



Initiatives for Equality

During 2019, there have been several changes in various areas of labor law. There have been amendments made to initiatives to promote equality in the workplace as well as amendments made to the registry of wages , all resulting from the adoption of the Royal Decree-Law 6/2019 of the 1st of March on urgent measures to ensure equal treatment and opportunities between women and men in employment and occupation, with the aim of combating inequality in the workplace.

Below, we briefly and concisely detail the main developments of this Royal Decree:

1. NEW DEVELOPMENTS REGARDING EQUALITY INITIATIVES

As previously mentioned, the new Royal Decree introduces new legislation regarding initiatives to achieve workplace equality, with the aim to provide the necessary means needed to achieve equal treatment and opportunities for women and men in the workplace. In turn, eliminating discrimination on the basis of sex.

The purpose of such initiatives is to avoid any type of discrimination between men and women regarding employment. Therefore, this implies that different companies, depending on the number of workers they employ, must set the specific objectives to achieve equality in the workplace, as well as the strategies and practices needed to combat inequality.

Until the adoption of Royal Decree-Law 6/2019, of March 1, the implementation of the initiatives to promote workplace equality was only mandatory for those companies employing more than 250 workers, however, this new regulation aims to impose mandatory initiatives to those companies that have 50 or more by 2022, applying in the following order:

- Companies employing between **151 and 250 workers** will have until March 7, 2020 to implement the equality plan.
- Companies employing between **101 and 150 workers** will have until 7 March 2021.
- Companies employing between **50 and 100 workers** have until March 7, 2022.

Hence, by the end of the 2020 fiscal year, companies employing between 151 and 250 workers must implement the equality initiatives by the 7th of March.

It is important to note that although the time taken to implement equality initiatives may differ between companies due to their heterogeneity (size, number of workers etc.), the CCOO syndicate has registered 15 indictments to the "Departament de Treball de la Generalitat de Catalunya" for companies not in compliance with the Royal Decree.

These indictments are addressed to companies or public entities that, despite having a plan regarding the implementation of initiatives to promote equality, are allegedly not implementing it, or are not implementing it correctly, or have not negotiated with the legal representation of the workers.

Any company that is obliged to have an equality plan must negotiate and agree on measures to achieve effective equality between women and men with the legal representatives of the workers (Article 45 of Organic Law 3/2007 of 22 March for the effective equality of women and men). If the equality plans were made unilaterally, according to various testimonies, it would be considered null and void.

We should stress that, if one does have an equality plan and does not comply with the obligations or measures mentioned, or does not comply with the provisions of the legislation, the Workers' Statute or the Collective Implementing Convention, it will be considered a **serious** infringement (Article 7.13 LISOS) and the penalties range from EUR 626 to EUR 6,250 (Article 40.1.b LISOS).

However, in the absence of an equality plan, the infringement shall be considered **very serious** (Article 8.17 LISOS) and penalties may range from EUR 6,251 to EUR 187 515 (Article 40.1.c. LISOS).

2. NEW CHANGES IN WAGE REGISTRATION

Among the measures of the new Royal Decree to combat any type of labour modification, the compulsory wage register has also been affected. With this measure, companies will have to record the average values of wages, supplementary wages, and any type of concept relating to salary, with the aim of checking whether or not there is inequality between men and women in the workplace.

This measure aims to combat any form of pay gap existing between men and women, by not permitting any existing differences to exceed 25%, thereby avoiding any abusive situations or any type of gender discrimination.

Workers shall have the right to access, through the legal representation of workers in the company, the salary register of their company.

Infringements in relation to the abovementioned regulations, shall be punished according to the Royal Legislative Decree 5/2000, August 4, and in accordance to the revised Law on Infringements and Sanctions in the Social Order, which provides for serious penalties to receive a fine according the grade of infringement. A **serious infraction, of a lower degree**, will be fined between EUR 626 and EUR 1,250. A **serious infraction of a medium degree** shall be fined between EUR 1,251 and EUR 3,125. A **serious infraction of a maximum degree** shall be fined between EUR 3,126 to EUR 6,250.

In the event of a **very serious infraction of lower degree**, the guilty party shall pay a fine between EUR 6251 and EUR 25,000. A **very serious infraction of medium degree** shall be fined between EUR 25,001 and EUR 100,0005. A **very serious infraction of maximum degree** shall be fined between EUR 100,006 to EUR 187,515.

