



Women's rights in the workplace – EU vs. Spanish legislation on co-responsibility rights

María Isabel Ribes Moreno ¹ 

ABSTRACT

The establishment of a regulatory framework to ensure women's equality in the workplace has been a lengthy journey in the European Union (EU) and its Member States. In Spain, there was no significant impetus initially. Nevertheless, a few decades later, due to substantial legislative improvement, Spain is considered by many a very convenient place for women to live and work, even though there is still much to be done. This article aims to analyse the adequacy of Spanish labour regulations with the EU's normative *acquis* concerning work-life balance and co-responsibility—essential elements for the achievement of equality in the workplace. To this end, detailed reference will be made to the introduction of rights through the domestic regulatory framework. Consequently, the study will assess whether Spain is one of the EU countries with the highest standards of gender equality in employment and occupation resulting from the implementation and exercise of work-life balance rights to achieve co-responsibility and resolve reconciliation issues.

KEYWORDS

co-responsibility, work-life balance, reconciliation issues, equality, workers' rights

¹ *University of Cádiz, Spain*

Correspondence:

María Isabel Ribes Moreno,
University of Cádiz, Spain

Email:

isabel.ribes@uca.es

1 INTRODUCTION

Despite gender equality being a fundamental human right, women continue to be a disadvantaged group regarding employment. This disadvantage is mainly due to issues related to motherhood and the traditional role women play in society. It is a proven fact at a global level that most of the responsibility for family care falls on women. These circumstances mean that women's professional ambitions are often relegated because they shoulder this task in addition to motherhood when necessary (European Institute for Gender Equality [EIGE] 2021).

The level of achieved gender equality varies across Member States, with labour aspects playing a decisive role. Regularly published statistics offer a comparative view of the situation of women. Organisations such as the World Economic Forum and the European Institute for Gender Equality release annual reports evaluating various parameters, which enable us to measure the level of women's integration in society. One such parameter is women's participation in the labour market, albeit in a broad sense. According to the World Economic Forum's 2023 Gender Gap survey, Spain's overall score is undeniably positive, ranking 18th globally and eighth in the EU. However, in the sub-index on Economic Participation and Opportunity, Spain ranks 48th in the world and 12th in the EU. The latest data from EIGE for the year 2022 places Spain in 12th position among the EU Member States in terms of the employment situation of women, although its results are above the EU average (EIGE 2022).

However, the efforts of specific international organisations have been pivotal in promoting equality and non-discrim-

ination of women in the workplace. These efforts have taken various forms, all aimed at achieving equal opportunities and eliminating gender discrimination in employment. In short, numerous measures have been implemented. Notably, some of the most important ones focus on addressing challenges encountered by working women concerning maternity matters, including obligations such as attending medical appointments or childbirth preparation courses, as well as by the assumption of caregiving responsibilities.

As highlighted by the United Nations in the Introduction to the Convention on the Elimination of All Forms of Discrimination against Women (1979), achieving "a proper understanding of maternity as a social function" necessitates a fully shared responsibility for child-rearing by both sexes. Consequently, provisions for maternity protection and childcare are proclaimed essential rights and are incorporated into all areas of the Convention, including employment.

It is evident that the root cause of discrimination against women in the labour market is gender, as women have been assigned a reproductive rather than a productive role. This perspective has led to the development of labour standards towards a male worker model, whose problems and needs are unrelated to motherhood and/or family responsibilities. Consequently, these issues are foreign to the business world, placing women at a significant disadvantage.

The International Labour Organisation (ILO) took this initiative very early (Rodríguez Rodríguez, 2021). The ILO first introduced standards on reconciliation with Convention No. 3 on Maternity Protection (International Labour Organisation [ILO] 1919). This convention underwent revision with Convention

No. 103 (ILO 1952), and it was supplemented by Recommendation No. 95 (ILO 1952).

Convention No. 183 (ILO 2000) reformulated maternity protection to include more comprehensive regulations. It introduced mandatory maternity leave alongside other prenatal leave, employment protection, and non-discrimination. This latter provision was of paramount importance as it prevented dismissal on grounds related to women's status and shifted the burden of proof. The adoption of Convention No. 156 (ILO 1981) and Recommendation No. 165 (ILO 1981) addressed equality of opportunity and treatment for men and women workers with family responsibilities. Both texts, in conjunction with Conventions No. 111 on Discrimination (Employment and Occupation) (ILO 1958) and No. 122 on Employment Policy (ILO 1964), underscore the importance of safeguarding workers' family interests as a critical factor in addressing inequality.

Similarly, the EU has been developing equality and non-discrimination policies since its inception. Evolving from the limited recognition of the principle of equal pay, the EU has undergone a major change towards gender equality across the entire spectrum of employment relations. In fact, the principle of equal pay was initially introduced to mitigate the social disparities stemming from the free movement of workers, Article 119 of the Treaty of Rome (1957) introduced the notion that "Each Member State shall during the first stage ensure and subsequently maintain the application of the principle that men and women should receive equal pay for equal work". The principle of equal pay was later extended to encompass employment relations.

Subsequently, Title VIII of the Amsterdam Treaty (1997) set out provisions on "Employment", supplemented by specific guidelines, which were to be incorporated into the various employment plans of the Member State. The guidelines encompassed measures aimed at reducing gender inequality, facilitating personal and family life reconciliation, and reintegrating individuals into the labour market (Decision 2001/63 2001). In addition, EU law has sought to strengthen gender equality to increase women's participation in the labour market and gender co-responsibility for family duties.

The various Member States of the EU have had to incorporate the content of these different normative actions into their legal systems. Notwithstanding, although a wide range of directives have contributed to equality between women and men in the workplace, the most impactful measures for such equality are focused on work-life balance and co-responsibility. This paper's justification lies in the comparative analysis of the regulatory framework in the EU and Spain. We aim to assess the situation in Spain concerning work-life balance and whether it aligns with EU legislation or potentially surpasses it. Consequently, this paper will initially provide a brief overview of the evolution of EU legislation on work-life balance, which is essential for the equality and well-being of women in the workplace. Next, we will analyse how the transposition of the directives on work-life balance has been implemented in Spain. Thirdly, we will assess the content of the rights and the improvements and shortcomings observed in the Spanish legal system, concluding with some proposals for the future.

2 EQUALITY, NON-DISCRIMINATION AND CO-RESPONSIBILITY IN THE EU FRAMEWORK

As has been previously pointed out, the Treaty of Rome contained as the only provision on the principle of equal treatment and non-discrimination the reference to equal pay for equal work or work of equal value between women and men. However, a body of legislation aimed at guaranteeing equality in employment has gradually grown, including reconciliation as an essential element (Guerrero Padrón et al. 2023), where the interpretations by the European Court of Justice (ECJ) have played a fundamental role.

Two periods can be clearly distinguished regarding this issue. In the first phase, the focus was on guaranteeing equal pay without addressing matters related to work-life balance. This period spanned from the Treaty of Rome (1957) to the 1997 Treaty of Amsterdam, which marked a paradigm shift. The second phase begins with the Treaty of Amsterdam and continues up to the present day.

Following the Treaty of Rome (1957), the Community institutions developed an essential body of legislation to establish the principle of equality. Firstly, Directive 75/117 (1975) on the approximation of the laws of the Member States related to the application of the principle of equal pay for men and women, reflected the implementation of Article 119 of the Treaty of Rome (1957). This directive aimed to eliminate discrimination by introducing neutral job classification systems, establishing effective measures to render any provision contrary to equal pay null and void, and protecting workers when

they took action to enforce their rights through appropriate means of enforcement. However, this directive made no mention of reconciling work, personal life, and family responsibilities.

Similarly, Directive 76/207 (1976) further extended the principle of equality between the sexes across the entire field of labour relations. This regulation marked an extraordinary advancement. On one hand, it established the “principle of equal treatment” in accessing employment, encompassing promotion, vocational training, and working conditions, ensuring the progressive application of the principle of equal treatment in social security. On the other hand, it prohibited direct and indirect discrimination while allowing measures to rectify inequalities. It also mandated Member States to take the necessary actions to abolish, rescind, amend, or revise any laws, regulations, or administrative provisions conflicting with the principle of equal treatment, including those contained in collective agreements or employment contracts, concerning the matters covered by Directive 76/207 (1976). In addition, Member States were required to introduce measures to enable individuals who perceived themselves wronged on these grounds to exercise their rights through legal avenues after potentially seeking recourse with other competent authorities. Finally, the Directive safeguarded employees against dismissal on the basis of lodging complaints at a company level or taking legal action for breaching the principle of equal treatment. Consequently, Directive 76/207 (1976) has been regarded as a “Framework Directive” on equal treatment and non-discrimination based on sex in employment.

Although several directives were subsequently enacted addressing specific aspects of gender equality, it was not until Directive 92/85 (1992) that the issue of pregnancy, maternity, and breastfeeding for working women was underlined. This Directive focused on the guidelines for protecting motherhood, specifically by identifying measures for pregnant or breastfeeding workers to avoid risks. It mandated employers to adjust and protect the worker's health in this situation, allowing for modifications of working conditions, a change of position, or even the suspension of her activity for the duration of any adverse health situation.

Furthermore, Directive 92/85 (1992) prohibited night work or exposure to harmful agents during pregnancy or breastfeeding. It established the right to paid leave for prenatal examinations and specified the right to maternity leave of at least 14 uninterrupted weeks, distributed before and/or after childbirth, with a compulsory maternity leave of at least two weeks to be allocated before and/or after childbirth. Finally, it outlined a series of rights inherent to the employment contract. This included the maintenance of payment and/or entitlement to an adequate allowance for workers equivalent to what they would receive in the event of a health-related interruption of her activities, along with protection against dismissal. However, it's important to note that Directive 92/85 (1992) aimed to protect the mother's health and foster bonding with the newborn as an occupational health measure. It did not include the father as a recipient of these specific rights.

In the second phase, reconciliation issues took on a prominent role. The Treaty of Amsterdam (1997) marks a turning point, significantly amplifying the

provisions related to non-discrimination. Two important treaties incorporated non-discrimination provisions in detail. Firstly, the Treaty on the Functioning of the European Union (2007) stipulates in Article 157, alongside the obligation of each Member State to ensure equal pay, that:

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

It also allows each Member State to maintain or adopt "measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers." On the other hand, the Charter of Fundamental Rights (2000), in Chapter III on Equality, incorporates in Article 21 the prohibition of discrimination in the broadest sense and the right to equality in Article 23. Chapter IV on Solidarity includes in Article 33 a necessary element to guarantee equality, specifically addressing the reconciliation of family and professional life. It establishes the right to paid maternity leave and parental leave upon the birth or adoption of a child, as well as protection against dismissal for exercising these rights.

Hereinafter, two directives establish the right to equality based on co-responsibility as a determining factor. Directive 96/34 (1996) and Directive 2010/18 (2010) implemented the re-

vised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP, and ETUC, which review and replaced the previous agreement. Both directives not only grant rights to women for family reasons but also extend certain rights to men, making their entitlements indistinct.

The first Directive marks the starting point for the EU regulation of work-life balance in the workplace, a fundamental element in achieving gender equality among workers of both genders (Rodríguez Rodríguez 2010). In line with Paragraph 16 of the Community Charter of the Fundamental Social Rights of Workers (1989), it aimed to develop “measures [...] enabling men and women to reconcile their occupational and family obligations.” The Directive 96/34 (1996) stressed the need to promote women’s participation in the workforce and introduced two specific measures. Firstly, it referred to parental leave, providing men and women alike the right to be absent from work to care for children, and, secondly, it included absence for reasons of *force majeure*, allowing both men and women to take time off for urgent family matters necessitating their immediate presence, such as illness or accidents. The parental leave, granted for the birth or adoption of a child, had a minimum duration of three months and could be taken up to a certain age of the child, which was suggested to be up to eight years. However, a fundamental issue was the absence of remuneration and that, in the case of force majeure leave, there was a limitation to guaranteeing absence from work without providing flexible arrangements. While the Directive 96/34 (1996) configured parental leave as an individual right, it was predominantly “in principle, non-transferable,” thereby

reducing the practical implementation possibilities. Some scholars argued that it introduced formal equality rather than an effective role (Rodríguez Rodríguez 2010). Similarly, the Directive 96/34 (1996) ensured the maintenance of rights acquired or in the process of being acquired by the worker on the date of the start and until the end of the parental leave. It also established the prohibition of dismissal for the exercise of these rights and guaranteed the right to return after the leave and the preservation not only of the job but also of the rights acquired during this period.

The Directive 2010/18 (2010) amplified the role of co-responsibility in eliminating sex discrimination. Thus, the agreement extended to all workers, including part-time workers, those on fixed-term contracts, or those with an employment relationship with a temporary agency. It extended parental leave from three to four months while specifying that only one of these months was non-transferable. It acknowledged the specificities of paternity through adoption, referring to this circumstance in Clause 4. Nevertheless, it did not address scenarios such as multiple births or adoptions, which the ECJ clarified in the Judgement of 16 September 2010, (Case C-149/10 2010), referring to the need for national laws to consider this issue.

Measures ensuring the return to work after parental leave were improved. Clause 6 introduced rules for “return to work,” providing that States shall include in their national regulations the possibility for workers to request changes in their working hours or working arrangements for a certain period. It also encouraged employers and workers to maintain contact during the leave to facilitate their return.

Notwithstanding, the lack of income during leave remained the main challenge. The Directive 2010/18 (2010) tentatively suggested in Clause 5.5 that:

All matters regarding income in relation to this agreement are for consideration and determination by Member States and/or social partners according to national law, collective agreements and/or practice, taking into account the role of income – among other factors – in the take-up of parental leave.

The clause meant that if the State did not incorporate such a provision in its legal system, the lower-paid parent, usually the woman, would apply for the entitlement. In the same vein, Recital 20 of the Directive 2010/18 (2010) established that “experiences in Member States have shown that the level of income during parental leave is one factor that influences the take up by parents, especially fathers.” Families with more significant financial problems, or single parents, would likely not take leave for the same reason.

The circumstances of children with disabilities or long-term illnesses were vaguely addressed. The Directive 2010/18 (2010) briefly stated in Clause 3.3 that “Member States and/or social partners should assess the need to adjust the conditions for access and modalities of application of parental leave to the needs of parents of children with a disability or a long-term illness,” as a clear result of the Judgement of the ECJ of 17 July 2008 (case C-303/06 2008). In other words, States were charged with accommodating leave to complex family situations.

The right to *force majeure* leave was maintained in the same terms as in the 1995 Agreement included in Directive 96/34 (1996). However, the paid or

unpaid character of the leave and its distribution among several workers still needed to be specified. Nor did it contain provisions on protection against dismissal or other consequences of such leave.

Other legislation, such as Directive 2006/54 (2006) on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) did not explicitly include provisions for the reconciliation of work and family life. Only Articles 15 and 16 introduced the right of the worker “to return to her job or to an equivalent post on terms and conditions which are no less favourable to her” after maternity, paternity, or adoption leave, guaranteeing that the worker could benefit from “any improvement in working conditions to which she would have been entitled during her absence.” This measure aimed to allow both parents to take responsibility for family care without prejudice.

On the other hand, recital 11 of Directive 2006/54 (2006) contains references to establishing flexible working hours and parental leave for both fathers and mothers. It also urges Member States to “include appropriate parental leave arrangements which could be taken up by either parent as well as the provision of accessible and affordable childcare facilities and care for dependent persons.” Additionally, it introduces intriguing concepts for achieving equality, such as “positive action.”

However, Directive 2000/78 (2000) establishing a general framework for equal treatment in employment and occupation, the Part-Time Work Directive (Directive 97/81 1997), or the Working Time Directive (Directive 2003/88 2003) did not include provisions on this issue. Nevertheless, part-time work for family

reasons is primarily undertaken by women (EIGE 2015), so some reference to it would have been desirable (EIGE 2015).

Finally, Directive 2019/1158 (2019) on work-life balance for parents and carers, repealing Directive 2010/18 (2010), represents a significant step forward. The importance of the Directive lies in its being the first to establish not only reconciliation but co-responsibility as a factor to strengthen equality between men and women, which is one of the fundamental principles of the EU. The right to equality is, without a doubt, “a macro-principle that underpins work-life balance rights” (Lousada Arochena 2019a: 791).

Therefore, the rights to work-life balance and co-responsibility are essential elements for consolidating gender equality (Maneiro Vázquez 2023). Directive 2019/1158 (2019) encompasses a series of rights that extend beyond the concept of reconciliation, embracing co-responsibility (Guerrero Padrón et al. 2023). The enactment of this directive marked a crucial milestone for gender equality.

This directive introduces various individual rights, such as new paternity leave, distinct maternity or parental leave, and carers' leave. Paternity leave is set to last at least 10 days, and although there is no reference to its non-transferability, it is inferred from the text. Carers' leave is extended to a minimum of five days per year and differs from *force majeure* leave.

The revised approach to paternity leave also covers other family structures, including same-sex partnerships. According to Article 4 of Directive 2019/1158 (2019), “Member States shall take the necessary measures to ensure that fathers or, where and insofar as recognised by national law, equivalent second parents” are accommodated. At this

point, remuneration or a social security benefit, equivalent to that which would be payable for a break from work for health reasons, will also be guaranteed during the period of leave, which is a real advancement.

Parental leave remains for four months and can be utilised until the child is eight years old. However, it has been established that two of the four months are non-transferable, enhancing the repealed Directive. Additionally, the Directive improves the right by guaranteeing payment or allowance during the leave. Absence due to *force majeure* is maintained in the same terms.

As the most relevant issue, the Directive 2019/1158 (2019) establishes flexible working arrangements for workers who are parents or carers. This includes not only flexible or reduced working hours but also telecommuting as an appropriate mechanism to balance professional and personal responsibilities.

In societies where family responsibilities are equally shared, women tend to enter and remain longer in the labour market (Añón Roig 2009). Therefore, these measures contribute to women's full integration into the workforce by promoting the equal distribution of caring responsibilities.

3 DOES SPANISH LABOUR LAW ADDRESS CARE BY FACILITATING WOMEN'S EQUAL INTEGRATION?

There has been a growing recognition in Spain of the need for both legislative and cultural changes. Presently, a considerable number of permits and licences exist to manage care responsibilities, but there is still room for improvement. In most cases, the impetus for legislation was due to the impact of the EU regulatory framework. In the following

pages, we will delve into the gradual integration of work-life balance rights into Spain's labour legislation.

The starting point in the Spanish legislative framework regulating work-life balance was Law 3/1989 (1989). The Act improved maternity leave, extending it from 14 to 16 weeks and establishing measures to promote equal treatment in workplaces. It granted the adoptive parents of children under the age of 5 a leave on par with maternity leave. Specific rights for men were also instituted.

A pivotal advancement in the basic labour regulations was made with the Royal Legislative Decree 2/2015, known as the revised text of the Workers' Statute Law (*Estatuto de los Trabajadores* [ET] (2015)). The first step was made with Law 39/1999 (1999) on reconciliation of work and family life for workers, transposing Directives 92/85 (1992) and 96/34 (1996). While the first Directive was inadequately transposed through the Law on Prevention of Occupational Risks. Consequently, Law 39/1999 (1999) completed the transposition, partly improving the directives.

One of the most important measures was that women could transfer a portion of their maternity leave to the father, up to 10 weeks of the 16 they were entitled to. Simultaneous maternity leave for both parents was also granted. In the case of multiple births, maternity leave was extended by an additional two weeks for each child. Changes were also introduced to allow adoptive or foster parents to take leave to care for children under the age of six. Provisions for breastfeeding leave were made more accessible. The law maintained the provisions of Directive 96/34 concerning accident and hospitalisation reasons. Additionally, it established the individual right of workers, both men

and women, to reduce working hours and take parental leave to care for sick, elderly, and dependent family members.

Subsequently, the Organic Law 3/2007 (2007) transposed Directive 2002/73 (2002) on effective equality between women and men. This Law, which has had several amendments, represents a turning point, but it goes further than the directive. It introduced paternity leave for biological, adoptive, and foster fathers in the Spanish legal system, distinct from maternity leave. The entitlement to the right was attributed to the father and other parents, adapting thus to the new families. The paternity leave duration was 13 days, progressively introduced in the framework and extendable in cases of multiple births. The right was individual, non-transferable, and entitled fathers to receive a social security allowance. Nevertheless, despite efforts to increase men's participation in care work, the regulation allowed fathers to allocate leave according to their personal needs without considering the primary objective.

Maternity leaves, too, saw positive reform, being extended by two weeks for children born with disabilities, an extension that either parent could take. In the event of the mother's death, the other parent could use all or part of the remaining maternity leave entitlement, counting it from the date of birth, regardless of whether the deceased carried out any paid activity. Nor would the mother's possible use of the leave period she could have taken before the birth be deducted. In the event of the child's death, the suspension period would also not be reduced unless the mother voluntarily requested to return to work after the compulsory six weeks following childbirth. In the case of premature births or situations where the

newborn had to be hospitalised for more than seven days, the suspension period was extended by the same number of days of hospitalisation, with a maximum of 13 additional weeks. Moreover, paternity and maternity leaves were extended to the self-employed and other special social security schemes.

Breastfeeding leave was partially modified. Although the woman's entitlement was retained, she could now transfer it to the father for his use. However, no reference to same-sex couples was made in this right.

A notably positive amendment was made concerning the right to reduce working hours for childcare purposes. The law extended the age of the child for which the parent could request this reduction from six to eight years and introduced more flexible parameters. The minimum period for reducing working hours was decreased from at least one-third to one-eighth. This revision significantly facilitated the reduction of working hours without notably impacting pay, particularly when there was no absolute need to harmonise work with childcare, for instance. Family leave was increased from one to two years, allowing it to be taken in instalments. This flexible form of leave was extended to childcare leave.

Additionally, the introduction of the right to adjust working hours to accommodate the demands of balancing work and family life as an individual right for men and women should be highlighted. Notwithstanding, the terms of this measure depended on the provisions laid out in collective bargaining agreements or in individual arrangements with employers, which hampered the effective implementation of the right.

Subsequently, a minor amendment was made by Royal Decree-Law 3/2012

(2012), to align Article 37.4 ET (2015) with the Judgment of the ECJ of 30 September 2010 (Case C-104/09 2010). The amendment extended the entitlement to breastfeeding leave to men even if the mother was not employed. The ECJ's judgment deemed the distinction that recognised only employed mothers, not employed fathers, as eligible for paid time off work to care for a child as a breach of the equal treatment principle.

Conversely, Law 6/2018 (2018), State Budget Law 6/2018 (2018), increased paternity leave to five weeks, with the potential for extension by two additional days for multiple births, adoptions, or foster care. The legislation aimed to promote work-life balance by stipulating that in cases of childbirth, the leave would exclusively be allocated to the other parent. In cases of adoption, guardianship for adoption, or foster care, this right would apply to only one of the parents, at the choice of the interested parties. Nevertheless, when maternity leave is entirely taken by one parent, the right to paternity leave may only be exercised by the other one. In other words, it contributed to co-responsibility by limiting transfer.

Royal Decree-Law 6/2019 (2019), on urgent measures to guarantee equal treatment and opportunities for women and men in employment, marked another significant reform (Lousada Arochena 2019b). The Royal Decree-Law 6/2019 (2019) did not transpose EU directives. It is based on the obligation of public authorities to adopt specific measures in favour of women in explicit situations of inequality. The Royal Decree-Law 6/2019 (2019) introduced changes in leave terminology to better reflect social changes and established substantive amendments. Firstly, breastfeeding leave was revised to infant care leave

as specified in Article 37.4 ET. Likewise, in a move towards gender-neutral language and inclusivity of LGBTI+ communities, the terms “mother” and “father” were replaced by “working persons.” Considering that the noun “children” is of masculine grammatical gender in Spanish, the Royal Decree-Law 6/2019 (2019) included the feminine gender by replacing it with “sons and daughters.” Similarly, maternity and paternity leave were renamed without distinction, becoming birth leave involving confinement and childcare for a minor up to 12 months. Furthermore, breastfeeding leave transformed into infant care leave, while confinement was replaced by birth when not related to a biological situation, a change that faced criticism (Lousada Arochena 2019b).

The most important of the substantive changes is the one made in birth leave. This 16-week leave is equal for both parents, with no distinction between biological, adopted, or foster children. For the first six weeks following childbirth, adoption, or fostering, both parents will take uninterrupted and full-time leave, although for different purposes. The biological mother ensures the protection of her health, while the other parent fulfils the caregiving duties. After this mandatory joint leave, the right becomes more flexible, allowing it to be taken continuously or intermittently, full-time or part-time, upon agreement with the employer. This right cannot be transferred to the other parent to avoid co-responsibility duties. When the child born, adopted, or in foster care for adoption or fostering is disabled, or in the case of multiple births, adoptions, or fostering, the leave could be extended by two weeks, with one week distributed to each parent, progressively implemented.

Infant care leave is maintained at one hour a day per parent, accumulable to full days, up until the child reaches nine months. Whether a parent is a biological, adoptive, guardian, or foster carer, they are entitled to the same leave duration and conditions. This right is non-transferable, and the regulation establishes a developmental measure: increasing the duration of the leave if both parents exercise the right for the same duration and time. The regulation also encourages co-responsibility by extending the childcare leave period granted by law for job reservation after leave from 12 to 18 months when both parents take the leave together.

Finally, the right to adjust the length and schedule of the working day, including remote working, is established to effectively reconcile personal and family life. The right is granted until the child reaches the age of 12, with the specific terms to be agreed upon in collective bargaining agreements.

Organic Law 1/2023 (2023) amending Organic Law 2/2010 (2010) on sexual and reproductive health and the voluntary interruption of pregnancy, and Law 4/2023 (2023) for the real and effective equality of trans persons and the guarantee of the rights of LGBTI persons introduced significant changes. The former eliminated the prerequisite for foster care to last at least one year to qualify for leave. The latter established that pregnant transsexual individuals were considered biological mothers for leave-related purposes.

Most recently, the Royal Decree-Law 5/2023 (2023), a comprehensive piece of legislation, updated several leave policies to align with EU directives. It enhanced the right to adapt the working time for employees with dependents in line with the content of Directive

2019/1158 (2019) on flexible working arrangements. Additionally, the law expanded the category of family members eligible for leave in cases of death, accident, or illness to include unmarried partners. Likewise, the carers' leave provided for in the Directive 2019/1158 (2019) is set up in more favourable terms, extending the number of days and including unmarried couples within its subjective scope. *Force majeure* leave is also stated for justified and urgent reasons, which require the immediate presence of the parent. The Royal Decree-Law 5/2023 (2023) established a new parental leave for childcare (including foster children) up to the age of eight, which is non-transferable and can be taken flexibly. In line with the above, protection against dismissal derived from enjoying all work-life balance rights is guaranteed, categorising these rights among the grounds for nullity. However, carers' leave is still pending and awaits transposition into domestic law.

4 A SYSTEMATIC OVERVIEW OF WORK-LIFE BALANCE RIGHTS IN SPAIN

After outlining the evolution of the work-life balance regulations, to clarify their content, we will detail them systematically as they are formulated in Spain's labour legislation. To do so, we will explain the tenor of the regulations contained in ET (2015), dividing it into the following sections: (4.1) Paid leaves (*permisos*). (4.2) Reductions in working time. (4.3) Birth leave (including confinement and care for a minor of up to 12 months) and risk during breastfeeding (*suspensiones*). (4.4) Family care leaves (*excedencias/permisos no retribuidos*). (4.5) Distribution of working time.

4.1 PAID LEAVES

The first set of rights encompasses paid leaves. During this leave, the wages are paid by the employer.

(a) First, a paid two-days' leave is granted in the event of the death of a spouse, unmarried partner, or relatives up to the second degree of consanguinity or affinity of both the spouse and the common-law partner. If death occurs outside the worker's residence and requires travel, this would be extended to two more days. When these family members suffer a severe accident or illness, hospitalisation, or surgery without hospitalisation that requires home rest, the worker is granted a five-day paid leave.

(b) Secondly, each parent is entitled to a paid leave of one hour per day in the case of premature births or situations where babies must remain in the hospital after childbirth. It is a non-transferable leave allowing flexibility in timing based on the child's discharge from the hospital, excluding the compulsory six weeks for the mother's post-confinement health. The worker determines the period of the leave within his/her ordinary working day. Workers must notify the employer of their leave period 15 days in advance or according to the collective bargaining agreement.

(c) Thirdly, childcare leave is granted for the care of children under nine months, comprising an hour per day for each parent, with proportional increases in cases of multiple births, adoptions, or fostering. The leave is non-transferable and can be managed as either hourly or half-hourly reductions in the working day. Depending on the provisions of the collective bargaining or company agreement, the

worker may accumulate this reduction into full days. In the interests of promoting co-responsibility, one of the latest reforms has established an extension of the period of infant care by three more months, until the child is 12 months old, if it is taken jointly by both parents, adoptive parents, guardians, or foster parents. In this case, during the additional three months, the salary will be reduced proportionally so as not to overburden the employer, and a social security benefit supplements the remuneration.

(d) Fourthly, *force majeure* leave enables workers to attend to urgent family situations that necessitate their immediate presence. This paid leave is limited to four days per year unless the collective agreement establishes more favourable conditions.

(d) Lastly, less significant is paid leave for workers attending sessions on adoption, guardianship, or fostering suitability, and for pregnant women to attend prenatal examinations and childbirth preparation. Both leaves are provided for the essential time required during the working day.

Overall, these domestic regulations enhance and expand upon the EU legislation.

4.2 REDUCTIONS IN WORKING TIME

Reduced working hours without pay are established to facilitate work-life balance. All these rights are individual and non-transferable.

(a) Firstly, workers are entitled to two hours per day of the working day to care for prematurely born babies or infants who require extended hospitalisation after birth for any other reason. This reduction may be added to the previously mentioned paid leave

for the same reason (4.1 (b)). However, it does not entitle the worker to remuneration, and the salary will be reduced proportionally to the absence. Its legal regime is the same as established in 4.1 (b).

(b) Secondly, workers responsible for a child under 12 or a disabled person who is not in paid employment are entitled to reduce their daily working hours by at least one-eighth and up to a maximum of one-half, with a proportional salary cut. The same entitlement is granted to the direct carer of a spouse, or unmarried partner, or a family member up to the second degree of consanguinity and affinity, including the blood relative of the unmarried partner, who for reasons of age, accident, or illness is unable to look after himself/herself, and who is not in paid employment. It can be criticised that this reduction is daily, without allowing for other more appropriate formulas, unless provided for in collective bargaining.

(c) Thirdly, the parent, the guardian for adoption, or permanent foster carer is entitled to a reduction of at least half the working day, with a proportional salary reduction during the hospitalisation and continuous treatment of a minor suffering from cancer or a serious illness requiring long-term hospitalisation and constant care. The illness must be accredited by the report of the public health service or administrative health body of the corresponding autonomous community. The right is maintained until the child reaches the age of 23 or 26 in cases of disability of 65% or more. However, the extension must be justified. The collective bargaining agreement may establish the conditions and cases where this working-hour reduction may be accumulated in full working days.

4.3 BIRTH LEAVE (INCLUDING CONFINEMENT AND CHILDCARE FOR A MINOR OF 12 MONTHS) AND RISK DURING BREASTFEEDING

Thirdly, the birth leave comprises two distinct leaves: confinement and care for a minor of 12 months, and the leave for risk during breastfeeding. During the exercise of this right, workers do not receive remuneration, but they are entitled to a social security benefit.

(a) Firstly, confinement entitles the biological mother or transgender pregnant person to 16 weeks of leave. For occupational health reasons, the mother is obligated to take six uninterrupted weeks immediately after delivery. There is also an option to begin the suspension up to four weeks before the anticipated date of birth.

To facilitate the care of a prematurely born or hospitalised newborn, the period of suspension may be calculated from the date of hospital discharge, except for the six weeks following birth, which the biological mother must take. Likewise, to allow for a responsible exercise of family reconciliation, if the newborn child is hospitalised for more than seven days after birth, the suspension period will be extended proportionally, up to a maximum of 13 days.

The right to suspension is neither extinguished nor reduced by the child's death unless the parent requests reinstatement after six weeks of compulsory leave.

The childcare of a minor of 12 months leave is similarly flexible. In cases of confinement, the childcare of a minor of 12 months leave for the other parent is granted on the same terms as the leave for the biological mother, to fulfil the duties of caring for the newborn, as an individual and non-transferable right.

The conditions for exercising the right to suspension are quite flexible but the first six weeks must be taken conjointly with the mother to reinforce co-responsibility. After the six weeks have elapsed, it may be distributed in weekly periods, accumulated or interrupted, either on a full-time or part-time basis, until the child is 12 months old, with prior agreement with the employer and 15 days' notice. The employer may limit the simultaneous exercise of the right if both parents work for the same company, providing written notice with well-founded and objective reasons.

In cases of adoption, guardianship for adoption, and foster care, the childcare of a minor of 12 months leave has the same duration of 16 weeks for each adopter, guardian for adoption, or foster carer. This right is also non-transferable and individual. In this case, the six weeks that must be taken on a full-time, uninterrupted basis are those immediately following the judicial decision establishing the adoption or the administrative decision on guardianship for adoption or foster care. The entitlement system is the same, with the same flexibility as that established in the case of suspension for childbirth. However, for obvious reasons, the remaining 10 weeks may be taken within 12 months of the judicial decision on the adoption or administrative decision on foster care. If it is necessary to travel to the adoptee's country of origin beforehand in the case of an international adoption, the leave may begin up to four weeks before the judicial decision on the adoption.

In all cases of birth leave, an additional two weeks are granted for each parent if the child has a disability. This same addition is granted for each subsequent child in cases of birth, adoption, foster care, or multiple fostering. The Law

acknowledges single-parent families, allocating this extension exclusively to the single parent.

(b) Finally, in the case of risk during breastfeeding, the right to suspension is granted until the infant is nine months old or when the cause preventing the worker from returning to their job disappears. The returning worker is entitled to their previous job or another compatible with their condition.

The current regulation of suspensions significantly contributes to co-responsibility, improving on the minimum standards established by EU law.

4.4 FAMILY CARE LEAVES

The family care leave establishes the right to reserve the job but does not entitle the employee to any social security benefits or salary maintenance. There are three distinct applications of this right.

(a) Firstly, this leave applies to care for a natural or adopted child, or a child in foster care for adoption or permanent foster care after the birth, adoption, or fostering. The leave lasts three years from the date of birth or, where applicable, from the date of the judicial or administrative decision.

(b) Secondly, the leave for attending to family members lasts a maximum of two years, unless extended by collective bargaining. The family members whom this leave covers are the spouse or common-law partner, and family members up to the second degree of consanguinity or affinity, including the common-law partner's blood relatives, who, for reasons of age, accident, illness, or disability, are unable to look after themselves. In any case, these family members must not engage in any remunerated professional activity.

Both leaves can be taken in instalments, but they cannot be accumulated if granted for different relatives. When a new leave starts, it concludes the previous one.

During the abovementioned leaves, the worker retains certain rights. The duration of the leave counts towards their seniority, and within the first year, they are entitled to return to their previous post. In the subsequent years of leave, the worker has the right to return to an equivalent post. Notwithstanding, the right to return to the same post will be extended to 15 months if the worker is part of a large family (more than three minors) and to a maximum of 18 months if they are part of the special category of large families (more than five minors). Co-responsibility is encouraged by extending the right to 18 months when both parents take leave for the same duration and under the same conditions. The Law stresses that "In the exercise of this right, the promotion of co-responsibility between women and men shall be taken into account and, likewise, the perpetuation of gender roles and stereotypes shall be avoided." From our point of view, it would be surprising to find a real case in which two workers are on leave to care for the same relative simultaneously and for the same duration without pay. In short, it is more of a question of making the need for co-responsibility visible than of effectively promoting co-responsibility. Nevertheless, when two employees within the same company apply for leave because of the same relative, the simultaneous exercise of the right may be limited for justified business reasons.

Additionally, during the leave, the employer has to offer training courses to the worker, especially on the occasion of their return.

(c) A newly introduced form of parental leave for caring for children or foster children for more than one year, up to eight years old, brings a different arrangement. Unlike the previous leaves, during its period, the worker has the right to return to their role. The leave is non-transferable and can be taken flexibly but without pay. A 10-days' notice must be given to the company or as established in the collective agreement. The company may limit the time off due to operational requirements but must justify this and offer an alternative solution to the worker.

Despite the considerable effort to encourage co-responsibility in caregiving, some outstanding issues remain. Notably, the duration of this leave does not meet the four-month standard set in Article 5 of the Directive 2019/1158 (2019) and lacks a guarantee of payment. There is a need for further implementation of care leave as stipulated in the directive and highlighted changes in parental leave.

4.5 DISTRIBUTION OF THE WORKING TIME

The regulations guarantee the right of workers to adapt the length and distribution of their working hours, and even the form of working hours, to achieve work-life balance. These adaptations, which may even include remote work, must be reasonably aligned with the worker's needs and the company's operational requirements. The ET (2015) after the Royal Decree-Law 6/2019 (2019) establishes that the right can be requested until the worker's children reach the age of 12, improving the limit of eight years established in the Directive 2019/1158 (2019). The last amendment of the ET (2015) for the Royal Decree-Law 5/2023

(2023) includes additional family members, such as relatives by blood up to the second degree of consanguinity of the worker, as well as other dependants living in the same household, unable to look after themselves for reasons of age, accident, or illness. The Royal Decree-Law 5/2023 (2023) does not specifically refer to the possibility of exercising the right to adapt the working hours in cases of fostering or caregiving. Such inclusions would significantly enhance the effectiveness of these regulations but would require legislative amendments.

The terms for exercising this right must be set in collective bargaining agreements, regardless of discriminatory circumstances. In the absence of such agreements, a negotiation process must be carried out with the company for 15 days. Once the negotiation is completed, the company shall communicate in writing its acceptance or propose a justified alternative. In the event of rejection of the request, it shall state the objective reasons on which it is based. Nevertheless, the wording of the rule appears to weaken this right.

From our point of view, collective bargaining should establish clear criteria and rules for responsibly exercising the right to redistribute working hours; otherwise, in certain circumstances, the worker should not be able to exercise this right freely. Finally, the worker may request a return to the previous working hours at the end of the agreed period when the reasons cease or when he/she considers it appropriate.

Furthermore, as an element that reinforces the protection of work-life balance, Law 3/2007 (2007) necessitates companies with more than 50 employees to have an equality plan, starting with a diagnostic phase that must include, among other things, the measures

established in the company to guarantee the co-responsible exercise of personal, family, and work rights. These measures are designed to identify inequalities and implement improvements within the company.

Moreover, while not discussed here, Spanish legislation nullifies dismissals resulting from the exercise of any of the reconciliation rights.

In sum, a complex set of rights is formulated in the Spanish labour framework concerning co-responsibility. Nonetheless, continual efforts are crucial, especially in raising awareness among men of their necessary involvement in family care work.

5 CONCLUSIONS AND PROPOSALS FOR IMPROVEMENT

Given the above, it is clear that Spain offers solid mechanisms for promoting equal co-responsibility, effectively transposing EU directives, and bolstering workers' rights beyond EU minimums. However, there are certain deficiencies that still need to be addressed, such as the incorporation of carers' leave and the need to align parental leave with the content of the 2019 Directive.

Overall, the Spanish legal framework has substantially strengthened the right to work-life balance in terms of co-responsibility in recent years. However, we must ask ourselves whether, in practice, this affirmation corresponds to an effective change, i.e., whether care work is actually carried out on a co-responsibility basis.

In this sense, various real-life statistics make us rethink the above assumptions. In fact, the latest available data by the Ministry of Equality referring to 2009/2010 reveals that the time spent by women in family care and home-

making was double that spent by men. According to the data, women spent 11 hours and 26 minutes on personal care, 4 hours and 7 minutes on homemaking and family care, 2 hours and 9 minutes on paid work, and 4 hours and 32 minutes on leisure time. These figures were far from the times men spent on the same activities, with 11 hours and 33 minutes spent on personal care, 1 hour and 54 minutes on homemaking and family care, 3 hours and 25 minutes on paid work, and 5 hours and 23 minutes on leisure activities. More recent data from the National Institute of Statistics (Instituto Nacional de Estadística [INE] 2023) informs us that, in the first quarter of 2023, 94% of people working part-time to care for children or sick, disabled, or elderly adults were women, compared to 6% of men. The same trend, albeit at a lower rate, was maintained when the reason for part-time work was other family or personal activities (68% of women compared to 32% of men).

Other INE (2022) figures show that women's employment rate decreases as the number of children under 12 increases. Thus, in 2022, the employment rate for women aged 25 to 49 without children was 76.9%, falling to 70.4% in the case of having children under 12. This decrease was progressive according to the number of children (72.4% for those with one child, 70.1% for those with two children, and 52.0% for women with three or more children).

Considerably, women are primarily those who cease working after completing their studies to take parental or carer's leave for children (3.6% of women compared to 2.9% of men) (INE 2022). Moreover, women's continued attention to care work is evident when analysing the periods of leave taken. According to the statistics by INE (2022),

the leaves taken by men usually last for a maximum of six months (86.9%); on the other hand, women's periods of leave are more spread out: 49.9% took leave for six months, 20.9% for between six months and one year, 9.4% for between one and two years, and 17.7% for more than two years.

What would be the solution to encourage co-responsibility in care? Undoubtedly, the changes in the legislative framework are decisive but require enhancements. We are aware that the reforms are recent, and it is worth considering whether it is possible to reverse the trend gradually.

Thus, although the legislation recognises these rights, complementary mechanisms are required for an effective shift. Firstly, establishing robust professional public services for caring for children and dependents is imperative. These services are crucial to retaining women in the workforce and must not be hindered by financial constraints. As expressed in Art. 11 c) of the Convention on the Elimination of All Forms of

Discrimination against Women (1979), it is necessary to encourage "[...] the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of childcare facilities." In a nutshell, establishing public services would contribute to reducing the number of women dropping out or working part-time. Secondly, there is a need for a cultural shift away from seeing women as the primary carers. Public authorities have a crucial role to play in bringing about this shift. As established in the latest legislative amendments to the Workers' Statute, co-responsibility between women and men must be encouraged, and the perpetuation of gender roles and stereotypes must be avoided. The problem now is deciding how to undertake this task, and although we are on the right track, it remains a considerable challenge for governments and the younger generations.

ACKNOWLEDGMENT

Work carried out as part of the Project I+D+I PID2021-122254OB-100 "La incidencia del Derecho de la Unión Europea en las futuras reformas laborales" financed by the MICIN y FEDER Una manera de hacer Europa

REFERENCES

- Añón Roig, M^a. J. (2009). ¿Una legislación para transformar la realidad social? A propósito de la Ley para la igualdad efectiva de mujeres y hombres". In AA. VV., *Medidas de conciliación de la vida personal, laboral y familiar. Hacia un respeto igualitario de las reformas parentales* (pp. 11–38). Albacete: Bomarzo.
- Case C-104/09, *Pedro Manuel Roca Álvarez v Sesa Start España ETT SA*. (2010). I-08661. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62009CJ0104>
- Case C-149/10, *Zoi Chatzi v Ypourgos Oikonomikon*. (2010). ECR I-08489. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62010CJ0149>
- Case C-303/06, *S. Coleman v Attridge Law and Steve Law*. (2008). ECR I-05603. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62006CJ0303>
- Charter of Fundamental Rights of the European Union*. (2000). https://www.europarl.europa.eu/charter/pdf/text_en.pdf
- Convention on the Elimination of All Forms of Discrimination against Women* (1979, December 18) <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>
- Decision 2001/63. *2001/63/EC: Council Decision of 19 January 2001 on Guidelines for Member States' Employment policies for the year 2001*. (2001). <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32001D0063>
- Directive 2000/78. *Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation*. (2000). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078>
- Directive 2003/88. *Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time*. (2003). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32003L0088>
- Directive 2006/54. *Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)*. (2006). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32006L0054>
- Directive 2010/18. *Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC*. (2010). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32010L0018>
- Directive 2019/1158. *Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019, on the reconciliation of the working lives of parents and carers, which repeals Council Directive 2010/18/EU*. (2019). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELLAR%3A4119596d-a475-11e9-9d01-01aa75ed71a1>
- Directive 75/117. *Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women*. (1975). <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A31975L0117>
- Directive 76/207. *Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions*. (1976). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31976L0207>
- Directive 79/7. *Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security*. (1978). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31979L0007>

- Directive 86/378. *Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes.* (1986). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31986L0378>
- Directive 92/85. *Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding.* (1992). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31992L0085>
- Directive 96/34. *Directive 96/34/EC of 3 June 1996 on the Framework agreement on parental leave concluded by UNICE, CEEP and the ETUC.* (1996). <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A31996L0034>
- Directive 97/81. *Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and ETUC* (1997). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31997L0081>
- European Institute for Gender Equality (2015). *Reconciliation of work, family and private life in the European Union Policy review.* Vilnius: Publications Office of the European Union. <https://doi.org/10.2839/94734>
- European Institute for Gender Equality (2021). *Gender inequalities in care and consequences for the labour market.* Luxembourg: Publications Office of the European Union. <https://doi.org/10.2839/074>
- European Institute for Gender Equality (2022). *Gender Equality Index.* Comparing Work scores in 2022. Statistical database. <https://eige.europa.eu/gender-equality-index/2022/compare-countries/work/bar>
- Guerrero Padrón, T., Kovačević, L., & Ribes Moreno, M. I. (2023). Labour Law and Gender. In D. Vujadinović, M. Fröhlich & T. Giegerich (Eds.), *Gender-Competent Legal Education* (pp. 583–630). Springer. <https://doi.org/10.1007/978-3-031-14360-1>
- Instituto Nacional de Estadística of Spain (2022). *Impact on employment due to the existence of children. Leaves data to care for children.* Statistical Database. https://www.ine.es/ss/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobheadername1=Content-Disposition&blobheadervalue1=attachment%3B+filename%3D1_6_Incidencia_en_el.pdf&blobkey=urldata&blobtable=MungoBlobs&blobwhere=1259925463094%2F607%2F1.6+Incidencia+en+el.pdf&ssbinary=true
- Instituto Nacional de Estadística of Spain (2023). *Part-time employees by reason for part-time work, gender and age group.* Statistical Database. <https://www.ine.es/jaxiT3/Tabla.htm?t=4181&L=0>
- International Labour Organisation (1919). *C003 – Maternity Protection Convention, 1919* (No. 3). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312148
- International Labour Organisation (1952). *C103 – Maternity Protection Convention (Revised), 1952* (No. 103). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312248
- International Labour Organisation (1952). *R095 – Maternity Protection Recommendation, 1952* (No. 95). [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R095#:~:text=\(2\)%20Employment%20of%20a%20woman,woman%20is%20nursing%20her%20child.](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R095#:~:text=(2)%20Employment%20of%20a%20woman,woman%20is%20nursing%20her%20child.)
- International Labour Organisation (1958). *C111 – Discrimination (Employment and Occupation) Convention, 1958* (No. 111). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_Ilo_Code:C111

- International Labour Organisation (1964). *C122 – Employment Policy Convention, 1964* (No. 122). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312267
- International Labour Organisation (1981). *C156 – Workers with Family Responsibilities Convention, 1981* (No. 156). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C156
- International Labour Organisation (1981). *R165 – Workers with Family Responsibilities Recommendation, 1981* (No. 165). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R165
- International Labour Organisation (2000). *C183 – Maternity Protection Convention, 2000* (No. 183). https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID,P12100_LANG_CODE:312328,en:NO
- Law 3/1989 of 3 March 1989 extending maternity leave to sixteen weeks and establishing measures to promote equal treatment of women at work. (*Ley 3/1989, de 3 de marzo, por la que se amplía a dieciséis semanas el permiso por maternidad y se establecen medidas para favorecer la igualdad de trato de la mujer en el trabajo*). (1989). <https://www.boe.es/buscar/act.php?id=BOE-A-1989-5272>
- Law 39/1999 of 5 November 1999 to promote the reconciliation of work and family life for workers. (*Ley 39/1999, de 5 de noviembre, para promover la conciliación de la vida familiar y laboral de las personas trabajadoras*). (1999). <https://www.boe.es/buscar/act.php?id=BOE-A-1999-21568>
- Law 4/2023 of 28 February for the real and effective equality of trans persons and for the guarantee of the rights of LGBTBI persons. (*Ley 4/2023, de 28 de febrero, para la igualdad real y efectiva de las personas trans y para la garantía de los derechos de las personas LGBTBI*). (2023). <https://www.boe.es/buscar/act.php?id=BOE-A-2023-5366>
- Law 6/2018 of 3 July, State Budget Law for 2018. (*Ley 6/2018, de 3 de julio, de Presupuestos Generales del Estado para el año 2018*). (2018). <https://www.boe.es/buscar/act.php?id=BOE-A-2018-9268>
- Lousada Arochena, J. F. (2019^a). La construcción de los derechos de conciliación de la vida personal, familiar y laboral como derechos fundamentales. *Derecho de las Relaciones Laborales*, 8, 783–796.
- Lousada Arochena, J. F. (2019^b). Maternidad y conciliación en el trabajo por cuenta ajena tras el Real Decreto-ley 6/2019, de 1 de marzo: una primera aproximación. *Revista Derecho social y empresa*, 11, 1–28.
- Maneiro Vázquez, Y. (2023). *Cuidadores, igualdad y no discriminación y corresponsabilidad: la @evolución de los derechos de conciliación de la mano de la Directiva (UE) 2019/1158*. Albacete: Bomarzo.
- Ministry of Equality Spain (2009–2010). *Women in figures*. Reconciliation. Uses of time. <https://www.inmujeres.gob.es/MujerCifras/Conciliacion/UsosdelTiempo.htm>
- Organic Law 1/2023 of 28 February amending Organic Law 2/2010 of 3 March on sexual and reproductive health and the voluntary interruption of pregnancy. (*Ley Orgánica 1/2023, de 28 de febrero, por la que se modifica la Ley Orgánica 2/2010, de 3 de marzo, de salud sexual y reproductiva y de la interrupción voluntaria del embarazo*). (2023). <https://www.boe.es/buscar/act.php?id=BOE-A-2023-5364>
- Organic Law 3/2007 of 22 March 2007, on effective equality between women and men (*Ley Orgánica 3/2007, de 22 de marzo, para la igualdad efectiva de mujeres y hombres*). (2007). <https://www.boe.es/buscar/act.php?id=BOE-A-2007-6115>

- Rodríguez Rodríguez, E. (2010). *Instituciones de conciliación de trabajo con el cuidado de los familiares*. Albacete: Bomarzo.
- Rodríguez Rodríguez, E. (2021). La conciliación y la corresponsabilidad de los cuidados como pilares del trabajo decente. In E. Rodríguez Rodríguez & N. M. Martínez Yáñez (Eds.), *Conciliación y corresponsabilidad de las personas trabajadoras: presente y futuro* (pp. 31–40). Barcelona: Bosch Editor.
- Royal Decree-Law 3/2012 of 10 February urgent measures to reform the labour market. (*Real Decreto-ley 3/2012, de 10 de febrero, de medidas urgentes para la reforma del mercado laboral*). (2012). <https://www.boe.es/buscar/act.php?id=BOE-A-2012-2076>
- Royal Decree-Law 5/2023 of 28 June adopting and extending certain measures in response to the economic and social consequences of the war in Ukraine, supporting the reconstruction of the island of La Palma and other situations of vulnerability; transposing European Union Directives on structural modifications of commercial companies and reconciliation of family and professional life of parents and carers; and implementing and enforcing European Union law. (*Real Decreto-ley 5/2023, de 28 de junio, por el que se adoptan y prorrogan determinadas medidas de respuesta a las consecuencias económicas y sociales de la Guerra de Ucrania, de apoyo a la reconstrucción de la isla de La Palma y a otras situaciones de vulnerabilidad; de transposición de Directivas de la Unión Europea en materia de modificaciones estructurales de sociedades mercantiles y conciliación de la vida familiar y la vida profesional de los progenitores y los cuidadores; y de ejecución y cumplimiento del Derecho de la Unión Europea*). (2023). <https://www.boe.es/buscar/act.php?id=BOE-A-2023-15135>
- Royal Decree-Law 6/2019, of 1 March, on urgent measures to guarantee equal treatment and opportunities between women and men in employment and occupation. (*Real Decreto-ley 6/2019, de 1 de marzo, de medidas urgentes para garantía de la igualdad de trato y de oportunidades entre mujeres y hombres en el empleo y la ocupación*). (2019). <https://www.boe.es/buscar/act.php?id=BOE-A-2019-3244>
- Royal Legislative Decree 2/2015, of 23 October, which approves the revised text of the Workers' Statute Law. (*Real Decreto Legislativo 2/2015, de 23 de octubre, por el que se aprueba el texto refundido de la Ley del Estatuto de los Trabajadores*). (2015). <https://www.boe.es/buscar/act.php?id=BOE-A-2015-11430>
- Treaty of Amsterdam (1997). *Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A11997D%2FTXT>
- Treaty of Rome (1957). *Treaty Establishing the European Economic Community, March 25, 1957*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:11957E/TXT>
- Treaty on the Functioning of the European Union (2007). *Consolidated version of the Treaty on the Functioning of the European Union, December 13, 2007*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>
- World Economic Forum (2023). 2023 Gender Gap survey. Geneva: World Economic Forum. https://www3.weforum.org/docs/WEF_GGGR_2023.pdf

How to cite: Ribes Moreno, M. I. (2023). Women's rights in the workplace – EU vs. Spanish legislation on co-responsibility rights. *Stanovništvo*, 61(2), 85–107. <https://doi.org/10.59954/stnv.539>

Prava žena na radnom mestu: pravo zajedničke odgovornosti u zakonodavstvu EU i Španije

SAŽETAK

Uspostavljanje regulatornog okvira za osiguranje ravnopravnosti žena na mestima rada bio je dug put u Evropskoj uniji (EU) i državama članicama. U Španiji, na početku, nije bilo značajnog podsticaja. Ipak, nekoliko decenija kasnije, unapređenjem zakonodavstva Španija je postala prijatno mesto za život i rad žena, iako još uvek postoje pitanja na kojima treba raditi. Ovaj rad ima za cilj analizu usklađivanja i adekvatnosti španskog radnog zakonodavstva sa normativnim tekovinama EU u oblasti osiguranja ravnoteže rada i života i zajedničke odgovornosti žena i muškaraca, kao osnovnih elemenata za postizanje ravnopravnosti na mestima rada. U tom cilju biće dat detaljan prikaz uvođenja prava u domaći regulatorni okvir. Posledično, studija ima za cilj procenu da li je Španija jedna od država EU koja je dostigla najveće standarde rodne ravnopravnosti u oblasti zapošljavanja i obavljanja zanimanja, koji pak proizilaze iz implementacije i ostvarivanja prava na ravnotežu rada i života, kako bi se rešila pitanja zajedničke odgovornosti i usklađivanja profesionalnih sa porodičnim dužnostima.

KLJUČNE REČI

zajednička odgovornost, ravnoteža rada i života, pitanja usklađivanja, ravnopravnost, prava radnika