

Directive on Equal Pay for Equal Work or Work of Equal Value

Zagreb, August 2025

Introduction

Directive (EU) 2023/970 on equal pay for equal work and work of equal value ("**the Directive**"), adopted in April 2023, aims to combat discrimination and reduce gender-based pay gaps across the European Union. The Directive introduces mandatory measures to increase pay transparency, strengthen workers' rights, and ensure employer accountability for unjustified pay differences.

Member States are required to implement the Directive into their national legislation by 7 June 2026. The American Chamber of Commerce in Croatia (AmCham) and its member companies are committed to the principles of transparency and equal pay for equal work and have prepared this position paper in order to ensure the most effective possible transposition of the Directive into the Croatian legislative framework.

Challenges in Implementation and Application

Definitions

The Directive contains a broad definition of pay, which includes "the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which a worker receives directly or indirectly from the employer (complementary or variable components), in respect of his or her employment." In accordance with the above definition and the case-law of the EU Court of Justice, the term "pay" would also cover benefits that are not currently considered as pay under Croatian regulations, such as employment-related material entitlements (e.g. jubilee awards, holiday allowance, Christmas bonuses, etc.), annual bonuses (in accordance with the opinion of the competent Ministry, "*Pay and worker income based on the employment relationship*"¹), compensation for education, training and development of workers, salary compensation paid by the employer during temporary incapacity for work, severance payments, compensation in case of judicial termination of employment, and others.

- **AmCham's proposal**

It is necessary to revise and align the definition of pay in Croatian legislation with the scope of the term as established by the Directive and the case-law of the EU Court of Justice. In doing so, it is important to take into account the implications that the redefinition of the term "pay" may have in cases of salary compensation prescribed by law, in order to avoid situations where an employer would be required to pay a worker, during their absence from work, a salary compensation significantly higher than the worker's basic salary (due to one-off payments in the reference period used to calculate the average salary / amount of salary compensation).

¹ Available at: <https://uznr.mrms.hr/placa-i-primici-radnika-na-temelju-radnog-odnosa>, retrieved on 23 July 2025

Additionally, for the purpose of applying the relevant obligations under the Directive, we propose that branches of foreign companies be defined as separate employers, and that it be stipulated that companies headquartered in Croatia, when fulfilling the aforementioned obligations, should not take into account their foreign branches or the workers employed therein. This would ensure the consistent application of Croatian regulations to entities that are genuinely operating in the Croatian labor market, while avoiding discrepancies that may arise from the specific characteristics of foreign labor markets (particularly regarding the general level of salaries in a given country) and the foreign laws applicable to the employment relationships in question.

Equal Work and Work of Equal Value

The Directive requires Member States to make available analytical tools or methodologies that enable employers to establish and use gender-neutral job evaluation and classification systems.

- **AmCham's proposal**

These tools and methodologies should be made available as soon as possible, so that employers can carry out the necessary preparatory actions before the implementation of the Directive into Croatian legislation enters into force.

The Directive stipulates that pay structures must be designed in a way that allows for the assessment of whether workers in comparable situations are performing work of equal value, based on objective, gender-neutral criteria agreed upon with workers' representatives, where such representatives exist. These criteria include skills, effort, responsibility, and working conditions, as well as, where applicable, any other factors relevant to the specific job or position.

- **AmCham's proposal**

This provision should be linked to the existing criteria for work of equal value as defined in the Labor Act, and the list should be expanded with a non-exhaustive list of examples of other factors that may be relevant to a specific job (e.g. different living standards in various places of work (different cities/municipalities/counties), specific characteristics of the local labor market, availability of workers, etc.).

Additionally, the relevant criteria should be determined through a consultation process with workers' representatives (works council/trade union representative), as applying a co-decision procedure could lead to lengthy court proceedings in cases where no agreement is reached, which would burden the judicial system and hinder the ability of companies to adapt quickly and efficiently to labor market conditions.

Pay Transparency and Reporting

The Directive stipulates that Member States may exempt employers with fewer than 50 workers from the obligation to give their workers easy access to the criteria used for workers' salary increases. Additionally, the Directive stipulates that employers with fewer than 100 workers are not obligated to periodically report on the gender pay gap, unless Member States require reporting of pay-related information.

- **AmCham's proposal**

Croatian legislation should implement the minimum requirements set by the Directive in order to provide administrative relief for smaller employers.

The Directive also stipulates that Member States may collect certain information on the gender pay gap themselves based on administrative data, such as data submitted by employers to tax or social security authorities.

- **AmCham's proposal**

This possibility should be implemented into Croatian legislation in a way that allows competent state authorities to independently retrieve the relevant data from the JOPPD forms submitted by obligated entities.



Support for Employers Employing Fewer Than 250 Workers

The Directive stipulates that Member States shall offer technical support and training to employers employing fewer than 250 workers in order to facilitate their compliance with the requirements of the Directive and the applicable national legislation.

- **AmCham's proposal**

Such support should be implemented through regular physical and online workshops, online materials from these workshops, publishing official instructions and guidelines, establishing a contact phone number and/or email address through which employers can reach government authorities with specific inquiries, and other appropriate measures.

Access to Evidence

The Directive stipulates that national courts, in proceedings concerning claims related to pay equality, may require the respondent to disclose all relevant evidence in their possession, including evidence containing confidential information, while ensuring that effective measures are in place to protect such information.

- **AmCham's proposal**

The legislator should consider how the exclusion of the public will be regulated in Croatian law in cases where confidential information is submitted during court proceedings, the method of securely delivering the relevant documents (and information if not contained within the documents), as well as measures to protect confidential information, including operational-technical measures and the legal consequences of breaching confidentiality obligations.

Limitation Periods

The Directive stipulates that limitation periods do not begin to run until the plaintiff (worker) becomes aware, or can reasonably be expected to become aware, of the violation, and Member States may decide that limitation periods do not begin to run while the violation is in progress or before the termination of the employment contract or employment relationship. Limitation periods must not be shorter than three years.

- **AmCham's proposal**

It is necessary to implement into Croatian legislation a provision establishing that a worker is considered to have become aware of the violation at the moment the employer's report on pay gaps is publicly disclosed or upon receiving written information about their pay grade and the average pay grades based on a submitted request to the employer.

We also propose that Croatia should not make use of the possibility to postpone the commencement of the limitation period, and that the limitation period for the claims in question should be three years, all in order to ensure a greater degree of legal certainty for employers and to avoid situations in which an employer would be held liable for possible violations committed a significant time in the past.

Sanctions

The Directive stipulates that Member States are required to establish rules on effective, proportionate, and dissuasive sanctions applicable to infringements of the rights and obligations related to the principle of equal pay.

- **AmCham's proposal**

It is essential to make the amendments to the law implementing the Directive available to employers as soon as possible, so that employers can comply in a timely manner with the numerous obligations and legal requirements without facing penalties.

Salary as Confidential Information

Pursuant to the applicable provisions of the Labor Act, every employment contract must also include a provision on the gross salary, including the gross amount of the basic or agreed salary, allowances and other remuneration for work performed, as well as the periods of payment of such remuneration and other income arising from the employment relationship to which the worker is entitled. Therefore, a worker's salary must be determined or determinable. If the basis and criteria for salary payment are not regulated by a collective agreement, an employer employing at least 20 workers is obliged to establish them in the work regulations. An employer who is not required to adopt work regulations, or who has not regulated the basis and criteria therein, is obliged to agree on them in the employment contract concluded with the worker. In this regard, the basis and measures for the payment of a worker's salary may not be considered a trade secret, but the salary itself may be designated as a trade secret. AmCham supports the requirement that the criteria and measures for determining salaries must be public, clear, and transparent. However, AmCham believes that individual salaries should still be allowed to remain a trade secret, taking into account the principle of proportionality in the protection of personal data.

- **AmCham's proposal**

The employer should retain the possibility to declare a salary a trade secret by means of an internal act in accordance with applicable regulations.

Additionally, Croatian legislation should implement the option provided by the Directive, according to which, if the disclosure of information based on workers' right to information, reporting on pay gaps, or within the obligation of joint pay assessment would lead to the direct or indirect disclosure of a worker's salary whose identity can be determined, only workers' representatives, the labor inspectorate, or the equality body would have access to that information.

Conclusion/Recommendations

AmCham supports the objectives of the Directive on equal pay for equal work or work of equal value, but emphasizes the importance of a balanced and thoughtful implementation into Croatian legislation. To ensure the effective transposition of the Directive, without excessive administrative and legal burden on employers, especially smaller businesses, we propose the following:

Clear definition of the terms "pay" and "employer" in accordance with the Directive, taking into account the existing legal and tax implications.

Timely availability of tools and methodologies for job classification, as well as technical and informational support, especially for employers with fewer than 250 workers.

Specification of additional, objective criteria for assessing the value of work, along with conducting consultations (rather than co-deciding) with workers' representatives.

Avoiding the imposition of additional reporting and salary transparency requirements beyond those mandatory under the Directive, especially for employers with limited administrative resources.

Clear rules for the protection of confidential information, including the possibility for individual workers' salaries to remain trade secrets with restricted access.

Restriction of limitation periods to the level prescribed by the Directive (three years), without further extension, in order to ensure better legal predictability and security.

Timely publication of all implementing regulations, so that employers have sufficient time to adapt before their application begins. During the transposition of the Directive into Croatian legislation, AmCham proposes ensuring proportionality between the goals of equality and worker protection, and the operational capabilities of employers in the labor market.



For additional information, please contact: American Chamber of Commerce in Croatia

Andrea Doko Jelušić | Executive Director

T: 01 4836 777 | E: andrea.doko@amcham.hr