Spain: social partners and government strike deal that extends improved partial unemployment schemes until 30 June

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On 11 May, the Spanish government, the CCOO and UGT trade unions and the CEOE and Cepyme employer confederations signed an agreement on an extension of the temporary employment regulation plans (ERTEs, equivalent of partial unemployment) for force majeure, which were put in place at the start of the lockdown to help companies cope with declines in business, sales and production resulting from the Covid-19 health crisis, until 30 June. The text provides for both the maintaining of the shutdown and the partial resumption of activity, as the country enters a process of phased exit from lockdown. It also opens up the possibility of extending the ERTEs beyond 30 June, in sectors of activity that are particularly affected by the restrictions imposed as a result of the health crisis. Exemptions from social security contributions have been extended and the agreement provides for a ban on the payment of dividends for 2019 by companies using short-time working. This agreement is soon to be included in a decree-law.

Adjusting to a complicated recovery. This agreement ensures that the exceptional short-time working mechanism put in place on 17 March, which was intended to operate only during the state of emergency decreed on 14 March (see article n°11729), can continue. Under the agreement, firms that invoked the situation of force majeure linked to the state of alert and the economy going into hibernation will be able to move from a total standstill to a gradual recovery and, in the event of subsequent difficulties, to convert the procedure into a short-time working scheme for economic, technical, organisational or production reasons.

The text has been unveiled as business gradually resumes in the country from 11 May, depending on the health situation on a regional level, with small businesses and certain hospitality businesses authorised to re-open, subject to conditions. The aim is to help companies adapt to this scenario, whereby the recommencement of business varies in nature and difficulty depending on the sector in question. As such companies may opt to only reintegrate part of their workforce or make use of part-time working arrangements.

Maintaining the system to protect workers affected. The agreement establishes that, until 30 June, time on partial unemployment will not be deducted from employees' future entitlement to benefits and that daily allowances will be guaranteed, including for those who had not paid sufficient contributions over the last six months.

The protection of seasonal workers in tourism on temporary contracts (*fijos-discontinuos*) will be extended until 31 December, with a very slow recovery in the tourism sector predicted.

The employment safeguard clause is maintained, with an obligation for companies that benefit not to make any redundancies within six months of business resuming. However, it is specified that firms in the tourism sector that employ variable numbers of staff will not be strictly subject to this clause. This requirement also excludes companies at risk of imminent bankruptcy.

Exemption from employer contributions in the event of partial resumption. The exemptions from employer contributions have been maintained until 30 June for companies that remain at a standstill.

The exemption is 100% for companies with fewer than 50 employees and 75% for companies with 50 or more employees, taking into account the number of employees on 29 February.

The agreement provides for exemptions from contributions so as to support companies that start operating again, even if the resumption is slow. The state will pay 85% of social security contributions for the month of May and 70% for the month of June for companies returning to work with fewer than 50 employees. For companies with more than 50 employees, coverage will be 60% in May and 45% in June. Meanwhile in the case of companies that return to work while keeping part of their employees off work, exemptions from charges will be 60% in May and 45% in June for companies with fewer than 50 employees and 45% in May and 30% in June for those with 50 or more employees.

Sector-based analysis from 30 June. Every fortnight from 30 June a tripartite monitoring committee will analyse the economic development of each sector in order to support those which need it, taking into account the type of company, its field of activity and the geographical area concerned, with the possibility of moving from the ERTE framework for force majeure (directly linked to the health emergency) to the more traditional ERTE framework for economic, technical, organisational or production reasons.

This agreement excludes companies that have a tax domicile in tax havens. It also provides that companies which extend the use of short-time working will not be able to pay dividends during the tax year concerned, unless they reimburse the money they have benefited from through exemptions.

Reactions. The CCOO and UGT unions have welcomed the agreement, which it says “allows the productive fabric to be reactivated in flexible conditions and a move towards a way out of hibernation with strengthened economic and social pillars and with guarantees”.

On the employer side, the president of CEOE has hailed an agreement that was reached through “concessions on both sides”. “The important thing is not what we don’t have, but what we have obtained and what we have managed to avoid”, he said, although the tourism and hotel sector demanded better guarantees.

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Par Cécile Thibaud