

iGlobal Law : 2022 Annual Update : Spain

Legal Change	Effective Date	Action required
<p>Employment Measures as per Royal Decree-law 18/2021 will continue until 28 February 2022:</p> <ul style="list-style-type: none"> Retains the temporary collective layoff procedure model, for procedures in effect from 30 September 2021, which will require authorization from the competent labour authority for their extension (after an application has been filed). These extensions may be in effect until 28 February 2022. Companies affected by new restrictions and containment measures for the protection of health in the period between 1 November 2021 and 28 February 2022 may apply for an ERTE temporary collective layoff procedure due to impediment or restrictions to activity. Companies are also allowed to make a transition from being in a situation of impediment to a situation of restriction and vice versa. Companies implementing ERTE temporary layoff procedures due to restrictions may benefit from exemptions from social security contributions. The time period for protection measures under earlier legislation is extended. The limits and provisions related to the distribution of dividends and fiscal transparency are extended until 28 February 2022. The safeguarding of employment according to the provisions of Royal Decree-law 30/2020 is extended, both in relation to earlier periods and with respect to the benefits contained in the new legislation. The limits and exemptions in relation to overtime, recruitment and outsourcing will stay in place until 28 February 2022 and will apply also to the ERTE temporary layoff procedures under this new legislation. The MECUIDA Plan is extended until 28 February 2022. 	<p>28 February 2022</p>	<p>It is essential that affected businesses keep an eye on dates, benefits applied, Social Security exemptions, dismissals etc. As per Royal Decree-law 18/2021 all employment measures related to COVID-2019 are extended until 28 February 2022, but the Government can extend these measures again or approve different measures.</p>

<ul style="list-style-type: none"> • Other additional measures related to unemployment are extended until 28 February 2022, including: <ul style="list-style-type: none"> ○ The right to receive contributory unemployment benefit, despite not meeting the necessary minimum period of employment. ○ With the aim of protecting individuals whose jobs have been affected by the economic and health crisis, in certain circumstances, the “Contador a cero” measure is retained. This measure entails not counting the time in which unemployment benefit is received for the purposes of completing the maximum periods for receiving benefits for workers who, before 1 January 2023, in certain circumstances becomes unemployed. ○ The amount of unemployment benefit to be received will be equal to 70% of the computation basis, until 28 February 2022. ○ The new legislation retains the benefits for individuals included in a temporary collective layoff procedure with part-time contracts as well as the extraordinary benefit for individuals under permanent contracts for intermittent work. • There are two further measures that will remain in force until 28 February 2022. The first is the provision preventing either force majeure or any of the objective reasons justifying ERTE temporary collective layoff procedures from being treated as reasons for dismissal (commonly known as the “dismissal ban”). The second is the interruption of the calculation of temporary contracts affected by a suspension of the contract. 		
<p>Royal Decree 902/2020 on Equal Pay, coming into force on 14 April 2021 includes:</p> <ul style="list-style-type: none"> • Salary records: companies must keep a register of salaries for all employees, including managers and senior positions, with the average salary values, 	<p>14 April 2021</p>	<p>It is essential to comply with the salary record obligation, which applies to all companies, and the salary audit obligation where companies must have an equality plan.</p>

<p>supplements and non-salary payments, broken down by sex.</p> <ul style="list-style-type: none"> • Salary audit: companies that draw up an equality plan will include a pay audit as part of this, before the negotiation of such plans. The obligation of having a salary audit will follow the same gradual application for equality plans, based on the number of employees. • A proper assessment of job positions according to the following criteria: suitability, entirety and objectivity. 		
<p>Royal Decree 901/2020 on Equality Plans coming into force on 14 January 2022 includes:</p> <ul style="list-style-type: none"> • Companies with a minimum of 50 employees, and those whose CBA dictates, have to negotiate and apply an Equality Plan. There are particular rules on how to carry out the calculations. • The negotiation process must start within three months from the date on which the required threshold for having an equality plan is reached. • The equality plan will have to be negotiated, approved and presented to registration within one year from the day after the end of the term for setting up the negotiating committee. • Equality plans applied when the Royal Decree 901/2020 comes into force, have to adapt their content to the new regulation within 12 months, following a negotiating process. • The equality plans and the previous diagnosis have to be negotiated with the workers' representative. If there is no workers' representative, the representative and more representative trade unions of the sector will negotiate on behalf of the employees. They must negotiate the previous diagnosis as well as the plan itself. • The parties will establish the duration of the plan, which will not exceed four years, and will have to be reviewed in certain circumstances. 	<p>14 January 2022 and 7 March 2022</p>	<p>Keep an eye on dates and numbers for the following purposes:</p> <ol style="list-style-type: none"> a) to comply with the obligation of having an equality plan (7 March 2020 for companies with 151 to 200 employees; 7 March 2021 for companies with 101 to 150 employees, and 7 March 2022 for companies with 50 to 100 employees); b) to comply with the obligations of negotiation, committee and deadlines; and c) to comply with the obligation of updating existing equality plans.

<p>Minimum wage increase</p> <ul style="list-style-type: none"> • The Royal Decree 817/2021, of September 28th, 2021 determines the minimum wage for 2021, which it increases to €32.17 per day or €965 per month. • This increase will take effect from 1 September 2021. • The agreement struck with the labour unions on increasing the minimum wage in 2021 also provides that it will reach €1,000 per month on 1 January 2022 and €1,060 per month on 1 January 2023. 	<p>1 January 2022</p>	<p>Review all employees' salaries to comply with the legal minimum wage.</p>
<p>Social Security contributions</p> <ul style="list-style-type: none"> • On 4 December the Official State Gazette published Order PCM/1353/2021, of 2 December 2021, implementing the statutory provisions on Social security, unemployment, business income protection, wage guarantee fund and occupational training contributions for fiscal year 2021, taking effect from 1 September of that year. • The maximum and minimum monthly contribution bases have been set as follows: <ul style="list-style-type: none"> ○ The maximum monthly contribution base has not been changed and amounts to €4,070.10. ○ The minimum monthly base has been increased to €1,125.90. • In particular, the maximum and minimum contribution bases for no occupational contingencies under the general system have changed. • The no-surcharge deadline for paying any contribution deficiencies arising under this order with respect to any contributions made on or after 1 September 2021 is 28 February 2021, the last day of the second month following the month of publication of the order. 	<p>1 September 2021 and 28 February 2022</p>	<p>Update Social Security contributions, if needed, and pay contributions deficiencies before 28 February 2022.</p>

Reform on employment law

The Government progresses with the employment law reform that they are negotiating with trade unions and companies associations. It is a wide reform that would include temporary contracts, temporary layoff procedures, collective bargaining agreements, and other matters.

As yet unknown.

The discussions are continuing but no agreement has been reached so far and no regulation has been approved.