



**A PREVIEW OF THE 10 TOP
EMPLOYMENT LEGAL NEWS
IN SPAIN WITH AN IMPACT
ON COMPANIES**

July 2024

Before we go on our summer holidays in 2024, we are at a **crucial time of legislative changes in labour matters for companies**. It is essential to know where each of the regulations stand, in order to be able to react to their application and to be able to adapt to the regulations.

In this guide of questions and answers, we are going to break down the **main regulations that all human resources and labour relations departments should have on their roadmap** for the coming months.

We detail the status of issues such as **the reduction of the working day to 37.5 hours; the elimination of automatic dismissal for permanent disability;** the obligatory nature of equality plans and **LGTBI harassment protocols;** the imposition of a 6-month notice period for workplace closures; the transposition of European directives for transparency; and changes in occupational risk prevention, among other matters.



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1. REDUCTION OF NORMAL WORKING HOURS FROM 40 HOURS TO 37.5 HOURS/WEEK

The Government is pursuing a very important legal change:

- The **normal working hours** would drop to 37,5 hours per week starting from 1st January 2025.
- Companies will have to **adjust their time schedules**, especially for employees who already have part-time or reduced working hours for family care.
- **A decrease in normal working hours shall entail equal pay.** For **part-time contracts, salary shall be increased proportionally.**

When is this change expected to come into force?

The aim is for the Law to be approved with the maximum consensus of the representatives of Spanish companies, which could lead to a delay of weeks. However, it is expected to be approved in July and it will come into force from 1 January 2025. In any case it is expected an interim regime until 31 December 2024 with 38.5 hours/week.



2. NEW REQUIREMENTS FOR MANDATORY TIME-TRACKING

The system should go **digital only**. The Labour Authority, the works council and unions will have also free remote access. It will be required to track the identity of the employee logging the time-sheets, who must be the employee.

Higher fines if companies get time-tracking obligations wrong: New fines up to **€10,000 for each employee** affected. Now the maximum fine could be up to €7,500.

These changes are also expected to be effective from **January 2025**.

3. PERMANENT DISABILITY OR INEPTITUDE WILL NO LONGER BE A VALID REASON FOR IMMEDIATE TERMINATION WITHOUT SEVERANCE COST

The Spanish Government has agreed on a legal change deriving from the Ruling of the High Court of Justice of the European Union (CJEU), of 18 January 2024.

The **reform which is in preparation entails that if the employee becomes permanently disabled:**

- **Rather than terminating the employment contract, the company will be obliged to make reasonable adjustments, so the employee keeps employed (even if it is in another position).**
- **Nevertheless, if it involves a disproportionate expense for the company, the company will be exempted from making these adjustments.**
- **The possibility of terminating the contract will be subject to the employee's will, as he or she may request:**
 - **a change** of the role to his/her new situation (reasonable, necessary and adequate); or
 - **a change to another** vacancy and available job that is in accordance with his or her professional profile and compatible with their new situation.
- **Failure to comply with reasonable adjustments involves discrimination and would therefore entail the termination of the contract null and void.** The employee would have to be reinstated, be paid all the salaries and be compensated for damages.

The reform raises great legal uncertainty for companies, as a determined definition of “reasonable adjustments” and “disproportionate expense” is not given, and it is neither clear to what extent the company is exempted from justifying these adjustments.

4. LGTBI PLANS

All companies with 50 or more employees must have a plan of measures to achieve equality for LGBTI people. A recent political agreement has set down the content and scope of these measures and the procedure to adopt them, but the final regulation has not yet been passed; its publication is expected before the summer holidays.

- The main novelty is that **the measures shall be negotiated** by the employer or the employers' representatives and the employees' representatives, respecting the guidelines contained in the regulation.
 - **If a collective bargaining agreement is applicable at the sector level** to the company, it will have to apply the measures contained therein. Shall be the case that LGBTI measures are not included in said CBA, the draft is not clear about how they will have to be adopted; there is a chance that unions will be called.
 - **If the company has its own collective agreement or has a workers' council, it** will abide by other rules.
- **Content of the measures:**

Non-discrimination based on sexual identity, gender expression or sex characteristics.

Career Classification and Promotion

Access to employment

Action protocol

Régimen disciplinario

Training, awareness and language

Leave and social benefits





5. 6-MONTH NOTICE REQUIREMENT IN THE EVENT OF CLOSURE OF A WORKPLACE OR MORE WHEN THE COMPANY STOPS THE BUSINESS ACTIVITY AND DISMISS 50 OR MORE EMPLOYEES

Since July 2023, companies must **notify the labour authorities** of the intention to close a workplace when it involves the definitive stop of the business and the dismissal of at least 50 employees. The company must give **6 months' notice prior the** start of the formal consultation period with the works council.

The Law also required to give such notice to the most representative unions, but the Supreme Court's Ruling no. 677/2024, of April 22nd, 2024, has declared it null and void, **so notifying the unions is no longer mandatory.**

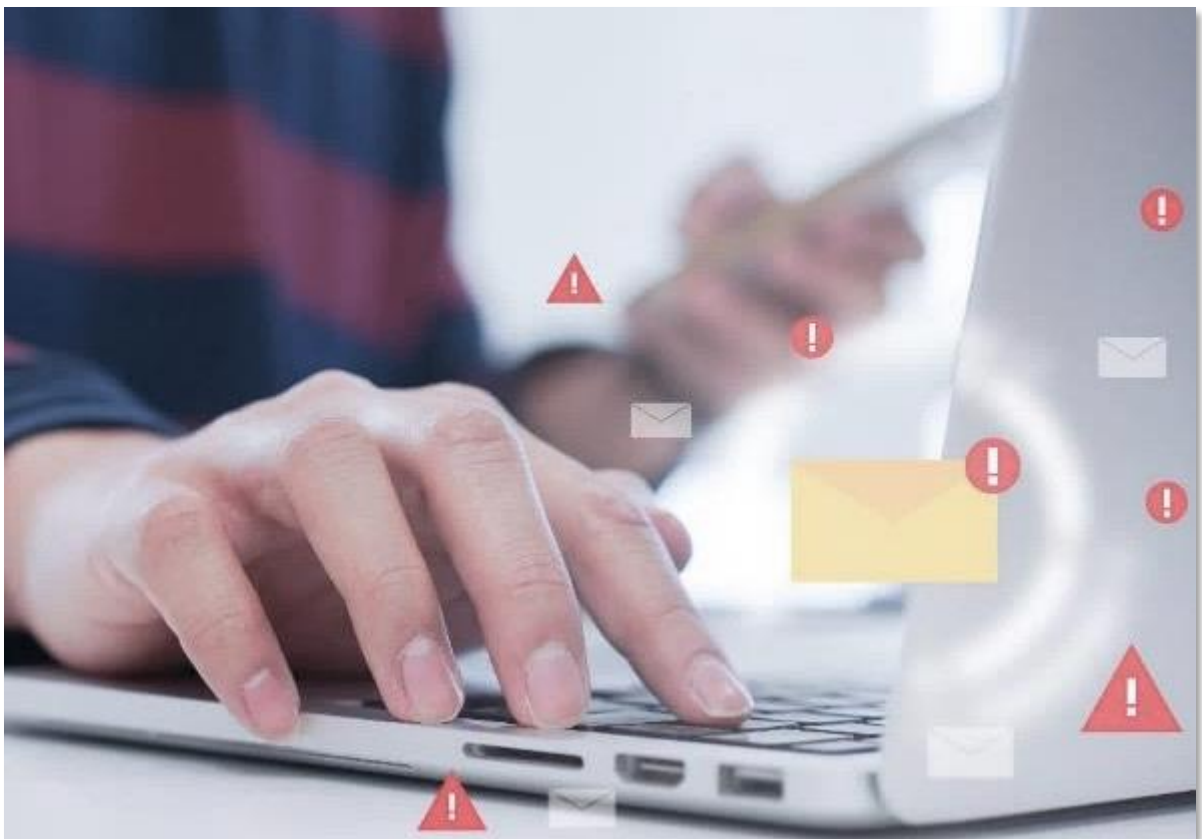
Failure to comply could result in the nullity of the collective dismissal, hence the relevance of this obligation.

6. EU DIRECTIVE ON TRANSPARENT AND PREDICTABLE WORKING CONDITIONS

Directive (EU) 2019/1152 obliges companies in the European Union to thoroughly review their templates of employment contracts and their internal policies.

The regulation about to be approved in Spain that implement such Directive recognises the employer's right to **know in advance all the working terms and**, where appropriate, the **criteria by virtue of which these conditions may change**.

In addition to the new regulation, the National High Court has already declared the **nullity of a bonus clause in the company policy due to lack of transparency and predictability**, (Judgment of June 10th, 2024).



7. EU DIRECTIVE ON PAY GAP

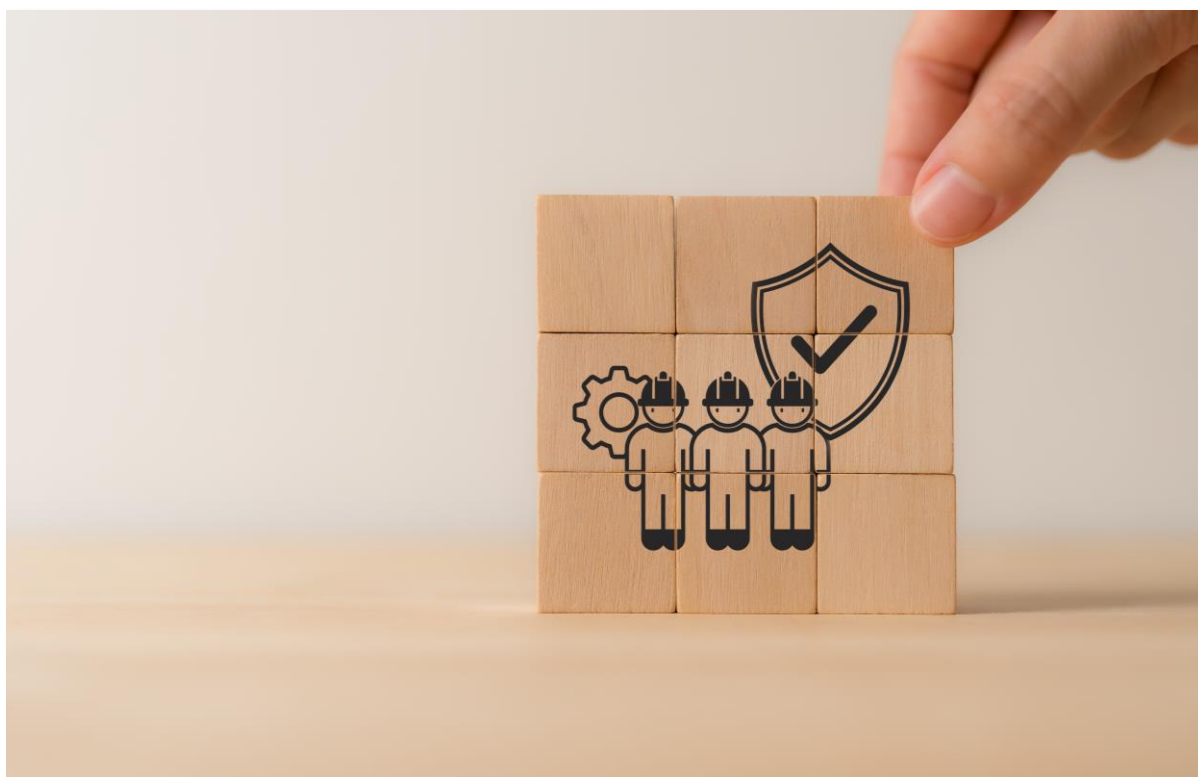
EU Directive 2023/970 to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms, although it **has not yet been implemented into Spanish law**, will introduce **relevant changes**:

- **Job applicants** will have **the right to receive information on the initial remuneration** or the initial remuneration band of the position for which they are applying, as well as on the collective agreement applied by the company.
- Job applicants **may not be asked about their remuneration history** or the salary they receive at the time of the selection process.
- Companies will have **to make public the criteria** followed to determine remuneration, remuneration levels and remuneration progression.
- Employees may **request individualised information on their remuneration level**.
- Depending on their size, companies might be **obliged to assess the pay gap** on a regular basis, in some cases, together with the workers' council.
- The **threshold for the duty to justify gender pay gap will be reduced to 5%**.
- Failure to comply with the obligations of transparency and equal pay may give rise to **legal proceedings for damages**



8. NEWS ON HEALTH AND SAFETY

The Government is working to approve a major legal change to emphasize mental health of employees and oblige companies to consider **gender perspective and generational diversity on their Health and Safety compliance duties**. Additionally, a new special role with responsibilities and capacities will be required for companies (**contact of the H&S service**).

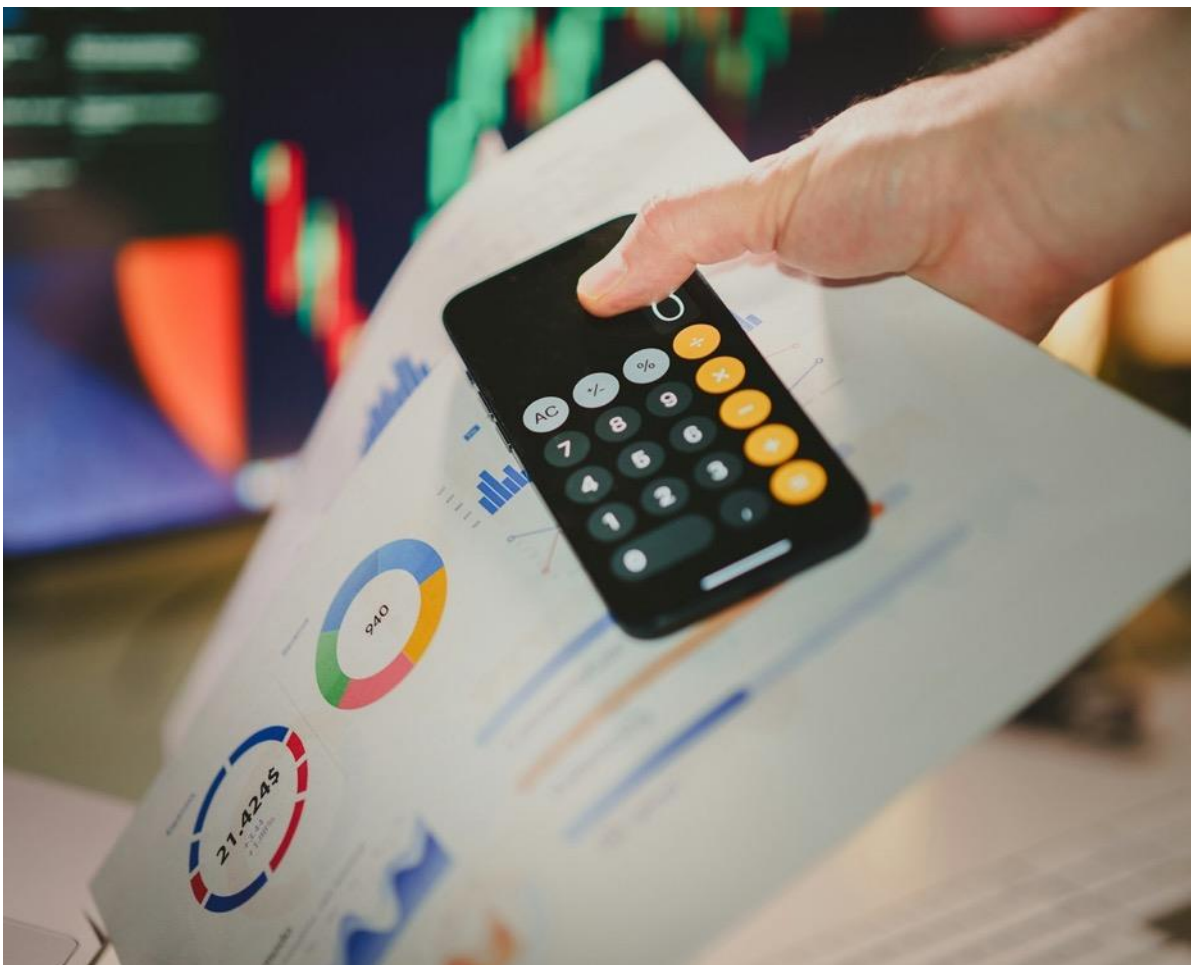


9. BAN WHEN COMPANIES ARE PROFITABLE

The Government has announced their intention to change the Law for **banning collective redundancies in profitable companies**. This comes from the case of the collective dismissal of Vodafone in Spain. No further details are known yet, but we have an intuition that the reasons that can be used by companies will be limited and in case of non-compliance the dismissals will be unfair.

10. COMPENSATION COST INCREASE FOR UNFAIR DISMISSAL

The intention to make a very relevant legal change has also been launched from the Government to **raise the amount of compensation for unfair dismissal**, which currently stands at 33 days' salary per year of service with a ceiling of 2 years' salary. The European Social Charter seems to be the guarantee that will make the law change. The details are not yet known. Such change may be that companies will have to pay a supplementary compensation, **fixed by the judge, on the basis of the conditions of the specific case**. There is also the option that, in addition to the compensation, the company will have to pay the salaries due to the employee during the whole process. We will report back as soon as there is any news.



CAN WE HELP YOU?

We remind you that all questions in this document are informative in nature.

For more information and to contract our services, please contact our professionals:

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