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## Spain: Working time flexibility

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Spain

Phase:

Management

Type:

Working time flexibility

Last modified: 10 December, 2021

Native name:

**Estato de los Trabajadores; Real Decreto 801/2011 por el que se aprueba el Reglamento de los procedimientos de regulación de empleo y de actuación administrativa en materia de traslados colectivos; Ley 3/2012, de 6 de julio, de medidas urgentes para la reforma del mercado de trabajo**

English name:

**Statute of Workers' Rights; Royal Decree 801/2011 that enacts regulation on collective dismissals procedures and administrative actions in case of collective transfers; Law 3/2012 of 6 July on urgent measures to reform the labour market**

### Article

Art. 8, Royal decree 801/2011; Art. 47 of Statute of Workers' Rights modified by Art. 13 of Law 3/2012

### Description

A temporary layoff plan is a special administrative labour procedure which can be executed due to failure of the business activity as a result of economic, technical, organisational or production problems. Since Royal Decree law 10/2010 was approved, it can be implemented irrespectively of the number of workers affected. Law 3/2012 eliminated the requirement of administrative authorisation. These measures are negotiated between the company and the employees' representatives at the workplace level. In the absence of workers' legal representatives, employees will be able to confer representation on a commission made up of a maximum of three members belonging to the most representative trade unions of the sector.

In temporary layoff cases, workers are entitled to unemployment benefits, while the enterprise must continue paying social security contributions.

In the case of working time reduction, workers are entitled to partial unemployment. In those cases, working time can be reduced between 10% and 70%.

Other measures related to working time flexibility include irregular working time distribution throughout the year and overtime. Since Law 3/2012 was enacted, 10% of the annual working time can be distributed irregularly throughout the year, thus increasing in some weeks the maximum working hours (40 hours). Previously the limit was 5%. With regard to overtime, the statutory maximum working day (nine hours) can be changed by means of collective bargaining up to a maximum of 80 extra hours distributed throughout the year. In addition, overtime can be compensated with rest.

Finally, there are measures that include the possibilities of using working time reduction as a measure to reconcile work and family life. The reduction in working time in order to take care of children younger than eight years old or people with a disability can only be applied on a daily basis since Law 3/2012 was enacted. Previously it could be applied in relation to the working week or month. The worker has to advise the employer of his/her intention to reduce their working time 15 days before the date.

### Comments

Since the financial crisis began in 2008, the number of workers affected by temporary dismissals dramatically increased. Nevertheless, the recovery of employment implies a decrease in the use of these measures. According to the statistics of the Ministry of Employment, the number of workers affected by temporary dismissal has constantly decreased since 2012. That year, 300,713 workers were affected by temporary dismissal compared to 234,116 in 2013, 92,234 in 2014, 62,298 in 2015, 53,658 in 2016, 28,257 in 2017, 43,329 in 2018, and 47,571 in 2019. Nevertheless, we can observe a sensitive rise of workers affected in the last two years.

As far as working time reduction is concerned, a similar trend is observed. Since the onset of the financial crisis there was an increase in the use of those measures. In 2008 and 2009, 20,675 and 20,591 workers were affected, respectively, by working time reduction schemes, while in 2012 90,724 workers were affected by those measures. Since that year, the number of workers affected has constantly decreased (75,505 in 2013, 31,457 in 2014, 13,652 in 2015 and 8,570 in 2016, 8,427 in 2017, 3,610 in 2018, and 2,263 in 2019).

In 2018, 49,329 workers were affected by temporary dismissals (most of them in the manufacturing sector) and 3,610 by reduction of working time (most of them in services). In 2019, most of the temporary dismissals (78%) occurred in the field of industry. On the contrary, working time reduction schemes mostly occurred in the service sector (51%) followed by the industry sector (46%).

These instruments were key during 2020 to counteract the impact of the COVID-19 pandemic: 928,862 workers were affected by temporary dismissals or working time reduction measures, mostly in services sector (846,651). During 2021 (January-August), 929,687 employees were affected by these measures.

#### Cost covered by

Companies  
Employer  
National government




#### Involved actors other than national government

Employer organisation  
Regional/local government  
Trade union  
Works council

#### Thresholds

No, applicable in all circumstances

#### Sources

-  Eurofound (2009), Tackling the recession: Employment-related public initiatives in the EU Member States and Norway, Publications Office of the European Union, Luxembourg
-  Consejo Económico y Social (CES), Economía Trabajo y Sociedad, 2009, Memoria sobre la situación socioeconómica y laboral
-  Statute of Workers' Rights
-  Law 3/2012
-  ERM database on restructuring support instruments: Temporary layoff plan
-  Statistics of the Ministry of Employment

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