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New advancements in gender pay gap in Spain

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Abstract:

The gender pay gap has stagnated in Spain and is higher among low qualified and older women. Several elements included in collective agreements and the reduction of the number of hours worked by women, particularly by the lowest qualified, is behind persistent inequalities. In this context, the new government, the most feminist in history, has passed RDL 6/2019, with a similar approach as the Iceland one, thus defining work of equal value, and making compulsory for companies with more than 50 employees (before it was 250) to elaborate Equality Plans that shall include wage audits and that shall be registered. Companies shall also keep records of wage average of women and men and make these records available for their employees. Failing to comply with the new requirements will be considered a serious offence and be punished. Thus, measures and tools to support companies to go as easily as possible through the process; to adequately monitor the performance of companies in terms of reduction of the gender pay gap; and a sanctions' system that deter companies from eluding their responsibilities are needed. The Spanish Women' Institute had developed in 2016 two interesting tools to help companies to self-assess the gender pay gap and to value jobs, that could be useful now to support companies. Also, the Iceland experience can be useful, in particular the Standard IST 85 and the certification bodies.

1. Introduction and relevant country context

The gender pay gap diminished notably during the crisis as a result of the differentiated impact on men's employment, particularly on the construction sector that used to pay relatively high wages. Thus, the (unadjusted) gender pay gap decreased by 2.9p.p. in only one year, from 17.8% in 2013 to 14.9% in 2014. Since then, it has stagnated at 14%. In 2016, the income of 17.8% of women was below the statutory minimum wage, compared to 7.8% of men. In contrast, only 4.9% of women had a wage over five times the minimum wage, compared to 9.8% of men¹.

According to a recent report prepared by the trade union UGT, based on ESS INE data, on the occasion of the international wage gap day, the highest wage gap is experienced by women working as non-qualified workers in services, at 31.6%. Older

¹ Source National Statistics Institute (INE), Annual Salary Structure Survey 2016

women also have a higher gender gap (27.8% for those aged between 55 and 59) (UGT 2018). As UGT claims, the work of women is not valued in the same way as the work of men. In particular, different elements included in collective agreements that evidence a gender differentiated impact (e.g. danger wage supplement in male dominated chemical low qualified jobs but no danger supplement in female dominated cleaning jobs) explain a large part of the gap (Castellanos and Gonzalez 2015). The Spanish Central Bank has recently published the report “Income, consumption and wealth inequality in Spain” in which it concludes that, in addition to the gender pay gap, the reduction of the number of hours worked by women, particularly by the lowest qualified, is behind persistent inequalities in Spain (Anghel et al., 2018). In Spain, there is a relatively low use of part-time arrangements among women, with almost one out of four (24%) working part-time; men’s part-time rate is 7% in Spain, similar to other countries and EU-28 average (8%).

2. Policy debate

The **right to equal pay for equal work and to no gender wage discrimination** is specifically recognised in the Spanish Constitution (art. 35), the organic Law for Effective Equality between women and men (Law 3/2007, known as the Equality Law, art. 5) and the Workers’ Statute. The former Strategic Plan for Equal Opportunities 2014-16 (PEIO), a document guiding policies at national and regional level for equal opportunities, included the elaboration and approval of the first “Special Plan for the Equality between Women and Men within the Labour Market and against Wage Discrimination”, but it has been never approved.

In July 2018 a new government set in, after a non-confidence motion filed by the Socialist Party in June 2018, the most feminist government ever². The relevance devoted to gender equality by the new socialist government has significantly increased. At the institutional level, gender equality is imbedded in the Ministry of Presidency, Relationships with the Chamber of Deputies and Equality, of which the minister is also the vice-president of the Government. This new socialist government, that has won the elections in 28 of April 2019 and will be most likely be governing over the next four years, has taken important steps in the fight against the GPG, following “the Iceland approach”, based on sanctions, rather than “the German approach”, based on recommendations³.

A **draft for a new Strategic Plan for Equal Opportunities 2019-2022** is currently in progress. The draft proposes 80 actions grouped in four axes: gender mainstreaming, new social pact, citizenship and violence against women. It has not yet been passed, but it is foreseeable that it will be approved in the near future.

² <https://www.nytimes.com/2018/06/06/world/europe/spain-government-women.html>

³ Declarations of the Vice-president in the Forbes Summit Women in October 2018.

The Royal Decree Law 6/2019, of 1st March, with urgent measures to guarantee equal treatment and opportunities between men and women in employment has been newly passed. This is possibly the most relevant law for gender equality in the last years: it addresses the gender pay gap and sanctions the equal, equally paid and non-transferable parental leaves.

This RDL has modified the Equality Law and the Workers' Statute and the three most relevant changes in this context are:

- The RDL extends the obligation to elaborate, together with workers' representatives, Equality Plans, to **companies with more than 50 workers** (before the RDL the ceiling was 250 workers) (art 1 of RDL). Equality Plans need to be preceded by a diagnosis of the situation in the company that shall include a **"wage audit"**, for which the company has to make all needed information available. The methodology for elaboration of the "wage audit" will be established by regulation. A Register of the companies' Equality Plans will be created, and the companies will be obliged to register their plans.

Companies with between 150 and 250 workers need to approve their Equality Plans within one year; companies with 100 to 150 within two years and companies with 50 to 100 within three years.

- In line with the Recommendation of the European Commission of 7th of March 2014 on strengthening the principle of equal pay between men and women through transparency, the **concept of "work of equal value"** has been included in art. 28 of the Workers' Statute, which addresses "Equal remuneration on the grounds of sex". Thus the following definition has been adopted: *"A job will have the same value as another when the nature of the functions or tasks actually entrusted, the educational, professional or training conditions required for its exercise, the factors strictly related to its performance and the working conditions in which the activities are carried out are equivalent"*. Further, employers shall keep **record of average salaries**, salary supplements and extra-salary perceptions, disaggregated by sex and distributed by professional groups, professional categories or equal jobs or equal value jobs. All workers are entitled to consult the wage register of her/his company.

Finally, if in one company with more than fifty workers the average wage for workers of one sex is higher than the average of the other sex by twenty-five percent or more, the employer must include in the wage register a justification that this difference responds to reasons not related to the sex of the workers.

- The RDL has also modified art. 48 of the Workers' Statute to reinforce the right to conciliation of personal, familiar and labour life, approving equal, equally paid and non-transferable paternity and maternity leaves. The timeframe for actual implementation is 2019-2021: in 2019, the parent different from the biological mother is entitled to eight weeks leave; in 2020, twelve weeks and sixteen weeks in 2021.

It is worth highlighting that it is considered a serious breach, thus punishable, not to comply with the obligations regarding Equality Plans and the measures established in the Equality Law or the Workers' Statute (art 6 of RDL).

3. Good practice examples

3.1 Tools developed by the WIEO

The Women's Institute and for Equal Opportunities (WIEO) has been working in the last years against the GPG developing two interesting tools for companies.

Specifically, in February 2015, a **tool for companies to self-measure their GPG** was presented, together with recommendations as to how to treat and address it in companies, very much focused on gender neutral job evaluation. Later, in February 2016, the WIEO presented a new **tool aimed to assess the value of jobs** in a company with a gender perspective, that, with information provided by the company, gives back the quantification of the gender pay gap in the company and recommendations about how to reduce it. Though very complete, interesting, innovative and accepted by the main employers' association (CEOE), the two biggest trade unions (CCOO and UGT) reject the two self-measuring tools, because of their voluntary nature, leaving its use conditional on the willingness of the companies, and because they understand that this is a field of the collective bargaining, not to be treated individually by the company.

Now that it is mandatory to carry out wage audits, and that the methodology is yet to be developed, these two tools could be of help.

3.2 Call for grants

In June 2016, the WIEO launched a call for grants of EUR 10,000 to companies between 50 and 250 employees that wished to make their wage systems and structures transparent to their employees and representatives and that are willing to implement at least three measures to correct the GPG detected. The budget for this call was EUR 350,000. The call required that the company's commitment and the participation of workers' (representatives) in the design, elaboration and monitoring of the transparency measures and the three correcting measures is guaranteed. The company was encouraged to make use of the above-described tools to assess the GPG.

The lessons learned with this process could also be interesting to assess the difficulties encountered by companies and to improve the process.

4. Transferability aspects

As stated in the Discussion Paper, the context when the Iceland Gender Equality Act No. 10/2008 was amended to make equal pay certification compulsory for companies with more than 25 workers was one of great feminisation of policies after the financial crash. Being the experience after the economic crisis very different in Spain, with strong austerity measures affecting women during many years, the feminist movement has gained strength and visibility, in particular during the celebration of 8th of March in 2018 and 2019. In addition, the new government has declared itself as a feminist one, willing to adopt legislative and policy measures to achieve equality. Indeed, the recent RDL described above is good proof of it. Thus, the social and political context is adequate for the Spanish government to continue its reforming path and transferring some of the tools adopted by the Iceland government.

Having been the RDL recently approved, it is probably not the moment to establish as mandatory a proof of equal pay, as Iceland has done, but the tools used may be of interest. Specifically:

- Spain needs to design the methodology for elaboration of the “wage audits” that companies will compulsorily include in their Equality Plans. The methodology followed by the **Standard IST 85** could be of interest for Spain, that could draw also on the tools designed by the WIEO for companies to self-measure their GPG and to assess the value of jobs. However, being in the hands of a private company, the Standard is probably not available to analyse and transfer.
- The Iceland accredited **certification bodies**, whose function is to confirm that a company’s equal pay system and its implementation meets the Standard IST 85, are an important element to monitor and achieve correct enforcement of the law. Since in Spain the wage audits and the register of wages are also compulsory, there is a need to monitor that equal pay is actually being achieved in companies. Although not with the role of certification, the monitoring role of these accredited certification bodies could instate be carried out by the Labour Inspectorate in Spain. It would though need more resources than it currently can devote to inspections focused on the gender pay gap.

5. Conclusions and recommendations

RDL 6/2019 fulfils the demands made by feminist associations and trade unions as regards the **compulsory character** of elaboration of Equality Plans for companies with more than 50 workers (before 250); it defines the concept of jobs of equal value; it **promotes transparency** through the obligation of setting up registers of women and men’ wages; it also foresees **sanctions**.

Thus, these three elements: obligation and no longer voluntarism; increase of transparency and sanctions are crucial to decisively close the gender pay gap.

The establishment of a deadline, as Iceland has done, is important, but it can weaken credibility if it cannot be met. Credibility can also be eroded if the monitoring and enforcement system is not adequate. Thus, measures and tools to support companies to go as easily as possible through process; to adequately monitor the performance of companies in terms of reduction of the gender pay gap; and a sanctions' system that deter companies from eluding their responsibilities are needed.

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