Employment and social security measures and their extension pending passage of the Spanish Government's budget

This time round it's a go. Following the failure of the previous executive legislation, the Spanish Government seems to have now mustered the necessary consensus to approve urgent measures pending a new budget. In the fields of employment and social security, the new piece of legislation will ensure the continuity of social measures that had lost their validity after having been approved and applied.

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With last year coming to a close and the prospect of a new budget looking unclear, the Spanish Government approved Royal Decree-law 9/2024, of 23 December, adopting urgent measures in the economic, tax, transport and social security fields, and extending certain measures to address situations of social vulnerability. Now, having the foregoing piece of legislation failed to obtain ratification, Royal Decree-law 1/20205 of 28 January (the 'Royal Decree-law' or 'RDL') saves, with sufficient consensus, some of the aforementioned measures.

Below follows a summary of the most important aspects of the measures in the fields of social security and employment included in Title III of the Royal Decree-law.

1. Pensions and public benefits

As pension increases are not subject to extension, it is worth recalling that in order to update pensions, the Government must resort to the approval of a royal decree-law, in accordance with Article 86 of the Constitution. To this end, and until the Spanish Government's Budget for 2025 Act is passed, a rate of increase of 2.8% is decreed with

Extension of social measures in the absence of a Spanish Government budget

respect to the amount earned on 31 December 2024 (Article 65 RDL).

Furthermore, the maximum limit for State and civil service pensions in 2025 is set at 3,267.60 euros per month or 45,746.40 euros per year. Along the same lines, it is recognised that the supplement to close the gender pay gap will amount to 35.90 euros per month by 2025. The minimum amount of contributory pensions will be increased according to the type of pension in accordance with the schedule to the Royal Decree-law. The annual amount of non-contributory disability and retirement pensions will be 7,905.80 euros and non-contributory family benefits will range from 5,805.60 euros to 8,707.20 euros, depending on the degree of disability. The annual income limits in 2025 for people receiving the minimum living allowance are set at 14,952.00 euros per year and, in the case of large families, at 22,501.00 euros per year, increasing by 3,646.00 euros per year for each dependent child from the fourth child onwards, including the fourth child. The income limit for the recognition of below-minimum supplements will also experience an increase of 2.8% over the current limit in 2024. Finally, the regulation is completed with Schedules I and II, which set out minimum pension amounts, limits and other State pensions for 2025.

2. Contribution bases

For 2025, and until the Spanish Government's Budget for 2025 Act is passed, the minimum contribution bases will be automatically increased by the same percentage as the national minimum wage, plus one sixth. For their part, the maximum contribution bases for each staff category and the maximum contribution base will be capped by applying the percentage envisaged for the increase of pensions, to which will be added the percentage established in the thirty-eighth transitional provision of the Social Security Act (LGSS) which requires the addition of a fixed annual amount of 1.2 percentage points between 2024 and 2050. In the case of the intergenerational equity mechanism - an additional contribution in force from 2023 - the contribution will be 0.80 percentage points (0.6 in 2023, 0.7 in 2024 and 0.8 in 2025). When this contribution rate is to be shared between the employer and the employee, 0.67% will be paid by the employer and 0.13% by the employee. It should be remembered that, from 1 January 2025, a contribution will have to be made for the amount of the remunerations subject to contribution that exceed the maximum contribution base. This is the solidarity contribution, applicable to those who exceed the 4909 euros per month of the maximum contribution base. This solidarity contribution, in accordance with the provisions of Article 19 *bis* LGSS, will be the result of applying a rate of 5.5% to the part of the remuneration between the maximum contribution base and the amount that exceeds the aforementioned maximum base by 10%; a rate of 6% to the part of the remuneration between 10% above the maximum contribution base and 50%, and 7% for the part of the salary that exceeds the previous percentage. The sharing of the solidarity contribution rate between employer and employee will keep the same proportion as the sharing of the contribution rate for general contingencies.

Self-employed workers who, due to simultaneously working as an employee, contribute under the multi-activity class and do so during 2025, taking into account both the contributions made under this special class and the employer's and employee's contributions under the Social Security class corresponding to the activity as an employee, will be entitled to a refund of 50% of the excess by which contributions for general contingencies exceed the amount of 16,672.66 euros, with a 50% cap on contributions paid in this special class on account of general contingencies.

Solidarity contribution applied to those who exceed the maximum contribution base

3. Contribution rebate

The Social Security Act is amended in relation to Social Security contribution advantages applicable to temporary collective redundancy procedures and to the RED mechanism, currently conditioned to retaining affected employees six months following the end of the temporary collective redundancy procedure's validity period. Now, with the aim of facilitating the adaptation to the particular circumstances of each situation and of ensuring, where appropriate, a strengthened commitment to employee retention, the Social Security Act is amended to extend the aforementioned obligation a minimum of six months and a maximum of two years following the temporary redundancy procedure's validity period, during which period the corresponding exemption from contributions will apply.

Companies that fail to comply with this commitment must reimburse the amount of the contributions from which they were exempted in relation to the employee in question, with the corresponding surcharge and late payment interest, after verification by the Labour and Social Security Inspectorate of both the breach of this commitment and the determination of the amounts to be reimbursed. It shall not be considered to have been breached when the employment contract is terminated due to disciplinary dismissal held fair or due to resignation, death, retirement, total permanent incapacity, or absolute or severe disability of the employee. Nor shall it be considered to have been breached due to the end of the call-up of persons with a seasonal contract when this does not constitute a dismissal, but an interruption of the performance of the contract. And, finally and in particular, in the case of temporary contracts, this requirement shall not be deemed unfulfilled when the contract has been formalised in accordance with Article 15 of the Workers' Statute Act and is terminated due to the end of its purpose, or when the activity that is the subject matter of the contract cannot be carried out immediately.

4. Self-employed workers' contributions

A new contribution system is introduced for self-employed workers so that, from 1 January 2025, there will be no regularisation of contributions from self-employed workers who have an inter-cooperative system of social benefits, supplementary to the public system. In this way, and with effect from 1 January 2025, the contribution based on earnings from economic, business or professional activity under Article 308 LGSS will not apply to cooperative members included in the special Social Security class of self-employed workers who have an inter-cooperative system of social benefits, supplementary to the public system. The monthly contribution bases chosen by them will not be subject to the regularisation provided for in Article 308(1)(*c*) *of* said law as they do not contribute according to earnings, which makes the regularisation of contributions every year unnecessary.

5. Civil servants and other special classes

The State Civil Servants Act is amended so that, as of 1 January 2025, the thirty-ninth transitional provision of the Social Security Act - which contains the transitional rules to increase the maximum limit of pensions arising as of 1 January 2025 - will apply to State civil servant pensions. In this way, the progressive increase of the initial maximum amount provided for in Article 57 LGSS for pensions arising from 2025 onwards is guaranteed, in order to bring their amount into line with the progressive increase applied to the maximum contribution base from 2024 onwards.

With regard to the maritime-fishing sector, the law regulating its social protection is amended to prevent the additional solidarity contribution from being applied to self-employed workers in the special maritime class, given that this additional contribution is exclusively applicable to employed workers. Special rules are also provided for workers in the second and third categories of this class.

6. Employment measures

As is becoming the norm, it is also stipulated that, in those companies that are beneficiaries of the direct public aid provided for in the royal decree-law, the increase in energy costs may not constitute grounds for redundancy until 31 December 2025. Failure to comply with this obligation will result in the reimbursement of the aid received, as is also becoming frequent in this type of provision. Furthermore, those companies that avail themselves of the measures for the reduction of working hours or suspension of contracts in Article 47 of the Workers' Statute Act for reasons related to the invasion of Ukraine and that benefit from public support will not be able to use these grounds to make employees redundant.

> *Exceptions and rebates in the contribution system, especially for self-employed workers*

For their part, Articles 77 et seq. of Royal Decree-law 1/2025 extend the measures for the economic reconstruction of the island of La Palma, which, as is well known, include temporary collective redundancy procedures linked to temporary force majeure, the deferral of Social Security contributions, exemptions from contributions for employers and employees in certain population groups or, finally, extraordinary measures for self-employed workers, based mainly on the cessation of activity.

Unlike the law that originated it, this law no longer refers to the extension of the validity of Royal Decree 145/2024 of 6 February, which sets the minimum wage for 2024. A reference that was present in Article 87 of Royal Decree-law 9/2024 and that is not now included in this new piece of legislation, despite the fact that the latter reproduces a chapter devoted to employment measures, among which it could be found. It is true that it was included there as a merely transitional legislative intervention, pending the approval, within the framework of social dialogue and in accordance with the provisions of Article 27 of the Workers' Statute Act, of the new national minimum wage for 2025, an amount seemingly to be set any time now.

Although all these measures are scheduled to come into force the day after their publication, the provisions on pension amount limits, pension increases and contribution base caps will only take effect from 1 January 2025.