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NEWS REPORT

Country:	Spain
Title:	A new bill on equal pay between women and men was submitted to the Congress of Deputies on 22 February 2018
Date:	08 May 2018
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<u>Context</u>	
Issue at stake:	A new bill on equal pay between women and men was registered in the Congress of Deputies on 24 October 2017. On 22 February 2018 the bill has been submitted by the Congress and it will be discussed over the next months.
Ground of discrimination:	Sex
Source:	Legislation
Field:	Equal pay
Applicable law:	The proposed bill has a cross-cutting dimension and affects various laws (labour law, administrative law, procedural law)

Content

Spain has not yet transposed the Recommendation of the European Commission on pay transparency of 7 March 2014. Spanish legislation does not even provide a definition of work of equal value. Article 28 of the Workers' Statute¹ states that *'The employer is obliged to pay its employees the same remuneration for work of equal value, whether it is paid directly or indirectly, and whatever the nature of the work which includes income that is not considered salary by Spanish legislation, without discrimination on the basis of sex'*. Article 22 of the Basic Statute of the Public Worker² states basically the same for the public sector. Besides these two provisions, there are currently no other references to equal pay in Spanish legislation

On 24 October 2017 the party "Podemos" (the third largest party since the last elections) registered a bill in the Congress of Deputies whose main objective was to transpose the 2014 European Commission Recommendation on pay transparency. The content of the bill is quite ambitious and intends to remove all kind of obstacles in Spanish legislation to reach equal pay. On 22 February 2018 the bill was admitted in the Congress and it will be discussed over the next months. All parties in Congress supported the admission of the bill except the Government party who abstained. The bill was presented by a political party which does not make part of the Government, so it is still uncertain whether the proposed bill will be adopted and, if so, in what way it will be amended during the process of

¹ Royal Legislative Decree 2/2015 of 23 October 2015, <https://www.boe.es/buscar/act.php?id=BOE-A-2015-11430&p=20151024&tn=2>, accessed 6 March 2018.

² Royal Legislative decree 5/2015, of 30 October, <https://www.boe.es/buscar/act.php?id=BOE-A-2015-11719>, accessed 6 March 2018.

legislative approval. If approved, the bill would be a good implementation of the Recommendation of 7 March 2014 for the following reasons;

(a) It provides a definition of work of equal value. The bill stipulates how the value of the work must be evaluated and compared using objective criteria such as educational requirements and professional training, qualifications, effort and responsibility as well as other factors strictly related to the skills of the worker and the conditions under which the work develops. All collective agreements will be obliged to expressly refer the criteria they use to value work positions.

(b) The bill presents three systems for wage transparency. Deterrent sanctions apply if these obligations are not fulfilled: (i) Each worker in companies of more than 10 employees would have the right to be informed about average remuneration by category of employee or position, broken down by gender, including all kinds of payments (even complementary or variable components). The employer would have to give this information to the workers in their wage documents. (ii) The employer would have to inform the company representatives about average remuneration by category of employee or position, broken down by gender including all kinds of payments; (iii) Companies of more than 250 employees would be obliged to do pay audits.

(c) The functions of the Institute of women and for equal opportunities are increased so there is a higher control of pay discrimination. In particular, the Institute for women and for equal opportunities will have to issue a report on all legal proceedings concerning indirect discrimination on the basis of sex.

(d) The Labour Inspectorate will have specialized units in the field of equality between men and women in each province.

Key points of analysis: The Congress of Deputies has admitted the first bill on equal pay in the history of Spain. It is a rather ambitious bill that applies to private companies and Public Administrations. The most important feature of the bill is that it provides the right for workers and workers' representatives to be informed about average remuneration by category of employee or position, broken down by gender, including all kinds of payments (even complementary or variable components). Moreover, the bill increases the functions of the Institute for women and for equal opportunities and it creates specialized organs specialized in gender discrimination in Labour Inspectorate.

Internet link source: Bill for equal pay between women and men. http://www.congreso.es/public_oficiales/L12/CONG/BOCG/B/BOCG-12-B-171-1.PDF, accessed 07 May 2018.