

Spain¹

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For comparisons with other countries in this review on leave provision and early childhood education and care services, please see the [cross-country tables](#) at the front of the review (also available individually on the Leave Network website). To contact authors of country notes, see the [members](#) page on the Leave Network website.

1. Current leave and other employment-related policies to support parents

a. Maternity leave (*Permiso y prestación por nacimiento y cuidado del menor de la madre biológica*) (responsibility of the Ministry of Labour and Social Security)

Length of leave (before and after birth)

- 16 weeks: six weeks are obligatory and must be taken following the birth, while the remaining ten weeks can be taken before or after the birth.

Payment and funding

- 100 per cent of earnings up to a ceiling of €3,751.20 per month, unchanged since 2017. This allowance is tax-free.
- A flat-rate benefit (€537.84 per month or €17.84 per day) is paid for 42 calendar days to all employed women who do not meet eligibility requirements (unchanged since 2016).
- Financed by social insurance contributions from employers and employees. As a rule, employers pay 23.6 per cent of gross earnings and employees pay 4.7 per cent, to cover common contingencies which include pensions, sickness, and leaves

¹ Meil, G., Lapuerta, I., and Escobedo, A. (2019) 'Spain country note,' in Koslowski, A., Blum, S., Dobrotić, I., Macht, A., and Moss, P. (eds.) *International Review of Leave Policies and Research 2019*. Available at: http://www.leavenetwork.org/lp_and_r_reports/

(*contingencias comunes*), with an additional contribution paid to cover unemployment. In the case of public servants, all contributions are paid by their employer.

Flexibility in use

- Leave taking can be anticipated until four weeks before the foreseen birth date. This provision also applies in the case of international adoption if parents must move to the country of origin of the child.
- The first six weeks must be taken full-time after the birth (or the judicial decision of adoption or foster care). The ten remaining weeks can be taken, in agreement with the employer, part-time and/or spread over the first year on a weekly basis. Employers must be informed at least 15 days in advance.

Eligibility (e.g. related to employment or family circumstances)

- All employed women (whether employee or self-employed; working on open-ended or fixed-term contracts; working full- or part-time) are entitled to Maternity leave. However, conditions must be met in order to qualify for the earnings-related Maternity leave benefit (non-eligible employees receive a flat-rate payment for 42 calendar days after delivery): the mother needs to be making social security contributions at the beginning of the leave; or be receiving an unemployment contributory benefit; or be in the first year of the Parental leave, and have contributed to social security for at least 180 days in the previous seven years (or 360 days during working life). Women under 21 years of age do not need to have had a previous period of social security contribution, and women between 21 and 26 years of age need only 90 days in the previous seven years, or 180 days during their working life. This requirement is more flexible for women who work part-time. Self-employed mothers are exempt from paying social security contributions while on Maternity leave.

Variation in leave due to child or family reasons (e.g. multiple or premature births; poor health or disability of child or mother; lone parent); or delegation of leave to person other than the mother

- In the case of the birth, adoption, or fostering of a child or children with a disability, mothers have the right to one extra week of leave for a new child from the second one onward, and to family benefits from an additional lump-sum benefit.
- In the case of a premature birth or infant hospitalisation, Maternity leave is extended up to 13 weeks.
- If the baby dies, Maternity leave is not reduced.

- Only for public employees: if the mother dies, the other parent can take the Maternity leave entitlements, independent of the mother's previous employment situation and entitlements.
- Employed mothers have the right to transfer up to four of their 16 paid weeks of Maternity leave to the father, on these conditions: that mothers take six weeks after giving birth; that their partner fulfils contributory requirements; and that the transfer does not endanger the mother's health. Leave can be completely or partly transferred, so both parents may share full- or part-time leave simultaneously.
- The non-contributory benefit is extended to 14 calendar days (from 42 to 56 calendar days) for single mothers, large families, multiple births, or disabilities.
- In the case of adoption and foster care, each parent has the right to six weeks of full-time leave just after the judicial or administrative decision, then 12 additional weeks must be shared between both parents during the first year. Each parent can take a maximum of ten additional weeks, full-time or part-time. Public employees can take these weeks spread over the first year on a weekly basis, while employees in the private sector must take them in a block during the first year. In the case of international adoptions, which require moving to the home country of the child, public employees can take an additional two-month paid leave at a lower rate. Same-sex parents have the same rights as heterosexual parents.

Additional note (e.g. if leave payments are often supplemented by collective agreements; employer exclusions or rights to postpone)

- Employed and self-employed pregnant women and mothers breastfeeding babies less than nine months old are entitled to be relocated to another workplace, if working conditions are not compatible with women in such circumstances or it is a risk for the baby. If this cannot be reasonably accommodated, the working contract or activity must be interrupted, and leave can be taken with payment of 100 per cent of earnings. Such leave correspondingly lasts until the beginning of Maternity leave or until the baby reaches the age of nine months.
- Several regional and local governments have improved entitlements for public sector employees. For example, women working for the municipality of Madrid have a right of up to eight additional weeks of Maternity leave and those working for the regional government of Madrid have a right of up to ten calendar days.

b. Paternity leave (*permiso y prestación por nacimiento y cuidado del menor del progenitor distinto de la madre*)

***biológica*) (responsibility of the Ministry of Labour and Immigration)**

Length of leave (before and after birth)

- 8 weeks for all employed fathers (including self-employed) after childbirth, adoption, or foster care.

Payment and funding

- 100 per cent of earnings, paid by the Social Security Fund with the same ceiling as for Maternity leave. This benefit is tax-free. Paternity leave is funded the same as Maternity leave.

Flexibility in use

- Two weeks must be taken full-time immediately after the birth. The six remaining weeks can, in agreement with the employer, be taken part-time and/or spread over the first year on a weekly basis.
- In the case of adoption or foster care, six weeks must be taken full-time after the judicial or administrative decision, and the remaining time can be taken full- or part-time in one block during the first year (see Maternity leave).
- Employers must be informed at least 15 days in advance. In a case where both parents work for the same employer and they decide to take leave at the same time, the employer can restrict the use.

Regional or local variations in leave policy

A number of regional and local governments' improved entitlements for public sector employees before the last leave reform – promoted by the Socialist government in March 2019 – came into effect. However, these local and regional entitlements might be overcome by the changes introduced in this reform.

Eligibility (e.g. related to employment or family circumstances)

- Same conditions as for Maternity leave.

Variation in leave due to child or family reasons (e.g. multiple or premature births; poor health or disability of child or mother; lone parent); or delegation of leave to person other than the father

- Leave is extended by one extra week per child from the second one onward, in the case of multiple births (or adoption or fostering) or if the child has a disability.

- The entitlement is gender neutral, to encompass gay and lesbian couples: this leave can be taken by the member of the couple who did not use the Maternity leave (or most of it) (see 1.e. below).
- In the above-mentioned case of public employees in Catalonia, single mothers who assume the sole custody of the child can use the extra month for fathers at the end of Maternity leave.

Additional note (e.g. if leave payments are often supplemented by collective agreements; employer exclusions or rights to postpone) or delegation of leave to person other than the parents

- See 'regional or local variations' for improved conditions offered by some regional governments or municipalities for their employees.
- This leave cannot be transferred to the other parent.

c. Parental leave (*Excedencia por cuidado de hijos*) (responsibility of the Ministry of Employment and Social Security)

Length of leave (before and after birth)

- Each parent is entitled to take leave until three years after childbirth. Leave is an individual right. During the first year, return to the same job position is protected. After the first year, job protection is restricted to a job of the same category.

Payment and funding

- None. Since 2011, all employees taking leave are credited with social security contributions for the whole period, which affects pension accounts, health cover, and new Maternity or Paternity leave entitlements. However, unemployment benefits and sickness leave are excluded.

Flexibility in use

- There are no limits to the number of periods of leave that can be taken until the child is three years old, with no minimum period required.

Regional or local variations in leave policy

- Today, only two out of 17 regional governments – *Comunidades Autónomas* – provide flat-rate benefits to increase the use of Parental leave. Five regional governments (Balearic Islands, Murcia, Castilla-León, Castilla-La Mancha, and Navarre) abolished

their benefits between 2010 and 2013 because of the economic crisis.

- Basque Country offers €277.08 per month in 2019 for families with an annual income below €20,000 per person (€232.92 for families with an annual income above the threshold). The amount of the benefit has not been updated since 2012 and income ceilings were introduced in 2015.
- La Rioja provides €250 per month in 2019, but restricted to families with an annual income below €40,000 (or €50,000 in the case of large families). The amount of the benefit has remained stable since 2003, when it was introduced, but the income ceiling has been increased.

Eligibility (e.g. related to employment or family circumstances)

- All employees. Employees on temporary contracts can only claim leave that is shorter than their contract period. Unemployed and self-employed workers are not eligible.

Variation in leave due to child or family reasons (e.g. multiple or premature births; poor health or disability of child or mother; lone parent)

- The period of job-secured leave is extended to 15 or 18 months in large families – defined as those with three or more children, or with two children, one of whom has a disability.
- The period of job-secured leave is also extended up to a maximum of 18 months when both parents use the Parental leave equally.

Additional note (e.g. if leave payments are often supplemented by collective agreements; employer exclusions or rights to postpone) or delegation of leave to person other than the parents

- If both parents work for the same company, the employer can put restrictions on both parents using leave at the same time, if this is justified for production reasons.
- In the public sector, the job position is protected for two years, and in the third year within the same municipality.

Pension credits

- For the calculation of the retirement or permanent disability pension, parents who have left employment, voluntarily or not, between the ninth month before birth (third in case of adoption or fostering of a minor) and the sixth year after, are given 260 days

(nine months) from the social security credits per child,² until all children reach the maximum limit of five years. These credits apply not only for calculating the aforementioned pensions, but also for all other social security benefits (except for the minimum payment period) and covers only the period spent outside of employment. It also applies to all births, after or before the law took force. Only one of the parents has the right to these pension credits; in the case of dispute, it is attributed to the mother.

b. Childcare leave or career breaks

- Unpaid career breaks are recognised in the labour and public employees' regulations (*excedencia voluntaria*). The only protection offered is claiming the right of return to an equivalent job before the end of the leave, once there is a vacancy. This job protection works much better in the public sector than in the private sector.

e. Other employment-related measures

Adoption leave and pay

- The same regulations as for other parents for the adoption or fostering of children under six years of age or older children with additional needs (e.g. disabilities, international adoptions).
- Either parent can benefit from the Maternity leave entitlement in the case of an adoption.
- Public sector employees involved in an international adoption have the right to two months of paid leave: these include basic payment without benefits, and the process requires that the adoptive parents stay in the country of origin of the future adoptive child.

Specific provision for (breast)feeding

- During the first nine months of the child's life, adoption, or foster care (12 months in the public sector), employees (both parents) are entitled to one hour of absence during the working day without a loss of earnings. This part-time leave (*permiso de cuidado del lactante*) was originally meant to support breastfeeding, but is defined now as period of nursing care. It is an individual, non-transferable entitlement. Self-employed parents are excluded. The period can be divided into two half-hours or be replaced by a half-hour shortening of the normal working day, or by an equivalent period on full-time days. The public sector and many collective

² Regulated by RD 1716/2012. Available at:
<https://www.boe.es/buscar/doc.php?id=BOE-A-2012-15765>

agreements allow for a full hour shortening of the normal working day. By consolidating this entitlement, parents can, in practice, extend Maternity (or Paternity) leave by two to four weeks (depending on the terms established by collective or company agreements). In the case of multiple births (or multiple adoptions or fostering) this leave is recognised for each child, although the length can vary depending on collective or company agreements, in the case of using it on a full-time basis. This absence is paid for by the employer. In the private sector, if both parents make use of this leave equally and in the same way, they can extend the leave until the child's first birthday. In this case, the wage reduction during this period is compensated by social security funds.

Leave to care for sick children

- Parents are entitled to full-time or part-time leave (with a minimum reduction of 50 per cent of working time) to take care of a seriously ill child under 18 years of age during the period the child is in hospital or in need of continuous treatment at home (with certification by the public health service); 109 types of illness are included. The scheme is paid at 100 per cent of the individual's earnings (subject to the same ceiling as Maternity leave) from professional sickness insurance schemes, with previous contributory requirements as for Maternity and Paternity leave. This entitlement is extended to parents working part-time, in which case leave must be at least equivalent to 25 per cent of full-time hours. The leave is an individual right, but only one of the parents is entitled to take leave at any one time. Parents can alternate its use on a monthly base. In the case of divorce, when there is no agreement, the parent with legal custody has the right to take this leave; if they have joint custody, it is the one who makes the claim first.

Flexible working

- The law also guarantees that employees can postpone their annual holidays and use them after Maternity or Paternity leave, so that they do not lose them.
- A working parent can reduce their working day by between an eighth and a half of its normal duration, in order to care for a child under the age of twelve or to look after a disabled child (*reducción de jornada por guarda legal*). Employees may decide, within their usual work schedule, the extent and period of the working time reduction. It is defined as an individual right and there is no payment, but workers taking this part-time leave are credited with up to two years' full-time social security contributions (which affect pension accounts, unemployment benefits, and new leave entitlements). In addition, public employees are guaranteed some

working time flexibility to adapt (for example) to school hours. Self-employed parents are excluded from this right.

- Since 2000, a number of regional governments have introduced payments to parents reducing their working hours. For example: Basque Country, Navarre, La Rioja, Galicia, Castilla La Mancha or Castilla-León have provided flat-rate payments to support this measure, proportional to the working time reduction (though Navarre abolished these payments in 2011, and Castilla-Leon and Castilla La Mancha in 2012). Since 2002, public sector employees in Catalonia (both fathers and mothers) can reduce their working hours by a third with a 20 per cent earnings reduction, or by a half with a 40 per cent earnings reduction, if they have a child under six years of age or care for a disabled relative. Since 2012, they have been able to consolidate this reduction in working time as a full-time leave during the first year in order to extend, in practice, their Maternity or Paternity leave.
- Parents of children under the age of twelve have the right to request an adaptation of their working time, including teleworking, to guarantee their right to balance working and family life. Employers can reject the request, but have to justify it based on objective reasons.

Time off for the care of dependants

- 2 days' leave per employee, per event (*permiso por enfermedad grave de un familiar*) to care for a seriously ill child or for other family reasons (serious illness, hospitalisation, or death of a relative to a second degree of consanguinity or affinity), paid by the employer. The entitlement is extended to four days if travelling is required for work. However, there is no agreement on what 'serious illness' means. For public sector employees, this entitlement is extended to three days (five days if travelling is required) for the care of first-degree relatives (e.g. partner, children or parents, including in-laws).
- Each employee may take up to two years of leave (*excedencia por cuidado de un familiar*) or reduce working hours by between an eighth and a half (*reducción de jornada por cuidado de un familiar*) to take care of a dependent relative (up to the 'second degree of consanguinity or affinity') due to severe illness, disability, accidents, or old age. Workers taking leave are credited with social security contributions, which affect pension payments, health cover, and new leave entitlements, for the first year of full-time or part-time leave.
- Public sector employees can extend the unpaid leave to care for a relative for up to three years, with the whole period credited with social security contributions and related social protection benefits. Furthermore, they can work part-time for up to one month without a loss in earnings in the case of a very serious illness for a first-

degree relative (child, partner or parent including in-laws); they can also benefit from extra flexibility in working time, as do parents of children under 12 years of age.

- In cases of chronic dependency, one person can become an informal carer to another and receive a payment if both are co-resident. It varies depending on the region of residence, the relative's level of dependency recognised by a public agency, and the household income (e.g. in the case of Navarre, one of the regions with the highest benefits, the payments are between €60 and €542.85 per month in 2019). The payment is claimed by the dependent relative. Since 2019, informal carers have been credited with social security contributions for the minimum base, which affect pension accounts and health cover. These social security contributions were temporarily abolished during the financial crisis.

2. Relationship between leave policy and early childhood education and care policy

The maximum period of post-natal leave available in Spain is three years, but most of this period is unpaid; leave paid at a high rate ends after Maternity and Paternity leave (around five months after the birth, including the consolidation of reduced working hours related to breastfeeding leave or *permiso de cuidado del lactante*, see section 1.e., or six and a half months if fathers split Paternity leave).

The 2006 Spanish Education Law (*Ley Orgánica de Educación*), modified in 2013 by the Law for the Improvement of Educational Quality (*Ley Orgánica para la Mejora de la Calidad Educativa*), provides an entitlement to ECEC from three years of age onwards, and nearly all children over this age attend early education. Therefore, there is no gap between the end of Parental leave and an ECEC entitlement, but a substantial gap of approximately two and half years between the end of well-paid leave and this *de facto* entitlement. Levels of attendance at formal services for children both under and over three years of age are above the average for the countries included in this review and for OECD countries. For actual attendance levels, see 'relationship between leave and ECEC entitlements' on the [cross-country comparisons](#) page. In 2018, a tax allowance of up to €1,000 was introduced for payments made to formal care services for children below the age of three, which adds up to other direct allowances paid by many regional governments.

3. Changes in policy since April 2018 (including proposals currently under discussion)

Substantial changes have taken place during the last year. In July 2017, Paternity leave had been extended from four to five weeks as a consequence of a government agreement among two right-wing parties. In June 2018, a new left-wing coalition gained government, being one of the coalition agreements to equal the length of Maternity leave and Paternity leave, making them individual and non-transferable rights. A new law was introduced in March 2019³ fixing the terms and calendar of this leave reform. The length of the Paternity leave will be increased gradually over the period 2019 to 2021. The new law facilitates the use of both leaves by reducing the conditions to get access to benefits and allowing their use over a period of 12 months on a weekly basis. Names have also changed (the terms 'Maternity' and 'Paternity' have been omitted), using instead the terms 'birth, adoption or foster care leave' and, for the payments, 'birth and caring benefit.' The law also redefined the breastfeeding leave from a family right, in which only one parent can use it, to an individual and non-transferable entitlement.

4. Uptake of leave

a. Maternity leave

After a long period of continuous coverage increases (from 31 per cent of total births in 1995 to 68 per cent in 2009) due to growing maternal employment and better attention being paid atypical employment situations, coverage has been decreasing to 66 per cent in 2014 (as a consequence of the economic crisis and atypical employment). Since then, a slow increase can be observed, reaching 68 per cent in 2017. It is worth highlighting that, in the context of serious economic crisis and very high general unemployment, maternal employment is hardly diminishing while the female activity rate in central adult age groups has sharply increased. According to the survey *The social use of leave in Spain, 2012* (see section 5.c. in the 2014 Annual Report), 80 per cent of mothers aged 25 to 60, who were in paid employment when pregnant, benefited from Maternity leave, with this percentage being higher among younger women than among older ones (89 per cent for those aged less than 40 and 72 per cent for older women). This result is very close to that obtained using official statistics: 85.6 per cent of mothers, who were active in the labour market at the birth of the child, benefited from Maternity leave in 2014 (authors' own calculations). Fathers share some Maternity leave in around one-quarter of adoption cases (27.5 per cent in 2005), but around two per cent of all such leaves (2.1 per cent in 2016 and 1.9 in 2018).

³ See: 'Real Decreto-ley 6/20019, de 1 de marzo, de medidas urgentes para la garantía de la igualdad de trato y de oportunidades entre mujeres y hombres en el empleo y la ocupación.' Available at: <https://www.boe.es/boe/dias/2019/03/07/pdfs/BOE-A-2019-3244.pdf>

In 2018, an average of 6,895 women per month were on leave because of a risk during pregnancy, with an average duration of 90.5 days, equivalent to 0.2 per cent of all live births in 2017. Since 2008 (the first year for which there are available uptake data), there has been a steady increase in the number of women who take this kind of leave (from 2,546 per month to 6,895 in 2018), while the average number of days of leave taken has decreased (from 120 to 90.5 in the same period). The number of women per month taking leave for breastfeeding because of a potential risk (introduced in 2007) reached a mean of 75.5 per month in 2018. The mean number of days of leave was 139.8 days.

b. Paternity leave

255,531 fathers benefited from Paternity leave in 2018, 3.4 per cent less than in 2017. This decrease is probably due to the decrease in birth rate (there are no official data yet on births for 2018), as uptake rates have been increasing steadily since its introduction, from 53.9 per cent in 2008 to 67.3 per cent in 2017 (authors' own calculations, based on the ratio number of fathers who took a leave to total number of births). According to the survey *The social use of leave in Spain, 2012* (see section 5.c. in the 2014 Annual Report), the uptake rate among those eligible for Paternity leave is much higher: 74 per cent of men who became fathers after the introduction of this leave, and were working at that time, report having used it.

Those who were working when they fathered a child and did not take it are mostly men who work without a contract or are self-employed. The difference between uptake rates can be attributed to the high proportion of unemployment among young adults (the proportion of unemployed men aged 30 to 34 years increased from 9.2 per cent in 2008, to 25.9 percent in 2012, and was still 13.3 per cent in 2018), as well as to the fact that the social security institution does not register the Paternity leave of some public servants.

c. Parental leave

In 2017, 43,899 people started some period of Parental leave (8.3 per cent more than in the previous year, the maximum reached since data have been available). This corresponds to 11.2 per cent of the births in that year, but still higher than in the recent past (in 1995 it was only 1.7 per cent). However, this represents only 3.6 per cent of children under three years of age; the age is relevant since leave can be taken until children turn three years old. Fathers made up 7.7 per cent of users, 0.3 per cent more than in 2016.⁴

⁴ Ministerio de Empleo y Seguridad Social (2016) *Anuario de Estadísticas del Ministerio de Empleo y Seguridad Social, 2015*. Available at: <http://www.empleo.gob.es/es/estadisticas/contenidos/anuario.htm>

According to the survey *The social use of leave in Spain, 2012*,⁵ only 0.5 per cent of men aged 25 to 59 who were working when they became fathers made use of Parental leave, compared to 10.4 per cent of women. In most cases, leave was taken for the first child (69 per cent); and women mostly took it just after Maternity leave (64 per cent) for a maximum of one year (85 per cent), and most commonly for six months or less (46 per cent), i.e. until a childcare arrangement was available. After leave, all men returned to a full-time job, but only 55 per cent of women did so, while a third returned to part-time job or part-time leave (35 per cent), and seven per cent gave up paid work altogether or lost their jobs (three per cent).

d. Other employment-related measures

The fact that Parental leave and working time reduction are not paid limits their use, even among those who have a secure job. The influence of payment can be seen from the high and gender-equal use of the fully-paid working time reduction of one-third of usual working hours, for parents of children under one year old – this was available for public sector employees in Catalonia between 2002 and 2012 (see section 3 in the 2013 Annual Report); otherwise the use of unpaid working time reductions is limited.

According to the survey *The social use of leave in Spain, 2012*, 19.9 per cent of women and 1.8 per cent of men aged 25 to 59 years, employed at the time when they became parents, made use of the right to reduce their working hours. As in the case of Parental leave, most working time reduction is taken for the first child (61 per cent among those with two or more children) and, among women, mostly taken just after Maternity leave (55 per cent) or during the first year of the child's life (79 per cent). Men reduce their working hours mostly for less than one year (72 per cent), while women tend to do it for a longer period (61 per cent for more than one year).

According to the Spanish Social Security Statistics,⁶ the number of parents who have taken the leave to care for seriously ill children (introduced in 2011) has increased from 1,114 in 2012 to 3,136 in 2018. The mean number of days of leave taken has risen sharply from 176.9 to 412 during this period.

Unpaid leave to care for dependent relatives has been available from 2001 onwards. Between 2001 and 2005, about 9,000 employees have

⁵ Meil, G. (2014) See sections 5.b. and 5.c. in the 2014 Annual Report.

⁶ http://www.seg-social.es/Internet_1/Estadistica/Est/Otras_Prestaciones_de_la_Seguridad_Social/index.htm

used it: 82 per cent were women, with a median duration of 62 days, and 18 per cent were men with a median duration of 55 days (Escobedo and Navarro, 2007). Since 2005, the number of users has grown, increasing from 3,332 in 2005 to 11,234 new users in 2017, 12.1 per cent more than in 2016. The proportion of male users remained stable, at around 15 to 16 per cent over the period.

The statistical yearbook of the Ministry of Labour does not provide details on the duration, nor on the extent to which the leaves to care for dependent relatives are connected to the benefit for informal carers (introduced since the 2006 Spanish law to support dependents). In January 2018, 32.5 per cent of all benefits provided under this law were used for paying informal family carers (384,504 benefits, 27.2 per cent more than one year previously). However, it seems difficult to link care leave to benefits, because these usually require a long administrative process.