
DRAFT BILL PARTIALLY TRANSPOSING INTO NATIONAL LAW DIRECTIVE (EU) 2023/970 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 10 MAY 2023, WITH ON STRENGTHENING THE APPLICATION OF THE PRINCIPLE OF EQUAL PAY FOR EQUAL WORK OR WORK OF EQUAL VALUE BETWEEN WOMEN AND MEN THROUGH PAY TRANSPARENCY AND ENFORCEMENT MECHANISMS

(Draft legislation submitted for public consultation)

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Order

Summary: Draft bill partially transposing into national law Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023 on strengthening 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.

For the purposes of Article 472(1)(b) and Article 473(2) of the Labour Code, I hereby order the following:

1- The publication, in a Supplement of the Employment and Labour Bulletin, of the draft bill partially transposing into national law Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023, on strengthening the application of the principle of equal pay for equal work or work of equal value between women and men through pay transparency and enforcement mechanisms.

2- The period for public consultation on the draft shall be 20 days from the date of its publication, in view of the urgent need to publish the legislation.

3- Opinions should be sent directly to the Directorate-General for Employment and Labour Relations at the following address: “Praça de Londres, 2 – 9th floor, 1049-056 Lisbon”, or by email to «dgert@dgert.mtsss.pt».

3 August 2026 — The Minister of Labour, Solidarity and Social Security, Rosário Palma Ramalho.

Draft bill partially transposing into national law Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023, on strengthening the application of the principle of equal pay for equal work or work of equal value between women and men through pay transparency and enforcement mechanisms

Statement of Reasons

The promotion of equal opportunities and equal treatment for women and men at work and in employment, particularly with regard to ensuring equal pay for equal work or work of equal value, constitutes an imperative of social justice.

This objective is expressly identified as a priority in the Programme of the XXV Constitutional Government, which reaffirms its commitment to reducing pay disparities between women and men and to implementing public policies that promote the reconciliation of professional, personal and family life.

In line with this approach, the Major Policy Options for 2025–2029, approved by Law No. 73-B/2025 of 31 December, identify the promotion of equality at work and in employment as a strategic objective, recognising it as an essential pillar of competitiveness, innovation and social cohesion, indispensable to the enhancement of human capital and the progress of the national economy.

The Portuguese legal system has affirmed this principle for several decades. In this regard, particular importance should be attached to Decree-Law No. 392/1979 of 20 September, which established the Commission for Equality in Labour and Employment, currently provided for in Decree-Law No. 78/2026 of 16 March.

Notwithstanding the strength of the national legal framework, significant inequalities continue to exist in the labour market to the detriment of women. Recent data demonstrate the persistence of pay disparities. In Portugal, the pay gap between women and men reached 15.4% in 2023, or 12.5% when only base pay is taken into account. Among senior management, the pay differential rises to 26.5%, to the detriment of female workers.

Within the European Union, although there has been a downward trend in the pay gap between women and men, this development has been slow and uneven across the Member States. In 2024, women's average hourly earnings in the European Union were, on average, 11.1% lower than men's, while Portugal recorded a difference of 7%.

In this context, and notwithstanding the mechanisms promoting equal pay already in force under the Labour Code, approved by Law No. 7/2009 of 12 February, and Law No. 60/2018 of 21 August, it is necessary to strengthen those mechanisms by adopting complementary measures that ensure greater pay transparency, prevent discrimination and encourage fairer and more inclusive organisational practices.

Accordingly, Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023 establishes a new regulatory framework intended to strengthen the effective application of the principle of equal pay between women and men for equal work or work of equal value, through the introduction of pay-transparency instruments and more effective monitoring and enforcement mechanisms.

It is therefore necessary to partially transpose that Directive into the national legal system by adopting additional measures to Law No. 60/2018 of 21 August, thereby addressing the challenges that remain.

[The self-governing bodies of the Autonomous Regions and the National Data Protection Commission were consulted, as were the social partners represented on the Standing Committee for Social Concertation, thereby ensuring the participation of the relevant entities in the legislative process].

This Act was published in the Supplement to the _____, no. __, of ____ of _____ of 2026.

Accordingly:

Pursuant to Article 197(1)(d) of the Constitution, the Government submits the following draft bill to the Portuguese Parliament, requesting priority and urgency:

Article 1

Subject matter

This Act partially transposes into national law Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023 on strengthening 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 and, for that purpose:

a) Makes the first amendments to Law No. 60/2018 of 21 August, which adopts measures to promote equal pay between men and women for equal work or work of equal value, and to Decree-Law No. 78/2026 of 16 March, which restructures and approves the organisational framework of the Commission for Equality in Labour and Employment;

b) Makes the tenth amendment to the Labour Procedure Code, approved by Decree-Law No. 480/1999 of 9 November.

Article 2

Amendment to Law No. 60/2018 of 21 August

Articles 2, 3, 4, 6, 7, 8, 10, 11, 12 and 18 of Law No. 60/2018 of 21 August shall be amended to read as follows:

“Article 2

[...]

1- [...]

a) [...];

b) “Pay” includes basic pay and any other fixed or variable benefits, whether in cash or in kind, which, under the terms of the employment contract, are payable by the employer to the employee in consideration for the employee’s work;

c) [...];

d) [...];

e) [...];

f) “Pay level” means the gross annual pay and the corresponding gross hourly pay;

g) “Pay gap between women and men” means the percentage difference between the average pay levels of women and men, calculated by reference to the average pay level of employees of the other sex;

h) “Median pay level” means the pay level in relation to which half of an employer’s employees earn more and half earn less;

i) “Median pay gap between women and men” means the difference between the median pay level of female and male employees of the same employer, expressed as a percentage of the median pay level of employees of the other sex;

j) “Pay-range quartile” means each of four equal groups of employees divided according to pay levels, from the lowest to the highest;

k) “Equal work” means work in which the duties performed for the same employer are the same or objectively similar in nature, quality and quantity;

l) “Work of equal value” means work in which the duties performed for the same employer are equivalent, having regard in particular to the qualifications or experience required, the responsibilities assigned, the physical and mental effort involved and the conditions in which the work is performed;

m) “Group of employees” means employees performing equal work or work of equal value, grouped in a non-arbitrary manner on the basis of common objective criteria that are non-discriminatory on grounds of sex, by the relevant employer, in cooperation, where applicable, with the employees’ representatives.

2- [...]

Article 4

[...]

1- The employer must ensure that there is a transparent pay policy agreed with the employees’ representatives, where such representatives exist.

2- The pay policy must be based on an assessment of the components of the duties, using objective criteria common to women and men and excluding any direct or indirect discrimination on grounds of sex. It must take into account skills, responsibility and working conditions and, where appropriate, any other factors relevant to the position or role, in order to ensure equal pay for equal work or work of equal value.

3- Where pay discrimination is alleged under Article 25(5) of the Labour Code, the employer must demonstrate that it has a pay policy complying with the requirements of the preceding paragraph, in particular with regard to the pay of the person alleging discrimination, by reference to the employees in relation to whom that person considers himself or herself to be discriminated against.

4- Contractual clauses or provisions of collective regulation instruments intended to prevent an employee from disclosing information relating to his or her pay shall be null and void.

Article 6

Opinion of the Commission for Equality in Labour and Employment

1- The Commission for Equality in Labour and Employment shall be competent to issue opinions on allegations of pay discrimination on grounds of sex in respect of equal work or work of equal value, at the request of an employee or trade-union representative.

2- [...]

3- The entity referred to in paragraph 1 shall have 10 days from receipt of the request referred to in that paragraph to notify the employer to, in 30 days, submit observations and provide information on the pay policy used to calculate the remuneration of the applicant and of the employees of the other sex in relation to whom the applicant considers himself or herself to be discriminated against.

4- [...]

5- Once the period referred to in paragraph 3 has expired, the entity referred to in paragraph 1 shall have 60 days to notify the applicant, the employer and the trade-union representative of its draft technical opinion.

6- Where the draft technical opinion concludes that there are indications of pay discrimination, it shall be notified to the employer, who shall have 30 days to justify the pay difference or submit corrective measures to be adopted within 180 days.

7- Within 60 days after expiry of the period for justifying the pay difference or submitting corrective measures, the Commission for Equality in Labour and Employment shall notify the applicant and the employer of its opinion.

8- Pay differences which the employer fails to justify under this Article shall be presumed to be discriminatory.

9- The opinion issued under paragraph 7 shall be communicated to the authority with inspection powers within the ministry responsible for labour matters, for the purposes of Article 25(9) of the Labour Code.

Article 7

[...]

1- Dismissal or another disciplinary sanction imposed, allegedly to punish a labour-law infringement, shall be presumed abusive where it takes place within three years of the submission of a complaint concerning non-compliance with rights relating to the principle of equal pay, with Articles 331(3) to (7) applying.

2- *[Repealed.]*

3- The exercise of the rights referred to in this Article shall become time-barred one year after the day following the date on which the employment contract ended.

Article 8

[...]

1- For the purposes of monitoring the implementation of this Law, responsibility shall lie with:

a) The Commission for Equality in Labour and Employment:

i) Ensure the provision and accessibility of digital tools and methodologies for assessing and comparing the value of work, based on objective criteria applicable equally to men and women, in coordination with the department responsible for labour inspection within the ministry overseeing labour matters;

ii) To raise awareness among public and private employers, social partners and the general public regarding the promotion of the principle of equal pay and the right to pay transparency;

iii) To provide training to employers and employees' representatives on matters relating to equal pay and pay transparency between women and men;

iv) To promote initiatives and studies analysing the causes of pay disparities between women and men and to contribute to the identification and elimination of pay discrimination.

b) The authority with inspection powers within the ministry responsible for labour matters:

i) To collect and analyse joint pay-assessment reports;

ii) To collect information on pay, broken down by sex, age, working time, economic sector, company size and pay disparities;

iii) To promote, monitor and inspect the application of this Law;

iv) To forward the information referred to in subparagraphs i) and ii) to the entity responsible for data processing.

c) The entity responsible for data processing under this Law:

i) To process information on pay, broken down by sex, age, working time, economic sector, company size and pay disparities, and to ensure that available information relating to the previous four years is accessible;

ii) To publish and update, on its website, information on pay disparities and on the proportion of employees, except for information relating to groups of employees;

iii) To ensure that the information referred to in subparagraph i) is communicated annually to the competent statistical authorities.

2- *[Repealed.]*

Article 10

[...]

1- The application of this Law shall be assessed by the Commission for Equality in Labour and Employment every four years, with the first assessment taking place two years after its entry into force.

2- [...]

Article 11

[...]

Studies promoted by public administration bodies and services concerning pay shall take into account an assessment of the components of the duties based on non-discriminatory, objective criteria common to women and men.

Article 12

[...]

1- A breach of the provisions of paragraphs 1 and 2 of Article 4, of Article 4-A, paragraphs 1, 2, 5 and 6 of Article 4-C, paragraph 1 of Article 4-E and paragraphs 1 to 4 of Article 5-A constitutes a very serious administrative offence.

2- A breach of the provisions of paragraphs 1 and 2 of Article 3-A and paragraph 4 of Article 4-C constitutes a serious administrative offence.

3- A breach of provisions of paragraph 1 of Article 3-B constitutes a minor administrative offence.

4- In the event of recidivism or repeated infringement of the rights and obligations related to the principle of equal pay, the following ancillary sanctions may be imposed to the employer:

a) Withdrawal of all tax and financial incentives;

b) Withdrawal of public benefits;

c) Disqualification from receiving financial incentives;

d) Disqualification from participating in auctions, concessions or public tender procedures for a period of up to two years, pursuant to Article 562 of the Labour Code;

e) An obligation to attend training on pay transparency.

Article 18

[...]

1- *[Repealed.]*

2- *[Repealed.]*

3- *[Repealed.]*

4- *[Repealed.]*

- 5- Companies with 250 or more employees shall comply with the obligation laid down in Article 4-C(2)(a) by 7 June 2027 and, thereafter, on an annual basis, with reference to the preceding calendar year.
- 6- Companies with 150 to 249 employees shall comply with the obligation laid down in Article 4-C(2)(b) by 7 June 2027 and, thereafter, every three years, with reference to the preceding calendar year.
- 7- Companies with 50 to 149 employees shall comply with the obligation laid down in Article 4-C(2)(b) by 7 June 2031 and, thereafter, every three years, with reference to the preceding calendar year.
- 8- The data referred to in Article 8(1)(c) shall be transmitted to the European Commission by the competent authority as from 31 January 2028, in respect of the 2026 reference year.
- 9- By 27 June 2028 and, thereafter, every two years, the competent authority shall submit to the Commission the report on equal opportunities between men and women provided for in Law no. 10/2001 of 21 May.
- 10- Companies with 50 to 149 employees shall comply with the obligation laid down in Article 4-C(2)(b) by 7 June 2031 and, thereafter, every three years, with reference to the preceding calendar year.

Article 3

Addition to Law No. 60/2018 of 21 August

Articles 3-A, 4-A, 4-B, 4-C, 4-D, 4-E, 5-A and 5-B are hereby added to Law No. 60/2018 of 21 August, with the following wording:

“Article 3-A

Access to information

1- Every year, the employer shall inform its employees, including temporary agency workers working for it:

a) That they are entitled to request information concerning their individual pay level and the average pay levels, broken down by sex, for groups of employees performing equal work or work of equal value to theirs;

b) Of the procedure for exercising the right referred to in the preceding subparagraph.

2- The employer shall provide the information referred to in paragraph 1(a) within two months of receiving a written request from the employee.

3- The information referred to in the preceding paragraph may be requested through the employees' representatives or through the Commission for Equality in Labour and Employment.

4- The employer may require the employee to use the information provided solely for the purpose of exercising his or her right to equal pay.

Article 4-A

Pay transparency in access to employment

1- Job applicants shall be entitled to receive, before the date on which the employment contract is entered into, information concerning:

a) The starting pay or its range, based on objective criteria common to women and men, for the position for which they are applying; and

b) Where applicable, the relevant provisions of the collective bargaining instrument applied by the employer to the position concerned.

2- The employer may not ask job applicants about their pay history in their current or previous employment relationships.

Article 4-B

Transparency of the pay-setting and pay-progression policy

1- The employer shall display in customary locations or publish on its intranet the criteria used to determine employees' pay, pay levels and pay progression. Those criteria must be objective, common to women and men and non-discriminatory on grounds of sex.

2- Companies with fewer than 50 employees shall be exempt from the obligation to display or make available on the intranet information relating to pay progression referred to in the preceding paragraph.

Article 4-C

Communication of information concerning existing pay disparities between female and male employees

1- Companies with 50 or more employees must provide the entity responsible for data processing with the necessary information, broken down by sex, to determine the following values:

- a) Pay gap;
- b) Pay gap in complementary or variable components;
- c) Median pay gap;
- d) Median pay gap in complementary or variable components;
- e) Proportion of female and male employees receiving complementary or variable components;
- f) Proportion of female and male employees in each pay-range quartile;
- g) Pay gap between employees by group of employees, broken down into base pay and complementary or variable components.

2- The information referred to in paragraph 1 concerning the preceding calendar year shall be provided annually by companies with 250 or more employees and every three years by companies with between 50 and 249 employees.

3- The employer may correct the information referred to in paragraph 1 up to 15 days after it has been made available to the entity responsible for data processing.

4- The employer shall provide employees and their representatives with access to the information referred to in paragraph 1(g).

5- Employees and their representatives may request additional and detailed explanations from the employer concerning the data provided regarding any pay differences between women and men. The employer shall respond to such requests within 30 days.

6- For the purposes of paragraph 1, temporary agency workers working for the employer shall be included in the calculation of the employer's employees.

Article 4-D

Evidence of equal work or work of equal value

Where it is not possible to establish a comparator between male and female employees of the same employer in order to determine whether they perform equal work or work of equal value, other evidence establishing the pay conditions may be used, including evidence relating to skills, effort, responsibility and working conditions.

Article 4-E

Pay differences not justified on the basis of objective criteria common to women and men

1- For the purposes of Article 4-C, the authority with inspection powers within the ministry responsible for labour matters shall notify the employer to, in 90 days, justify or submit corrective measures in respect of the detected differences in average pay levels based on sex.

2- The authority with inspection powers within the ministry responsible for labour matters shall assess the justification or corrective measures submitted by the employer within 45 days.

3- Pay differences which the employer fails to justify under this Article shall be presumed to be discriminatory.

Article 5-A

Joint pay assessment

1- Where the employer has failed to provide a justification or submit measures under Article 4-E(1), and an unjustified difference of at least 5% persists, the authority with inspection powers within the ministry responsible for labour matters shall notify the employer to submit, within 45 days, a joint pay assessment involving the employees' representatives, where such representatives exist.

2- The joint pay assessment shall include the following:

- a) An analysis of the proportion of men and women in each group of employees;
- b) Information on the average pay levels of men and women and the corresponding complementary or variable components for each group of employees;

- c) Any differences in average pay levels between women and men in each group of employees;
- d) The reasons for those differences in average pay levels, based on objective criteria common to women and men, where such reasons exist, established by the employer or, where employees' representatives exist, jointly with those representatives;
- e) The percentage of employees of each sex who received a pay increase after returning from any parental or family-assistance leave provided for in the Labour Code or in the General Law on Employment in Public Functions, where that increase occurred in the relevant group of employees during the period of leave;
- f) The measures to be adopted to correct pay differences where those differences are not justified on the basis of objective criteria common to women and men;
- g) An assessment of the effectiveness of the measures included in previous joint pay assessments, where applicable.

3- The joint assessment shall be communicated to the employees and their representatives within the period referred to in paragraph 1.

4- Within 90 days, the employer shall implement the measures established in the joint pay assessment and submit to the inspection authority referred to in paragraph 1 a report containing information on the implementation of the measures adopted and an analysis of the systems for evaluating and classifying occupations.

Article 5-B

Processing of information

1- The entity of the ministry responsible for labour matters competent to process data shall make available on its website, by the end of the first half of each calendar year, information concerning pay differences between women and men at national, regional, sectoral and employer level, relating to the preceding year.

2- The entity referred to in the preceding paragraph shall also make available to each employer the information relating to that employer concerning pay differences between its employees, by group of employees and by sex, broken down into base pay and complementary or variable components.

3- The information referred to in the preceding paragraphs shall be developed on the basis of communications made by the employer and data contained in available legal and administrative sources.

4- The processing of the information referred to in this Article shall ensure the protection of personal data in accordance with the applicable legislation.”

Article 4

Amendment to Decree-Law No. 480/1999 of 9 November

Article 186-G of Decree-Law No. 480/1999 of 9 November shall be amended to read as follows:

“Article 186-G

Reference

1- [...]

2- [...]

3- The judge may order the defendant to provide full compensation for pecuniary and non-pecuniary damage, together with the corresponding default interest, resulting from the infringement of a right or obligation connected with the principle of equal pay, even where no specific claim has been made.

4- Even where the defendant is acquitted, the court may, on equitable grounds, exempt the unsuccessful claimant from payment of court costs.»

Article 5

Repealing provision

Articles 3 and 5, Article 7(2), Article 8(2), and Article 18(1) to (4) of Law No. 60/2018 of 21 August are hereby repealed.

Article 6

Republication

Law No. 60/2018 of 21 August, as amended by this Law, shall be republished in an annex to this Law, which shall form an integral part thereof.

Article 7

Entry into force

This Law shall enter into force on the first day of the month following that of its publication.

ANNEX

(Referred to in Article 6)

Republication of Law No. 60/2018 of 21 August.

Information:

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Graphic production: Directorate-General for Coordination and Planning (DGCP)

Legal deposit No. 25 515/89