

COVID-19 and Labour Law: Spain

Rafael Gómez Gordillo*

Abstract

The Spanish Government has approved a package of special measures to address the COVID-19 emergency. The measures are intended to protect employees, self-employed workers and companies. Despite the application of these provisions, the stoppage of activities has caused a significant growth in unemployment rates. Probably, in the next few weeks new complementary measures will be adopted.

Keywords: Covid-19; Labour Law; State of alarm; Remote working; Contracts suspension; Special unemployment benefit; Prohibition of objective dismissal.

The declaration of the state of alarm in Spain by [RD 463/2020](#), between March 14th and midnight on April 27th, will probably last for a few more weeks. The norm limits the freedom of movement, decrees the closure of all schools and non-essential shops. Additionally, it has been decreed, only for the period from March 30th to April 9th, the interruption of non-essential business activities (annex [RDL 10/2020](#)).

The interruption of business operations has caused the loss of almost 900,000 jobs and the interruption of 350,000 employment contracts (ERTE), during the second half of March. The predictions for April are equally worrying.

Following the declaration of a state of alarm, the Spanish Government has approved a [package of measures](#) to cope with the economic and social impact of COVID-19, that mobilizes up to 200,000 million euros of credits, with public guarantees, and 5,000 million euros of public spending.

Remote working must be the priority option for companies that continue their activity (art. 5 [RDL 8/2020](#)). The obligation to evaluate occupational risks will be considered fulfilled by an employee self-evaluation.

Modification of the right to adapt or reduce working hours (up to 100%) for employees who must take care for their dependent relatives, with the proportional reduction of remunerations (art. 6 [RDL 8/2020](#)). The agreement must guarantee the balance between care

* Professor of Labour Law, Pablo de Olavide University, Sevilla (0000-0002-8149-8503).

needs of the employees and organizational needs of the company, taking into account the temporary and exceptional nature of these measures.

Companies affected by the suspension of activities are entitled to suspend contracts or reduce the working time (by between 10% and 70%), with the proportional reduction of remunerations. This procedure due to force majeure starts at the request of the company to the Labour Authorities, without the participation of worker's representation (art. 22 [RDL 8/2020](#)). Companies with less than 50 employees do not have to pay the social security contributions, and those above 50 have to pay 25% of them.

Companies affected by reduction in the demand or decrease in net turnover or expected losses as a result of COVID 19 are entitled to suspend contracts or reduce the working time (by between 10 and 70%), with the proportional reduction of remuneration (art. 23 [RDL 8/2020](#)). This procedure, based on economic, technical, productive or organisational causes, requires a prior information and consultation procedure with the worker's representation (seven days). At the end of this period, with or without an agreement, the employer will inform employees, employees' representatives and the labour Authority of his/her decision. All these companies are obliged to keep the job during a period of six months from the date of restarting the activity (disp. adic. sexta RDL 8/2020).

Whit the same aim of maintaining employment, objective dismissals due to COVID-19 have been forbidden (art. 2 [RDL 9/2020](#)), and the temporary contracts suspended, on the ground of force majeure or objective causes, must be extended when the state of alarm ends (art. 5 RDL 9/2020).

Between March 30th to April 9th, non-essential companies are obliged to reduce their activity to the usual levels on holidays or weekends (art. 4 [RDL 10/2020](#)). All affected workers are entitled to a recoverable paid leave. Employers and worker representatives will negotiate how to recover these hours, in whole or in part, for the remainder of the year.

Workers affected by contractual suspensions due to COVID-19, are entitled to an extraordinary subsidy, without prior contribution requirements. These periods count as social security contributions for workers (art. 25.1.a [RDL 8/2020](#)).

Self-employed who close their business, or reduce turnover by 75% due to COVID-19, are entitled to the an extraordinary subsidy for cessation of activity, without prior contribution requirements (art. 17 [RDL 8/2020](#)).

Workers and self-employed in preventive quarantines or infected by COVID-19 are entitled to a work accident leave (75% regulatory base), higher than that established due to common illness (art. 5 [RDL 6/2020](#)).

Workers whose fixed-term contracts, of at least two months, expired after the declaration of the state of alarm, are entitled to an extraordinary subsidy for unemployment, when have not contributed enough to receive the regular unemployment subsidy (art. 33 [RDL 11/2020](#)).

Household employees are entitled to an extraordinary unemployment benefit when their employment relationship with one or more families is terminated, due to COVID-19 (art. 30 [RDL 11/2020](#)).

Companies and self-employed workers who suspend contracts or reduce working hours due to "Covid 19" force majeure are exempt from the social security contributions (art. 24 [RDL 8/2020](#)). Companies and self-employed workers who continue their activity are entitled

to a moratorium on social security contributions for six months, without interest payment (art. 34 [RDL 11/2020](#)).

The Social Shield (Escudo Social) contains several protection measures for the most vulnerable social groups ([RDL 11/2020](#)). Among other measures, evictions from the habitual residence are suspended, no owner will be able to increase the rent for the next 6 months, tenants can access microcredits guaranteed 100% by the State, and it will be prohibited to cut the basic supplies of the habitual residence (water, electricity or gas).

Unfortunately, these measures are not enough to cover all the groups that have lost their usual income. The Government has promised to approve a minimum vital income in the coming days.

Copyright © 2020 Rafael Gómez Gordillo. This article is released under a Creative Commons Attribution 4.0 International License