



DATA UPDATE – Women, Business and the Law 2023

Chile

Ministry of Finance

Women, Business and the Law – Chile

1. Workplace

1. *Are there criminal penalties or civil remedies for sexual harassment in employment?*

Comment received from Government:

Draft bill on sexual harassment (bulletin 11907-17) that propose an amendment to the criminal code. The amendment proposes criminal penalties, as a complement to complement to labor regulations, for conduct in the field of labor, educational, military, sports, service provision, subordination or in the performance of public functions. It has been in the second constitutional procedure since 2022.

Suggested data modification:

Bulletin 11907-17

Legal basis:

Bulletin 11907-17 that propose an amendment to the criminal code.

Response from *Women, Business and the Law* team:

The *Women, Business and the Law 2024* report will assess the impact of reforms implemented between October 2, 2022 and October 1, 2023. The team takes note of the above-mentioned draft bill on sexual harassment (bulletin 11907-17). Since this initiative is still at the drafting stage and has not become law, the team will assess its impact in future reports, once it enters into force.

2. Pay

1. *Does the law mandate equal remuneration for work of equal value?*

Comment received from Government:

There is a proposed amendment to the labor code (bulletin 9322-13) aiming to clearly define the principle of equal pay for work of equal value. The bill is currently in the second constitutional process in the Labor Committee of the Chamber of Deputies. There is another bill amending the labor code to refine the regulation of equal pay for men and women (bulletin 10576-13, 12719-13, and 14139-34). This bill is currently in the second constitutional process in the Labor and Social Security Committee of the Senate.

Suggested data modification:

Bulletins 9322-13, 10576-13, 12719-13, and 14139-34 that propose an amendment to the labor code.

Legal basis:

Bulletins 10576-13, 12719-13, and 14139-34 that propose an amendment to the criminal code.

Response from *Women, Business and the Law* team:

The *Women, Business and the Law 2024* report will assess the impact of reforms implemented between October 2, 2022 and October 1, 2023. The team takes note of the above-mentioned proposals to amend the Labor Code (Bulletins 9322-13, 10576-13, 12719-13, and 14139-34). Since these initiatives are still undergoing the constitutional process stage as of October 1, 2023, the team will follow up on the status of the Bulletins during the *Women, Business and the Law 2025* cycle and all relevant updates will be reflected in future reports.

3. Marriage

1. *Can a woman be head of household in the same way as a man?*

Comment received from Government:

Draft bill amending the civil code and other laws, regulating the patrimonial regime of the marital community. (bulletin 7567-07) Stipulates joint administration of the marital assets by spouses. Current rules, where the husband is the sole administrator of the marital community, are modified. The proposal suggests that the administration of the marital estate be shared by both spouses individually for everyday and minor transactions, and jointly for more significant acts. The bill is currently in the second constitutional process.

Suggested data modification:

Bulletin 7567-07

Legal basis:

Bulletin 7567-07 that propose an amendment to the civil code and other laws.

Response from *Women, Business and the Law* team:

According to the *Women, Business and the Law* methodology, a score of 1 is assigned if there are no restrictions on a woman being head of household or head of family. On the contrary, a score of 0 is assigned if the law designates the husband as head of household or stipulates that the husband leads the family. The Civil Code, the current law in force on this matter, stipulates in Art. 1749 that the husband is the sole administrator of the marital community. While the team takes note of the proposal to amend said provision, the current methodology does not take into consideration draft bills. The *Women, Business and the Law* team will closely monitor the evolution of Bulletin 7567-07 for future cycles.

4. Assets

1. *Do men and women have equal ownership rights to immovable property?*

Comment received from Government:

Draft bill amending the civil code and other laws, regulating the patrimonial regime of the marital community (bulletin 7567-07). The administration of personal assets will now belong to the owning spouse, currently managed by the husband. The bill is currently in the second constitutional process.

Suggested data modification:

Bulletin 7567-07

Legal basis:

Bulletin 7567-07 that propose an amendment to the civil code and other laws.

Response from *Women, Business and the Law* team:

According to the *Women, Business and the Law* methodology, a score of 1 is assigned if there are no restrictions on a woman's legal capacity and rights to immovable property. On the contrary, a score of 0 is assigned if a woman's rights to own or administer property are legally restricted or if there are gender differences in the legal treatment of spousal property, such as granting the husband administrative control over marital property. The Civil Code, the current law in force on this matter, in Art. 135 stipulates that by virtue of marriage, the husband takes the administration of the wife's assets. Further, Art. 1749 states that the husband is the sole administrator of the marital property. While the *Women, Business and the Law* team takes note of the proposal to amend said provision, the current methodology does not take into consideration draft bills. The *Women, Business and the Law* team will closely monitor the evolution of Bulletin 7567-07 for future cycles.

2. *Does the law grant spouses equal administrative authority over assets during marriage?*

Comment received from Government:

Draft bill amending the civil code and other laws, regulating the patrimonial regime of the marital community (bulletin 7567-07). It is proposed that properties acquired under housing subsidies during the existence of the marital community enter the marital estate in accordance with general administration rules. This allows strengthening the solidarity of the regime and safeguarding the family's main residence, considering that, according to the introduced amendments, the consent of both spouses will be required for any alienation. The bill is currently in the second constitutional process.

Suggested data modification:

Bulletin 7567-07

Legal basis:

Bulletin 7567-07 that propose an amendment to the civil code and other laws.

Response from *Women, Business and the Law* team:

According to the *Women, Business and the Law* methodology, a score of 1 is assigned if spouses retain administrative power over the assets each brought to the marriage or acquired during marriage and their accrued value without the need for spousal consent or if spouses administer their separate property but need spousal consent for major transactions. On the contrary, a score of 0 is assigned if the husband has administrative rights over marital property, including any separate property of the wife, or if the husband's word prevails in case of disagreement. The Civil Code, the current law in force on this matter, in Art. 135 stipulates that by virtue of marriage, the husband takes the administration of the wife's assets. Further, Art. 1749 states that the husband is the sole administrator of the marital property. While the *Women, Business and the Law* team takes note of the proposal to amend said provision, the

current methodology does not take into consideration draft bills. *Women, Business and the Law* will closely monitor the evolution of Bulletin 7567-07 for future cycles.

5. Pension

1. *Is the mandatory retirement age for men and women the same?*

Comment received from Government:

According to Article 3 of Decree Law No. 3500, 'Affiliates who have reached the age of sixty-five if they are men, and sixty if they are women, shall be entitled to old-age pension, without prejudice to the provisions of Article 68.'

Suggested data modification:

Article 3 of Decree Law No. 3500

Date of entry into force: 11/13/1980

Legal basis: Article 3 of Decree Law No. 3500

Response from *Women, Business and the Law* team:

The question “Is the mandatory retirement age for men and women the same?” examines the relative ages at which men and women must cease employment or can be terminated by their employer. According to *Women, Business and the Law* methodology, the answer is “Yes” if the legally established age at which men and women must retire is the same, or if there is no mandatory retirement age mandated in the law. The answer is “No” if the age at which men and women must retire is different. Since no provisions in the legislation, including Article 3 of Decree Law No. 3500, indicate a mandatory retirement age, the answer to this question is “Yes” and will remain as “Yes.”

Women, Business and the Law references Article 3 of Decree Law No. 3500 in the answer to the question “Is the age at which men and women can retire with full pension benefits the same?”. Such question examines the statutory age at which men and women can retire and receive irrevocable minimum old-age pension.

Communications

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