has been acknowledged that gender pay discrimination persists,⁹ and the existing regulation of equal pay for equal work, gender equality and exceptional conditions is not sufficient to ensure an actual level playing field. It has become apparent that it is not only the payroll systems that are important but also the access of employees to information about their functioning and the ability to dispose of that information. The main factors contributing to the gender pay gap were the lack of transparency in the wage system and the lack of information on pay for the same work or work of equal value.¹⁰ In 2014, an attempt was made to address this problem with recommendations for strengthening the principle of equal pay for men and women through increased transparency. However, the effectiveness of the recommendation as a non-binding EU legislation was lower than expected, with limited implementation by Member States.¹¹

As a result, a new step towards pay transparency was taken in the European Union in 2023, with the adoption of a directive of the European Parliament and the Council identifying the factors for the transparency and enforcement of wage systems¹² and which Member States have three years to transpose into national law.

the actions of public authorities, but also to all agreements aimed at regulating collective gainful employment, as well as to contracts between individuals. See Judgement of 25 May 1971 of the European Court of Justice in case *Gabrielle Defrenne v. Belgian State*, No. 80-70; Judgement of 8 April 1976 of the European Court of Justice in case *Gabrielle Defrenne v. Société Anonyme Belge de Navigation Aérienne Sabena*, No. 43-75; Judgement of 15 June 1978 of the European Court of Justice in case *Gabrielle Defrenne v. Société Anonyme Belge de Navigation Aérienne Sabena*, No. 149/77.

⁸ Directive 2006/54/EC of 5 July 2006 of the European Parliament and of the Council on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast). OJ, L 204, 26.7.2006, pp. 23–36. Available: <http://data.europa.eu/eli/dir/2006/54/oj/eng> [last viewed 14.03.2024].

⁹ Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the Implementation of Commission Recommendation on Strengthening the Principle of Equal Pay between Men and Women through Transparency. COM/2017/0671 final, 20.11.2017. Available: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017DC0671&qid=1710444496858> [last viewed 14.03.2024].

¹⁰ Commission Recommendation 2014/124/EU of 7 March 2014 on Strengthening the Principle of Equal Pay between Men and Women through Transparency. OJ, L 69, 8.3.2014, pp. 112–116. Available: <http://data.europa.eu/eli/reco/2014/124/oj/eng> [last viewed 14.03.2024].

¹¹ Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the Implementation of Commission Recommendation on Strengthening the Principle of Equal Pay between Men and Women through Transparency. COM/2017/0671 final, 20.11.2017. Available: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017DC0671&qid=1710444496858> [last viewed 14.03.2024].

¹² Directive (EU) 2023/970 of 10 May 2023 of the European Parliament and of the Council to Strengthen the Application of the Principle of Equal Pay for Equal Work or Work of Equal Value between Men and Women through Pay Transparency and Enforcement Mechanisms. OJ, L 132, 17.05.2023, pp. 21–44. Available: <http://data.europa.eu/eli/dir/2023/970/oj/eng> [last viewed 14.03.2024].

This article will then proceed with discussion of the measures provided in the Pay Transparency Directive to ensure wage transparency by adjusting the asymmetry of pay information between the employee and the employer. The measures will be examined by dividing them into three groups according to the trinitarian system of elements of payroll communication described by Peter Bamberger, which allows for the best disclosure of pay transparency: (a) pay process transparency, (b) pay communication transparency, and (c) pay outcome transparency.¹³

1.1. Pay process transparency in the EU Pay Transparency Directive

Pay process transparency shows the degree to which the employer shares information with employees about the company's mechanisms and practices of wage setting.¹⁴ In other words, when solving the wage gap, not only does the establishment of objective and unbiased wage structures become essential here, but the information is also provided to employees about the functioning of these structures.

The Pay Transparency Directive provides several situations in which the employer must share the available information with applicants for employment and employees.

First, Article 5 of the directive provides measures to correct the information asymmetry at the time of employment. A person seeking employment has the right to receive information from the employer in advance about the initial salary or its range and the provisions of the collective agreement that the employer applies to the place of work. It is clear that with the increased focus on the employment process, the directive aims to reduce the information asymmetry between the employee and the employer in favour of the former and provide additional opportunities and protection when the employee negotiates wages. Accordingly, the employee, having learned the possible limits of wages before negotiations with the employer, will have a stronger bargaining position; in addition, V. E. Hooton and H. Pearce point out that this norm can be helpful to the employee, even in the event of failure to enter into a new employment relationship: if a candidate receives discriminatory wages in a current employment relationship, information about the amounts of gender-neutral wages can help him to start negotiations with a current employer.¹⁵ On the other hand, the requirement for the employer to provide information on the starting salary or its range, based on objective, gender-neutral criteria and attributable to the respective workplace, is very broad in the directive and leaves several possible loopholes for wage discrimination. First of all, the recitals of the Pay Transparency Directive point out that ensuring transparency in no way limits the ability of an employer or employee to negotiate remuneration even outside the specified range. This means that people of different sexes can agree on significantly different levels of wages that are not bound by the range referred to in Article 5 of the Directive. Considering that women are characterised by lower self-confidence,¹⁶ which means less successful negotiations, it has to be acknowledged that this instrument will not necessarily solve the pay gap successfully.

¹³ Bamberger, P. *Exposing Pay: Pay Transparency and What It Means for Employees, Employers, and Public Policy*. Oxford University Press: 2023, p. 33. Available: <https://doi.org/10.1093/oso/9780197628164.001.0001> [last viewed 14.03.2024].

¹⁴ *Ibid.*, p. 191.

¹⁵ Hooton, V. E., Pearce, H. *As Clear as Mud: Assessing the Relationship between Proposed Pay Transparency Mechanisms and Data Protection Obligations in EU Law*. *European Labour Law Journal*, Vol. 14, No. 4, 2023, p. 633.

¹⁶ Baker, D. T., Bourke, J. *How Confidence Is Weaponized Against Women*. *Harvard Business Review*, 20 October 2022. Available: <https://hbr.org/2022/10/how-confidence-is-weaponized-against-women> [last viewed 14.03.2024]

Another measure provided for in the same article to correct the asymmetry of information and thus ensure transparency in employment relationships is the pay history ban, which is the prohibition on the employer from asking persons wishing to take up employment about the wages they have received in the current or previous employment relationship. As a rule, women receive lower salaries, and the pay secrecy ban limits the employer's access to information, which could weaken the employee's position during negotiations and simultaneously help a woman break out of the lower wage circle. Although in the doctrine, one can agree that the prohibitions on the history of wages are perhaps the least effective provisions of the current state's equal pay laws,¹⁷ the U.S. experience shows that the pay secrecy ban helped increase pay for women.¹⁸

Several measures correct the information asymmetry between the employer and the current employee. Firstly, this group should include the requirement to inform about the company's pay policy: Article 6 of the Directive provides the employer's obligation to give the employees objective and gender-neutral criteria for determining employees' wages, wage levels and wage increases. The second measure is the right of employees, as provided for in Article 7(1) to (4) of the Pay Transparency Directive, to request information on the level of their wages and the average wage levels according to the sex of the employee and the categories of employees performing work of the same type or equal value, of which the employer is obliged to inform employees on an annual basis. This norm is one of the main instruments of the directive against the culture of pay secrecy and the monopolisation of information on wages in the hands of the employer. Employees are given access to information usually managed by the employer, thereby transcending the barrier that has hitherto prevented them from comparing wages of the same category of employees and gathering evidence of possible pay discrimination in the workplace. However, the right of employees to information on wages is rather severely limited: information on the amount of salary can be obtained by the employee not directly but through employees' representatives or equality bodies¹⁹ (the employee can apply directly to the employer only with a request to clarify the previously provided data). An indirect referral or the involvement of an intermediary always implies less access to information by the employee. However, this norm can be evaluated in multiple ways: firstly, it protects the interests of the employer, secondly, it can protect the employee from harassment by the employer,²⁰ thirdly, limiting information reduces the risk of violating personal data protection requirements.²¹

¹⁷ *Fiorentino, S., Tomkowicz, S.* Can Millennials Deliver on Equal Pay? Why the Time Is Finally Right for Pay Transparency. *Hofstra Labor & Employment Law Journal*, Vol. 38, No. 2, 2021, pp. 255–257. Available: <https://scholarlycommons.law.hofstra.edu/hlelj/vol38/iss2/3> [last viewed 14.03.2024].

¹⁸ *Bessen, J., Denk, E., Kossuth, J.* Stop Asking Job Candidates for Their Salary History. *Harvard Business Review*, 14 July 2020. Available: <https://hbr.org/2020/07/stop-asking-job-candidates-for-their-salary-history> [last viewed 14.03.2024].

¹⁹ Member States have designated an institution or institutions which, by established procedures, promote, investigate, supervise and support equal treatment of all persons without discrimination based on sex. See Article 20 of Directive 2006/54/EC of 5 July 2006 of the European Parliament and of the Council on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast). OJ, L 204, 26.7.2006, pp. 23–36. Available: <http://data.europa.eu/eli/dir/2006/54/oj/eng> [last viewed 14.03.2024].

²⁰ *Hooton, V. E., Pearce, H.* As Clear as Mud, p. 634.

²¹ Article 12 of Directive (EU) 2023/970 of 10 May 2023 of the European Parliament and of the Council to Strengthen the Application of the Principle of Equal Pay for Equal Work or Work of Equal Value between Men and Women through Pay Transparency and Enforcement Mechanisms. OJ, L 132, 17.05.2023, pp. 21–44. Available: <http://data.europa.eu/eli/dir/2023/970/oj/eng> [last viewed 14.03.2024].

The difficulty of transmitting information on wages is also indicated by the unreasonably long period of 2 months provided for the employer's response. Bearing that the employer must have implemented transparent wage structures in the company, technological advances that allow for a quick search for information, and shorter deadlines for providing information in other areas,²² two months is to be regarded as a burden on the right to information.

The literature indicates that one of the advantages of the right of employees to request information is the relatively small financial burden on employers since this measure is implemented only after the employees have taken the initiative. It is estimated that implementing a binding measure at the EU level on the right of employees to request information on remuneration in all EU Member States will cost employers 9 million euro.²³ In addition, the doctrine states that the ban on pay secrecy positively affects the increase in women's salaries and the decrease in the pay gap.²⁴

On the other hand, the lack of this tool should also be mentioned. Since it is typical for people to overestimate their abilities and results and reduce the results and achievements of others, the pay information of co-employees may not meet their expectations and lead to consequences such as less effort and poorer performance, termination of employment, etc. The workplace must, therefore, provide for objective and transparent wage systems.²⁵ Another disadvantage of this tool is the provision of an initiative to employees. Studies show that when wage transparency systems have been introduced and established in some EU countries, the public is unaware of them and cannot benefit from them.²⁶

1.2. Pay communication transparency in the EU Pay Transparency Directive

“Pay communication transparency” describes employees' ability to disclose information about their wages or organisational wage practices.²⁷ Article 7(5) of the Pay Transparency Directive prohibits contractual clauses restricting employees' right to disclose information on their wages and salaries.

Studies show that in those U.S. states where legislation provides for a ban on insurance to discuss their wages with colleagues, it has influenced the decrease in the gender pay gap.²⁸ There is also a noted and negative aspect of sharing information about the size of one's salary. As in the case of the right of employees to request information, a subjective and, therefore, not necessarily correct assessment of the work efforts of oneself and co-employees can lead to the fact that finding out the wage amounts can

²² For example, The GDPR provides a deadline of one month for the data controller to provide information to the data subject. See Regulation (EU) 2016/679 of 27 April 2016 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). OJ, L 119, 4.5.2016, pp. 1–88. Available: <http://data.europa.eu/eli/reg/2016/679/oj/eng>. Also see *Hooton, V. E., Pearce, H.* As Clear as Mud, p. 640.

²³ *Hofman, J. et al.* Equal Pay for Equal Work: Binding Pay-Transparency Measures. Luxembourg: Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament, 2020, pp. 16–17. Available: [https://www.europarl.europa.eu/thinktank/en/document/IPOL_STU\(2020\)642379](https://www.europarl.europa.eu/thinktank/en/document/IPOL_STU(2020)642379) [last viewed 14.03.2024].

²⁴ *Treleaven, Ch., Fuller, S.* BB See: Transparency Legislation and Public Discussions of Wage Inequality. *Canadian Review of Sociology/Revue Canadienne de Sociologie*, Vol. 58, No. 1, 2021. Available: <https://doi.org/10.1111/cars.12326.10> [last viewed 14.03.2024].

²⁵ *Heisler, W.* Increasing Pay Transparency: A Guide for Change. *Business Horizons*, Vol. 64, No. 1, 2021, p. 79. Available: <https://doi.org/10.1016/j.bushor.2020.09.005> [last viewed 14.03.2024].

²⁶ *Hofman, J. et al.* Equal Pay, p. 21.

²⁷ *Bamberger, P.* Exposing Pay, p. 191.

²⁸ *Hofman, J. et al.* Equal Pay, pp. 18–19.

lead to dissatisfaction in the workplace.²⁹ Hence, accessible communication about wage levels alone cannot solve equality problems and requires transparent wage systems.

The prohibition, provided for in Article 7 of the Directive, concerning restriction of employees' right to disclose information on their wages and salaries, is directly linked to the right to demand information from the employer on wages, as discussed above. In conversations with co-employees about wages, an employee can identify a possible pay discrimination in the company and then contact the employer for information about wages in the company or vice versa; after receiving information about wages in the company, he can verify it during conversations with co-employees.

1.3. Pay outcome transparency in the EU Pay Transparency Directive

Pay outcome transparency is the disclosure of information about the wages paid by the employer to the public.³⁰ usually carried out through authorised state bodies. Article 9 of the Directive obligates the employer to report the pay gap between the various men and women to the responsible public authority. Companies are obliged not only to present the pay gap between men and women but also to point out the gap between bonuses and all other additional benefits. The Pay Transparency Directive provides for the possibility for the State to gather some of this information based on administrative data itself. In any case, including the state in the relationship between the employee and the employer fulfils the traditional tripartite nature of labour law. In this case, the state, receiving part of the information from the employer, performs a control function and protects the interests of the weaker party to the labour relationship. At the same time, publicising information can influence and reduce the gender pay gap in enterprises.³¹ The examples of Denmark and Sweden show that when employers were obliged to submit payroll reports, an adjustment in wage levels and a decrease in the pay gap were subsequently observed.³²

The directive provides that reporting does not bind all employers and depends on the number of employees in the company. Employers with 250 or more employees are required to report annually, those with up to 249 employees – every three years, while employers with fewer than 100 employees can report voluntarily or at the discretion of the Member States. Such a determination of the lower limit of the number of employees gives rise to some doubts. On the one hand, such a restriction eases the administrative burden on employers but simultaneously reduces the practical impact of wage transparency measures.³³ The facts that the European business environment is mainly composed of small and medium-sized enterprises,³⁴ female employees dominate companies with fewer than 100 employees,³⁵ and the low level of wages in sectors dominated by women³⁶ lead to the suggestion that this requirement of the directive will apply to a sufficiently narrow range of actors and that a large

²⁹ Hofman, J. et al. *Equal Pay*, p. 16.

³⁰ Bamberger, P. *Exposing Pay*, p. 191.

³¹ Hooton, V. E., Pearce, H. *As Clear as Mud*, p. 635.

³² Hofman, J. et al. *Equal Pay*, pp. 17–18.

³³ Hooton, V. E., Pearce, H. *As Clear as Mud*, p. 638.

³⁴ McEvoy, O. *SMEs in Europe*. Available: <https://www.statista.com/topics/8231/smes-in-europe/> [last viewed 14.03.2024]. Eurochambres Women Network Survey 2023: A Picture of Female Entrepreneurship. Available: <https://www.eurochambres.eu/publication/eurochambres-women-network-survey-2023-a-picture-of-female-entrepreneurship/> [last viewed 14.03.2024].

³⁵ ILOSTAT. *Where Women Work: Female-Dominated Occupations and Sectors*. Available: <https://ilostat.ilo.org/where-women-work-female-dominated-occupations-and-sectors/> [last viewed 14.03.2024].

³⁶ EU monitor. *Understanding the Gender Pay Gap: Definition and Causes*. Available: <https://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/vl59mpupm0vq?ctx=vk4jic6t1dxz> [last viewed 14.03.2024].

proportion of women facing pay discrimination will not fall within the scope of Article 9. The limitations of the reporting obligation are particularly evident in the context of Article 10 of the Directive, since the latter's requirements do not apply to undertakings employing fewer than 100 employees. According to Article 10, employers required to report the wage gap to the state authorities must conduct a general wage assessment if the gap exceeds 5%, is not justified by objective gender-neutral factors, and is not corrected within six months. The wage assessment must be carried out in cooperation with the employees' representatives. Then, the employer must implement the measures set out in the Directive and correct unjustified wage differences within a reasonable period. Article 10 of the Directive thus gives meaning to the functioning of Article 9 of the Directive. It makes the employer's reporting obligation not a formal requirement for transmitting information, but instead – an effective instrument. At the same time, it must be acknowledged that both reporting and auditing place a significant financial burden on employers, with studies showing that expenditure per organisation would be up to 2 028 euro per year, with costs of 38 million euro in all EU Member States.³⁷ Mandatory payroll audits require additional analysis, requiring even higher costs than reporting. Its administrative expenses related to the compulsory payroll audit requirement are estimated to cost 10 000 euro per organisation per year or 188 million euro in all EU Member States.³⁸

2. The wage transparency measures in Lithuania's labour law

The Lithuanian labour law system enshrines not only the principle of equal pay provided in the legal acts of the European Union but also a significant part of the pay transparency measures.³⁹ Most of these transparency measures were adopted in response to the 2014 Commission recommendations. According to the model of transparency measures, Lithuania is identified as the typical European implementation of pay transparency. Typical European pay transparency countries, which in addition to Lithuania includes Romance-speaking Europe, parts of Scandinavia, and the rest of the Baltic countries, are described as the states whose employment laws to ensure transparency are applied when the company has a smaller number of employees and enforcement of legislation is provided for.⁴⁰

Further below, based on the transparency measures mentioned above, the wage transparency measures provided in the Lithuanian legal system will be discussed, and the existing regulations in the context of the Pay Transparency Directive will be assessed.

2.1. Pay process transparency in Lithuanian labour law

In the Labour Code,⁴¹ the main legal act regulating the issues of pay transparency, three situations can be distinguished when the employer is obliged to share information about the functioning of the wage system: indicate in the job

³⁷ Hofman, J. et al. *Equal Pay*, p. 17.

³⁸ *Ibid.*, pp. 17–18.

³⁹ Ambrazevičiūtė, K. *Moterų lygių galimybių užtikrinimas darbo santykiuose Baltijos valstybėse* [Ensuring Equal Opportunities for Women in Labour Relations in the Baltic States]. Vilnius: Lietuvos socialinių mokslų centro Teisės institutas, 2022, pp. 22–28. Available: <https://teise.org/moteru-lygiu-galimybiu-uztikrinimas-darbo-santykiuose-baltijos-valstybese/> [last viewed 14.03.2024].

⁴⁰ Ceballos, M., Masselot, A., Watt, R. *Pay Transparency across Countries and Legal Systems*. CESifo Forum, Vol. 23, No. 02, 2022, p. 8. Available: <https://www.cesifo.org/en/publications/2022/article-journal/pay-transparency-across-countries-and-legal-systems> [last viewed 14.03.2024].

⁴¹ Labour Code of the Republic of Lithuania, No. XII–2603, 2016. Available: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/6eea48d294ea11eea70ce7cabd08f150?jfwid=wd68si44j> [last viewed 14.03.2024].

advertisement information about the size and range of the proposed basic (tariff) salary; to acquaint employees with the system of remuneration of labour; at the request of the works council or trade union to provide information on the average salary of employees by occupational groups and gender.

The first measure aims to correct the information asymmetry between the applicants for employment and the employer. Article 25(6) of the Labour Code requires the employer to indicate in the advertisement for the proposed job information about the size and range of the proposed basic (tariff) salary. This rule is intended to give the employee more opportunities during negotiations. Still, implementing the norm in practice shows employers have many opportunities to circumvent this requirement by providing extensive intervals in the job advertisement or offering a completely different salary during the job interview.⁴²

The second measure is the obligation of the employer to provide opportunities for existing employees to familiarise themselves with the labour payment system. Article 140(3) of the Lithuanian Labour Code provides two possible ways of approving the pay system – establishing a payroll system in a collective agreement and the employer's approval. The legislature prioritises introducing a system of wages in collective agreements, which could be an effective tool for achieving transparency and reducing the gender pay gap. However, in Lithuania, collective labour relations do not play a more prominent role,⁴³ and the coverage of collective agreements is too low to introduce pay systems through them.⁴⁴ The analysis of collective contracts presented in the Lithuanian Register of Collective Agreements⁴⁵ shows that even when providing for a system of remuneration in a collective agreement, in most cases, the system of remuneration is described declaratively, often limited to repeating the norms of the Labour Code, the provisions of the system of remuneration of collective agreements are characterised by formality and non-reflection of the interests of employees. This makes it possible to identify the lack of transparency.⁴⁶ Thus, despite prioritising the collective establishment of the remuneration system, in practice, the employer often approves the remuneration of labour. The Labour Code provides that the employer adopts the system of payment of labour in workplaces from twenty employees and gives it to employees for information at the workplace in the usual way.⁴⁷ The Labour Code does not provide for in what way and with what frequency this familiarisation takes place, so it seems that such a way of informing employees about the system of wages is very formal and does not lead

⁴² *Davulis, T.* Gender Equality: How Are EU Rules Transposed into National Law? Lithuania: Country Report. Brussels: European Commission, 2023, p. 21. Available: <https://www.equalitylaw.eu/downloads/5970-lithuania-country-report-gender-equality-2023> [last viewed 14.03.2024].

⁴³ *Ibid.*, p. 19.

⁴⁴ *Veldman, A.* Pay transparency in the EU: a legal analysis of the situation in the EU Member States, Iceland, Liechtenstein and Norway. Luxembourg: Publications Office of the European Union, 2017, p. 39. Available: <https://data.europa.eu/doi/10.2838/148250> [last viewed 14.03.2024].

⁴⁵ Kolektyvinių sutarčių registras ir kolektyvinių sutarčių registravimo tvarka [Register of Collective Agreements and Procedure for Registration of Collective Agreements]. Available: <https://socmin.lrv.lt/lt/paslaugos/administracines-paslaugos/kolektyviniu-sutarciu-registras-ir-kolektyviniu-sutarciu-registravimo-tvarka/?lang=lt> [last viewed 14.03.2024].

⁴⁶ *Ambrazevičiūtė, K.* Vienodo darbo užmokesčio principas užtikrinant lygias moterų galimybes darbo santykiuose [The Principle of Equal Pay in Ensuring Equal Opportunities for Women in Labour Relations]. *Jurisprudencija*, Vol. 29, No. 2, 2022. Available: <https://doi.org/10.13165/JUR-22-29-2-03> [last viewed 14.03.2024].

⁴⁷ *Davulis, T.* Lietuvos Respublikos darbo kodekso komentaras [Commentary on the Labor Code of the Republic of Lithuania]. Vilnius: Registrų centras, 2018, p. 433.

to consequences. Article 140 of the Labour Code lists the elements of the system of remuneration of a recommendatory nature⁴⁸ – the categories of employees, the forms of their payment and the amounts of wages, the grounds and procedure for awarding additional payment (bonuses and bonuses), the procedure for indexing wages, and is subject to the requirement of non-discrimination based on sex. It could be said that the provisions of Article 140(3) of the Labour Code are similar to those of Article 6(1) of the Pay Transparency Directive. Still, the Pay Transparency Directive emphasises the specification of criteria rather than the salary amounts themselves.

The third measure provided for in the Labour Code, which could be classified as a pay process transparency, is adopted in response to the 2014 Commission recommendations. Under Article 23(2), an employer with an average number of employees of more than twenty must, at the request of the works council or a trade union at the level of the employer, provide up-to-date anonymised information on the average wages of employees by occupational group and gender (except employees in managerial positions) at least once a year. A similar obligation is provided for employers who employ employees to work part-time, remotely, under fixed-term or temporary employment contracts - if, in this way, more than two employees work in the occupational group.⁴⁹ This provision was expected to identify problematic aspects of implementing the principle of equal pay for men and women⁵⁰ and to encourage dialogue between employers and employees about company pay policies and equal opportunities.⁵¹ However, practice shows that works councils are not inclined to require information and even more so to use it properly.⁵² Besides, the limitation of providing information to 20 employees leaves the employees of small companies behind the threshold. The employer's obligation to provide information is also provided for in Article 7 of the Pay Transparency Directive. Still, it emphasises the individual ability of an employee to seek and obtain information on the remuneration situation of their category of employees, thereby enabling him to defend himself against possible discrimination. Meanwhile, the employer's obligation to provide information in the Labour Code aims to ensure a common anti-discrimination wage policy in the enterprise.

Other pay process transparency measures of the Pay Transparency Directive are not provided for in the Lithuanian labour law system. Admittedly, when talking about the pay history ban, a mention should be made in Article 41(1) of the Labour Code when regulating the pre-contractual relations of the parties to an employment contract, providing for a prohibition on the employer from requesting information from the employee that is not related to his state of health, qualifications or other circumstances not related to the direct performance of the labour function. Such information is commented on as “irrelevant to the conclusion of the contract, and therefore, the employer is prohibited from demanding it and making decisions based on it.”⁵³ Although the courts have not clarified the content of “circumstances not related to the direct performance of work” in Lithuanian case law, it can be assumed

⁴⁸ *Davulis, T.* Lietuvos Respublikos darbo kodekso, p. 432.

⁴⁹ Articles 40(8), 52(8), 71(3), 79(4) of the Labour Code of the Republic of Lithuania. Available: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/6eea48d294ea11ea70ce7cabd08f150?jfwid=wd68si44j> [last viewed 14.03.2024].

⁵⁰ *Burri, S. D.* National Cases and Good Practices on Equal Pay. Luxembourg: Publications Office of the European Union, 2019. Available: <https://doi.org/10.2838/93401> [last viewed 14.03.2024].

⁵¹ *Davulis, T.* Lietuvos Respublikos darbo kodekso, p. 92.

⁵² *Davulis, T.* Gender Equality, p. 22.

⁵³ *Davulis, T.* Lietuvos Respublikos darbo kodekso, p. 16.

that pay history would fall within the scope of the prohibitions of Article 41(1) of the Labour Code. However, the direct entrenchment of the pay history ban in the Labour Code would undoubtedly be a more successful tool in the fight against the pay gap.

Concerning the pay process transparency tool provided for in Article 7 of the Pay Transparency Directive – the right of employees to request information – one cannot fail to mention the challenges its implementation in Lithuania will pose. The possibility for employees to access information managed by the employer not only about their wages but also about the wages of other employees (performing the same work or work of equal value) will face the established pay secrecy culture between Lithuanian companies. In Lithuania, pay secrecy culture manifests as a cultural sensitivity of pay data among all stakeholders.⁵⁴ In a 2017 study, only 51 % of those surveyed agreed with the statement “publishing the average wages per job type earned in the organisation or company where you work by each sex”, which is the second lowest result in the European Union.⁵⁵ The culture of pay secrecy stems from the customary moral beliefs of society that publicly talking about one’s own money or being interested in another person’s finances is unethical and rude behaviour. In other words, information about monetary funds, including wages, is traditionally attributed to private personal data. In labour law, this provision is enshrined in Article 148(2) of the Labour Code, which stipulates that the employer may provide or publish information about the wages of an individual employee only in the cases established by law or with the employee’s consent. In other words, the ability of an employee to receive information about the wages of his co-employee is influenced not only by the ethical rules of behaviour but also by legal norms, which allow information to be obtained only with the co-employee’s consent. This is fully justified in terms of privacy but makes it extremely difficult to prove discrimination.

Moreover, the EU General Data Protection Regulation (GDPR)⁵⁶ and the Law on Legal Protection of Personal Data of the Republic of Lithuania⁵⁷ store the employee’s data. The GDPR defines personal data in a very broad way (as any information about a natural person that can help to identify them directly or indirectly), and this allows information about the wages received by the employee to be included in the personal data.⁵⁸ In other words, the remuneration of employees performing work of the same type or of equal value provided for in Article 7 of the Pay Transparency Directive may be personal data protected by law, if they allow the recipient of the pay to be identified. This raises the question of the compatibility between the employer’s obligation to protect employees’ personal data under the GDPR and the employer’s

⁵⁴ Veldman, A. Pay transparency in the EU, p. 27. Available: <https://data.europa.eu/doi/10.2838/148250> [last viewed 14.03.2024].

⁵⁵ Hofman, J. et al. Equal Pay, p. 27.

⁵⁶ Regulation (EU) 2016/679 of 27 April 2016 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). OJ, L 119, 4.5.2016, pp. 1–88. Available: <http://data.europa.eu/eli/reg/2016/679/oj/eng>

⁵⁷ Republic of Lithuania Law on Legal Protection of Personal Data, No. I–1374, 1996. Available: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/3e1ba58238c711edbf47f0036855e731?jfwid=wd68si3yx> [last viewed 14.03.2024].

⁵⁸ State Data Protection Inspectorate, Mykolas Romeris University. Gairės darbuotojams ir darbdaviams apie asmens duomenų apsaugą darbo santykių kontekste [Guidelines for Employees and Employers on the Protection of Personal Data in the Context of Employment Relations]. 2023. Available: <https://vdai.lrv.lt/lt/naujienos/gaires-darbuotojams-ir-darbdaviams-apie-asmens-duomenu-apsauga-darbo-santykiu-kontekste/> [last viewed 14.03.2024].

obligation to provide information under Article 7. Although the Pay Transparency Directive provides for a sufficiently large number of safeguards to protect employees' personal data – Article 7 obliges the employer to provide general and non-identifying information, Article 12 provides that information about personal data is processed under the GDPR, in practice, some many additional factors and circumstances will allow in some cases to be identified by a particular employee. This means a conflict between the Pay Transparency Directive's provisions and data protection law is inevitable.⁵⁹

2.2. Pay communication transparency in Lithuanian labour law

Pay communication transparency, the ability of employees to share information about their wages or the organisation's pay practices is not regulated directly by Lithuanian legal acts. Neither the Labour Code nor other laws prohibit the disclosure of the size of one's wages or the company's wage practices, nor is it prohibited to ban disclosure of one's salary or the company's salary practices. Nevertheless, in Lithuanian practice, discussing one's wages is limited by confidentiality agreements. As in the case of the protection of personal data mentioned above, the functioning of the terms of the confidentiality agreement about the non-disclosure of one's wages is reinforced by the ethical provisions of society. In addition, the prevalence of pay confidentiality is also significantly influenced by the established situation of wage systems in Lithuania, where wages are determined by individual negotiations between the employee and the employer, and the influence of collective bargaining is small or non-existent⁶⁰.

Determining how widespread are the terms of confidentiality agreements regarding wages is not easy, since no official statistics exist about it. However, the Lithuanian public sphere abounds in articles of an informative nature, identifying wages or the system of wages as confidential information,⁶¹ as well as confidential agreements themselves, in which one of the conditions is wages.⁶² This allows us to conclude that agreements on the confidentiality of wages are a common practice in Lithuania's labour relations.

Confidentiality agreements are regulated by the Labour Code, Article 25(5), which stipulates that the obligation to protect confidential information may arise on two grounds: firstly, based on the law, and secondly, as in the case we are discussing – based

⁵⁹ Hooton, V. E., Pearce, H. *As Clear as Mud*, p. 642.

⁶⁰ Veldman, A. *Pay transparency in the EU*, pp. 35–36.

⁶¹ For example, Venckienė, A. Įmonių konkurencinė kova: kada atlyginimas – konfidenciali arba vieša informacija? [Corporate Competition: When is Salary Confidential or Public Information?]. 31.07.2019. Available: <https://www.delfi.lt/darbas/darbo-rinka/imoniu-konkurencine-kova-kada-atlyginimas-konfidenciali-arba-viesa-informacija-81867089> [last viewed 14.03.2024]; BizTools. Susitarimas dėl konfidencialios informacijos apsaugos [Agreement on the Protection of Confidential Information], 26.11.2020. Available: <https://www.biztools.lt/personalas/susitarimas-del-konfidencialios-informacijos-apsaugos/> [last viewed 14.03.2024]; *Lithuanian Trade Union Solidarumas*. Darbo apmokėjimo sistema nelaikytina konfidencialia informacija [The Payroll System is not Considered Confidential Information]. 27.01.2021. Available: <https://www.lps.lt/darbo-apmokejimo-sistema-nelaikytina-konfidencialia-informacija/> [last viewed 14.03.2024].

⁶² For example, UAB “Vilniaus vandenys”. UAB “Vilniaus Vandenyms” konfidencialios informacijos sąrašas [CJSC “Vilniaus Vandenyms” Confidential Information List]. 25.10.2021; VšĮ “Go Vilnius” VšĮ “Go Vilnius” vidaus tvarkos taisyklės [Public Institution “GO Vilnius” Rules of Internal Procedure]. 5.04.2018; UAB “VAATC” “Dėl UAB “VAATC” darbuotojų supažindinimo su konfidencialios informacijos sąrašu bei konfidencialios informacijos naudojimo tvarkos aprašu” [Regarding the Familiarization of CJSC “VAATC” employees with the List of Confidential Information and the Description of the Procedure for Using Confidential Information]. 05.02.2016.

on a contract. Article 39 of the Labour Code contains a definition of an agreement on the protection of confidential information, which provides that the parties to an employment contract may agree that the employee during the performance of the employment contract and after the end of the employment contract for personal or commercial purposes will not use and disclose to other persons certain information received from the employer or as a result of the performed labour function, which the parties to the employment contract will identify as confidential in their agreement. Neither the existing regulation, nor the case law has provided an unequivocal answer as to whether information on wages can be included in the scope of confidential information.⁶³ The situation is complicated further, because the definition and separation of confidential information from a trade secret is problematic in case law and doctrine.⁶⁴ On the other hand, given that it is possible to agree, in principle, on the confidentiality of any non-public information, it is not surprising that wages are included in the list of confidential information by default. Given the widespread culture of pay secrecy, the employee's situation is also aggravated by Article 154 of the Labour Code, which provides that if an employee violates the obligation to protect confidential information, he will have to compensate the employer for all the damage caused.

Article 39 of the Labour Code also provides conditions limiting confidentiality agreement objects. One of them is that confidential information cannot be agreed to be treated as data that cannot be kept confidential by law or by its purpose. The transposition into the Lithuanian legal system of the requirement of the Pay Transparency Directive to prohibit contractual clauses aimed at restricting the right of employees to disclose information about their wages will form a more than sufficient legal framework that prevents employers from prohibiting employees from making public the amount of their salaries. However, the low awareness of employees, the prevalence of the terms of the confidentiality agreement on wages and, in the end, the very nature of confidentiality agreements lead to the conclusion that the change will not be swift in practice.

2.3. Pay outcome transparency in Lithuanian labour law

Article 23(1) of the Labour Code of the Republic of Lithuania provides the employer's obligation to provide information about employees and their working conditions or other aspects of employment relations to the responsible state authorities by the procedure established by legal acts. However, the law does not regulate the employer's obligation to state authorities to provide information on the gender pay gap, nor does it provide for a mandatory wage assessment. However, references should be made to specific initiatives and measures intended to promote pay transparency. The most striking is the pay gap between men and women, announced at the Sodra⁶⁵

⁶³ *Ambrazevičiūtė, K., Birštonas, R.* Darbuotojo pareiga saugoti komercines paslaptis ir kitą konfidencialią informaciją: grėsmė laisvei pasirinkti darbą? [Employee's Duty not to Disclose Trade Secrets and other Confidential Information: Threat to Freedom to Choose a Job?] *Teisės problemos*, Vol. 98, No. 2, 2019. Available: https://teise.org/wp-content/uploads/2020/01/Ambrazeviuciute_Birstonas_2019_2.pdf [last viewed 14.03.2024]; *Petrylaitė, V.* Konfidencialios informacijos apsauga darbo santykiuose [Protection of Confidential Information in Labour Relations]. In: *Darbo teisės iššūkiai besikeičiančiame pasaulyje [Labour Law Challenges in a Changing World]*, *Mačernytė-Panomariovienė, I.* (ed.). Vilnius: Mykolas Romeris universitetas, 2020. Available: <https://cris.mruni.eu/server/api/core/bitstreams/af14df96-cdde-4acc-9382-64bc54601cb1/content> [last viewed 14.03.2024].

⁶⁴ *Ambrazevičiūtė, K., Birštonas, R.* Darbuotojo pareiga.

⁶⁵ The State Social Insurance Fund Board under the Ministry of Social Security and Labour.

initiative. 1 April 2021, the amendments to the Article 15(3)(6) Law on State Social Insurance of the Republic of Lithuania⁶⁶ came into force, expanding the list of public data of the employer; Sodra could publish on its website⁶⁷ the average salaries of companies with at least eight employees, of which there are at least four men and women, the average salaries of men and women, men and women. These averages are calculated by dividing the income from which social insurance contributions are calculated by the number of employees of the employer. Employers are not obliged to provide pay gap information; Sodra receives all the necessary data by analysing the data provided by employers about insured employees. However, Sodra provides only general and difficult-to-compare information.⁶⁸ Moreover, Sodra publishes facts about wages paid in companies without detailing the duties of employees, and no mandatory reaction from employers to the published results is provided. From all this, it can be concluded that the publicity policy initiated by Sodra is not enough.

In the context of pay transparency, the recommendations of the Equal Opportunities Ombudsperson can also be mentioned. Article 26(6) of the Labour Code provides for an obligation for the employer, whose average number of employees is more than fifty, to adopt and publish at the workplace measures for the implementation of the principles of implementation and supervision of the implementation of the policy of equal opportunities. The Labour Code does not specify the content of such measures. Still, the Office of the Equal Opportunities Ombudsperson has developed recommendations on how the application of this policy in private and public sector organisations could be ensured. One such proposed measure is the audit of the pay gap. The wage gap audit aims to ensure that positions and jobs are assessed according to neutral criteria, completely distancing themselves from the employee doing the job. During the audit, procedures for working with staff are checked, including recruitment, selection, promotion, training, discipline, and complaint handling.⁶⁹

Thus, in Lithuania, the application of pay outcome transparency measures is minimal; the measures provided are recommendatory and do not entail any consequences for employers. Employers are not obliged to publish information on average wages or carry out a salary assessment.

Summary

Recently, in EU law an increasing attention has been drawn to the need to address the mitigation of wage information asymmetry, as this is a fundamental prerequisite for resolving the wage gap task. To that end, three general directions can be identified in the newly enacted EU Pay Transparency Directive, which aims to change the specified information asymmetry. The first direction envisages that the employee is given more power to decide whether to share information about his salary with other persons,

⁶⁶ Lietuvos Respublikos valstybinio socialinio draudimo įstatymas [Republic of Lithuania Law on State Social Insurance, No. I-1336, 1991]. Available: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.1327/asr> [last viewed 14.03.2024].

⁶⁷ SODRA. Vieši draudėjų duomenys [Public Data of Insurers]. Available: https://draudejai.sodra.lt/draudeju_viesi_duomenys/ [last viewed 14.03.2024].

⁶⁸ *Davulis, T.* Gender Equality, p. 22. Available: <https://www.equalitylaw.eu/downloads/5970-lithuania-country-report-gender-equality-2023> [last viewed 14.03.2024].

⁶⁹ Lygių galimybių kontrolieriaus tarnyba. Lygių galimybių politikos priemonių rekomendacijos [Office of the Equal Opportunities Ombudsperson. Recommendations for Equal Opportunity Policy Measures]. 11.08.2017. Available: <https://lygybe.lt/naujienos/lygiu-galimybiu-politikos-priemoniu-rekomendacijos/> [last viewed 14.03.2024].

including other company employees. Likewise, the pay history ban provision gives employees the right not to share information about their salary in different workplaces. Secondly, the Pay Transparency Directive obliges the employer to provide the employee with information about the company's wage policy, information about the amount of the employee's wages and average wages according to the gender of the employee and the categories of employees performing work of the same type or of equal value, both during employment and in existing employment relationships. Thirdly, the state is included in the wage transparency process alongside the employee and employer, which, receiving part of the information from the employer, performs a control function and protects the employee's interests as the weaker party in labour relations.

However, the measures established in the Pay Transparency Directive will not be fully effective due to the additional legal provisions established in the directive, which significantly reduce the practical effectiveness of the employer's obligation to share information. Such legal provisions are the indirect receipt of employer wage rate information and the extended deadline for providing information provided in Article 7 of the Directive. In addition, the establishment of a minimum number of employees for the employer's obligation to submit reports on various gender wage gaps to the responsible state institution means that this requirement will be applied to a sufficiently narrow circle of entities and a large number of women facing wage discrimination will not fall under the obligation to provide information to state institutions without the scope of application of the responsibility to perform a general wage assessment.

Evaluating the problem of wage transparency and wage information asymmetry from the perspective of the Republic of Lithuania, the Labour Code of the Republic of Lithuania already provides several measures to correct the specified asymmetry: firstly, the requirement for the employer to indicate information about the amount and/or range of the offered salary in the job advertisement; secondly, the employer's duty to provide opportunities for employees to get acquainted with the labour payment system; third, the employer's obligation to provide updated personalised information on the average salary of employees by occupational group and gender. However, these measures are limited in practice, and most of the measures provided in the Pay Transparency Directive are not offered in Lithuanian labour law.

The significant challenges of transposing the Pay Transparency Directive into the Lithuanian legal system are the collision of the directive's norms with the pay secrecy culture, which is strengthened by the law on personal data protection and the provisions of confidentiality agreements. Although there are legal safeguards in both cases, which at first sight allow for the harmonisation of conflicting legal regulations, the implementation and harmonisation of the contradictory provisions will not be simple.

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