



SPOTLIGHT ON PUBLIC POLICY

SPAIN

GENDER EQUALITY PLANS, EQUAL PAY AND PAY TRANSPARENCY

The Government of Spain is well known for its progressive policies over the last decade to drive companies to take action to advance gender equality. The policy framework covers provisions for work-life balance and for equal sharing of care responsibilities between women and men, equal pay for work of equal value, pay transparency, reporting on gender pay gaps, and ensuring that workers have the right to collective bargaining.

Spain currently ranks eighth in the world for gender equality in the World Economic Forum's Global Gender Gap Report 2020.¹ It is considered one of the most improved countries climbing 21 spots since the 2018 report.²

In March 2019, *Royal Decree Law 6/2019 on urgent measures to guarantee equal treatment and opportunities for women and men in employment and occupation* introduced, inter alia, several provisions to promote equal treatment and equal opportunities in working conditions and pay transparency, gradually extending the obligation to expand, together with workers' representatives, gender equality plans to companies with 50 or more workers (the prior Gender Equality Law 3/2007 minimum was set at 250 workers).

In October 2020, Spain published two Royal Decrees (901/2020 and 902/2020) to regulate gender equality plans and their recording in a public register, and enforce equal pay between women and men. Taking effect in early 2021, companies of all sizes, including small businesses, will be impacted in some form.

Companies are required to adhere to policies within the indicated timelines and companies who do not comply to the policy will receive substantial financial penalties.

The Labour and Social Security Inspectorate (LSSI) is in charge of monitoring the implementation of gender equality regulation in companies, and whether companies have, for instance: a gender equality plan; a pay audit; a job evaluation of professional classification from a gender perspective; or a pay register. The LSSI can act at both the state level or the regional level depending on where the company activity takes place.

In 2019, the pay register became mandatory for all companies. All other measures will take effect on 14 April 2021.

OVERVIEW

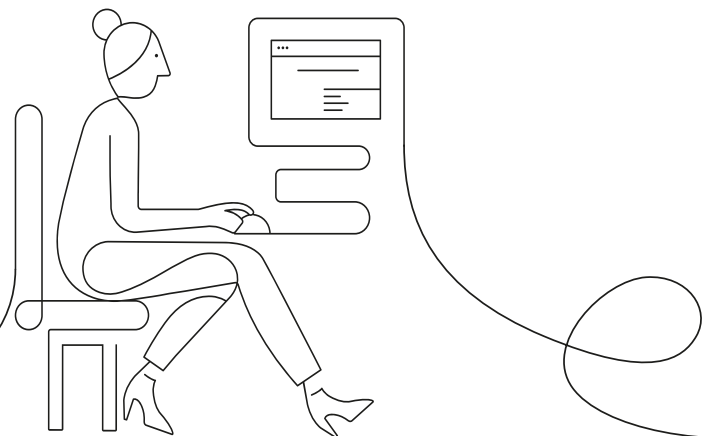
The recent Royal Decree 901/2020 concerning gender equality plans clarifies issues from previous legislation and provides greater detail on provisions required. It expands the requirement of gender equality plans considerably to include small businesses of 50 or more employees.³ Micro-companies smaller than 50 employees may choose to voluntarily develop a gender equality plan. According to Gender

Equality Act 3/2007, all companies have to adopt measures to foster gender equality and to prevent gender-based discrimination, sexual harassment and gender-based violence. The measures provided in Royal Decree 901/2020 will take effect in 2021 for companies with 100 or more employees, and in 2022 for those with 50-100 employees.⁴

ROYAL DECREE 901/2020⁵

- Regulates gender equality plans for companies of 50 employees or more. The company's entire workforce must be included in the gender equality plan (fixed-term contracts and part-time contracts, regardless of the number of hours worked, and temporary contract employees).
- Companies with 100 or more employees will have to adopt and register a gender equality plan before 7 March 2021.
- Offers additional time (until 7 March 2022) for companies of 50-100 employees to adopt and register their action plan.
- Gender equality plans must be negotiated with workers' representatives following specific collective bargaining regulations provided in the Royal Decree and the Workers' Charter. When an agreement between employers and workers' representatives is not possible, gender equality plans will be registered by the employer.
- Enables negotiating parties to set the time period for the gender equality plan, as long as it does not exceed four years.
- Requires the gender equality plan to include a gender equality assessment or diagnosis to determine the company's current gender equality status, conclusions and proposals for action. Quantitative and qualitative data indicators for this diagnosis should include at a minimum: information on recruitment, training, job classification, professional promotions, working conditions, work-life balance, remuneration, and prevention of sexual harassment and harassment on the grounds of sex.
- Requests companies to register the gender equality plan at a public register called "Register for collective agreements and gender equality plans" allowing all contents of the plan to be accessible to the public.

Royal Decree 902/2020 aims to ensure equal pay between women and men through pay transparency and provides companies with resources and tools to guarantee pay transparency and equal pay for work of equal value. It offers four main instruments for companies, such as pay registers for companies of all sizes, job evaluations from a gender perspective, equal pay audits for companies of 50 or more workers and the right of access to information. The measures, except the pay register, which is already mandated, will take effect 14 April 2021.⁶



ROYAL DECREE 902/2020⁷

- Mandates specific measures for companies of all sizes to keep a **pay register** of all employees, including executives and senior managers.
- Promotes transparency establishing the right of workers to information on the pay/remuneration register, through workers' representatives. In companies without legal workers' representatives, individual employees shall also receive some related information.
- Provides the tools needed for the following instruments:
 - **Remuneration Register:** Ensures transparency of the salaries of the entire workforce disaggregated by sex. The register includes all employee wages disaggregated by sex and professional category. The Ministry for Employment and the Social Economy and the Ministry for Equality, in close cooperation with social partners, will publish a wage record tool by mid-April 2021.
 - **Remuneration Audit:** companies obliged to adopt and register a gender equality plan must include an audit in the plan to ensure transparency and monitoring of the remuneration system.
 - **Evaluation of job posts from a gender perspective:** companies obliged to adopt and register a gender equality plan have to analyze the professional classification used in the company or in the respective sector collective agreement from a gender perspective in order to guarantee the principle of equal pay for works of equal value.
 - **Guide for collective bargaining:** aims to eliminate gender stereotypes in collective bargaining addressed to negotiators. The Guide will be developed by the Institute of Women together with social partners.
- Requires companies to justify with supporting documentation any significant difference in pay between women and men for the same position and same level of skills.

HISTORICAL CONTEXT

The Spanish Constitution in 1978 detailed equality between women and men with the intention to eliminate all discrimination based on "birth, race, sex, religion, opinion or any other personal or social condition or circumstance".⁸

In 1983 the Institute of Women was created through Law n° 16/1983 to provide women equal participation in economic, cultural, political and social sectors. The Institute of Women paved the way for four

institutional policies for gender equality between 1988-2005 with an emphasis on commitments to the Beijing Declaration and Platform for Action adopted at the Fourth World Conference for Women (1995).^{9,10} Since 2005, the Institute of Women continues to advance gender equality in all areas of society through implementation of key legislation such as Organic Law 1/2004, 28 December 2004 on Comprehensive Protection Measures against Gender-based Violence;¹¹ and Organic Law 3/2007 introduced in March 2007.

RELATED LEGISLATION

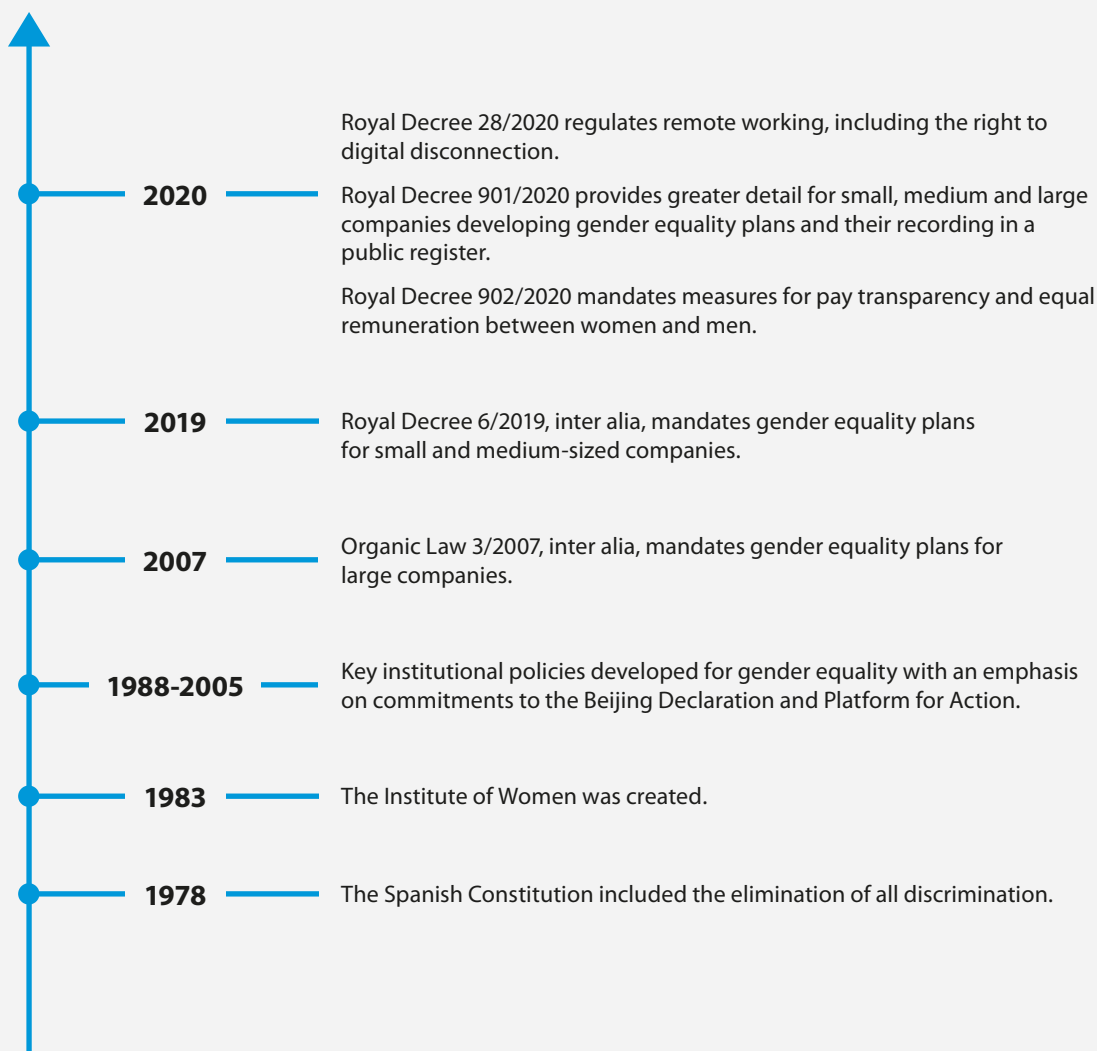
In March 2007, the Organic Law 3/2007 mandated companies of 250 or more employees to have gender equality plans in place, effectively ensuring equality between women and men in medium and large enterprises.¹²

Spain expanded requirements of gender equality in the workplace for small and medium-sized businesses in March 2019 with Royal Decree 6/2019 mandating the development of gender equality plans. This measure also included the offering of equal paid and non-transferable paternity and maternity leaves, including (breast) feeding leave to both parents, extending paternity leave and ensuring equal remuneration.¹³

In late 2020, with the majority of the workforce working from home during the COVID-19 pandemic, Spain enacted a policy to protect the rights of people providing services from home or a place chosen by the employee for at least of 30 per cent of their working time over a three-month period. The Royal Decree 28/2020 declares that remote employees have the same rights as those operating in a traditional workplace.¹⁴

The Royal Decree 28/2020 includes the right to flexible work, safe working conditions, the right to the necessary tools and equipment to carry out the work and the reimbursement of costs associated with work. It also ensures that the workers have the right to collective bargaining. The law states that remote work must be agreed on a voluntary basis, but requires that certain formalities be addressed, including the creation of a minimum legal agreement.¹⁵

TIMELINE



CHALLENGES AND CORRECTIVE MEASURES

Designing and developing a gender equality plan with the agreement of a majority of employees is a key challenge. Company leadership can ensure employee buy-in if they involve them from the outset for the development of their gender equality plan.

In response to these challenges, the Government has taken incremental steps every few years to expand the category of companies included in the legislation, thereby giving companies time to develop their gender equality plans.

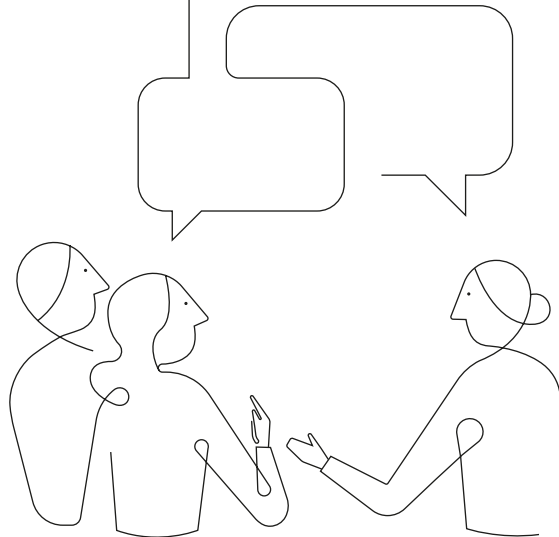
Closing the gender pay gap is a challenge for companies of all sizes. It is often necessary to allocate targeted funds to help close the existing gender pay gaps and not all companies have these extra funds at their disposal. Revisiting job classifications to find where the pay gap exists and to ensure that new recruits are hired with equal pay are two ways to eliminate the pay gap from the start.¹⁶

The Institute of Women has a free technical advisory service to support companies in the design, implementation and monitoring of gender equality plans, and also provides information and several related tools.¹⁷ It published a comprehensive guide in January 2021 for companies in Spain to better understand the changes to the most recent gender equality policy. The guide serves as a tool for the methodology to develop gender equality plans in line with Spanish regulations. The Institute of Women maintains the guide as a living document and will keep it updated regularly to ensure companies have the support they need.¹⁸


Staying true to its commitments to the Beijing Declaration and Platform for Action, the Government of Spain is ensuring the private sector commits to gender equality in the world of work.

ENDNOTES


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