

NEWSLETTER:

Date: September 2023
From: Miralles Abogados
To: Contacts

A) LEGISLATIVE UPDATES:

ROYAL DECREE 608/2023, OF JULY 11, which develops the RED Mechanism for Flexibility and Employment Stabilization.

- This regulation provides the regulatory framework for the RED Mechanism as envisaged in Article 47 bis of the Workers' Statute.
- It also establishes the obligation of a six-month notice period for companies intending to initiate a collective redundancy procedure that results in the definitive cessation of activity and the dismissal of fifty or more employees.
- The provisions of the legal regime for furloughs (as with the RED Mechanism) are modified.

The RD, amending the Regulation of collective dismissal procedures and suspension of contracts and reduction of working hours (Royal Decree 1483/2012, of October 29), introduces the possibility of reallocating and re-assigning employees, as well as ensuring that employees are not subject to a combination of measures (suspension and reduction), or the prioritization of reduction measures over suspensions.

B) IMPORTANT REMINDERS:

1. **AMENDMENT OF SELF-EMPLOYED EMPLOYEES DATA**

We would like to remind you that, following the publication of Royal Decree 504/2022, of June 27, there is an obligation to report data concerning self-employed employees (affiliated to RETA).

According to the sole transitory provision of this regulation, self-employed employees who were already registered with Social Security as of January 1, 2023, **have until October 31, 2023, to electronically communicate these new data** to the General Treasury of Social Security.

Depending on the self-employed employees situation, specific information must be provided (as outlined in paragraphs 1st to 8th of Article 30.2.b of the General Regulation on company registration and affiliation, enrollments, withdrawals, and data variations of workers in Social Security), which includes:

- Expected net income.
- The association to which the self-employed worker belongs (if applicable).
- Tax Identification Number (NIF) of the company to which the self-employed worker invoices (if applicable).
- Reporting all the activities carried out.

This communication can be carried out by the self-employed employees themselves through the Social Security Electronic Headquarters.

Similarly, self-employed employees meeting any of the following conditions:

1. Those who perform managerial functions associated with the position of director or administrator, or provide other services to a capital company, for profit and on a regular, personal, and direct basis, provided they have effective, direct or indirect control over that company, or
2. Those who are industrial partners in regular collective companies and limited partnerships, or
3. Those who are co-owners of joint property or partners in irregular civil partnerships, unless their activity is limited to the mere administration of jointly owned assets, or
4. Those who are worker-members of worker cooperatives, whose participation in the share capital, together with that of their spouse and relatives up to the second degree, with whom they live, reaches at least 50 percent, unless they demonstrate that effective control of the company requires the involvement of individuals outside of family relationships, or
5. Those who are worker-members of worker cooperatives.

Are obliged to communicate the following data to the General Treasury of Social Security:

- 1.º Company name and Tax Identification Number of the companies or joint properties they belong to.
- 2.º Performance of the role of director or administrator or provision of other services for the company.
- 3.º Percentage of ownership of the share capital, in the case of those covered by points 1 or 4 above.

The data can be communicated in the following ways:

- If there is a representative who is an Authorized RED System Agent, they can make the communication. The communication of the mentioned data must always be carried out by the RED Authorized Agent if the company or joint property already has an assigned Contribution Account Code.
- Otherwise, the data can be communicated through the "Collective Entrepreneur. Company Identification. Initial CCC Assignment" service on the Social Security Electronic Headquarters, located under "Companies, Affiliation, Registration, and Modifications."

2. EFFECTIVE DATE OF SOCIAL SECURITY SUBSIDIES

Starting from September 1, 2023, new social security subsidies have come into effect as a result of the provisions of Royal Decree-Law 1/2023, of January 10, on urgent measures concerning labor contract incentives and improving social protection for artists.

Specifically, subsidies for the following concepts:

- Permanent hiring of individuals with borderline intellectual functioning.
- Permanent hiring of workers readmitted after having left the company due to permanent or absolute incapacity.
- Permanent hiring of women victims of gender-based violence, sexual violence, trafficking, sexual or labor exploitation.
- Fixed-term contracts made to replace individuals on conciliation leave.
- Cases of job changes due to pregnancy risk, risk during pregnancy, or occupational diseases.
- Permanent hiring of individuals in situations of social exclusion, long-term unemployed individuals, and terrorism victims.
- Implementation of the training and alternation contract and transformation of training and relief contracts into permanent contracts.

3. **APPLICATION OF SALARY REVISION LINKED TO THE CPI. GENERAL CHEMICAL INDUSTRY BARGAINING AGREEMENT.**

As a result of the salary revision provision in the aforementioned Collective Agreement, **as of January 1, 2024, the salary guarantee clause established in Article 38 of the same Agreement will be applied.**

Therefore, as indicated in that article, if the sum of the Spanish general CPI for the years 2021, 2022, and 2023 exceeds the sum of the agreed increases in the Collective Agreement for those years, a salary revision will be carried out for the difference, without retroactive effects.

In accordance with the evolution of the CPI mentioned, **the forecasted increase currently stands at a percentage higher than 10%.**

Any increase that may be applicable will be paid **with effect from January 1, 2024**, without retroactive effects, and will serve as the basis for calculating the salary increase for that year.

Regarding the mentioned salary revision, it is important to note that both Article 82 of the Workers' Statute and Article 35 of the Collective Agreement provide a **mechanism to not apply parts of the agreement**, subject to the existence of company grounds and a specific procedure.

We remain at your disposal for any questions.

Sincerely,
Miralles Abogados