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*English version*

# NEWSLABOUR

RSM SPAIN LABOUR DEPARTMENT NEWSLETTER

**Ignacio Hidalgo and Miguel Capel**

A new month and a new edition of **#NewsLabour**!

This edition stands out since several articles deal in great depth with Act 4 of 28 February 2023 on the real and effective equality of transgender people and the guarantee of LGTBI people's rights.

You will not only find an overview of such law and the rest of the new legislative events recently published but we also approach the practical effects and new obligations arising for entrepreneurs in #CaseoftheMonth and in #PracticalLaw.

But don't worry, in this edition, in the same way as in all the previous ones, we also analyse recent judgements that will certainly be of great interest to you.

Constantly informing and updating our readers.

**And, as always, we remain at your entire disposal!**

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Please contact us should you have any queries about these judgements or their application in your company.

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## >The courts in a nutshell

# What's new on the block?

**Roberto Villon**

**As always, every month we can find judgements and legal news that particularly draw our attention due their special features or importance; we provide an overview of some of them below:**

### The judgement of the Supreme Court of 9 February 2023: Occupational accident during a sandwich break?

The aforementioned judgement of the Supreme Court analysed a case in which a worker had an accident while she was on her way to a bar for a sandwich break and the question raised consisted of whether or not such accident should be considered an occupational accident. However, by recalling its doctrine and referring to the rulings of the Supreme Court and the relevant High Courts of Justice, the Supreme Court considered such accident must be deemed as having occurred while the employee was working, due to it happening in the working hours provided to the worker to recover her energy; moreover, the fact that the place where the accident occurred was not precisely the place where she performed her professional duties does not alter the link between the accident and her work because her leaving the work centre for this reason must be deemed as a normal activity in her working life that would not have taken place if she had not been rendering her services,.

### The judgement of the National Court of 23 February 2023: Data protection vs. remuneration records.

The National Court ruled that the business practice consisting of limiting the data provided in the remuneration records prior to an Equality Plan being drawn up was null and void. This practice of omitting data related to certain jobs that were held by one gender is null and void due to it lacking the required comparative elements to detect possible indirect discrimination due to gender, since omitting them regarding the jobs held by one gender does not mean there are no jobs with equivalent value in which there are significant remuneration differences that must be assessed.

### The judgement of the High Court of Justice of Asturias of 14 February 2023: Dismissal of workers on temporary disability leave within the scope of Act 15/2022.

Since Act 15/2022 was published, there have been numerous cases in which the dismissals of workers suffering from some kind of illness, temporary disability, etc, have been ruled null and void. Unlike these judgements, in this one the dismissal of a worker for unjustified absences, due to him not having returned to work after his temporary disability leave nor having provided the relevant disability certificate, was ruled unfair but not null and void. The judgement recalled that Act 15/2022 has not amended the contents of the provisions in the Labour Relations Act and neither has it changed the doctrine determined by the Supreme Court in this respect.

### The judgement of the High Court of Justice of Madrid of 3 February of 2023: Occupational accident and working from home.

Cases of accidents while working from home are highly controversial and there have been different rulings on this matter. In this case, a worker died at home, specifically in his bathroom, his wife claiming that the incident must be ruled an occupational accident. The High Court of Justice considered that the unfortunate event could not be considered an occupational accident and this was because the worker had a flexible start time and his start of work had not been recorded at the time of his death; moreover the accident occurred in his bathroom and not in his normal workplace; hence it could not be deemed that it was caused by his work or that it happened during his working hours. ■

Please contact me if you would like further information about the new obligations for your company regarding equality and protection from sexual violence.

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## >Practical Law

# We have new duties requiring that companies must be up to date

**Rocío vivo**

The protection of the right to equal treatment, non-discrimination and protection from sexual violence certainly has an increasingly important role now in our society and, over the last few months, there are rules imposed in different fields for such purpose, but **watch out**! The labour obligations that are included for companies must be taken into account.

Obviously, the labour field is not immune from the need to provide such protection to staff; therefore today we will deal with the main measures that companies must take into account and implement due to: **(i)** Act 10 of 6 September 2022 https://www.boe.es/buscar/act.php?id=BOE-A-2022-14630 coming into force on the integral guarantee of sexual freedom (the law known as "only yes means yes") and, **(ii)** Act 4 of 28 February 2023 on the real and effective equality of transgender people coming into force on the guarantee of LGTBI persons' rights (commonly known as the "Transgender Law").

### Promotion and training for integral protection from sexual violence in the workplace:

If you have still not drawn up a protocol against sexual harassment due to gender, you should bear in mind it was already mandatory for all companies, regardless of their size, and must be duly negotiated with the workers' legal representatives, (hereinafter referred to by its initials in Spanish "RLT"), by applying Act 3/2007 on effective equality between men and women, already required by virtue of Article 48 thereof in its previous text, but you should also bear in mind that this obligation has now been reinforced and extended by the "only yes means yes" law.

In addition to acknowledging different relevant rights granted to the victims of sexual violence, (which is included in the Labour Relations Act, along with that already mentioned, gender violence), this law regulates new duties for companies.

### What does this imply?

The following measures are included that must protect all the staff, regardless of their type of employment contract, i.e. those from temporary employment agencies (ETT), interns and volunteers:

a. Companies must **promote working conditions** that avoid crimes and conduct being committed against sexual freedom and moral integrity in the workplace, particularly stressing sexual harassment due to gender and specifically including the digital scope.

   Very important! For such purpose, **specific procedures** must be drawn up **for their prevention** and so that victims are provided with a channel to send their reports.

   Measures can be implemented, negotiated with the RLT, such as issuing and disseminating good practices codes, informative campaigns, action protocols or training courses.

b. Promoting awareness-raising and offering all the staff **training** for integral protection from sexual violence are mandatory duties.

c. Moreover, sexual violence must be included among the occupational hazards in the **risk assessment** of jobs held by female workers and, for such purpose, these workers must be trained and informed.

It is now the time to review and complete/update the protocols, processes and whistle blowing channels that are already used in your organisation or, now more than ever, implement them if you still do not have them, and remember negotiations must be held with the RLT for such purpose.

You must also provide training and awareness-raising courses to the staff on sexual violence and your risk assessment must be updated.

### Other duties imposed by the Transgender Law for companies with more than 50 employees:

We deal with this in depth in the **case of the month** but, for companies with more than 50 workers, they must add implementation of measures that enable real and effective equality of the LGTBI group to be achieved to their ***"to do list"*** and that of the RLT, because negotiations must be held and an agreement reached with the RLT, including a **protocol to prevent**

Please contact me if you would like further information about the new obligations for your company regarding equality and protection from sexual violence.

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**harassment or violence against such group**, albeit pending regulatory development, with a deadline of 12 months counted from 2 March 2023.

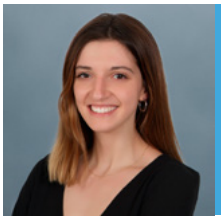
In fact, if these are obligations that were already previously considered important, they certainly deserve to be fulfilled even more so now.

Failure to provide protocols on sexual harassment due to gender and/or sufficient protection of workers from situations of sexual harassment or violence can lead to various consequences, from the administrative sanctions referred to in the Act on Offences and Penalties in the Social Order, amended by the latest regulation, to having an impact on dismissals or other sanctions that could be imposed, if a harassment protocol is not fulfilled as a guarantee, or possible liability may be claimed related to prevention of occupational hazards, among others.

Moreover, contingencies could also arise beyond a strictly labour field, which could affect, for example, the possibility to enter into contract with the authorities or to receive public subsidies, with consequences related to compliance, even of a criminal scope.

Therefore, in addition to the importance that raising awareness and due protection of the staff has as such, which, in this case, the company must fulfil formally and in practice, this is precisely no trivial issue.

Although rules and duties are accumulated for us, you must get going now and adapt your organisation to these new requirements. ■



Please contact me should you require any further information about the practical effects of this law.

**Yolanda Tejera**
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## >Case of the month

# The act on real and effective equality for transgender people and the guarantee of lgtbi people's rights: the challenges employers face due to the new types of discrimination

**Yolanda Tejera**

The new Act 4 of 28 February 2023 coming into force on Real and Effective Equality for Transgender People and the Guarantee of LGTBI People's Rights has led to a great deal of talk, discussions and opinions.

While some support and others criticise it, everyone (whether specialist or not) has an opinion on the issue but it is of the utmost importance that we obtain in-depth knowledge about it because there are new aspects that will obviously have huge repercussions within the labour field.

### Before getting nervous... we should know the following main new aspects of the Transgender Act (within the labour field):

The new law, published on 1 March 2023, is intended to guarantee and promote the right to real and effective equality of lesbian, gay, transgender, bisexual and intersex persons and their families and, for such purpose, if we strictly refer to the labour field, it includes the following series of new aspects:

1. The reasons for discrimination of persons with a labour relationship are extended by including discrimination due to "sexual orientation and identity", "gender expression" or "sexual characteristics".

2. The leave for the birth of a child and care of a minor by the biological mother is extended and now includes expectant transgender people.

3. Companies with more than 50 workers must have planned a set of measures and resources to enable them to achieve real and effective equality of the LGTBI groups within a term of 12 months counted from the date the law comes into force, including an action protocol for dealing with harassment or violence against LGTBI persons.

   In this respect, as far as drawing up such plans is concerned, it is stipulated that they must be negotiated and agreed with the workers' legal representatives.

4. It is specified that transgender people must be included in the Equality and Non-Discrimination Plans, with special attention being paid to transgender women.

5. Lastly, Article 8.12 of the Act on Offences and Penalties in the Social Order is amended to include, among very serious infringements, the company's unilateral decisions that imply direct or indirect adverse discrimination due to the worker's sexual orientation and identity, gender expression or sexual characteristics.

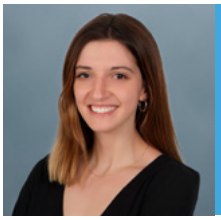
It is clear the new law includes more situations of direct and indirect discrimination that companies must know about in order to guarantee equal treatment and non-discrimination due to the workers' sexual orientation and identity, gender expression or sexual characteristics.

Moreover, it is even more obvious that we must anticipate the interpretation and application of the regulation because, since it came into force, it has been detected it could imply companies will need to deal with more new reasons for dismissals to be revoked: dismissal being ruled null and void due to discrimination based on sexual orientation and identity.

### We are starting to become a little nervous now... the legislative trend continues by extending the perimeter of rulings on dismissals being null and void.

The new law has extended the reasons prohibiting discrimination and has hence set off the alarm bells in all companies, which see that there is an increased risk of petitions, or even rulings, of revocation of the dismissals already carried out.

We already began seeing this legislative trend of increased protection in 2022 when the integral Act 15 of 12 July 2022 on equal opportunities and non-discrimination was published, which added more



**Please contact me should you require any further information about the practical effects of this law.**

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reasons for discrimination and specified in its Article 2 that there must be no discrimination against anyone due to *"illness or health condition, serological status and/or genetic predisposition to suffer from pathologies and disorders (...)"*.

However, the strange thing about such law is not that it added more reasons for discrimination, but the fact that it stated the acts or clauses in legal business must be ruled null and void if they imply or cause discrimination for any of the reasons included in such Article 2.

The text of this law has directly led to a great deal of claims being filed by workers in a situation of temporary disability or with a special medical condition that include petitions for revocation and, even though this law is still quite new, we can see judgements have already been ruled on the application thereof, with differences and a variety of criteria, which show a trend, also judicial, of extending the perimeter for ruling dismissals null and void.

Specifically, the judgement of the High Court of Justice of the Balearic Islands of 24 January 2023 is particularly interesting, due to being proof of such increased extension, which ruled that the termination of a contract by not passing the trial period was null and void due to it violating the worker's fundamental right to physical integrity (Article 15 of the Spanish Constitution) and an infringement of the provisions in Act 15/2022.

The Division ruled that there was sufficient *prima facie* evidence to deem that the reason for the dismissal, due to the worker not passing the trial period, was actually because he had previously begun a 3-day period of temporary disability and that was a violation of the worker's right to health protection and to receive social security benefits, both statements being part of the fundamental right to physical integrity, which hence resulted in a ruling that the dismissal was null and void.

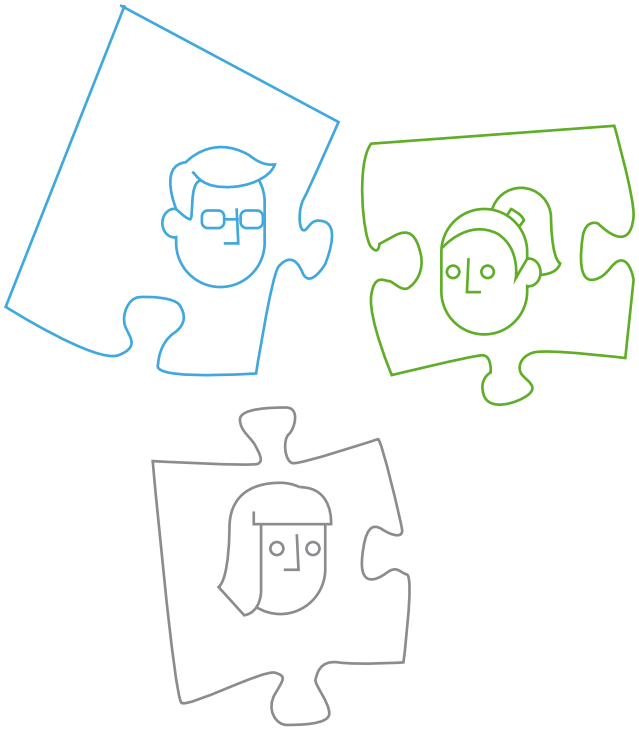
## So... what can we expect in the future?

Act 4/2023 is pending its regulatory development and it will still be some time before we see its practical application in the courts but the trend, both of the legislator and the Spanish courts of justice, is to extend the legal protection to specific situations of particular vulnerability and this obviously means an increase in the risk that revocation is ruled on dismissals due to violation of fundamental rights when such situations of discrimination occur.

The foregoing, along with the position being adopted by several High Courts of Justice in Spain on the assessed severance pay not being very dissuasive, means it can be expected that revocation is petitioned for some reason of discrimination in all the claims that are filed related to dismissal and, in a subsidiary manner, unfair dismissal with an increase in the legally assessed severance pay.

Therefore, since no judicial judgements have been ruled to provide legal certainty to companies about the practical effects of applying the aforementioned rules, the most important aspect is that companies must provide solid grounds for the dismissals they intend to carry out in order to avoid risks and, for such purpose, it is crucial to have a legal team available that can provide these companies with a great deal of preventive advice.

For such purpose, RSM is at your entire disposal to help you face the new business challenges you are subject to due to the new labour regulations. ■



Please contact me should you require any further information about the judgement analysed below.

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## >Judgement of the month

# Agreeing on lower severance pay for older workers within the scope of a collective dismissal process. Is this practice valid?

**Marta Rico**

### Background

In this case analysed by the Supreme Court, the company agreed on a collective dismissal process that was challenged through the courts, the company and the workers' legal representatives eventually reaching an agreement. The agreement included higher severance pay than the one legally stipulated by virtue of Article 51 of the Redrafted Text of the Labour Relations Act of 20 days per year worked for all the workers involved, distinguishing between workers younger than 60 years of age and those who were older.

The Labour Division ruled on the appeal to the Supreme Court (cassation) for unification of doctrine filed by one of the workers older than 60 years of age in order to determine whether or not this different treatment of some workers due to their age infringed the principle of equality and non-discrimination, bearing in mind that this resulted in lower severance pay for workers who were 60 years of age or older.

### Legal grounds

The Supreme Court began its reasoning by recalling the judgement of the Constitutional Court 40 of 21 March 2022, which repeated the known uniform doctrine of this court by applying the principle of equality and non-discrimination referred to in Article 14 of the Spanish Constitution, to recall that the principle of equality does not imply equivalent legal treatment in all cases, apart from any differentiating elements of legal importance, so that not all inequality in regulatory treatment related to the regulation of a certain matter implies an infringement

Si quieres más información sobre la sentencia analizada, contacta conmigo.

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of the mandate contained in Article 14 of the Spanish Constitution, but only those that include a difference between situations that could be considered identical, without an objective and reasonable justification being provided and offered for such different treatment. As a general rule, the principle of equality requires application of the legal consequences to the same factual cases and hence prohibits the use of differentiating elements that can be categorised as arbitrary or lacking reasonable justification. In order for different treatment to be constitutionally legitimate, the legal consequences resulting from such distinction must also be in proportion to the purpose sought in order to avoid an excessively burdensome or unwarranted outcome.

By applying these legal parameters, the judgement of the Constitutional Court 66 of 13 April 2015 already ruled on a very similar case to the one analysed, in which it precisely dealt with possible discrimination due to age in the criteria for selecting the workers to be included in a collective dismissal process agreed between the company and the workers' representatives, in which it was considered that workers at an age close to retirement would be included in the dismissal list, deeming that there were reasons to accredit the justification and proportional nature of the agreed criteria.

The High Court added to all this that the doctrine invoked was also in accordance with the provisions in Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, which also admits the legality of differences in treatment due to age if they are found to be objective and reasonably justified.

When analysing the specific case, the Division argued that the amount referred to in Article 51 of the Redrafted Text of the Labour Relations Act for collective dismissals is not of an absolute nature but must be deemed as the minimum and it can be increased through an individual or collective agreement, meaning it is perfectly valid and in accordance with the law for the company and the workers' representatives to decide on certain amounts higher than such quantitative limit, but receiving it being reduced or made subject to the conditions or situations that such negotiating parties decide to apply, providing such conditions or situations are not against the law, morals or public order.

In the case examined, regardless of their age, the agreed severance pay for all the workers was higher than the applicable legal minimum and even included different favourable adjustment factors for those paid a lower salary, the court hence categorised the agreement that included lower severance pay for workers that had already reached the age of 60 as fair and proportional, bearing in mind they would very soon be eligible for their retirement pension, being positioned at the time of receiving it while receiving unemployment benefits and being able to more easily benefit from the possibility to enter into a special social security agreement, deeming that the younger workers had a more uncertain future professional career and life, since there were still many years before they would be eligible to a retirement pension.

The terms in which a possible agreement could be reached, within the scope of a collective dismissal process, are not always very clear and not obtaining suitable advice could lead to serious consequences for a company; hence RSM is at your entire disposal to help you deal with these kinds of proceedings with the utmost guarantees possible. ■

Please contact me if you would like to obtain further information about this issue.

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## >Advice of the month

# Dismissal based on illegal evidence. Its categorisation and the employer's risks

**Alejandro Alonso Díaz**

The effects of the categorisation of a dismissal after obtaining evidence that implies an illegal violation of a worker's fundamental rights has led to a long-term dispute that at present has not been entirely resolved by case law or the judicial doctrine of Spanish courts.

Based on the recent judgement of the High Court of Justice of Galicia of 15 February 2023 (Appeal 925/2023), the discussion has entered the arena once again, this time it was deemed it deserved categorisation of unfair dismissal, and not revocation, even though the grounds for the dismissal were based on evidence illegally obtained and hence implied a violation of the worker's fundamental rights. However, it was ruled that such violation of evidence had to be compensated by payment of all the damages caused (specifically an amount of €6,000).

Within this current context, the following three theses could be applicable regarding the illegal dismissal-evidence combination:

- The first, known as *"irradiation"*, is when it is deemed that the evidence being ruled null and void leads to the dismissal also being considered null and void. The contaminated fruit would poison the whole tree.

- The second, known as *"dependence"*, is when it is sustained that both issues operate on different levels, one procedural (the dismissal) and the other substantive (violation of the worker's fundamental rights).

- The judgement of the Constitutional Court 61/2021 opens up a third doctrinal trend by deeming that *"it refused to offer a constitutional interpretation of a general scope and, in the specific case, considered an interpretation of ordinary legality was reasonable from the standpoint of the grounds of the judgements and the right to effective judicial protection according to which (and we repeat: in this specific case) the evidence being ruled null and void would not result in the dismissal also being ruled null and void"*.

Regarding the case ruled by the High Court of Justice of Galicia, we are faced with a particularly complicated case. However, the arguments to sustain the irradiation theory were reinforced at the time compensation for moral damages was granted for violation of a fundamental right, deeming that the following two situations could arise in this respect:

- If, due to the particular features of the case, the company's conduct does not affect the decision for termination, (since basically the illegitimate interference was caused by another worker whose conduct was in good faith), it is not fair for the company to be the one that must pay for some moral damages it did not directly cause. In accordance with this reasoning, it seems that the most reasonable outcome would have been to rule the dismissal was fair or, if there were no cause, unfair.

- If it is deemed that the company was the one that caused the moral damages (and, for this reason, it must pay compensation), then it seems there is no way to avoid that this illegal conduct would end up affecting the decision for termination and hence it must be categorised as null and void.

In fact, there is currently no unification of doctrine that determines revocation or unfair dismissal when illegal evidence to prove such dismissal is submitted in proceedings, because each case is unique and therefore it is complicated to find a solution that resolves every possible situation. Therefore, the advice lies in, if the only evidence available has been obtained by violating a worker's fundamental rights, it should be **(i)** removed from the proceedings by the judge *motu propio* **(ii)** never have been submitted by the party right from the start, with the result that, this being the "only element of evidence" (it will depend on the specific case), the dismissal would not be proven hence it would be deemed unfair based on Article 55.4 of the Spanish Labour Relations Act because, by submitting it, there would be a risk of compensation of damages due to the harm caused to the worker's constitutional guarantee.

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This would lead to a dangerous margin when a decision is adopted on unfair dismissal based on evidence that is known to be illegal right from the start, the employer considering that the result could be a ruling of unfair dismissal but, at the end of the day, the dismissal would already have been carried out and the relationship terminated.

Although it could seem rather obvious, submitting evidence must be avoided at all costs if it is known it could be categorised as illegal, since a ruling of unfair dismissal would, at least, then be certain and an economic amount must be added to this for damages and, in the worst-case scenario, it would be ruled null and void with the inherent consequences of this. Therefore, we must be extremely cautious when submitting evidence, e.g. irregular video surveillance or other means of evidence that implies a violation of a worker's right to privacy because, in these cases, that is usually the most affected right, since this will lead to consequences that are more harmful than advantageous with an extra payment to compensate damages also being added to the severance pay for the unfair dismissal; however, as already mentioned, the casuistry and lack of uniform criteria of the courts makes each case something absolutely unique. ■

Please contact me should you require any further information about the regulation analysed below.

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## › Legislative developments

# What we are about to be faced with!!

**Lara Conde**

The beginning of the year was full of legislative news and, in March 2023, various laws were published that will not leave anyone indifferent because their contents could have numerous repercussions on labour issues.

We provide an overview below of some of the points that we consider are of the greatest interest:

### Act 4 of 28 February 2023 on the real and effective equality of transgender people and the guarantee of LGTBI people's rights, which came into force on 2 March 2023.

This law regulates measures to protect LGTBI people in different fields and, as far as the scope of labour is concerned, its Article 14, on equal treatment and opportunities of LGTBI people in the workplace, imposes an obligation on the public authorities to take into account people's right to non-discrimination due to their sexual orientation in their employment policies.

Moreover, Article 15 of the aforementioned law regulates that companies with more than 50 workers must implement an action protocol governing harassment and violence against LGTBI people within a term of 12 months counted from the date the law comes into force.

It must be taken into consideration that all the measures adopted in this respect cannot be unilaterally imposed by companies but must be negotiated and agreed with the workers' legal representatives.

We should be very cautious not to infringe this regulation because discrimination due to sexual orientation and identity, gender expression or sexual characteristics has been included in the Act on Offences and Penalties in the Social Order as a very serious infringement, for which fines from €7,501 up to €225,018 could be imposed.

This innovating law is discussed in greater depth by my colleague Yolanda Tejera in her article *"The Act on Real and Effective Equality for Transgender People and the Guarantee of LGTBI People's Rights: The Challenges Employers face due to the New Types of Discrimination", included in this edition of NewsLabour.*

### Act 1 of 28 February 2023 amends Act 2 of 3 March 2010 on sexual and reproductive health and voluntary abortion, which came into force on 2 March 2023.

This law has made amendments to the General Social Security Act, (hereinafter referred to by its initials in Spanish "LGSS"), related to special situations of temporary disability, which will come into force on 1 June 2023.

One of the most discussed amendments included in Article 169 of the LGSS is the inclusion of *"secondary disabling menstruation"*, as a justifiable reason for leave for common contingencies, along with abortion, whether voluntary or not, while the worker receives health care from the public health service and is unable to work. The benefits for these reasons will be paid by the General Treasury of Social Security (TGSS) from day one.

Similarly, Article 172 of the LGSS includes the requirement to have contributed for a minimum period to be granted leave in these cases; these terms depend on the worker's age.

### The Spanish Labour Relations Act 3/2023 of 28 February 2023, which came into force on 2 March 2023.

- **Amendment of Article 27 of the Labour Relations Act, (hereinafter referred to by its initials in Spanish "ET"), on the possibility to seize the Minimum Inter-Professional Wage, (hereinafter referred to by its initials in Spanish "SMI")**

Article 27 regulates that the SMI cannot be seized, as far as its annual and monthly amount is concerned. Moreover, it is clarified in its section two that in the event the proportional part of the extra payments is included in the monthly salary, the limit that can be seized is the amount of the SMI. However, if the extra payment is received along with the monthly salary, the limit that can be seized will consist of twice the amount of the monthly SMI.

- **Amendment of Article 51.2 of the Labour Relations Act on public control of collective dismissals**

This law includes the obligation of the Labour and

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Social Security Inspection Department, in addition to adopting a decision in its report on aspects related to the communication and development of the consultation period in collective dismissal proceedings, as it has been doing up to now, to also adopt a decision on the reasons specified by the company in the original notification and determine whether or not the documentation submitted thereby meets the requirements, depending on the specific reason alleged for the dismissal.

**Act 2 of 20 February 2023 regulating the protection of people who report regulatory infringements and prevention of corruption, which came into force on 13 March 2023.**

This regulation transposes Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 (Whistleblowing Directive) into Spanish law.

The obligation is regulated that an internal whistleblowing channel must be implemented in all companies that employ more than 50 workers. Moreover, they must keep a record book of the reports received and the internal investigations conducted, guaranteeing the non-disclosure requirements stipulated by law.

The maximum term for its implementation is 3 months, counted from the date when this law comes into force, in other words, by 13 June 2023. However, companies that employ 49 workers or fewer are granted a term until 1 December 2023.

The channels must allow information to be reported in writing and verbally and it may even be submitted by holding a personal meeting, at the request of the reporting party, within a maximum term of 7 days.

It should be pointed out that the protection provided by the law to the reporting parties implies a prohibition and a ruling that any conduct carried out that could be categorised as a reprisal within 2 years after the investigations is null and void. ■

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