

## FACT SHEET ON SPAIN

Information supplied by Emanuela Lombardo and Tània Verge, based on their paper 'The differential approach to gender quotas in Spain: Regulated politics and self-regulated corporate boards' for the Workshop on Legal Struggles and Political Mobilization around Gender Quotas in Europe, September 2014, Florence.

<b>CONSTITUTION</b>
<b>Constitutional gender equality clause, including constitutional parity provisions.</b>
Art 9.2 Spanish Constitution 1978: '2. It is incumbent upon the public authorities to promote conditions which ensure that the freedom and equality of individuals and of the groups to which they belong may be real and effective, to remove the obstacles which prevent or hinder their full enjoyment, and to facilitate the participation of all citizens in political, economic, cultural and social life.' Art 14 Spanish Constitution 1978: 'Spaniards are equal before the law and may not in any way be discriminated against on account of birth, race, sex, religion, opinion or any other personal or social condition or circumstance.'
<b>Constitutional reform</b>
No constitutional reform needed to adopt a statutory quota.
<b>Constitutional/Supreme Court case law on quotas</b>
An appeal against the Law for the Effective Equality of Women and Men, known as the Equality Law, lodged by the Popular Party, was rejected by the Constitutional Court, and quota legislation upheld. Judgement 12/2008 issued on 29 January 2008. The Court argued that the Constitution explicitly grants equality of outcome, and its article 9.2 urges public authorities to remove the obstacles hindering citizen's political participation and to promote and facilitate the conditions so that its exercise is effective.

<b>NUMBERS</b>
<b>Number of female MPs in both chambers</b>
Traditionally upper house (Senate) lower than lower house (Congress of Deputies) but trend reversed in 2011. Lower house 35.4 (2011); Upper house 36.1 (2011).
<b>Number of women in boards of biggest publicly listed companies</b>
From 3.6% in 2004 to 15.9% in 2013. Highest percentage of 25% in 2011.

<b>POLITICAL and PARTY QUOTAS</b>
<b>Existence of voluntary party quotas and other schemes</b>
State-wide parties:

Spanish Socialist Workers' Party (PSOE)

Current quota: zipping system (2013)

Previous quota: zipping (2013); 40:60 gender-neutral proportion (1997); 25% for women (1988)

United Left (IU):

Current quota: zipping (2008)

Previous quota: 40:60 gender-neutral proportion (1997); 25% for women (1989)

Most non-state-wide parties have also adopted quotas (predominantly following the 40:60 gender-neutral proportion) or targets for women's representation.

All quotas apply to internal party structures and electoral lists.

Despite being a vocal opponent to quotas, in the mid-1990s the Popular Party (PP) adopted a vague goal for gender balance.

#### Existence of soft measures in politics

No other measures exist.

#### Existence of hard legislated electoral quotas

2007, Law 3/2007 on the Effective Equality between Women and Men (Ley Orgánica 3/2007, de 22 de marzo, para la igualdad efectiva de mujeres y hombres)

Additional provision one. Balanced presence or membership

For the intents and purposes of this Act, balanced membership will be understood to mean the presence of women and men in the context in question in a manner such that neither sex accounts for more than sixty nor less than forty per cent of the total.

Additional provision two. Constitutional Act 5/1985 of 19 June on the General Electoral System is amended as follows:

One. A new Article, 44 bis, is added, with the following wording:

"Article 44 bis.

1. The lists of candidates for Congressional, municipal, island council and Canary Island Council elections under the provisions of this Act, as well as for European Parliament and regional legislative assembly elections, must have a balanced presence of women and men, with each of the sexes accounting for at least forty per cent of the total number of candidates on the list. When the number of positions to be filled is under five, the number of women and men will be as close as possible to numeric balance.

The regional laws governing the electoral systems for regional legislative assembly elections may establish measures favouring a greater presence of women in the lists of candidates submitted for such elections.

2. The minimum proportion of forty per cent will likewise be maintained in each group of five candidates. When the last group on the list has fewer than five candidates, the said proportion of women and men in that group will be as close as possible to a numeric balance, although the statutory proportion must in any event be maintained for the list as a whole.

3. The rules laid down in the preceding items will be applicable to the lists of substitutes.

4. When candidates for seats in the Senate are grouped in lists, pursuant to the provisions of Article 171 of this Act, such lists must also maintain a balanced presence of women and men, so that the proportion of each is as close to numeric balance as possible."

Two. A new paragraph is added to Article 187, item 2, with the following wording:

"The provisions of Article 44 bis of this Act will not apply to lists of candidates presented in towns with a population of 3,000 or less."

Three. A new paragraph is added to Article 201, item 3, with the following wording:

The provisions of Article 44 bis of this Act will not apply to lists of candidates presented in towns with a population of 5,000 or less.”

Four. Additional provision one, item 2 is amended to read as follows:

“2.- By virtue of the competencies reserved to the Central Government in the Constitution, the following articles of Title One of this Constitutional Act are likewise applicable to the regional Legislative Assembly elections called by the Autonomous Communities:

1 to 42; 44; 44 bis; 45; 46.1, 2, 4, 5, 6 and 8; 47.4; 49; 51.2 and 3; 52; 53; 54; 58; 59; 60; 61; 62; 63; 65; 66; 68; 69; 70.1 and 3; 72; 73; 74; 75; 85; 86.1; 90; 91; 92; 93; 94; 95.3; 96; 103.2; 108.2 and 8; 109 to 119; 125 to 130; 131.2; 132; 135 to 152..”

Five. A new transitional provision, seven, is added with the following wording:

In municipal elections called prior to 2011, the provisions of Article 44 bis will be requisite only in towns with a population of over 5,000; after 1 January of that year the provisions on population of Article 187, item 2, paragraph two of the present Act will be applied.”

Regional quota laws had been passed in Spanish regions before the approval of the 2007 Equality Law: Andalusia (2005), Balearic Islands (2002), Basque Country (2005) and Castile La Mancha (2002). They have all introduced ‘zipping’, where men and women candidates must alternate throughout the list, but the Basque law which establishes 50 per cent of positions for either sex. Those regional laws passed in 2002 could not be applied to regional elections until 2007 (when the constitutionality appeal lodged by the PP against were withdrawn by the PSOE government).

2007: implementation date (local and regional elections). First implementation in general elections 2008.

Sanction: Non-compliance entails the withdrawal of party lists.

No sanctions ever applied since all parties have complied with the law.

The implementation of the statutory quota, as well as the previous party quotas, was eased by the fact that elections at all levels of government are held under proportional representation (D’Hondt system) using closed and blocked party lists, with the exception of the upper house. As a result, gender balance has been reached in most regional parliaments since 2007. Significant increases have also reached local councils and the upper house, whereas stagnation is observed in the lower house (Verge 2013).

The application of the statutory quota was easier at the regional tier than at the national level thanks to the higher proportionality of regional electoral systems (mainly due to larger district magnitude).’ (Verge 2012).

Actors in favour: party feminists; (left-wing) parties adopting party quotas and then normative-legal reform(s); PSOE government adopting 3/2007 Equality law; Constitutional Court ruling in favour of the principle of balanced presence in the Equality Law.

Actors against: Popular Party, by lodging an unconstitutionality appeal based on individual equality of opportunities and parties’ freedom was rejected.

### **Existence of Public board quotas**

The statutory principle of gender balance also affects the appointments made by the central government but no sanction or supervision is imposed, which leads to a weak compliance. (Verge and Lombardo 2014).

## CORPORATE BOARD QUOTAS

### Existence of soft Corporate Board quotas/measures

In 2007, a 40 % quota was set for public limited companies and listed firms. They were given 8 years to achieve gender equality in their boards. No sanctions apply, but incentives for complying by receiving government contracts.

With an average annual increase of 0.8 percentage points between 2004 and 2007 and an average annual increase of 1.7 percentage points between 2007 and 2013, progress is too slow to meet the target of 40 per cent women in boards by 2015.

In 2007, the Unified Good Governance Code, known as Conthe Code, of voluntary application by companies (by Stock Market's National Committee) - obligation to adopt an Equality Plan in companies with more than 250 employees.

In 2008 the government has shifted back to a soft approach. In 2010, the programme Objective15 was launched, including sensitizing measures for companies to work in partnership with the government towards the implementation of Recommendation 15 of the Conthe Code.

Law on capital firms (Act 31/2014): Companies must provide information on the measures taken to include more women in their boards with a view to try to achieve a gender-balanced representation as well as the measures taken by the appointments committee.

New self-regulation code (2015): Recommendation 14 sets gender-balanced representation at 30%, deadline 2020, "comply and explain".

### Existence of hard Corporate Board quotas

NONE

## QUOTAS IN OTHER DOMAINS

### Legislated and voluntary measure or attempts at, in executive, judiciary, universities, sports federations, trade union, professions, political party structure, etc.

Some trade unions also apply quotas to the composition of their executive bodies. Equality plans at universities mandate gender balance in the composition of governing bodies and selection committees but supervision of its implementation is weak and gender balance is often not reached. (Verge and Lombardo 2014).

## CONTAGION and CONNECTIONS

### Contagion between different domains within the country

There has been a strong contagion from party quotas to statutory quotas in the field of politics. Conversely,

there has been a weak contagion, if any, between quotas for politics and quotas for corporate boards. Although both are inspired by the principle of gender balance (set at a gender-neutral proportion of 40:60), corporate quotas are very soft regarding their supervision and lack sanctions for non-compliance.

#### Connections with other countries/ international dynamics

Lobbying by party feminists with strong ties with the women's movement and with other European parties where quotas had already been passed (French Parti Socialiste was the most influential), as well as with the International Socialist Women.  
Corporate quotas were influenced by Norway.

### COUNTRY SPECIFICS

#### Best practice

Spain is one of the few countries where the three types of quotas (political, administrative, and economic) have been adopted, although they present large dissimilarities with regard to the parity criteria in use, the timing of application, and the measures seeking to incentivize compliance or sanctioning noncompliance. The most successful case is that of political quotas.

#### Failures

Statutory quotas in politics have failed to produce a parity lower house mainly due to the pervasive gender-biased allocation of winnable positions and heads of list.

The use of voluntary measures has led only to small and slow increases in the proportion of women on corporate boards. Soft measures could not counteract the strong factors and actors opposing to quotas in the economic field.