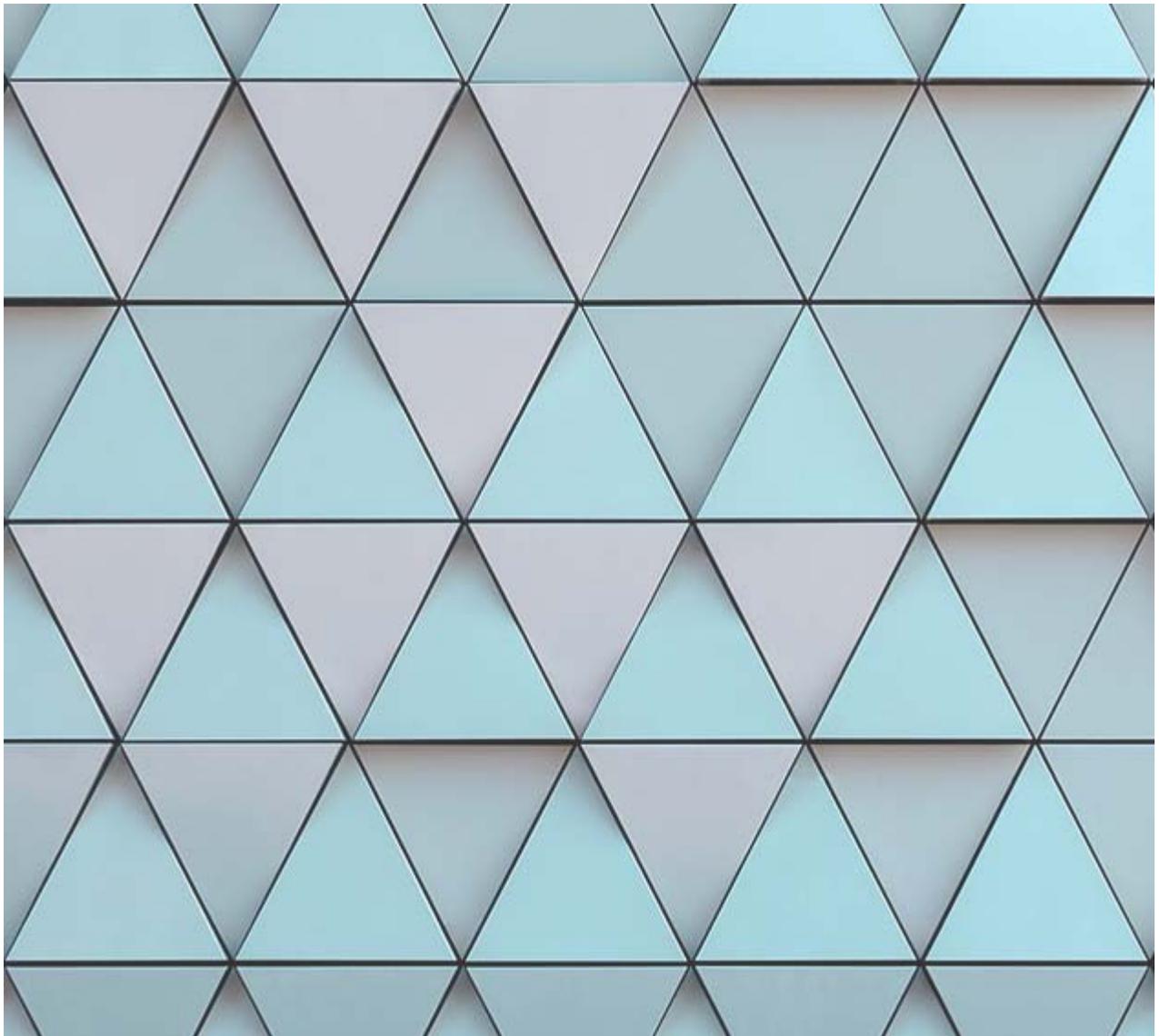


SPAIN - Labor and Employment Newsletter



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BREASTFEEDING LEAVE

- *Royal Decree-Law 7/2023* (“RDL 7/2023”) has made the regulation of breastfeeding leave more flexible (article 37.4 Workers Statute, [WS]) by enabling its accumulation in full-time working hours, regardless of whether (i) this possibility is established in the collective bargaining agreement, or (ii) the parties reach an agreement.
- However, in a vote carried out on January 10, 2024, the lower house of the Spanish parliament did not validate RDL 7/2023, meaning that it is no longer in force, although during its validity—from December 21, 2023 to January 12, 2024 (the publication date of the repealing agreement)—it has had effect. The government could still pass a new royal decree-law with similar or identical content.

COLLECTIVE BARGAINING

- *RDL 7/2023* has also amended article 84 WS to strengthen collective bargaining in the autonomous regions, ensuring the most favorable agreements are applied for employees. From now on, agreements signed at autonomous region level will have priority over any other sectoral agreement at state level, if: (i) the agreements obtain the majority backing required to constitute the negotiating body in the corresponding bargaining unit, and (ii) the conditions in them are more favorable to employees than those in state agreements.

EXTENSION OF MINIMUM WAGE AND OTHER LABOR AND EMPLOYMENT MEASURES

- *Royal Decree-Law 8/2023* (validated by the lower house of the Spanish parliament) extended the minimum wage established for 2023—an agreement between the government and trade union representatives is expected—as well as several anti-crisis labor and employment measures. In addition to urgent measures addressing the economic and social consequences of the armed conflicts in Ukraine and the Middle East, and the drought, it incorporated other adjustments regarding social security contributions (contribution bases and the Intergenerational Equity Mechanism).



SIGNIFICANT JUDGMENTS

Reduced working hours and shift work

Supreme Court (Labor), judgment of November 21, 2023 (no. 983/2023)

The Supreme Court (SC) declared that the exercise of reduced working hours under article 37 (sections 6 and 7) WS does not involve the right to amend the work system, i.e., it does not cover the change to a fixed shift versus alternate shifts.

Calculating accumulation of breastfeeding leave in part-time contracts

Supreme Court (Labor), judgment of November 21, 2023 (no. 986/2023)

The SC clarified that part-time workers are entitled to accumulate breastfeeding leave (one hour a day from the end of parental leave until the baby is nine months old) without reducing the leave proportionally to the shorter working day.

Calculating time limit for challenging de facto collective dismissal

Supreme Court (Labor), judgment of October 19, 2023 (no. 754/2023)

The SC declared that the expiry period to challenge—individually or collectively—a de facto collective dismissal starts when the contractual terminations that exceed the thresholds under article 51.1 WS have been notified and not when the disputed dismissal occurs.

Limiting judgments of substantial change of working conditions

Supreme Court (Labor), judgment of September 14, 2023 (no. 556/2023)

The SC amended its criteria for limiting access to the appeal for reconsideration in individual processes involving substantial change in working conditions—when claims are over €3,000—unless the exceptional cases under the Spanish Labor Court Act arise, such as the violation of fundamental rights.



UPCOMING NEWS

- The agreements reached for government configuration and some of the announced measures enable us to anticipate new developments, of which we highlight the following:
 - minimum wage increase for 2024;
 - new trainees' statute and relief contract;
 - dismissal regulation;
 - work time (progressive reduction of working hours);
 - extension of parental leave;
 - up to four weeks paid parental leave; and
 - employee participation in companies.

- The transposition of *Directive 2019/1152* on transparent and predictable working conditions in the European Union is imminent. Some of the issues to be amended are the (i) regulation of part-time contracts (regarding changes in working hours and supplementary working hours), (ii) trial period, and (iii) full-time employment agreement.

For additional information on the contents of this document, please contact our [Knowledge and Innovation Group](#) or your regular contact person at Cuatrecasas.



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