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SPAIN STRENGTHENS EQUAL TREATMENT, WORK-FAMILY MEASURES

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A [law](#) (Spanish) with measures aimed at ensuring equal treatment between men and women in Spain — including a requirement that employers eliminate certain gender pay gaps — mostly took effect on 8 Mar 2019; extended paternity leave will take effect from 1 Apr 2019. The law — which applies to public and private organizations — impacts several labor laws, social security arrangements, the labor code and the 2019 budget. Employers face tougher sanctions — between €26 and €6,250 — for violations. Several aspects of the law are yet to be clarified, including its impact on collective bargaining agreements.

KEY PROVISIONS

Highlights of the law include:

- **Equality plans.** Employers with 50 or more employees must draw up an equality plan and negotiate it with employee representatives — previously, the requirement to submit an equality plan applied only to employers with more than 250 employees. The preparation of equality plans will be phased in — employers with 150 to 250 employees will have one year to prepare their plans, increasing to two years for companies with 100 to 150 employees and three years for those with 50 to 100 employees. Further regulations will set out the steps that employers must follow when assessing equality and conducting wage audits. Equality plans must be included in a government register.
- **Gender pay.** Employers must classify all jobs from a gender perspective, implement the principle of equal pay for work of equal value (the law sets out the criteria) and maintain a register of wages classified by gender and job category that must be made available to employees and their representatives. Employers with at least 50 employees and a gender pay gap of 25% or more for one gender must justify the pay difference on grounds unrelated to gender and include the justification in the government register.
- **Work-family balance measures.** The law features enhanced provisions for family leave and flexible working:
 - Both parents can take up to 16 weeks' leave around the birth, adoption, fostering and guardianship of a child prior to adoption. The old law provided two days of paternity leave. Both parents must take six weeks' leave immediately following the birth, adoption, fostering or guardianship prior to adoption but can use the remaining 16 weeks flexibly — in minimum periods of one week — during the first 12 months. The 16 weeks of paternity leave will be phased-in — eight weeks will be allowed in 2019, 12 in 2020 and 16 in 2021.

- Employees can take up to one hour per day to breastfeed a child up to age nine months, and the leave may be accumulated into a full day. The leave can be extended until the child is age 12 months if both parents ask for the reduction in working time — their salary would be reduced pro rata from the ninth to 12th month but not during the first nine months.
- Employers can refuse employees' requests to work remotely and flexibly only on organizational grounds.
- Employees will have up to 12 months' protection from dismissal (up from nine) following their return to work after giving birth, adopting, fostering or assuming guardianship prior to the adoption of a child. Employers would have to specifically justify any redundancy. This provision takes effect on 1 Apr 2019.
- Employers can't dismiss pregnant workers during their probation period except for reasons unrelated to pregnancy or maternity.

RELATED RESOURCES

Non-Mercer Resources

- [Decree-Law 6/2019](#) (Spanish) (Spanish government, 1 Mar 2019)

Other Mercer Resources

- [Mercer Briefing](#) (Spanish) (March 2019)

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