



Spain: Labor Reform Update

Insights

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In February of 2012, the Spanish government introduced drastic labor reforms known as Royal Decree Law 3/ 2012 (“Reform Law”) in the hopes of improving an ailing economy and reducing Spain’s sky-high unemployment rate which has reached a staggering 23%. The reforms specifically focused on promoting employment for the youth, providing employers with more flexibility in managing its workforce and cutting the cost of terminating workers. On July 9, 2012, the Spanish Parliament ratified the labor reforms resulting in the Reform Law being enacted despite heavy opposition by the public, unions and numerous political parties.

Since the introduction of the labor reforms in February to the recent ratification of the law, there have been several amendments and modifications which have resulted in the following specific Reform Law provisions:

- Pursuant to the Reform Law, employers can deviate from the provisions of a collective bargaining agreement for certain economic, technical, organizational or production reasons. The Reform Law now defines the aforementioned terms and sets forth with specificity what constitutes sufficient economic cause for an employer to deviate from a collective bargaining agreement and implement a redundancy¹. The standard of sufficient economic cause for a redundancy will be met when there is a “persistent decrease in the level of revenues and sales” of a company. This has been further defined to mean when a company’s ordinary revenue over three (3) consecutive quarters is less than the ordinary revenue from the same period from the previous year.
- An employer will also have sufficient economic cause to suspend employee contracts when there has been a decrease in revenues and sales during two (2) consecutive quarters compared to the same quarters from the previous year.
- The Reform Law requires that the employer notify the labour authority and the employee with all information necessary to demonstrate the reasons for a collective dismissal.
- Employers are permitted to modify the working conditions set forth in collective bargaining agreements for financial cause.
- The Reform Law nullifies any provisions included in a collective bargaining agreement entered into after July 8, 2012 that require the retirement of employees at the age of sixty-five (65).
- The Reform Law reduces the automatic extensions of collective bargaining agreements from two (2) years to one (1) year. If a collective bargaining agreement is not renegotiated within that one

year, the provisions of the collective bargaining agreement will no longer be in force and effect.

- The percentage of irregular work hours that an employer can distribute has been increased from 5% to 10% of an annual working schedule. However, the Reform Law requires that the employee be given five (5) days notice of the date and time he or she will be required to work.
- Terminations as the result of absenteeism are permitted in cases where the employee misses 20% of his/her working hours in two (2) consecutive months. However, the total number of absences in the preceding twelve (12) months must also amount to 5% of the employee's total working hours.

Despite the enormous amount of opposition within the country from the public, unions and numerous political parties, the Spanish government is confident and hopeful that the aforementioned reforms will improve the economy and lessen the burden on employers.

1 A redundancy is defined pursuant to Spanish law as the termination of job positions for economic, technical, organizational or production reasons.