

# Employment Flash - May 2024

## Modifications introduced by the RDL 2/2024, 21st May

On 22nd May, 2024, the Official State Gazette published the Royal Decree-Law 2/2024, of 21st May, adopting urgent measures to simplify and improve the level of unemployment protection assistance and to complete the transposition of the (EU) Directive 2019/1158 on the reconciliation of family and professional life for parents and caregivers.

The Decree-Law, which entered into force the day after its notification (except for certain provisions relating to unemployment benefits, which will enter into force the 1st November of this year), has introduced a series of amendments, including a specific reform of breastfeeding leave; substantial changes in the **unemployment benefit system and the priority of application of collective bargaining agreements and interprofessional agreements at the regional level** over sectoral agreements or agreements at the state level, as well as a specific amendment to the regulation on contributions to the Treasury in collective dismissals.

We briefly summarize the most relevant points of the new provision.

### **1 - Modification of the article 37.4 ET leave (reduction option of working days or accumulation without being subject to collective bargaining agreement or pact).**

As of May 23, 2024, Article 37.4 of the Workers' Statute is amended to allow employees to **directly request the accumulation of breastfeeding leave** of one hour per day for the care of the infant **in full working days, without the need for this to be stipulated in a collective agreement or collective bargaining agreement.**

The regulation does not include an extension of the number of days or working days to 28 days of leave, but the number of days or full days corresponding to each person requesting it will be determined **on an individual basis**, depending on the time of the request, the age of the infant, the type of contract (temporary or indefinite) and the working day (full or part-time).

### **2 - Regional Agreements priority of application**

Collective bargaining agreements and interprofessional agreements at the autonomous community level have priority over sectoral agreements or agreements at the state level, provided that they are more favorable to workers and are signed by trade unions and business associations with legal standing in the autonomous community. This same priority of application extends to provincial collective bargaining agreements, if so provided for in the regional interprofessional agreements and if they are also more favorable to workers.

However, this priority cannot be applied to certain specific matters: probationary period, hiring modalities, professional classification, maximum annual working hours, disciplinary regime, minimum occupational risk prevention standards (ORP) and geographic mobility.

### **3 - Modification of unemployment benefits**

The main novelty of this reform lies in the **extension of the persons entitled to access unemployment benefit coverage**, as well as in the access **requirements** and the **economic amount** received under the new regime for unemployed persons.

In particular, this reform broadens the possibilities of access to those without family responsibilities or over 45 years of age, who were previously excluded from many of these benefits. In addition, the one-month waiting period to start receiving the benefit is eliminated. Among other new features, the conditions for those who work part-time are equalized, the contributions of those over 52 years of age are not reduced, a regime of proportionality in the duration of the subsidy according to contribution periods is established, returned migrants are included and changes are established in the transition between these subsidies and the Minimum Vital Income (IMV).

It also facilitates the compatibility of subsidies with certain paid employment and strengthens the linkage of unemployment benefits with job placement measures.

### **4. Amendment of the Law 27/2011, of August 1st, 2011, on updating, adaptation and modernization of the Social Security system.**

The new wording changes paragraph 7 of the sixteenth additional provision of the aforementioned law in the following terms (effective November 1st, 2024):

The affected companies must send to the State Public Employment Service (SEPE) a certificate signed by an authorized person, with the information determined by regulations, and must also include the list of affected workers, at least, with the following data:

- Name, surname(s), tax ID number and date of birth of the workers affected by the collective dismissal.
- Name, surname(s) and tax ID number of employees whose contracts were terminated in the three years prior to the start of the consultation period by the company or companies belonging to the same group, for reasons not inherent to the employee's will and other than those provided for in Article 49.1.c) of the Workers' Statute.

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