



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

<b>Country:</b>	Spain
<b>Title:</b>	Spain extends the paternity leave from 13 days to four weeks
<b>Date:</b>	3 February 2017
<b>Expert:</b>	María Amparo Ballester Pastor
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Almost ten years after establishing the paternity leave from first time Spain extends it from 13 days to four weeks
<b>Ground of discrimination:</b>	Sex
<b>Source:</b>	Legislation
<b>Field:</b>	Maternity and parental leave
<b>Applicable law:</b>	Article 48.7 of the Workers' Statute

### **Content**

**Law development:** When the Organic Law on Effective Equality, Law 3/2007 of 22 September 2007, first established a paternity leave of 13 fully paid days, it also established that this leave should get extended to four weeks within the following six years. However, the promised extension of the paternity leave was continuously postponed due to the financial crisis. During the last four years, the successive State budget acts have suspended the entry into force of the extension of the paternity leave. The extension of the paternity leave has been implemented now in 2017, because the State budget act for 2017 was not approved at the end of 2016 due to a lack of parliamentary support of the Spanish Government. This meant that the previously proposed suspension for another year of the entry into force of the extension of the paternity leave, established in the State budget act for 2016 lost effect. This unexpected entry into force of the four weeks paternity leave, raises many questions since it is not known whether the regulation of paternity leave will be kept as it is, or whether it will change in some way. The current legislation (Article 48.7 of the Workers' Statute and Articles 22 to 30 of the Royal Decree 295/2009 of 6 of March 2009) establishes that paternity leave, independent of whether maternity leave is shared with the mother, applies in the case of birth, adoption or fostering, with the right to 100 % of the previous contribution base (a reference that is used in the Spanish social security system which is usually equivalent to the worker's monthly salary). Paternity leave can be taken part-time if so established by collective agreement, or if the employer accepts it. In the case of part-time paternity leave, the employee has to reduce his previous working hours by at least half. Although this leave is intended for the father, the provision is drafted in neutral terms, so as to be compatible with family structures where both parents are of the same sex. A minimum period of previous working time is required in order to have access to the related social security compensation: 180 days during the previous seven years or 360 days at any time.

**Key points of analysis:** Almost ten years after establishing paternity leave in Spain, it has been extended from 13 days to four weeks. This unexpected entry into force of the

four weeks paternity leave raises many questions since it is not known whether the old regulation of 13 days paternity leave will be upheld, or whether it will be changed and increased to four weeks.

**Internet link sources:**

-Article 48.7 of the Workers' Statute, approved by Royal Legislative Decree 2/2015, of 23 October 2015, <https://www.boe.es/buscar/act.php?id=BOE-A-2015-11430>, accessed 25 January 2017.

-Articles 22 to 30 of the Royal Decree 295/2009, of 6 March 2009 [https://www.boe.es/diario\\_boe/txt.php?id=BOE-A-2009-4724](https://www.boe.es/diario_boe/txt.php?id=BOE-A-2009-4724), accessed 25 January 2017.