

NEWSLETTER 1 - JANUARY 2025

1. NEWS ABOUT MIRALLES.

International Activity:

Last November, we attended in Brussels the annual seminar on European labor and employment law organized by the ERA and EELA. We had the opportunity to analyze the latest developments in European labor law as well as to connect with the firm's international network.

Miralles Team:

Our team has been reinforced with the incorporation of Inés Rumeu and Berta Camacho as Associates to support the rest of the Miralles team. Both lawyers have a Master's degree specializing in labor law and speak Spanish, Catalan and English.

2. LEGISLATIVE DEVELOPMENTS.

A) GENERAL CHEMICAL INDUSTRY COLLECTIVE BARGAINING AGREEMENT.

In relation to the XXI Collective Bargaining Agreement of the Chemical Industry, which was pending publication and regarding the content of which the Directorate General of Labor has requested a correction, we would like to inform you that it is possible that the Agreement may be challenged by UGT. In the event that the aforementioned procedure goes ahead and is successful, there could be legal consequences with respect to the matters that constitute the content of the Agreement, with special mention to the salary increases and arrears.

B) ORGANIC LAW 1/2025, OF JANUARY 2, ON MEASURES FOR THE EFFICIENCY OF THE PUBLIC JUSTICE SERVICE.

Entry into force with respect to the procedural amendments of the social order, 3 months after its publication, i.e. on April 3, 2025.

I. Amendment of the Organic Law 6/1985 of July 1, 1985, of the Judiciary (LOPJ). Entry into force 20 days after its publication in the BOE, i.e. on 23-1-2025.

A system is established in which the first level of judicial organization operates in a collegiate manner, the so-called model of Courts of First Instance (this level is introduced in Article 26 of the aforementioned LOPJ).

It is therefore a collegiate system of organization, although this does not alter the exercise of the jurisdictional function or the competencies of the unipersonal trial courts.

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Said Court of First Instance may have Social Sections, which are provided for in art. 94 of the aforementioned LOPJ (section 34 of art. 1 of the Organic Law).

II. **Amendment of Law 36/2011, of October 10, 2011, regulating the Social Jurisdiction (LRJS).**

This procedural regulation (LRJS) is modified through Article 24 of this Organic Law, and among many others, the main novelties are the following:

- Promotion of the oral nature of sentences (art. 50 LRJS).
- Flexibility in the convening of conciliation and trial proceedings, expressly establishing the possibility that they may be convened separately and in advance (art. 82.2 LRJS).
- The requirement is established in the citation of the prior transfer between the parties, **or the anticipated contribution of the documentary or expert evidence they intend to use, 10 days prior to the trial** (art. 82.5 LRJS).
- The period of 5 to 10 days prior to the date of the trial for requesting diligences for the preparation of the evidence to be taken at trial is extended (art. 90.3 LRJS).
- In relation to the cassation appeal for the unification of doctrine, the concept of "objective cassation interest" is introduced. This is an additional filter for the admissibility of the appeal, seeking the admission of only those cases with significant legal relevance (art. 219.1 and 3 LRJS).

The possibility of partial inadmissibility is foreseen, allowing the continuation of the procedure of the motives not affected by the partial inadmissibility decision (art. 225.5 LRJS).

III. **Amendment of the Workers' Statute Law.**

This Law (ET) is amended through the 26th Final Provision of this Organic Law, the main novelties being the following:

- Regarding the termination of the contract due to the employees' will, as provided for in Article 50 of the Labor Code, this article is amended to state that it will be understood that there is a delay in the payment of wages when the date set for payment is exceeded by 15 days.

Likewise, it is understood that there are continuous delays in the payment of salary, which allow for termination, when 3 monthly payments are owed within a period of one year, or when there is a delay in payment for 6 months, even if not consecutive.

- Modification of Articles 53.4 b and 55.5 b ET: Included among the cases of nullity of corporate decisions to terminate contracts affecting employees who have requested the leave provided for in Article 37.3 b) ET (leave for cases of accident, serious illness, hospitalization or surgery requiring rest), or are taking such leave, or have requested or are taking the working day adaptations provided for in Article 34.8 ET.

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This corrects the Parity Law, which did not protect workers in these cases.

C) ROYAL DECREE-LAW 11/2024, OF DECEMBER 23, FOR THE IMPROVEMENT OF THE COMPATIBILITY OF THE RETIREMENT PENSION WITH WORK.

Entry into force the most relevant aspects (reform of the General Social Security Law), on **April 1, 2025**, with the exception of the extension and new regulation of the partial retirement modality for the manufacturing industry, with immediate entry into force.

The aim is to improve the compatibility of the retirement pension with employment and to make it easier for workers to make a more progressive and flexible transition from the labor market to retirement.

Specifically, the **new features** introduced are as follows:

- **Delay of retirement (art. 210.2 and 3 LGSS)**

The possibility of increasing the economic complement is introduced for those who access the retirement pension at a higher age.

Until now it was accrued for each full year contributed after reaching the ordinary retirement age. Now, as from the second full year of delay, it may be generated for periods of delay between 6 months and one year, assigning an additional 2% for such shorter periods.

- **Compatibility of pension with part-time work. Flexible retirement (art. 213 LGSS).**

Pensioners are allowed to combine their pension with part-time work, with the exceptions and under the terms determined by law or regulation (until now, the pension was reduced in inverse proportion to the reduction in working hours).

In this regard, the 2nd Additional Provision of the RD-Law establishes that within 6 months of its publication (i.e. until the end of June 2025), the Government will analyze the requirements of this type of retirement in order to provide incentives for this type of retirement.

- **Active retirement (Article 214 LGSS):**

- The requirement to have a full career of contributions is eliminated (it will no longer be necessary to prove sufficient contributions in order for the pension to reach 100% of the regulatory base; it will now be sufficient to have the necessary contributions in order to qualify for the retirement pension).
- The incompatibility between the active retirement pension and the delay supplement regulated article 210.2 of this Law, foreseen for those retire one or more years after reaching the corresponding ordinary retirement age, is no longer an obstacle for access to this type of pension.
- The amount of this type of active retirement is modified with the purpose of encouraging the permanence in the activity.

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- In general, it ceases to be 50% of the recognized pension, and is replaced by a variable percentage depending on the delay in receiving the retirement pension since reaching the corresponding ordinary retirement age, ranging from 45% of the recognized retirement pension, when the delay in accessing the pension has been one year, to 100%, if access to the pension has been delayed for five or more years.
- Thus, a scale is established for the calculation of the percentage of the retirement pension to be received, depending on the period of delay:

In addition, the percentage of the pension is increased by 5 percentage points for each 12 uninterrupted months that the pensioner remains in active retirement, but without the pensioner being able to exceed 100% of his pension.

- As an exception, in the event that the activity is carried out on a self-employed basis and it is proven that least one employee is hired for the activity itself on an indefinite basis and with a minimum seniority of 18 months, or if a new employee is hired on an indefinite-term basis who has not had an employment relationship with the self-employed worker in the two years prior to the start of active retirement, the amount of the pension compatible with work will reach 75% when the delay in accessing the retirement pension has been between one and three years, applying the general percentage from the fourth year of delay.
- **Partial retirement** (Article 215 LGSS and paragraph 6 of the 4th Transitional Provision of the same regulation):
- The possibility of reducing the working day of the partially retired person to a maximum of 75% (up to now 50%).
 - In the case of a relief contract (early access to retirement age), the possibility of such early access to retirement age is extended from 2 to 3 years, provided that there is a reduction in the working day of between a minimum of 25% and a maximum of 75% (up to now , with the possibility of reaching 75% only in cases where the relief worker is hired full time under a contract of indefinite duration).
 - In cases of anticipation of more than two years, the reduction in working hours allowed during the first year is less, between 20 and 33 percent, and this reduction may be altered as of the second year.
 - The conditions of the relief worker are improved: In the case of early partial retirement, the relief contracts established as a consequence of such retirement must necessarily be of an indefinite term and full time nature (until now it was possible for duration equal to the time remaining for the person being replaced to reach the ordinary retirement age), and must be maintained for at least two years after the partial retirement is terminated.
 - The possibility of accumulating working time in periods of days in a week, weeks in a month, or months in a year, or other periods of time, by individual agreement or collective bargaining, is recognized.

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- The transitional regime for partial retirement in the manufacturing industry is extended until December 31, 2029 (section 6 of the 4th Transitional Provision of the LGSS).
- In relation to this special transitional regime, the obligation of the company and the employee to contribute 80% of the contribution base that, if applicable, would have corresponded to the partial retiree had he/she continued to work full time is introduced.

3. NEW JURISPRUDENTIAL DEVELOPMENTS:

WORKING TIME WHEN TRAVELING TO CLIENTS. SUPREME COURT DECISION NO. 5973/2024, OF 27 NOVEMBER 2024:

This ruling clarifies that, in general, travel time from the employee's home to the first customer and from the last customer to the employee's home is not considered effective working time, except in exceptional circumstances.

In the case under resolution, the trade unions UGT and CCOO filed a collective dispute claim against an elevator and maintenance company demanding that it recognize as working time the period of travel made by the workers.

The Supreme Court explains that the Tyco doctrine does not apply in this case, since in that case commuting was already considered working time prior to the elimination of the temporary offices, and therefore does not apply to the case in question.

Therefore, in application of the Supreme Court's own doctrine, the Chamber, applying a literal interpretation of Article 34.5 of the ET, clarifies that, except in specific circumstances, the travel time from the home to the first client and from the last client to the home is not considered effective working time and, therefore, is not remunerated.

REMUNERATION REGISTER AND SALARY TRANSPARENCY. SUPREME COURT DECISION Nº 1302/2024:

The Supreme Court overturns the judgment of the Audiencia Nacional and confirms that there is no right on the part of the legal representatives of the employees to know the individual salaries of the workforce.

We remain at your disposal for any question you may have.