

JOINT SUBMISSIONS OF TRADE UNIONS, CCOO AND UGT, AND EMPLOYERS' ORGANIZATIONS, CEOE AND CEPYME TO ADDRESS, THROUGH EXTRAORDINARY MEASURES,

THE LABOR PROBLEMS GENERATED BY THE INCIDENCE OF THE NEW TYPE OF CORONAVIRUS

Madrid, March 2020

The business and trade union organizations CEOE, CEPYME, UGT and CCOO have chosen a series of extraordinary measures to formulate the Government in order to cover the possible situations and contingencies derived from the Coronavirus.

The scenarios in which both workers and their companies can be seen, do not find an adequate response in the current labour and social security regulations.

Companies and workers are equally affected by this situation derived from the Coronavirus that has generated a PUBLIC HEALTH problem.

From this perspective, the business and trade union organizations consider that it is essential to approach this issue from common objectives that make the compatibility of interests possible.

For this reason, given the urgency of the situation and its exceptional nature, as has been done in other countries, we consider it necessary to issue a Royal Decree-Law in which, in addition to articulating a set of labour and social security measures that provide legal security to companies and workers, an extraordinary aid fund is set up to cover them.

The aim is to establish measures that will make it possible to deal with this situation, avoiding irreversible consequences for companies and employment and guaranteeing adequate protection for workers.

These are temporary and exceptional labour and social security measures which, in any event, must be negotiated with the most representative trade union and business organizations.

1. COMMON MEASURES FOR TEMPORARY EMPLOYMENT REGULATION (ERTE in Spanish acronym)

- It is essential to provide for access to unemployment protection without requiring a qualifying period.
- The periods of unemployment consumed during this suspension may not in any case prejudice the recognition of future unemployment benefits ("counter to zero")
- In view of the lack of liquidity caused by the inactivity resulting from this situation, the obligation for companies to pay contributions will be suspended.

1. Procedures for Temporary Regulation of Employment of Force Majeure

- When extraordinary measures are decreed by the competent, state, regional or municipal authorities for public health reasons, affecting the activity of companies such as: the closure or cancellation of activities, restrictions on the mobility of people or goods, isolation to prevent contagion, lack of supplies, among others, in the interests of legal certainty in the various fields concerned, sufficient publicity and publication in an official mean.
- These cases, among others, may justify the existence of force majeure in the field of employment as a reason for temporary layoffs.
- Without prejudice to the legal guarantees, the context requires an agile and urgent response on the part of the Administration, and the lightening of the procedure should be envisaged.

The Labour Authority has the right to request the report of the Labour and Social Security Inspectorate and the documentation to be provided.

- In cases where the Administration acts as a contracting party, it must comply with the conditions of public contracts. However, without prejudice to the responsibilities of the

When the public administration takes the decision to suspend the contract, it must notify the successful bidders in advance and in a reliable manner. In this case, the cause of force majeure justifying the ERTE will be present. This justifying cause will not be present when the administration continues to pay for the provision of services.

2. Economic, technical, organizational and production causes

- In an extraordinary way, it is essential to adapt the definition of the causes to the situation caused by the Coronavirus, in order to facilitate the processing of the corresponding ERTE. This redefinition may include, among others, situations such as a sudden and precipitous drop in invoicing or in the demand for activity or the breakdown of the supply chain, among others.
- The documentation supporting this procedure must be limited to proving the existence of the cause and its relationship with the Coronavirus.

- Without prejudice to the provisions of Article 47 of the Workers' Statute, it is considered appropriate to reduce the time limits. Thus:

1. The maximum time limit for the constitution of the representative commission should not exceed five days from the date of the undertaking's reliable communication of its intention to initiate the procedure.
2. The period of consultation with the employees' representatives should not exceed the maximum period of seven days.
3. The report of the Labour and Social Security Inspectorate, which is optional for the labour authority, shall be issued within a non-renewable period of seven days.

- In the event that there is no legal representation of the workers, the committee representing the workers for the negotiation of the consultation period should be made up of the most representative trade unions in the sector to which the company belongs and is entitled to be part of the negotiating committee for the applicable collective agreement. The maximum number of members of the negotiating committee will be the required to guarantee the representation and proportionality of the cited unions. In the absence of the above and without the possibility of extending the term, said committee shall be made up of 3 workers from the company itself.

- The ERTE agreed or authorized for these reasons, provided that the company has been forced to stop the activity, will have retroactive effect to the date of the communication to the workers or their representatives of the intention to initiate it. Wages paid and contributions shall be replenished from that date by the extraordinary fund.

2. PROTECTION OF DISCONTINUOUS PERMANENT WORKERS.

Discontinuous permanent workers who are affected in their employment or in their expectation of employment must acquire guarantees of their right to access unemployment benefits without demanding a qualifying period, guaranteeing the counter to zero.

3. SITUATIONS OF ISOLATION OR CONTAGION OF WORKERS

- On the basis of the provisions of Royal Decree Law 6/2020, workers will receive a supplement of up to 100% of their remuneration from the extraordinary help. The cost of contributions will also be covered by this fund.

- It is considered essential to develop a procedure for processing withdrawals and registrations that provides the necessary legal certainty.

4. MEASURES TO DEAL WITH THE CLOSURE OF SCHOOLS, DAY CENTRES (AMONG OTHERS) AND MOBILITY RESTRICTIONS

For cases in which the measures provided for by law or convention are insufficient, precise regulations must be made regarding the ways in which care for children and the elderly (first degree) can be provided in the situations described, either through the formulation of new paid leave or through new causes for suspension of the employment relationship, the costs of which, including contributions, will be borne by the aforementioned fund for extraordinary assistance, guaranteeing the exercise of co-responsibility.

5. TELEWORK

It is essential to facilitate the implementation of teleworking for extraordinary reasons of public health in sectors and companies that have not previously implemented or planned. To this end, the obligation of the companies to evaluate the risks with the self-evaluation carried out voluntarily by the worker himself will be understood to have been fulfilled on an exceptional basis.