



Iván Blume

PERU: Upcoming Equal Pay Oversight

On November 1, 2019 the Peruvian employment oversee agency (SUNAFIL) will effectively begin its oversight on the equal pay legislation. It is clear that employers in Peru will have to take action to ensure compliance and prevent pay discrimination.

The Peruvian Congress has passed Law No. 30709, “Law Prohibiting Pay Discrimination between Men and Women (hereinafter, “EPA”) in an attempt to effectively close the gender gap and strengthen the legal system to protect women against wage discrimination. The official gazette (El Peruano) published EPA on December 27, 2017 and its Regulations, approved by Supreme Decree No. 002-2018-TR followed on March 8, 2018.

The purpose of the EPA is to correct pay inequality between men and women, not just for doing the same jobs, but also when they perform different jobs if those jobs are considered of equal value.

As a result, companies will have to comply with the following:

- (i) Implementing a methodology for objectively determining pay in the workplace. (e.g. via job evaluations).
- (ii) Harmonizing its jobs categories and duties to EPA’s provisions by reflecting them in a chart. Employers that do not have a system that defines job categories and duties system in place will have to implement it.
- (iii) Informing employees about the applicable compensation policy. This obligation aims to provide employees with more transparency about the criteria used by the employer to compensate its employees.

The EPA’s Regulation has introduced a number of allowable exceptions, which allows the employer to make pay differences when the disparity is based on a non-discriminatory factor such as seniority, performance, collective bargaining, labor shortages for specific positions, cost of living, experience, education, merit, workplace location, etc. These factors give rise to legitimate wage differences.

The Ministry of Labor has issued two guides to raise awareness and provide directions on how to comply with the EPA. It has also published protocols for the government audits, which in practice, will begin on November 1, 2019. It is expected that these audits will result in the imposition of fines for non-compliant employers and possibly wage discrimination litigation.

In summary, the EPA and its supplementary rules and regulations constitute an unprecedented step in terms of policy, as pay equity has not been implemented before in Peru. In this sense, its impact in equality in the workplace and the gender-based gap is yet

to be seen. It is clear, however, that achieving and maintaining compliance with the EPA will represent a new challenge for all employers in Peru.

Iván Blume is an Associate at Rodrigo, Elías & Medrano Abogados. For questions about this article, he can be reached at iblume@estudiorodrigo.com.