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## EMPLOYMENT & LABOUR LAW

# EQUAL PAY FOR WOMEN AND MEN

*The law establishes information, assessment and correction mechanisms intended to promote equal pay for women and men for the same work or work of equal value.*

Law 60/2018 was published on 21 August 2018 and it introduces measures to promote equal pay for women and men for work that is the same or is of equal value. More precisely, the law establishes information, assessment and correction mechanisms that aim to achieve such equal pay.

At the outset, the law imposes an obligation on the employer to ensure the existence of a transparent pay policy, based on an assessment of the work components of the job on the basis of objective criteria, common to men and women. These components are merit, productivity, attendance or seniority.

As a result, if a worker alleges that he or she is being discriminated against in face of the pay of another worker or workers, the employer must demonstrate that it does in fact have a pay policy in line with the one mentioned above.

This obligation is enforceable six months after this law comes into effect, that is, as from 21 August 2019.

Additionally, if the Authority for Working Conditions detects, at the company, pay differences between women and men, the employer will be notified to submit a plan to assess the pay differences.

During the first two years of the life of this law, the pay-difference assessment plan will apply only to employers that employ 250 or more workers, and it will be extended to employers that employ 50 or more workers as from the third year it is in force.

The said assessment plan is implemented for 12 months and is based on the evaluation of the work component of the job, on the basis of objective criteria, in order to exclude any possibility of discrimination by virtue of sex.

At the end of the said period, the employer must inform the Authority for Working Conditions of the results of the implementation of the plan, demonstrating any justified pay differences and the correction of unjustified pay differences.

Any pay differences that remain in place and have not been justified by the employer are presumed to be discriminatory.

Failure to comply with the rules on assessing pay differences constitutes a serious administrative offence, which may result in application of the ancillary sanction of deprivation of the right to take part in public tenders or calls for tender for a period of two years.

This law further establishes the possibility of the worker or shop steward applying in writing to the Commission for Equality in Labour and Employment for the issue of an opinion as to the existence of pay discrimination by virtue of sex.

This application may only be submitted 6 months after this law comes into force.

In this case, the employer will be notified by the Commission for Equality in Labour and Employment to state its case and to provide information on the pay policy and on the criteria used to calculate the applicant's pay and that of workers of the opposite sex, in respect of whom the applicant considers that he or she has been discriminated. Failure to provide the requested information is considered failure to justify the pay differences.

Having gathered this information, if the Commission for Equality in Labour and Employment concludes that there are indications of pay discrimination, the employer will be notified to provide, within 180 days, justification for the said indications or present the corrective measures implemented.

Unjustified pay differences are presumed to be discriminatory.

*Should the conclusion be that there is discrimination at the company by virtue of sex, which constitutes a very serious administrative offence, the Authority for Working Conditions will bring the corresponding administrative-offence proceedings.*

The Commission for Equality in Labour and Employment will issue a final binding opinion of which it will notify the applicant, the employer and the Authority for Working Conditions.

Should the conclusion be that there is discrimination at the company by virtue of sex, which constitutes a very serious administrative offence, the Authority for Working Conditions will bring the corresponding administrative-offence proceedings.

Under these new rules, dismissal or application of another sanction allegedly to punish an employment infringement within one year of the request for the said opinion will be presumed abusive, and the provisions of paragraphs 3 to 7 of the Employment Code will be applied.

This law comes into force six months after its publication, that is, on 21 February 2019.

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