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Episode transcript

Tom Heys

Hello and welcome to Pay Attention, a regular podcast coming to you from the Lewis Silkin offices in London. I'm Tom Heys.

David Lorimer

And I'm David Lorimer.

Tom Heys

And once again, we've gathered around the table to talk. All things pay transparency. Today we're in Slovakia, a country associated with medieval castles, world-class ice hockey, and the high Tatra Mountains, and perhaps a certain practical streak when it comes to getting things done. So it's no surprise that the Slovaks have a saying *Čo môžeš urobiť dnes, neodkladaj na zajtra.*

Which means what you can do today, don't put off until tomorrow. And that nicely captures Slovakia's approach to PTD implementation. While some member states seem to be treating June 2026 as more of a gentle suggestion than a legal deadline, Slovakia is one of the countries on course to implement the directive in full and on time. And in that spirit, let's not dawdle around any longer and get on with why we're all here, a deep dive into the new laws. So lace up your boots, unfurl your map, tighten your crampons, and begin the ascent up the slopes of Slovakia pay transparency laws. And with that, I'd like to welcome today's guest, Dušan Nitschneider.

Tom Heys

Hello.

Dušan Nitschneider

Hello, hello Tom and hello David. It's nice to be here.

David Lorimer

Great to have you and thanks for joining Dušan. That was easy for you to say, wasn't it, Tom? Very impressive, Slovak. Hopefully Dušan can keep us right on that. So we thought we'd take a slightly different approach on this episode. In the past, we've dived into each and every ~ pillar of the transparency directive with our colleagues where there is existing implementing law or implementing drafts.

But since we're so close now to the deadline and Slovakia has streaked ahead, we thought we'd maybe surface two or three areas where the interpretation or the implementation is most interesting in Slovakia. Does that sound OK with you, Dušan?

Dušan Nitschneider

Totally okay.

David Lorimer

Excellent. Okay, well the one thing that's been coming up over and over and over again for those early or on-time implementing countries is the right to pay information. As we know that's probably one of the more meaningful obligations from June 2026 and it's the right for an employee to ask what their pay

level is and what the average pay level for men and women in their category is. Now Dušan it's fair to say that that right Is and also is not coming live in June in Slovakia. Could you explain?

Dušan Nitschneider

It's exactly like you said. It comes to force and it doesn't come to force because the employee has the right to ask for their level of pay and level of pay is defined as, let's say, the amount paid for the previous year. So now in June most likely not all the employers will have the data. Not all employers were having the pay schedules done according to the criteria as set up by directive. So the employee may ask or will have the right to ask in real time, let's say, his level of pay as of January 27 for the remaining part of 2026 or from June 7, 2026, until the end of 26. But the second part of the right is of course the information about level of or average level of pay broken down by genders. And that's as defined by our transposition law will be given to employees for year 2027. So, average level of pay will be given to employees as of January 2028. So, real comparison between what's my pay and what's the level of pay in my category, that will be hidden for next year and half, let's say for year 2027. So, average level of pay will be given to employees as of January 2028. So, real comparison between what's my pay and what's the level of pay in my category that will be hidden for next year and half, let's say.

Even though we transposed the law first, let's say the real time for comparison will come in January 2028, which is still a long time.

Tom Heys

It's the Schrödinger's cat of pay transparency directive implementation. A right that's both live and not live.

David Lorimer

Very good, Tom. That's the first Schrodinger's cat reference we've had in the podcast remarkably. But we made it in the end. So I guess that's really interesting, isn't it? Because of course, what we expect is that there will be quite a lot of press attention and media attention on the pay transparency directive going live in June 26. And the first issue is that many of the countries won't be implementing, but it's an even more nuanced but even more difficult issue where the law is live in Slovakia but employees don't get to see that comparator information perhaps until even after the first reporting happens in Slovakia.

So I guess this tension between allowing people to see their own pay level and allowing them to see the really meaningful stuff that sits behind it around the average pay level for men and women in their group, that's going to be quite difficult to manage, isn't it? So any tips for employers who might get requests for information in July, August, September 2026, but won't be able to provide very much meaningful information.

Dušan Nitschneider

Well what we tell them is that please answer all the employees like we don't have the data or we are not obliged to give you the information, or we will be obliged to give you the information for the year 2026 like it's pending or it's September or October 2026. We cannot get you that information. Please wait.

David Lorimer

I wonder if some employers will voluntarily provide some more basic information and might even want to of proactively communicate to manage expectations around what is going to be available and what isn't in the first year or 18 months of implementation.

Tom Heys

I suppose maybe offering information on people's live pay levels. So rather than trying to look back over a period and calculate things out then, could employers or should they, do you think Dušan, be offering information on, you know, what people's live pay levels, what are they, what people actually are getting paid now? To try and give people something rather than nothing?

Dušan Nitschneider

Well, I don't know if, let's say, giving them something would not create too big a mess. Like, what would employers then do in 2027? Like, we gave you something preliminary in 2026 and now we are correcting because we forgot to calculate, I don't know, that part or that kind of bonus, which we didn't have data on in September or October. But definitely, like, the first, even if this will not be, as we are speaking about, right to information, will not be the right to information from individual employees. Like, some employees with, let's say, bigger employers will see that because in June 2027, because that's the time when the employers will be giving their first reports.

And so by that moment, employers would have to define the categories and define the way how to calculate the pay, individual pay and the average level of pay.

Some employers were very early. Like, we have, just as everywhere in the world, very early employers and very late employers. Those who were very early and started to, let's say, collect data and let them process the data and, let's say, map the situation where they appear, let's say, very close to when the directive was approved.

They are ready and we'll say we hear from them that, okay, our gap is, I don't know, 2 or 3% and we are working, like, not in all categories, in some categories, and we are working on it. We just don't know if they are, or we didn't ask if they are, actively communicating this to employees, but maybe that will come later when they find out what are those categories, what are those problematic categories and they will solve, or let's say, they bridge the gap to the minimum.

Or, let's say, have the reasoning for the gap, then maybe they start communicating. I would for sure use this as the employer to use this opportunity not to be the last one. But if I'm actively working on it for, let's say, the last year and a half or maybe two years and I find no gap or small gap, and the small gap for those things I find the reasoning, I will just definitely communicate it to clients, or at least, clients, employees, sorry, or trade unions if they are operating at my workplace.

David Lorimer

Yeah, that's very wise counsel. Try to fix the gaps while there is some time, albeit time is running out a little, isn't it? So there's a linked point around this right to information, isn't there? And it'll be interesting to know how in practice that will be dealt with in Slovakia. It's this issue of small categories. You might take the example of a category of workers that has three people in it, two women and one man, and disclosing information when we eventually have to in those categories might involve the disclosure of individual pay data. What are we expected to do in Slovakia in that type of scenario, Dušan?

Dušan Nitschneider

Well, that's also hard to say because sometimes we hear from the employers that we want to make as big categories as possible, or categories, let's say, joining as many employees as possible to have the freedom and to have the arguments for why, I don't know, the accountants have a different pay than the IT managers or, I don't know, sales persons, because it naturally gives you the explanation.

But in some, or from some employers, we hear that we want to have a lot of categories just to be proper or to properly fix the value of the jobs and to have very many categories. If you have many categories, of course, it appears that you have two, three, maybe five people in that category. And that might be reason. And sometimes we heard that some employers want to do that on purpose, like just to stop to avoid disclosing information about average pay levels because they may excuse themselves, sorry, I cannot give you that because it will be very easy to calculate what are the individual pays of the people in that category. And we will see, inspectorates are, what we are hearing, inspectorates are getting ready for this. Ministry is nowadays very active. Ministry is now.

Everybody expects that the ministry is preparing the final version of the guidelines to the law and everybody is looking for it. Everybody expects it will be the Bible and it will answer all those open questions we now have.

David Lorimer

And that guidance is due at the end of June. Is that right? Or is it the end of July?

Dušan Nitschneider

The end of June, hopefully, and we all pray, because it will give at least like one month. If it's published on time, it will give, let's say, one month for the employers with the additional information about how to set up the pay structures, of course.

How well used do you think this right to information will be in Slovakia? Do you think employers should be braced for loads of requests or will it be something that people don't actually use? I'm interested to know, like, what's going to happen in your view.

What my expectation is that at employers where there are trade unions, this will be used quite massively because, along with employees, also trade unions will have the right. Employees might ask about their level and average level not just by themselves but through the employee representatives. And of course trade unions are very sensitive about salaries and pay. Whenever there is any collective bargaining, like discussing about salary levels or rises of the salary and what we call valorisation, blah, blah, blah, that's a very crucial thing. So if the employer representatives are given the right to ask this information on behalf of employees they will for sure do and in my view like to answer your question employers.

With trade unions in those cases for like 99.9 % trade unions will ask for that information, let's say on behalf of all employees because they want to know.

Tom Heys

So there's a tidal wave of requests coming.

Dušan Nitschneider

The fact is that we I don't know the statistics but we don't have that high level of what we call unionization we are I think very low EU wants in new papers that EU expects or would like to have at least 80 employees across the EU represented by representatives I think we are we are far below this.

David Lorimer

Okay, and presumably in that situation if we have an employer listening who gets a mass request for all employees, presumably they're entitled to ask the union to show authorization for making that request in Slovakia.

Dušan Nitschneider

I would guess so. It's not written exactly in the law, but I would advise them to ask for that because it's not the individual right of employee representatives. It's the individual right of the employee and how it's written in the law is that employee may ask through either employee representatives or we have a special, we call it like Unity Body. It's Slovak National Center for Human Rights.

But I think trade unions will be used more because they the employer. It's like, it's their business to know about their salaries. If we would be asked this question from the employer, I would say, like, please ask for the powers of attorney or any authorisation that gives them this right.

David Lorimer

Excellent, that's really clear. You've mentioned the pay structure obligation and you've mentioned that there's a kind of maybe a bit of a grace period there so the law will come live in June but the structures need to be in place by July 2027. Could you talk a little bit more about what the expectation is there and what the steps that need to be taken between now and July are for Slovakian employers?

Dušan Nitschneider

Yes, between now or between, okay, between now and the end of July or officially between 7th of June when the law comes into force and the end of July, let's say the basic obligation for employers is to set up the pay structures, like somehow put on the paper, this is the way salaries and their increase work in our factory, which means that they have to sort law and ask them to set up the criteria, which are, okay, there are some debates about the correct translations, but complexity, effort, responsibility and working conditions. Other criteria are relevant for the job. And, let's say, our law is specifically saying that also like soft skills need to be kept within these criteria. And setting up these criteria, you are not allowed to do it all by yourself when you have employee representatives. It's written that employers need to agree on those criteria. And it's like easily said, responsibility, effort and complexity. But if the employers take it seriously and they will look into it, they will see that those four maybe not cover all their job roles that they have in their factories or their offices.

And they would have to talk about it. They would have to, like, explain it and introduce it to trade unions, why they chose each criteria, why they chose that weight for that criteria. And trade unions will just be listening and passively, of course, and they will be just saying yes or no and yes or no. And it's like, trade unions will probably not have that much background as the employers will have. So they would have to understand, like, why this was chosen. So it will not be easy. It will not be like one hour meeting debate. It might be the debate that will go on for maybe a week or a couple of weeks. So, like, this is just the first step to agree on those criteria. Then of course, employer would have to categorise the end. They would have to define, like, these, I don't know, accountant job. Let's say it's, I don't know, grade number five and, I don't know, IT manager is grade 12.

They would have to group all the rows they have and, like, then it will come out whether they have or they have not the gap and when they might want to turn back to the trade unions and ask them for agreeing on different categories or different weight when these things will not work. So what we are advising is, like, before you introduce the criteria to trade union for their approval with the criteria, like, do all the homework beforehand. Do the categories. Let's see how big a gap it brings to your structures. Try to work on it. Try to, let's say, do it for the second and third time and, let's say, re-category and, let's say, re-explain yourself what it makes or re-explain yourself why was this chosen, why this not, and then go to trade unions because it will take a lot of time for them to understand and to agree on. And when they agree on, you can finalise the pay structures.

You can finalise a document describing how you calculate the value of the job and each of them and how you put up the individual categories. And then when you finalise the document, you have to come back to trade unions again, not for their approval, but for their consultation. But still, consultation is not that easy. You don't have to reach the agreement, but consultation is defined in our labour code as exchange of opinions, which means that you give them the draft of the pay structures and they may shout out loud, like, it's okay, but we don't agree with that. And we dislike this part and that part. So from now on, like, let's say, the sentence that is in the law saying, like, employers must adopt the pay structures before the end of July sounds quite short, but what's behind it is something which is very, very complex. And what we are fighting on a daily basis is that some employers, they are telling us, like, we have the structures. We have the organisational structure.

We say, like, organisational structure is not the pay structure. Or how did you do? How did you put up the organisational structure? Is that structure based on those criteria which are in the directive and the law? And they just start, like, we don't know, somebody did it for us five years ago. When we keep asking them, they cannot all guarantee that. I swear that my organisational structure is based on the same criteria as prescribed by the law. So you can imagine we will have a very hot summer, not in the temperatures, but also in the workload.

Tom Heys

So Dušan, you've said that there's not so much unionisation in Slovakia, much below the 80% that the EU would like. So I'm curious, what do those employers who don't have any employee representatives in place, what should they be doing?

Dušan Nitschneider

They should be doing pretty much the same, but without the stress of negotiations and agreements with trade unions. Let’s say it's, how do you say, like every coin has two sides. This also has two sides. One side is that they can act single-handedly. They don't have to ask anyone for any permission. On the other side, let’s say, to have a trade union and, how to say, a pragmatic trade union who will just highlight, like, you are doing a mistake here and there, it's sometimes useful. If you don't have an opponent in this process, you might end up doing something wrong. And, let's say, put up the pay structures that will not be based or will not be gender free or objective. And it might pay its toll much in the future when somebody will come back and ask about his differences and, I don't know, sue you for the money. So on one side, the process of adopting pay structures might be simpler at the employers having no trade unions. On the other hand, like, I would advise the employers to, like, how to say, we call it like measure three times, cut once. That's another Slovak saying. Check and triple check.

Tom Heys

I think we have that in the UK as well. Measure twice though, cut once. I think we're a bit less diligent about our carp and shrimp.

So you're not saying that every employer should go about looking for employee representatives if they don't have any unions, if they don't have any union representation, you're not saying they should go out and find some representatives.

Dušan Nitschneider

No, except for one thing, and this is not like the obligation for employers to do, but this is the right of employees and it’s in the section of joint assessment. At the employers where there are no trade

unions or no employee representatives, the employees may set up, like, how to say, one stop or one purpose only representative or representatives to do or to perform the joint assessment.

David Lorimer

So the key, as in many other countries where representation is low, is to avoid one of those pesky joint pay assessments. But that might be easier said than done, mightn't it? The other thing that I suppose stuck out for us in the Slovakian transposition is, I guess, the idea that there might be a form of same-gender equal pay claim. In other words, someone might be able to point to their own pay level and the pay level of their own gender and say, that's way below, I should be paid somewhere closer to the average for men. And I'm going to bring an equal pay claim on that basis, not comparing myself with someone of the opposite gender, but comparing myself with someone of the same gender. Is that your reading of the legislation, Dušan? And do you think that is going to result in difficulties for employers?

Dušan Nitschneider

Well, I read it from the big, like, I read it from the helicopter or from, I don't know, spaceship, that this is, of course, this is the very particular gender pay gap because like we read in the directive, like men are statistically earning more than women, like Europe-wide. But I see this legislation as a piece of puzzle in the overall principle of equal pay. Equal pay for equal work and not that closely linked to genders. And I was thinking about it a bit and from my perspective, same sex pay claims can come up.

I cannot tell you right now how would I reason it when I would be writing it right now, but it's important to say that along with this act on transparent, I don't know how to translate it correctly, on transparent pay, as our government called it, we have the general anti-discrimination act on the basis of which we can claim and not only in employment relationships, but overall, let's say, the ban of discrimination. So, let's, I don't know, let's see how, let's say, this law will start working. But I think that if I will not be able to justify the claim for same-sex difference or same-sex gap by the new act, I would for sure find a way how to justify it by the provisions of the anti-discriminatory act.

Tom Heys

It's a real step, I think, towards further away from equal pay and towards a sort of more general fair pay concept, the idea that regardless of sex, you should be getting fair pay that's decided by objective, transparent reasons. It's not completely unheard of, though, to be honest, because in the UK, it's possible to bring piggyback claims. So, you know, men have compared themselves, have said, you know, I'm part of this group of mostly female jobs, but I'm a man. But so I'm going to bring a claim off the back of the women who would win the claim against the other overpaid men. So it's definitely interesting to see that happening in Slovakia.

Dušan Nitschneider

Well, it's defined as the individual may fake, may file claim. It's not defined as one gender individual can file the claim against the other gender average. So, like, I don't know, of course, this is one of those questions that will, for a certain time, will be answered clearly, but I don't see this act only as, let's say, I don't see too much gender on it.

Dušan Nitschneider

In terms of that, let's say, same sex things will be avoided.

David Lorimer

It's definitely something to keep an eye on and I think that actually speaks to a broader theme around implementation. The picture, the post-implementation picture is only going to become clear as we move through sets of guidance and the first enforcement proceedings and I think that's true across Europe, really, isn't it? So Dušan, there are a lot of things to consider there. From the right to information through to pay structures and the possibility for same gender equal pay claims. Is there anything else we should look out for in Slovakia?

Dušan Nitschneider

I'm not thinking of anything else right now. I'm just curious that, okay, we are the first ones who adopted it, but as we are first ones, let's say, the others may learn from our approach, our formulations, the others who will come behind us, they might set higher standards for that. And maybe this is the

Dušan Nitschneider

luck and unluck of the one who is first. Like, we might, we might want to turn back and look at the others after some time and, look, I don't know, to compare our unanswered questions with what's the regulations of the countries who came after us.

Tom Heys

I do think that this is something that we will see, you know, the PTD kicks up a lot of dust and I think there'll be, it will take a little bit of time, one, two, three years, maybe, for things to reach a sort of new normal, as you get greater clarity on things like definitions of things in each country.

I think it's unrealistic to expect any country to get everything right straight away. So I definitely think there will be evolution over time.

Dušan Nitschneider

Well, what's interesting right now in the draft of guidance of the ministry, and I don't know if we or I should speak about it, but so far, for example, the geographic differences or, how to say, market differences were not taken as the right excuse, let's say, when negotiating, for example, about collective agreements with trade unions. We could not say in the past, or there have been

Dušan Nitschneider

many fights with trade unions saying, like, I don't know, my cash desk operator in Bratislava is earning more than cash desk operator at the bank, for example, or at insurance company in some, let's say, smaller city or, I don't know, village in Slovakia. And employers had their reasoning, like, I could not get anyone here in Bratislava for this small money because he or she would not be able to pay the rent. And if I give someone in the smaller city or a village the salary of, I don't know, I give in Bratislava, he or she would be earning a lot more than other people in that area. But it seems, and I just, I just pray that the minister will not delete it from the draft. And, like, they indicate that the geographic differences, if proven, of course, not just a general.

Like that Bratislava is much more expensive than the rest of Slovakia. If the regional differences will be proven, they might serve as the excuse for the gap, which for me is like switching or turning the shift 180 degrees backwards.

David Lorimer

Yes, it's a good observation and the role that the market plays in setting pay and in justifying potentially pay gaps is a really big theme and again is probably something that will become clearer as we move. But we've certainly heard from other countries that market-based factors are not loved by ministries of labour and equality bodies. So that will be something to keep an eye on. But of course, the challenge is that for most of our multinational organisations, that is how they will set pay. And there will be some comfort for employees in that. They want to be sure and be clear that they're paid a fair rate against comparators in same sectors. So it's a circle that doesn't square to add an extra idiom or saying into this podcast that's been full of them. Well, look, I think that's a lot of things to think through, a lot of really great wisdom for our listeners with presence in Slovakia and beyond from you, Dušan. So thank you so much for joining and for sharing that with us.

Dušan Nitschneider

Thank you, David and Tom, for having me here and thank you for making it easier on me.

David Lorimer

No, thank you. I'm just delighted that we didn't have to try to conduct the whole thing in Slovak. But Tom gave it a good go, didn't he?

Well, lots of really insightful commentary there. Thank you so much for it, Dušan. And thank you, everyone, for joining us. As usual, if you'd like to get in contact with any questions or comments about the podcast or the PTD, our details will be in the show notes. Or, of course, you can give each or all of us a follow on LinkedIn. Thank you again for joining us.