

Spain⁵⁰⁴

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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

Note on terminology: A reform of the Spanish gender equality law came into effect in March 2019 and major changes were introduced in leave policy (see details in 2019 review), introducing gender-neutral leave terminology. 'Maternity leave' was replaced by 'Birth and Childcare Leave' and the allowance by 'Birth and Childcare Benefit'. 'Paternity leave' was replaced by 'Birth and childcare leave' and benefit 'for the parent other than the biological mother'.

a. Birth and Childcare Leave for the mother (*Permiso y prestación por nacimiento y cuidado del menor*, replaced 'maternity leave': see 'note on terminology') (responsibility of the Ministry of Labour and Social Security)

Length of leave (before and after birth)

- 16 weeks: up to 4 weeks before the birth, the remainder after the birth.
- It is obligatory to take 6 weeks after the birth.

⁵⁰⁴ Meil, G., Escobedo, A., Lapuerta, I. and Romero-Balsas, P. (2025) 'Spain country note', in Dobrotić, I., Blum, S., Kaufman, G., Kosłowski, A., Moss, P. and Valentova, M. (eds.) *International Review of Leave Policies and Research 2025* Available at: http://www.leavenetwork.org/lp_and_r_reports/

Payment, funding and taxation

- 100 per cent of gross earnings up to an upper limit of €4,909.50 (gross earnings) per month.
- In addition to the birth and childcare leave, a pregnancy leave right and benefit before delivery is established under the scope of the general sickness insurance. It is paid at 60 per cent of earnings and can be further improved through collective agreements. All pregnant mothers can take this pregnancy leave from week 39 until birth.
- A flat-rate benefit (€600 per month or €20 per day, the same since 2023) is paid for 42 calendar days to all employed women who do not meet eligibility requirements.
- Payments are not taxed.
- Funded 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 (*contingencias comunes*), with additional contributions paid to cover unemployment and other circumstances. In the case of public servants, all contributions are paid by their employer.

Flexibility in use

- Mothers can take birth leave from 4 weeks before the due date. This provision also applies in the case of international adoption if parents must move to the country of origin of the child.
- Six weeks must be taken full-time after the birth (or the judicial decision of adoption or foster care). The 10 remaining weeks can be taken, in agreement with the employer, part-time, and/or spread over the first year on a weekly basis (the employer, however, can refuse a proposal to take the leave on a full-time basis). In case of adoption, the possibility to spread parts of leave over the first year applies only for children under 12 months of age. In any case, employers must be informed at least 15 days in advance.

Regional or local variations in leave policy

- 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 8 additional weeks of the Birth and Childcare Leave (Collective Agreement 2019-2022, applying also for 2025) and those working for the regional government of Madrid have a right of up to 10 calendar days in case of birth, adoption or foster care (Collective Agreement 2021-2024). This improvement is not applicable for the second parent.

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 Birth and Childcare Leave.
- However, conditions must be met in order to qualify for the earnings-related 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 unpaid Parental leave, and have contributed to social security for at least 180 days in the previous 7 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 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 1 extra week of leave for a new child, and to family benefits from an additional lump-sum benefit. In case of multiple birth, mothers have the right to 1 extra week for every new-born from the second child onward.
- In the case of a premature birth or infant hospitalisation, leave is extended up to 13 weeks.
- If the baby dies, leave is not reduced.
- If the mother dies, the other parent can take her leave entitlements, independent of the mother's previous employment situation and entitlements, what is not the case if the father dies.
- 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 of a child less than six years of age, each parent must take 6 weeks of full-time leave just after the judicial or administrative decision. The 10 optional weeks for each parent can be taken full-time or part-time in agreement with the employer (who can, however, refuse a proposal to take the leave on a full-time basis). These optional weeks can be spread over the first year on a weekly basis (if the child is less than 12 months old and both parents work), or taken in one continuous period 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.
- In the case of one-parent families, although not included in the Social Security Law, the Constitutional Court has ruled in 2024 that the optional period of 10 weeks for the second parent has to be acknowledged to lone mothers, extending total leave length to 26 weeks.
- Same-sex parents have the same rights as heterosexual parents.

Regional or local variations in leave policy

- None.

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 9 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 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 Birth and Childcare Leave, or until the baby reaches the age of 9 months.

b. Birth and childcare leave for the parent other than the biological mother (*permiso y prestación por nacimiento y cuidado del menor del progenitor distinto de la madre biológica*, replaced 'Paternity leave': see 'note on terminology') (responsibility of the Ministry of Labour and Immigration)

Length of leave (before and after birth)

- 16 weeks for all employed fathers (including self-employed) after childbirth, adoption, or foster care.
- It is obligatory to take 6 weeks after the birth.

Payment, funding and taxation

- 100 per cent of earnings.
- Funded and taxed as for Maternity leave.

Flexibility in use

- Same conditions as for Birth and Childcare Leave for the biological mother, except for the possibility to initiate leave up to 4 weeks before birth (in case of international adoption, if parents have to travel to the adoptee's country of origin, both parents can initiate leave till four weeks before the formal adoption).

Regional or local variations in leave policy

- Some regional and local governments have extended leave rights beyond what the labour legislation establishes.

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

- Same conditions as for Birth and Childcare Leave for the biological mother. However, the flat-rate benefit available for employed biological mothers who do not meet eligibility requirements (see Maternity Leave) is not accessible for employed fathers who do not meet the eligibility requirements.

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 1 extra week per child from the 2nd onward in the case of multiple births (or adoption or fostering), or if the child has a disability.
- The entitlement encompasses same-sex couples: this leave can be taken by the parents other than the biological mother (see 1e).
- In case of lone-parenthood the birth leave and benefit can be extended, upon request, to 26 weeks.

Regional or local variations in leave policy

- None.

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

- None reported.

c. Parental leave

As a consequence of the transposition of the EU Directive 2019/1158 on Work-Life Balance in June 2023 (article 5, Parental Leave), a new leave scheme has been introduced, *Permiso parental*, additional to the existing leave, *Excedencia por Cuidado de Hijos*. Therefore, there are now two Parental leave schemes, with different names, once Birth Leave has finished, with two different designs in relation to length, potential payment (under parliamentary discussion for the new scheme), job protection, and the period of use. We present these two leave schemes here as Parental leave 1 (8 weeks) and Parental leave 2 (3 years).

c. Parental leave 1 (*Permiso Parental*) (responsibility of the Ministry of Employment and Social Security)

Length of leave

- 8 weeks per parent.
- Leave is an individual and non-transferable entitlement.

Payment, funding and taxation

- None.
- All employees taking leave are credited with Social Security contributions for the whole period, which affects all Social Security benefits, including pensions.

Flexibility in use

- Leave can be taken in one continuous period or split into shorter periods of time.
- Leave can be taken on a full-time or part-time basis.
- Leave can be taken until the child reaches 8 years.

Regional or local variations in leave policy

- None.

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); or delegation of leave to person other than the parents

- The entitlement includes same-sex couples.
- In the case of single parenthood, there is no right to accumulate the leave rights of both parents. However, according to the ruling of the Constitutional Court in the case of Birth Leave, this provision should be interpreted in the same terms, allowing the accumulation of the leave rights of both parents.

Regional or local variations in leave policy

- None.

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

- 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 (as is the case for other leaves).
- Employees must inform the employer of the time they plan to take with at least 10 days advance notice, except in case of *force majeure*. If employers consider that the leave request affects seriously the proper functioning of the company, they can delay it, providing a reasoned written answer to the request and after having offered an equally flexible alternative as the rejected one.

c. Parental leave 2 (*Excedencia por cuidado de hijos*) (responsibility of the Ministry of Employment and Social Security)

Length of leave

- Until the child reaches 3 years.
- Leave is an individual, non-transferable entitlement.
- During the first year, return to the same job position is protected; subsequently, job return protection is restricted to a job of the same category.

Payment, funding and taxation

- None.
- All employees taking leave are credited by the Social Security Institution with social security contributions for the whole period, which affects pension accounts, health cover, and new Birth and Childcare 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 3 years old, with no minimum period required.

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); or delegation of leave to person other than the parents

- The period of job-secured leave is extended to 15 or 18 months in large families, defined as those with 3 or more children, or with 2 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.

Regional or local variations in leave policy

- Four out of 17 regional governments – *Comunidades Autónomas* – provide flat-rate benefits to increase the use of this Parental leave.
- **Basque Country** offers €292 per month for families with an annual income below €20,000 per person (€245 for families with an annual income above this threshold). The amount of the benefit was updated in 2019 and income ceilings were introduced in 2015. The amount is increased by 30 per cent in case of single-parent or large families, severe disability of any of the family members or in situations of gender-based violence. Mothers can receive this

benefit for 18 months per child, whereas fathers for 30 months, with a maximum period of 73 months for all the children (48 months when the Parental leave is only used by the mother and 73 months when the father is the sole user).⁵⁰⁵

- **La Rioja** offers €350 per month up to a maximum of €12,800 to families with an annual income below €60,000 (or €70,000 in the case of large families). The amount is increased by 30 per cent for single-parent families, in which case income ceilings are reduced to €35,000 (or €40,000 when the single-parent family has two or more children). In the case of multiple births, the benefits are doubled. To be entitled, parents must be employed in the private sector (public sector employees are excluded) and have been with the company for at least one year. Parental leave must be taken for a minimum period of four months. If both parents use the leave at the same time, only one of them can receive the benefit. This benefit was updated in 2022, although the maximum income limits had already been revised several times since 2003, when the benefit was introduced.
- **Navarre** offers a payment of €750 per month for a maximum of 12 months to care for children who have suffered from a serious accident requiring hospitalisation and continuous care during and/or after hospitalisation. The amount is reduced to €500 per month in the cases of: (i) adoptions or foster care with an expected duration higher than a year; (ii) the care for children in the case of multiple births, adoption or foster care, until the children reach the age of six; (iii) families with 2 children when one of the siblings has a disability and both are under nine years old; (iv) families with three or more children, when two of them are under six years old; and (v) for the care of children from single-parent families, until they reach the age of six or nine years if the child has a disability. All these benefits are means-tested, with a range from €50,400 per year for families of two members to €75,600 for a family of six. The amounts and the cases covered have been extended in the year 2025. Care of sick children, regardless of their seriousness, is not included among the protected family circumstances.
- **Castilla-León** entitles each parent to €1,500 for Parental leave of three months or more. For large families, single-parent-families and families in a situation of permanent foster care or guardianship for the purpose of adoption of the child who motivates the leave, the amount of the grant is increased by an amount of €100 for each parent. In 2024, the co-responsibility requirements that demanded the same duration of Parental leave in the case of two-parent families were abolished. Income ceiling requirements were also removed.

⁵⁰⁵ The entitlement in the Basque Country to 8 weeks of Parental leave at 100 per cent of salary for single-parent families has been abolished following the Constitutional Court's ruling extending the birth and childcare leave from 16 to 26 weeks for these families. This benefit was introduced in 2021 to compensate for the limitations of birth and childcare leave, which prevented these families from accumulating the rights of both parents (see section 3 for more information on this issue).

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

- 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 2 years, and in the 3rd year within the same municipality.
- For the calculation of the retirement or permanent disability pension, parents who have left employment, voluntarily or not, between the 9th month before birth (3rd in case of adoption or fostering of a minor) and the 6th year after, are given 270 days (9 months) from the social security credits per child,⁵⁰⁶ until all children reach the maximum limit of 5 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 cover 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.
- There is a complementary pension benefit of €35.90 per month and per child for mothers (or alternatively for the father if he interrupted employment in connection to childbirth and has a lower pension than the mother) in the case of contributory old age or permanent sickness pensions, or widowhood pensions.⁵⁰⁷

d. Childcare leave or career breaks

- No statutory entitlement. 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 types of leave and flexible working

Adoption leave and pay

- The same regulations as for other parents for the adoption or fostering of children under 6 years of age or older children with additional needs (e.g., disabilities, international adoptions).
- Public sector employees involved in an international adoption have the right to 2 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.

⁵⁰⁶ Regulated by RD 1716/2012. Available at:

<https://www.boe.es/ buscar/doc.php?id=BOE-A-2012-15765>

⁵⁰⁷ See: <http://www.seg-social.es/wps/portal/wss/internet/Trabajadores/PrestacionesPensionesTrabajadores/4c43ce49-6636-4a12-bacf-5e6697eb81da> (regulated by Ley 22/2021, 28 December 2021 on the General State Budget or the year 2022)

Time off for the care of dependants

- 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 23 years of age (provided the illness started before 18 years) 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 upper limit as for the Birth and Childcare Leave benefit) from professional sickness insurance schemes, with previous contributory requirements as for Birth and Childcare 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.
- Five days leave per employee per event (*permiso por enfermedad grave de un familiar*), **to care for a seriously ill child, spouse or partner or a relative** to a second degree of consanguinity or affinity, including partner's relatives; or 2 days in the case of a death, extended to 4 days if travelling is required. The leave period is paid by the employer. However, there is no agreement on what 'serious illness' means. For public sector employees, the entitlement in case of death is extended to 3 days (5 days if travelling is required).
- Employees have the right to time off from work on grounds of **force majeure for urgent family reasons**. These urgent issues comprise cases of illness or accident of a person that lives with the worker, making the immediate attendance of the worker indispensable. The time off from work will be paid by the employer up to the equivalent of 4 working days per year.
- Each employee may take up to 2 years of unpaid 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 3 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 profoundly 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 who receives 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 €100 and €542.85 per month in 2025). The payment is claimed by the dependent

relative. Informal carers are credited with social security contributions for the minimum base, which affect pension accounts and health cover.

Specific provision for (breast)feeding

- During the first 9 months of the child's life, adoption, or foster care (12 months in the public sector), employees (both parents) are entitled to 1 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 a period of nursing care. It is an individual, non-transferable entitlement. Self-employed parents are excluded. The period can be divided into two 30-minute breaks or be replaced by shortening the normal working day by 30 minutes, or by an equivalent period on full-time days. The public sector and many collective agreements allow for 1 hour shortening of the normal working day.
- By consolidating this entitlement, parents can, in practice, extend their Birth and Childcare Leave by 2 to 4 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 1st birthday. In this case, the wage reduction during this additional period is compensated by social security funds.

Flexible working

- The law also guarantees that employees can postpone the annual holidays and use them after their Birth and Childcare 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, to care for a child under the age of twelve or to look after a disabled child of any age (*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 three 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.
- A number of regional governments offer 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. However, Navarre abolished these payments in 2011, and Castilla La Mancha and Castilla-León in 2012. This latter region has implemented a new benefit in 2020. 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 to extend, in practice, their Birth and Childcare Leave.

- Parents of children under the age of 12 years have the right to request an adaptation of their working time, including tele-working, to guarantee their right to balance working and family life. Employers can reject the request, but have to justify it based on objective reasons.

Antenatal appointments and care

- None.

Other provisions

- **Sickness leave in case of menstruation or abortion.** Women have the right to sickness leave due to certified health problems associated to menstruation causing incapacity for work (*Incapacidad temporal por menstruación incapacitante secundaria*) and in case of voluntary or non-voluntary interruption of pregnancy, while receiving health care from the Public Health Service. The payment level is the same as in the case of ordinary sickness (60 per cent of previous earnings, frequently topped up by the employer), except for being paid from the first day (instead of the fourth one) of leave.

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

The maximum period of post-natal leave is three years, but most of this period is unpaid; leave paid at a high rate ends after 'Birth and Childcare leave' (around five and a half months after the birth, including the consolidation of reduced working hours related to breastfeeding leave or *permiso de cuidado del lactante* - see 1e - if both parents use their leaves simultaneously or seven months if they use them consecutively after birth). The Spanish Education Law considers ECEC as a non compulsory stage of the education system (*Ley Orgánica 3/2020, de 29 de diciembre, por la que se modifica la Ley Orgánica 2/2006, de 3 de mayo, de Educación, LOMLOE*). It provides *de facto* an entitlement to Early Childhood Education and Care (ECEC) from 3 years of age, and nearly all children over this age attend early education. There is, therefore, no gap between the end of leave and an ECEC entitlement, but a substantial gap of approximately 2½ years between the end of well-paid leave and this *de facto* entitlement.

For ECEC attendance levels, see 'relationship between leave and ECEC entitlements' in the cross-country tables at the front of the review.
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3. Changes in policy since April 2024 (including proposals currently under discussion)

Following EC and OECD recommendations to improve Family Protection in Spain⁵⁰⁸, on 28 March 2023 the Spanish Government approved a new law project for the support for families (*Proyecto de Ley de Familias*) whose progress through Parliament was halted by the calling of a general election. On 29 February 2024 (BOE 8 March 2024), the same law project was submitted again to the Parliament and continue to be discussed. It aims to improve social protection to different types of families. The parliamentary discussion of the new Family Law could pave the way to meet the benefit requirements of the 2019 EU Directive on Work-Life Balance, as currently Parental leave is unpaid.

There has been no relevant legal changes since April 2024, despite some aspects of the EU Work-Life Balance Directive still awaiting transposition. However, the ruling of the Constitutional Court (140/2024, of 6 November)⁵⁰⁹ qualified the non-acknowledgment of the second parent leave right to lone mothers as not conforming to the constitutional principle of equal treatment. This constitutes an important change in the design of the Birth and Childcare leave for the growing number of these mothers and of children born in these families. The legal basis of this ruling is founded on the discrimination it represents for the children born in this type of families, as it deprives them of the right to be cared for by their parent for the same amount of time as children born into a two parent family. As Birth and Childcare leave regulation establishes that the first 6 weeks are compulsory for both parents and have to be taken just after birth, according to the principle of equal treatment, the Constitutional Court establishes that the non-compulsory part of the leave entitlement has to be granted to the single biological mother, amounting to 26 weeks leave right. The application of this principle could bring changes also in other leave rights, as could be the case of care leave. The Social Security Institution has subsequently published a written clarification on 18 December 2024, provisionally extending this additional provision to all (not only biological) single parents asking for it.⁵¹⁰

In the case of the 8 week Parental leave to care for children under 8 years that is currently unpaid (see Parental leave 1 above), the European Commission has initiated a procedure against Spain before the Court of Justice of the European Union (CJEU), requesting the imposition of a flat-rate fine on the Spanish Government due to the failure to transpose the EU 2019 Directive regarding the payment of this leave entitlement. Guaranteeing 16 weeks paid Birth and Childcare

⁵⁰⁸ OECD (2022) *Evolving Family Models in Spain: A New National Framework for Improved Support and Protection for Families*. Paris: OECD Publishing. Available at: <https://doi.org/10.1787/c27e63ab-en>

⁵⁰⁹ *Tribunal Constitucional, Sentencia de 6 de noviembre de 2024 Boletín Oficial del Estado (BOE) de 6 de diciembre de 2024* [Constitutional Court, Judgment of 6 November 2024 Official State Gazette (BOE) of 6 December 2024]

⁵¹⁰ *Spanish Social Security Institute, Sub-Directorate-General for Legal Planning And Assistance. Management criteria: 20/2024, 18 December 2024*. Accessed at <https://www.seg-social.es/wps/wcm/connect/wss/61ac0093-55df-47ad-8819-c6944c161d38/CRITERIO+DE+GESTION+20-2024.pdf?MOD=AJPERES>

leave for each parent, the present Spanish regulation fails to guarantee mothers the 2 months paid leave specified in the EU Directives 92/85 and 1158/201.⁵¹¹ On 21 February 2025, the Contentious Administrative Court number 1 of the city of Cuenca issued the first final judgment in Spain recognising the right of a worker to be paid. The ruling argues that the provisions of the 2019 European Directive on Work-Life-Balance 'are unconditional, sufficiently clear and precise', and, consequently, that 'parental leave must be paid'.⁵¹² The case was supported by one of the main public sector employee unions (CSIF). In addition, the provisional judgement of another Court, from December 2024, against Barcelona City Council also recognised this right to paid leave for a public employee; the judgement is presently being appealed. Trade unions, particularly in the public sector, are advocating for the recognition of this payment.

4. Uptake of leave

Statistics on uptake of leave are scarce and difficult to interpret, particularly after the 2019 reform, where the optional part of the Birth and Childcare leave can be split into different periods of time during the first year. Until now, official statistics provide only information on the total amount of administrative processes of granted leaves, but no information is available on splitting between parents or on the mean number of days the 2nd parent benefits from leave, or on part-time use.

a. Maternity leave

Since the beginning of the economic crisis in 2008 the number of mothers benefiting from Maternity leave has been decreasing as did also the number of births. The take up rate measured in relation to the number of births has remained, however, stable around 66 per cent (ranging from 64.6 till 69.2 per cent), as unemployment among women in central adult age groups did not increase substantially. This percentage underestimates the real take-up rate in relation to eligible mothers (those paying Social Security fees or benefiting from unemployment benefits). According to the data provided by the *Fertility Survey 2018* of the National Statistical Institute (sample of interviewed women), 82.5 per cent of eligible mothers aged 18 to 55 years benefited from Maternity leave for their first child and 84.9 per cent for their second child.⁵¹³ According to the survey

⁵¹¹ Cf. European Commission, Directorate-General for Justice and Consumers, Burri, S., De la Corte-Rodríguez, M., Böök, B. et al. (2024), *The transposition of the Work-Life Balance Directive in EU Member States (II) – Considerable work still to be done*, Publications Office of the European Union, <https://data.europa.eu/doi/10.2838/33291>

⁵¹³ Meil, G., Rogero-García, J. and Romero-Balsas, P. (2020) 'Los permisos para el cuidado de niños/as: evolución e implicaciones sociales y económicas' [Childcare leaves: evolution and social and economic implications], in A. Blanco et al. (eds.) *INFORME España 2020*, Madrid: Universidad Pontificia de Comillas, Catedra J. M. Martin Patino de la Cultura del Encuentro, pp.293-337. Available at: <https://blogs.comillas.edu/informeespana/>

Young Spanish Families 2021,⁵¹⁴ 89.6 per cent of eligible mothers of children aged less than 7 years benefited from leave for their youngest child.

In 2023, the number of Birth and Childcare leaves acknowledged to the mother (or first parent) amounted to 220,995⁵¹⁵. This represents 68.9 per cent of all births, 0.7 percentage points more than one year before. The mean number of days taken by the first parent amounted to 108.3 days (4 days less than 16 weeks).

Until now, mothers have not used the increased flexibility in use allowed by the 2019 reform. According to the survey *Young Spanish Families 2021*, 90 per cent of those who became mothers after the reform took leave in one continuous period, mostly because they considered it was the best for the baby or because it is usual to do it like this. A more recent study sets this percentage at 95 per cent in the year 2022.⁵¹⁶

In 2023, an average of 5,194 women per month were on leave because of a risk during pregnancy, with an average duration of 89.4 days, equivalent to 0.20 per cent of all live births in 2022. 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), 2019 being the first year to decrease. The average number of days of leave taken has decreased steadily (from 120 to 89.4 days during the period). The number of women per month taking leave for breastfeeding because of a potential risk (introduced also in 2007) reached a mean of 61 per month in 2023. The mean number of days of leave was 150.3 days.

b. Paternity leave

A total number of 248,094 administrative processes of Birth and Childcare leave for the father (or second parent) was registered in 2023. The take-up rate measured in relation to the number of births increased from 73.7 per cent in 2021 to 77.4 per cent in 2023, following a steady increasing trend since the introduction of Paternity leave in 2007. A recent study focused on changes in use during the transitional period of the reform, estimates an increase in the average probability of using the full entitlement from 0.36 to 0.64 as the entitlement extended from

⁵¹⁴ Meil, G., Rogero-García, J., Romero-Balsas, P. Diaz-Gandasegui, V. and Muntayola-Saura, D. (2021) *Young Spanish Families, 2021, microdata of an online representative survey on parents of children aged less than 7 years old, implemented by Netquest Ltd.* Survey funded by grant CSO2017-84634-R of the Spanish Ministry of Economy, Industry and Competitivity

⁵¹⁵ Anuario de Estadísticas del Ministerio de Trabajo y Economía Social (2023), prestaciones de la Seguridad Social y otra protección social. Available at: <https://www.mites.gob.es/es/estadisticas/anuarios/2023/index.htm>

⁵¹⁶ Recio-Alcaide, A., Castellanos-Serrano, C. and Andrés-Jiménez, J. (2024): ¿Cómo incide el nuevo diseño de los permisos de nacimiento en la corresponsabilidad? Un análisis con registros administrativos de la Seguridad Social de 2016 a 2023 [How does the new design of Birth and Childcare Leave affect co-responsibility? An analysis with Social Security administrative records from 2016 to 2023]. Papeles de Trabajo 4/2024. Instituto de Estudios Fiscales.

four to 16 weeks⁵¹⁷. Measured in relation to eligible fathers, as is the case with Maternity leave, the take-up rate is much higher, reaching 88.9 percent (i.e., 12.8 percentage points higher), according to the survey *Young Spanish Families 2021*.

Unlike mothers, fathers have increasingly made use of the flexibility options of the new regulation together with the extension of the leave duration. According to the mentioned survey *Young Spanish Families 2021*, while 38 per cent of those who had a child in 2019 split their leave right into different periods over the year, among those who had it in 2020 the proportion rose to 51 per cent. As both these years cover the transition period where leave duration increased, it can be observed that the longer the leave, the higher the proportion of fathers who split it over the year. Recent studies show that this trend has stalled in 2022 and 2023, with 50 per cent of fathers using the 16-weeks of Birth and Childcare leave simultaneously with the mother, which could limit the positive effects of this reform on gender equality.⁵¹⁸ The proportion of birth leave takers who took part of the leave period part-time has also risen 6 percentage points amongst fathers during the reform (from 16 to 22 per cent) after the reform⁵¹⁹. A more recent study, identified however 10 per cent of fathers took advantage of the part-time leave option in 2023, compared to only 2 per cent of mothers⁵²⁰

It has been contended that this flexibilisation of the leave right use has been forced mostly by the employers as a response to the increase in duration. Reasons given by the interviewed fathers show that only 4 per cent of those who split the leave did it due to employer's demand, while 22 per cent attribute it to the content or characteristics of the work. Most of them, however, explained it is the best way to care for the baby (63 per cent).

c. Parental leave

In 2023, 36,282 people started some period of Parental leave (2 per cent less than in the previous year, deepening the decrease in use initiated with the COVID pandemic, related with the decrease in birth number). This corresponds to 11.3 per cent of the births in that year, much higher than in the recent past (in 1995 it was only 1.7 per cent). However, this represents only 3.5 per cent of children under 3 years; the age is relevant since leave can be taken until children turn 3 years. Fathers made up 13,1 per cent of users, 1.1 percentage points more than in 2022.⁵²¹

According to the survey *Young Spanish Families 2021*, 6.5 per cent of fathers of children aged less than seven years old made use of Parental leave for a mean period of 5.7 months, compared to 19.8 per cent of mothers who took it for a mean of 6.1 months. Leave is more often used for the first child than for higher order parities.

⁵¹⁷ Marinova, D. M., & León, M. (2025). Paternity leave take-up in a segmented labor market: A cautionary tale of rapid policy expansion in Spain. *Journal of European Social Policy*, doi: 09589287241313428.

⁵¹⁸ See note 13

⁵¹⁹ See note 11

⁵²⁰ See note 13.

⁵²¹ See note 12

d. Other types of leave and flexible working

The fact that Parental leave and working time reduction are not paid limits their use, even among those who have a secure job.

According to the survey *Young Spanish Families 2021*, 28 per cent of women and 10 per cent of men with children aged less than seven years of age, employed at the time when they became parents, made use of the right to reduce their working hours. As in the case of full-time Parental leave, work time reduction is taken mostly for the first child. Men reduced their working hours mostly for less than one year (57.4 per cent), while women tend to do it for one year or more (64.3 per cent for more than 1 year).

According to the [Spanish Social Security Statistics](#),⁵²² 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 4,893 in 2023. The mean number of days of leave taken has risen sharply from 176.9 to a maximum of 587.7 in 2021 and decreased to 565.7 in 2023.

Unpaid leave to care for dependent relatives has been available from 2001 onwards. Since 2005, the number of users has steadily grown, increasing from 3,332 in 2005 to 12,058 new users in 2019, though in 2022 it has decreased to 10,443. The proportion of male users is growing from around 15 per cent before 2015 to 21.4 per cent in 2022, following the trend of men's greater use of leave provisions.

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 family carers (introduced since the 2006 Spanish law to support dependents). In December 2019, 30.26 per cent of all benefits provided under this law were used for supporting informal family care (426,938 benefits, 11 per cent more than in January 2018). In the following years, this percentage has remained stable around 31 per cent, while the number of benefits has steadily increased till 558,234 by the end of 2023).⁵²³ However, it seems difficult to link care leave to benefits, because these usually require a long administrative process, and because the benefit goes to the dependent person and not to the informal carer.

⁵²²[www.seg-social.es/Internet_1/Estadistica/Est/Otras Prestaciones de la Seguridad Social/index.htm](http://www.seg-social.es/Internet_1/Estadistica/Est/Otras_Prestaciones_de_la_Seguridad_Social/index.htm)

⁵²³ <https://imserso.es/-/informes-publicados-2022>