Resolution of 19th May 2023, of the Directorate General for Labour, registering and publishing the 5th Agreement for Employment and Collective Bargaining.

Ministry of Labour and Social Economy
«BOE» no. 129, of 31st May 2023
Reference: BOE-A-2023-12870

CONSOLIDATED TEXT
Last amendment: no amendments

With regard to the text of the Fifth Agreement on Employment and Collective Bargaining (agreement code 99100015092012) for the years 2023, 2024 and 2025, which was signed on 10th May 2023 by the Spanish Confederation of Employers' Organisations (CEOE) and the Spanish Confederation of Small and Medium-Sized Enterprises (CEPYME), on the one hand, and by the Trade Union Confederations of Workers' Commissions (CCOO) and the General Union of Workers of Spain (UGT), and pursuant to the provisions of Article 83.2 in relation to Article 90, paragraphs 2 and 3, of the Workers' Statute Act, revised text approved by Legislative Royal Decree 2/2015, of 23rd October, and Royal Decree 713 /2010, of 28th May, on the registration and deposit of collective agreements, collective bargaining agreements and equality plans,

This Directorate General of Labour hereby resolves:

One.

To order the registration of the aforesaid agreement in the corresponding register of collective bargaining agreements, collective labour agreements and equality plans operating through electronic means of this management centre, notifying the Negotiating Committee.

Two.

To order its publication in the "Official State Gazette".

Madrid, 19th May 2023. The Director General of Labour, Verónica Martínez Barbero.

5TH AGREEMENT FOR EMPLOYMENT AND COLLECTIVE BARGAINING (5th AENC, Spanish acronym)

Madrid, 10th May 2023.

PREAMBLE

The employer organisations CEOE and CEPYME and the trade union organisations CCOO and UGT, which are the signatories of this Agreement, have been demonstrating for several decades our commitment to a bipartite social dialogue as the backbone of the self-government

of labour relations, with collective bargaining as the area where it finds its maximum expression. Within this framework, this 5th Agreement for Employment and Collective Bargaining (5th AENC) is part of a long historical thread that connects various agreements reached in the early years of democracy, previous AENCs, successive agreements for the Autonomous Settlement of Labour Disputes and many other outcomes of bipartite social dialogue which, especially in recent years, have shown the vitality, presence and capacity for adaptation of the social partners and our firm commitment to occupy a space of our own.

In the most recent period, the outcomes of this bipartite social dialogue include the 3rd and 4th AENCs, which guided the collective bargaining criteria between 2015 and 2020, the 6th Agreement on the Autonomous Settlement of Labour Disputes (6th ASAC) and, given the significance of the moment we have experienced, we must highlight the bipartite Agreement we reached in the early hours of 12th March 2020 to address the problems caused by the COVID-19 pandemic crisis in the field of employment, which was later transformed, by way of tripartite dialogue, into the six Social Agreements to Protect Employment (ASDE in the Spanish acronym), better known as ERTEs (Temporary Reductions of Employment), which allowed millions of jobs to be saved, along with business activity in Spain as a whole.

In extremely difficult contexts, such as those experienced in Spain since 2020, the outcomes of the tripartite social dialogue cannot be understood without the determination of the employers' and trade union organisations. This social dialogue between the Government and the social partners has resulted not only in the six agreements on ERTE and the organisation of the full recovery of activity, but also in other important labour agreements, including the development of the regulations on teleworking, the guarantee of the labour rights of workers dedicated to delivery in the field of digital platforms, and the Spanish Strategy for Workplace Health and Safety.

Among these agreements, we should highlight what has been the main outcome of the tripartite social dialogue of the last period in the labour sphere, the Agreement reached in December 2021 on Labour Reform, reflected in Royal Act 32/2021. In this Agreement, the Government, CEOE, CEPYME, CCOO and UGT were able to focus the objectives on the factors that should facilitate a shift in the paradigm of employment and labour relations: promoting permanent contracts and employment stability; strengthening the ERTE mechanism as a measure of internal flexibility to help sustain employment and business activity in times of difficulty for companies or deeper sectoral transformations; and strengthening collective bargaining and the value of the collective agreement as the most effective way to adapt employment and working conditions to the realities of sectors and companies.

Although we are aware that it is still too early to make a complete and definitive assessment of the effects of this Labour Reform, it cannot be denied that the first results point to the success of the agreed measures insofar as they are contributing to eradicate certain pathologies of our labour market, such as high temporary employment or the massive destruction of jobs in times of crisis, and the role of collective bargaining has been strengthened; these measures undoubtedly have an impact on the improvement of the living conditions of workers and the productivity of companies.

All these agreements that emerge underscore the value of social dialogue at both bipartite and tripartite levels.

We now add the 5th Agreement for Employment and Collective Bargaining. Each of the previous AENCs has had different contents that have responded to the situations of each moment, never simple but very different from each other. But they all have a common thread, which is that they all seek, through collective bargaining, to improve the situation of companies and to maintain employment and working conditions, and also to enhance the content of collective bargaining and adapt it to the changes and realities that are taking place in society, in the economy and in the labour market, as well as to address content that contributes to tackling structural problems such as inequality between women and men and preserving the health and safety of workers.

Thus, the 1st AENC, signed in February 2010 and valid until 2012, was intended to act as a "dynamizing element of the Spanish economy" in defence of employment in a situation where

the profound economic crisis was barely commencing. The 2nd AENC (2012-2014), signed at the height of the crisis and in the midst of very harsh adjustment measures, sought, through internal flexibility and wage moderation, to initiate a recovery of the Spanish economy, while preserving the role of collective bargaining and bipartite social dialogue. The 3rd AENC (2015-2017) was signed at the start of an emerging economic and employment recovery and sought to consolidate the situation of employment and companies. The 4th AENC (2018-2020) sought to improve employment, wages and business performance by taking advantage of the consolidation and improvement of the Spanish economy.

CEOE, CEPYME, CCOO and UGT agreed this AENC once again at a complex juncture. The outbreak of an unprecedented health crisis at the beginning of 2020, which effectively paralysed activity across the world, made it necessary to put forth all our efforts to find a way out of this situation. And in the midst of the process of recovery from the standstill in activity, other situations followed, such as the blockage of supplies of certain materials and components, escalating prices in energy and some raw materials, which culminated in a war in the heart of Europe that threatened, among other things, the very recovery of the economy. And all of the foregoing resulted in an exorbitant increase in prices, which eroded the purchasing power of wages and increased the production costs of companies. In addition to the preceding elements, all of which are cyclical although some of them have longer-term repercussions, there is also the need to confront the major structural transformations -digital, ecological, demographic, caretaking-, profoundly disruptive transformations also in employment and the functioning of companies, which the pandemic and the subsequent crises have accelerated.

With the aim of tackling these challenges, we have conducted the negotiation of the 5th AENC, which has now ended. It began after the end of the tripartite negotiation that culminated in the Labour Reform Agreement of December 2021, and from the outset it has sought to reflect the determined will of the social partners to strengthen bipartite social dialogue in order to tackle an extremely complex economic situation and the deployment of the agreed Labour Reform in collective bargaining, on the basis of the autonomy of collective bargaining and the conviction of the need to govern labour relations on the basis of that autonomy.

The context of maximum uncertainty hindered the negotiation process, resulting in an agreement not being reached until May 2023 and, therefore, the AENC has not provided coverage for collective bargaining in 2022. For that year, although a large number of sectors and companies have already concluded their collective agreements, there are still many others yet to do so. In these cases, the negotiating parties in each of the areas will approach the negotiations seeking solutions on the basis of the situation and the reality of their own area.

The 5th AENC will be in force from 2023 to 2025, and maintains the legal nature and structure of previous AENCs. Its contents include, first of all, a reminder of the employment and recruitment matters that the Labour Reform mandates for their development through collective bargaining, with the aim of consolidating the employment stability objectives established therein from our own sphere. We also addressed the criteria for determining wage increases in the years 2023 to 2025, with the aim of recovering wages, together with certain recommendations on the wage structure. In addition, we face the need to analyse, in each of the areas of action, the evolution of the indicators of temporary incapacity derived from common contingencies and we need to establish measures of action to improve the health of workers and to reduce the frequency and duration of these processes, among others, trying to make better use of the resources of the Mutual Societies collaborating with the Social Security without modifying the current competencies of the public health services and with full freedom for workers, for which we call on the competent administrations in this area.

Equality between women and men remains in a section with specific commitments, but we are also committed to a cross-cutting vision that integrates, with a gender perspective, measures in the area of salary structure, professional classification systems and internal flexibility instruments with a view to greater joint responsibility between women and men. We

also address the need to act on the full integration of people with disabilities in employment and to tackle discrimination against diversity and the integration of LGTBI people, and to decisively tackle sexual and gender-based violence in our area of responsibility, protect victims and turn workplaces into safe spaces.

We are likewise committed to internal flexibility mechanisms, as tools that facilitate the competitive adaptation of companies and productive activity and that preserve the stability and quality of employment and working conditions, in an appropriate balance between flexibility for companies and security for workers. Among these instruments, we should highlight, as one of the central novelties of the recent Labour Reform, the shared criteria for the use of ERTEs and the new RED Mechanism as a tool for internal flexibility that preserves jobs and companies in the face of more traumatic measures. We also intend to develop in collective bargaining all the elements that the agreement on new regulations on remote work, or teleworking, reached in the tripartite social dialogue in 2020, refers to such bargaining. And a new commitment is made to establish shared guidelines for the effective development of the right to digital disconnection on the basis of collective autonomy.

Last but not least, we are firmly committed to the agile functioning of participatory mechanisms to face the major challenges posed by the major technological, digital and ecological transformations and the disruptive consequences they have on companies and their activity and, therefore, on employment and its conditions. This should allow for a just transition to a reality that is not yet written, via anticipation, lifelong learning and re-skilling, addressing the various gaps so that no one is left behind.

With this AENC, the social partners provide society as a whole with an agreement that offers certainties and commitments in the face of the uncertainty and the important challenges that we face as a State. Based on our capacities and possibilities in the bipartite sphere, we believe that we have done our homework and fulfilled our responsibility. But in order to complete some of these commitments, some actions do not depend solely on our will, as they require the action of the Government or other bodies. Among these, we wish to highlight the request to the Government to adapt the current price review regulations in public procurement to allow for their updating in certain situations. Workers and companies involved in public procurement in labour-intensive sectors cannot once again be the paymasters of a rule that *de facto* prevents prices and hence wages from being revised, even in extreme situations such as the current one.

All these measures cannot just remain on paper. The 5th AENC, like the previous ones, contains commitments and agreements that will have to be developed in thousands of negotiating processes in thousands of different areas, at sectoral and company level. The power and richness of bipartite social dialogue and its main instrument, collective bargaining, lies not only in the major general agreements—the most important thing is that their content permeates all areas and is adapted to the various realities. This effort and commitment involves thousands of people from the Organisations that have signed this Agreement to make it possible to achieve the intended objectives and to consolidate a climate of social peace, which is so necessary in the current context.

CHAPTER I

Legal nature and scope of the inter-confederal agreement

1. Legal nature and functional scope.

The signatory Organisations, which have the status of being the most representative at state level, directly assume the commitments of this Agreement and therefore oblige ourselves to adjust our behaviour and actions to what has been agreed, and each of us can demand from the others the fulfilment of the agreed tasks or duties.

We likewise consider that the matters in the Agreement are interrelated and that their treatment in collective agreements can favour business activity and employment.

The signatory Confederations shall intensify their efforts to establish with their respective Organisations in the sectors or branches of activity, without detriment to the collective autonomy of the parties, the most appropriate mechanisms and channels that will allow them to assume and adjust their behaviour for the application of the criteria, guidelines and recommendations contained in this Agreement, which is binding in nature.

2. Temporal scope

The Agreement will be in force for three years (2023-2025).

The signatory organisations will meet three months before the end of the year 2025, in order to commence negotiations on a new inter-confederal agreement for collective bargaining with a duration to be determined.

3. Monitoring Committee

In this Agreement, we set up a Monitoring Committee made up by three representatives from each of the signatory Organisations.

This Commission shall be entrusted with the interpretation, application and monitoring of what has been agreed.

At the request of any of the signatory Organisations, this Committee may use its good offices to resolve any discrepancies that may arise in the interpretation and application of these provisions in the negotiation of collective agreements.

During the term of the Agreement, the Monitoring Committee will be entrusted with the tasks and will articulate the Working Groups that the parties deem appropriate by mutual agreement.

The Monitoring Committee shall approve its rules of operation at its first meeting.

CHAPTER II

Collective bargaining

Collective bargaining is the natural setting for the exercise of the collective autonomy of employers' and trade union organisations and the appropriate arena for facilitating the adaptability of enterprises, setting working conditions and models for improving productivity, creating more wealth, increasing employment, improving its quality and contributing to social cohesion.

With this vision in mind, the signatory Confederations of this Agreement have the firm intention to promote collective bargaining by encouraging the opening of new bargaining units and the expansion of the existing ones.

1. Validity and organisation of the negotiating process

In order to preserve the validity of agreements and to minimise negotiating deadlocks, we propose the following to the parties negotiating collective agreements:

Promoting the renewal and updating of agreements, articulating rules on validity, ultra-activity and negotiation procedures that stimulate the intensification of negotiations until they are concluded.

Encouraging the use of autonomous labour dispute resolution systems, also taking into account the new functions included in the 6th Agreement on the Autonomous Settlement of Labour Disputes (6th ASAC), on the promotion of collective bargaining and conflict prevention.

2. Joint committees

The signatory organisations agree on the need to strengthen the joint committees and their functions, furnishing them with an agile and flexible system of operation to improve their effectiveness in order to reinforce collective autonomy.

In this respect, we recall that it is advisable to take into account the annex of recommendations on the functioning of the joint committees set out in the 6th ASAC.

Together with the definition of the functions attributed to the joint committee, a regular operating procedure must be established in order to be able to promptly and effectively resolve consultations and/or conflicts that might issue from the workplaces.

The collective bargaining agreement in any field shall regulate the procedures to be applied in relation to each matter on which, by legal or conventional rule, the intervention of the joint committee is foreseen, indicating the deadlines for communication and/or, where appropriate, resolution, along with the documentation to be submitted by the company or by any of the affected parties and guarantees of a hearing.

With the purpose of facilitating contact and communication with the joint committees, the persons negotiating agreements are encouraged to domicile them at the headquarters of the SIMA Foundation or its regional counterparts, depending on the territorial scope of application of each agreement.

3. Autonomous labour dispute settlement systems

The signatory organisations of this Agreement feel fully committed to strengthening the role of the autonomous settlement bodies existing at state level and in each autonomous community, and we therefore call on the negotiating parties to promote their use, also taking into account the new functions included in the 6th Agreement on the Autonomous Settlement of Labour Disputes (6th ASAC) to encourage and promote collective bargaining, preventive mediation of disputes and intervention in cases of collective bargaining deadlock, including equality measures and plans.

To this end, collective agreements should include express commitments and references to the use of mediation and/or arbitration procedures in collective disputes, including agreements on arbitration, especially in the event of non-application of collective and, where appropriate, individual agreements, which may arise at sectoral or company level.

CHAPTER III

Employment and hiring

On 30th December 2021, Royal Decree-Act 32/2021, of 28th December, on urgent measures for labour reform, guaranteeing employment stability and the transformation of the labour market, was published, reflecting the outcome of the intense process of tripartite social dialogue.

This new regulatory framework incorporates important references to collective bargaining and a new model of employment contracts in Spain, inviting us to introduce in an orderly fashion the significant changes that will affect companies and workers.

Thus far, the Labour Reform has yielded good results. To continue moving in this direction, collective bargaining agreements must contribute to promoting employment stability and the appropriate use of contractual arrangements, developing the calls for collective bargaining made in the law, especially after the Reform.

1. Hiring arrangements

In order to achieve the objectives outlined above, collective agreements should take up and develop the following calls for collective bargaining:

– Trial period: Duration, to facilitate the mutual knowledge of the contracting parties and also the suitability of the worker and their aptitudes, as well as their suitability to the professional development prospects and the demand for their qualifications in the company's organisation, carrying out the experiences that constitute the object of the trial (Article 14.1 of the Workers' Statute, ET).

– Fixed-term contract:

● In collective agreements or arrangements

○ Agree, where appropriate, on means other than public notice to ensure the transmission of information on the existence of vacant permanent jobs for which persons with fixed-term contracts are eligible (Article 15.7 of ET).

● In collective agreements:

○ Duration of the replacement contract for the temporary filling of a post during the selection or promotion process, with a limit of three months (Art. 15.3 of ET).

○ Plans and criteria for reducing temporary employment in keeping with the provisions of Article 15.8 of ET.

○ Measures to facilitate effective access to the actions included in the vocational training system for employment (Article 15.8 of ET).

● In sectoral agreements:

○ Extend, where appropriate, up to a maximum of one year the contract due to production circumstances arising from an occasional and unforeseeable increase in activity or fluctuations in activity (Article 15.2 of ET).

– Permanent-discontinuous employees:

With the aim of favouring the employment stability sought by the Labour Reform of 2021, which, among other formulas, is materialised in the strengthening of the permanent-discontinuous contract when there is intermittent and recurrent work, we recommend developing the full potential of this contract through collective agreements, regulating the aspects that allow better adaptation to the needs of the workers, the sectors and the companies.

In order to achieve this objective, collective agreements should take up and develop the following calls for collective bargaining:

● In collective agreements or, in the absence thereof, in company agreements:

○ Objective and formal criteria governing the call, bearing in mind that, in all cases, the call must be made in writing or by any other means that provides a reliable record of the notification (Article 16.3 of ET).

● In sectoral collective agreements:

○ In cases where the permanent-discontinuous contract is justified by the conclusion of a contract or subcontract, the maximum period of inactivity between contracts and subcontracts (Article 16.4 of ET).

○ Sectoral employment pool (Article 16.5 of ET).

○ Establishment of part-time contracts when justified by the particularities of the sector's activity (Article 16.5 of ET).

○ Annual census of permanent-discontinuous personnel (Article 16.5 of ET).

○ Where appropriate, the minimum annual call period and the amount for the end of the call, when the call coincides with the termination of the activity and there is no further call without interruption (Article 16.5 of ET).

● In sectoral collective agreements or, in the absence thereof, company agreements:

○ Procedure for the formulation of applications for voluntary conversion to ordinary indefinite-term contracts (Article 16.7 of ET).

– Part-time employees:

With the aim of maintaining a hiring system that generates stability, we consider that the indefinite part-time contract may serve as an appropriate tool to meet the flexibility needs of workers and companies.

In order to adequately fulfil this purpose, collective agreements should adopt and develop the following calls for collective bargaining:

– Extending, if necessary, the number of breaks in the workday, when the workday is divided (Article 12.4.b of ET).

– Procedure for the formulation of applications for voluntary conversion from full-time to part-time work and vice versa or for an increase in working time (Article 12.4.e of ET).

– Measures to facilitate effective access to continuous vocational training (Article 12.4.f of ET).

– Maximum percentage of additional hours, not exceeding 60% of the regular contracted hours and not being less than 30% of the regular contracted hours (Article 12.5.c of ET).

– Period of notice for additional hours (Article 12.5.d of ET).

– Maximum percentage of additional hours to be accepted on a voluntary basis, not exceeding 30% of the regular contracted hours (Article 12.5.g of ET).

2. Hiring of young people and people in the process of requalification

Employers' and trade union organisations share the concern about the serious problem of youth unemployment in Spain and the need to facilitate professional requalification in order to move from sectors with a surplus of personnel to those with difficulties in finding people with the required professional profile, especially in the current environment of continuous change, in which lifelong learning is required.

Collective bargaining should therefore encourage the hiring of young people and people in transition in employment, promoting training contracts and dual training as a means of insertion and requalification.

To this end, collective agreements should adopt and develop the following calls to collective bargaining:

– In collective agreements or arrangements:

● Criteria and procedures aimed at achieving a balanced presence of men and women (Article 11.6 of ET).

● Commitments to convert training contracts into indefinite-term contracts (Article 11.6 of ET).

– In collective agreements:

● Remuneration of the actual working time of the alternating training contract (Article 11.2.m of ET).

● Remuneration, where applicable, of the contract for obtaining professional practice, in the absence of which it shall be that of the professional group and remuneration level corresponding to the duties performed, according to the effective working time. (Article 11.3.i of ET).

● Duration of the trial period in contracts for the purpose of obtaining professional practice (Article 11.3.e of ET).

● Percentage of onsite work in training contracts (1st Additional Provision of Act 10/2021, of 9th July, on remote working).

– In state or autonomous community sectoral agreements and, in the absence thereof, in lower-level sectoral agreements:

– Maximum and/or minimum duration, within the legal limits, of the contracts for obtaining professional practice (Article 11.3.c of ET).

– Jobs, activities, levels or occupational groups that may be performed under a training contract (Article 11.4.e of ET).

CHAPTER IV

Partial and flexible retirement

Partial retirement and the relief contract should continue to be an appropriate instrument for maintaining employment and rejuvenating the workforce.

To such end, collective agreements may recognise access to partial retirement with a relief contract in accordance with the applicable regulations and will promote, where appropriate, the mechanisms for its implementation in each sector and company, in keeping with their own circumstances and characteristics.

In the same manner, the agreements shall promote gradual and flexible retirement formulas to facilitate the transition from active life to retirement.

Likewise, the signatory Confederations of this Agreement urge the Government to open the Social Dialogue Board to comply with the provisions of the first additional provision of Royal Decree-Act 2/2023, of 16th March, given the importance of partial retirement and the relief contract as essential elements for the transfer of knowledge, rejuvenation of the workforce, improvement of the productivity of companies and creation of employment in conditions of stability.

CHAPTER V

Vocational training and qualification

For the signatory Organisations, the permanent adaptation of the workforce to the new realities facing the world of work, both in terms of production and organisational processes, is essential. To this end, it is imperative to have permanent training plans that, with the necessary updates, enable workers to respond to these new realities, which are marked, among others, by the digital and ecological transition and the ageing of the working population.

Continuous training is essential if we are to foster a new culture of lifelong learning, which addresses the constant updating of workers' skills, including at the workplace.

Being aware of this, the signatory organisations consider it essential to contribute, through collective bargaining, to promoting lifelong learning as a strategic element for improving the employability of workers and the competitiveness of companies, among other aspects, by way of criteria or measures aimed at:

– Guaranteeing equal access to training for workers.
– Strengthening training to facilitate the digital and ecological transition of companies and workers.
– Promoting dual training in companies, adapted to the characteristics of the productive fabric and the training needs of workers.
– Promoting the joint responsibility of companies and workers in the training processes.
– Boosting bipartite sectoral and cross-sectoral instruments in the definition and development of training.

CHAPTER VI

Remuneration

In the current economic context, the signatory organisations of the present AENC declare their intention to carry out, during its validity, a wage policy that simultaneously contributes to the reactivation of the economy, to the creation of employment and to the improvement of the competitiveness of Spanish companies.

To achieve this, we agree that progress in wage growth, where the economic realities of sectors and/or companies allow, will contribute to increasing the purchasing power of workers and to further improving our competitiveness, thereby preserving and creating jobs.

1. Wage structure

Collective agreements should promote the rationalisation of wage structures, integrating the principles of pay transparency and equal pay for work of equal value. To this end, it would be desirable to organise and simplify wage supplements in a gender-sensitive way.

Wage scales shall be consistent with the occupational classification set out in the agreement.

In addition, variable remuneration systems shall be clearly established, have objective criteria and be neutral from a gender perspective. In addition, their weighting in the overall remuneration must be established.

Flexible remuneration formulas may also be taken into consideration.

2. Criteria for determining wage increases

Wages negotiated in the coming years should be increased according to the following guidelines:

– Wage increase for 2023: 4%.

After 2023, if the year-on-year CPI in December 2023 is higher than 4%, an additional maximum increase of 1% will be applied, with effect from 1st January 2024.

– Wage increase for 2024: 3% shall be applied to the result of the increase in the preceding paragraph.

After 2024, if the year-on-year CPI in December 2024 is higher than 3%, an additional maximum increase of 1% will be applied, with effect from 1st January 2025.

– Wage increase for 2025: 3% shall be applied to the result of the increase in the preceding paragraph.

After 2025, if the year-on-year CPI in December 2025 is higher than 3%, an additional maximum increase of 1% will be applied, with effect from 1st January 2026.

The negotiating parties shall take into account the specific circumstances of their area to set wage conditions, such that the application of the above guidelines may be adapted in each sector or company, with very unequal situations of growth, results or impact of the increase in the minimum wage, with the objective of maintaining and creating employment.

3. Updating prices during the term of public sector contracts

The signatory Confederations urge the Government to modify the price revision regulations in the contracting processes derived from Act 9/2017, of 8th November, on Public Sector Contracts, in order to eliminate the impossibility of carrying out a price revision or at least to allow price revisions in the event of regulatory changes, collective bargaining agreements or circumstances that could not be foreseen at the time of the tender that imply increases in labour costs.

4. Supplementary social welfare

The signatory organisations of this Agreement share a positive assessment of the Supplementary Welfare Systems and have considered it appropriate to address their development within the scope of collective bargaining.

For this reason, we propose to promote Employment Pension Plans in collective bargaining agreements, where appropriate, through Corporate Social Welfare Entities (EPSE), as a long-term savings measure of a finalist nature and as a supplement to public pensions.

CHAPTER VII

Temporary incapacity due to common contingencies

The employers' and trade union organisations that have signed this Agreement express our concern about the indicators of temporary incapacity derived from common contingencies. In this respect, we wish to establish lines of action to improve the health of workers.

In light of this situation, we urge collective bargaining to:

Establish joint procedures and areas of analysis of temporary incapacity due to common contingencies, including the study of the causes, incidence and duration of the processes.

Establish lines of action that consequently reduce the number of processes and their duration, as well as monitoring and assessing these actions.

Likewise, the signatory organisations of this Agreement consider that the use of the resources of the Mutual Societies collaborating with the Social Security contributes to the objective of improving waiting times, healthcare for workers and the recovery of their health, as well as reducing the waiting list in the public system.

In order to achieve this aim, the signatory organisations urge the administrations with powers in this area to develop agreements with these Mutual Societies, aimed at carrying out diagnostic tests and therapeutic and rehabilitative treatments in temporary incapacity processes due to common contingencies of traumatological origin. All of this will be carried out with respect for the guarantees of privacy, secrecy, confidentiality, informed consent and coordination with the public health system health professional.

We also call for the activation of national and autonomous community tripartite bodies to:

Analyse temporary incapacity due to common contingencies, including the monitoring of the causes, incidence and duration of the processes.

Study the impact that the response of the National Health System, in each of the areas, has on the temporary incapacity processes.

Establish lines of action aimed at protecting the health of workers and thus reduce the number of processes and their duration, including the monitoring and evaluation of these actions.

CHAPTER VIII

Workplace health and safety

The signatory organisations have included the new challenges and objectives of safety and health at work in the Spanish Strategy for Workplace Safety and Health 2023-2027.

In developing this strategy, we believe that collective bargaining is the ideal way to adapt general workplace health and safety conditions to the characteristics of each sector or business organisation and their workforces. Collective bargaining agreements should therefore:

Promote protocols and welcome guides in the company to enhance awareness and generate a preventive culture.

Establish specific measures so that companies, with the participation of the workers' legal representatives or, where appropriate, with the workers themselves, develop a comprehensive plan focused on the promotion of a preventive culture and the reduction of accidents at work.

Include a gender perspective in the management of prevention in the company.Include disability in prevention management.

Encourage the development of means and procedures for the adaptation of jobs.

Promote attention to ageing and its implications for the development of work activity, implementing the contents of the Autonomous Framework Agreement on active ageing and intergenerational approach, adopted by the European social partners, BusinessEurope, UEAPME, CEEP and ETUC, on 8th March 2017.

Advance in the risk assessment of remote working jobs.

Advance in the preventive management of psycho-social risks, promoting programmes for the prevention of work-related stress.

Develop and monitor protocols for the management of psycho-social conflicts associated with violence and/or harassment at work, including cyber-bullying, mobbing and violence through digital media.

Develop training in occupational risk prevention, including that of designated workers and workers' representatives with specific functions in occupational risk prevention, adapting the contents and duration to the reality of workers and companies and, in the case of workers, establishing means for their accreditation.

Include training and information programmes on the risks of the use of new technologies at work and the preventive measures to be adopted in relation to them, as well as criteria for best practice with regard to digitalisation.

Include simple, effective and efficient means and measures for the coordination of business activities, in accordance with Article 24 of Act 31/1995, of 8th November 1995, on the Prevention of Occupational Risks, and its development through Royal Decree 171/2004, of 30th January 2004, in which workers' representatives participate.

Strengthen the development of collective health surveillance.

Develop protocols and guidelines to improve the management of the reintegration of workers after prolonged sick leave.

Address addictions and develop plans for their prevention and intervention. Establish instruments to identify and deal with them within the scope of occupational risk prevention.

Prioritise preventive action on the factors that generate certain risks as opposed to the mere establishment of bonuses for toxicity, hardship, hazardousness and unhealthiness.

CHAPTER IX

Internal flexibility instruments

The signatory Confederations of this AENC consider that internal adaptation mechanisms are preferable to external ones and to staff adjustments, therefore collective agreements should provide for internal flexibility as a tool to facilitate the competitive adaptation of companies and to maintain employment, the stability and quality thereof, and productive activity, with an appropriate balance between flexibility for companies and security for workers.

What we have experienced during the pandemic has shown the importance of having mechanisms such as temporary redundancy plans, the current configuration of which originated in the bipartite agreement undersigned by the signatories of this AENC on 12th March 2020, which later transcended to the tripartite agreements for the protection of employment and later to Royal Decree-Act 32/2021, on Labour Reform, to protect employment and the activity of companies.

For the signatory Organisations, collective agreements are the appropriate instrument to articulate the flexible use in the company of elements such as working time and functional mobility, respecting the legal provisions and with the due guarantees for companies and workers.

Because of this, the collective agreement may regulate criteria, causes and procedures for the application of flexibility measures, as well as flexible procedures for the adaptation and modification of what has been agreed, with the participation, in both cases, of the workers' representatives, and with the intervention, in the event of disagreement, of the joint committees and the systems for the autonomous resolution of conflicts. They shall also include provisions for a swift and effective solution to cases of deadlock in the consultation and negotiation periods established in the provisions of the Workers' Statute affected by internal flexibility.

1. Occupational classification and functional mobility

Collective agreements shall introduce job classification systems based on occupational groups, in accordance with what is established in Article 22 of the Workers' Statute.

The definition of occupational groups shall ensure that there is no direct or indirect discrimination between women and men, in compliance with the provisions of Article 28.1 of the Workers' Statute and Article 9 of Royal Decree 902/2020, of 13th October, on equal pay for women and men.

Likewise, agreements should promote flexible instruments so that functional mobility can operate as a mechanism for internal flexibility and adaptation on the part of companies, respecting in all cases the rights and guarantees of workers and their representatives.

It would equally be important to promote functional versatility and its effects on pay through collective bargaining agreements and company agreements.

2. Organisation of working time

Working time is a key and increasingly relevant element both for workers, because of its importance in terms of work-life balance, co-responsibility and health, and for companies in terms of competitiveness and organisation.

In this regard, the signatory organisations of this AENC consider it essential to adopt flexible formulas for the organisation of working time insofar as the production processes and services provided so allow, with due guarantees for companies and workers and respecting the legal provisions.

In order to achieve a better adaptation to the needs of companies and workers, with a view to maintaining activity and employment, collective agreements shall promote:

The preferential setting of working hours on an annual basis, in order to facilitate flexible working time arrangements.

The implementation of the irregular distribution of working hours in order to make the productive and organisational needs of companies compatible with the personal and family life of workers, articulating the systems for compensating any differences, due to excess or shortage, derived from this irregular distribution.

The rationalisation of working hours, taking into consideration the specificities of each sector or company, with the aim of improving productivity and favouring the reconciliation of work, family and personal life.

Flexibility in the timetable for entering and leaving work, when the production and organisational process allows this.

3. Non-application of certain working conditions in collective agreements

In the event of non-application, the procedure in Article 82.3 of the Workers' Statute shall be followed.

Where collective agreements include clauses on the non-application of the working conditions established in the collective agreement, with the aim of ensuring the maintenance of employment and as an instrument of internal flexibility that avoids both temporary and termination of employment regulation proceedings, the following aspects must be taken into account, in addition to the need for the non-application agreement to be notified to the joint committee of the collective agreement:

Documentation: The documentation to be handed over by the company shall be that necessary for the workers' representatives to have reliable knowledge of the causes alleged for the non-application.

Temporary duration of the non-application: Given the exceptional nature of this measure, the duration may be modulated according to the circumstances motivating the non-application, but may not exceed the period of validity of the agreement applied and in no case may it extend beyond the time when a new agreement becomes applicable in the company in question.

Content of the non-application agreement: The non-application of the collective agreement shall in no way produce a regulatory vacuum with respect to the working conditions whose non-application is agreed, such that the non-application agreement shall determine the substitute regulation for that contained in the non-applied collective agreement.

The non-application agreement shall not imply non-compliance with the obligations established in the collective agreement regarding the elimination of pay discrimination on the grounds of gender or those provided for, where applicable, in the Equality Plan applying in the company.

1. Temporary Reductions of Employment (ERTEs) and the RED Mechanism

What we experienced during the pandemic has shown the importance of having mechanisms in place for companies to make the adjustments required by the transition to new scenarios, reconciling the adaptation of companies to new environments and the safeguarding of employment. To this end, collective bargaining agreements should:

Strengthen temporary redundancy plans, as a measure of internal flexibility, to address temporary situations and facilitate the adaptation of companies, making it possible to maintain employment.

Develop the objectives and criteria for the implementation of ERTEs.

Give priority to the adoption of measures to reduce working hours over the suspension of contracts.

Guarantee transparency in the transmission of information, ensuring that timely, sufficient and adequate information is provided to workers' representatives.

Design proposals for training content to be developed in the event of activation of the RED Mechanism or an ERTE.

Create measures to support the training and re-qualification of workers undergoing an ERTE.

In addition, the signatories of the AENC remind the sectoral negotiators that the activation of the sectoral modality of the RED Mechanism requires a request from the most representative trade union and employers' organisations at state level, pursuant to Article 47 bis of the Workers' Statute.

Likewise, the importance of taking into account the special situation of SMEs and the impact on the territories of company restructuring processes, given their impact on society, the economy and employment, is noted.

CHAPTER X

Teleworking

Teleworking as a form of work organisation is regulated in Act 10/2021 of 9th July on teleworking (LTD), implementing the agreement reached in the framework of the tripartite social dialogue.

One of the most unique elements of this regulation are the numerous calls for collective bargaining as the appropriate channel for its implementation, adapted to the special features of each sector or company.

Given the increasing use of telework, accelerated during the COVID-19 pandemic, collective agreements or arrangements should take up and develop the following calls for collective bargaining:

Identification of jobs and functions that are susceptible of remote working (1st Additional Provision of LTD).

Conditions of access and development of remote working activity (1st Additional Provision of LTD).

Maximum duration of remote working (1st Additional Provision of LTD).

Minimum onsite working day (1st Additional Provision of LTD).

Percentage of working day or reference period to be considered remote work (1st Additional Provision of LTD).

Contents additional to those provided for in the legal regulation for the individual agreement (1st Additional Provision of LTD).

Terms for exercising reversibility (Article 5.3 and 1st Additional Provision of LTD).

Mechanism for the compensation or payment by the company of expenses related to equipment, tools and means linked to the development of the work activity (Articles 7. b and 12.2 of LTD).

Mechanisms and criteria for the transition from onsite to remote work or vice versa, as well as preferences linked to circumstances such as training, promotion and job stability for people with functional diversity or with specific risks, multiple employment or multiple jobs, or certain personal or family circumstances (Article 8.3 of LTD).

The design of these mechanisms should avoid the perpetuation of gender roles and stereotypes and take into account the promotion of joint responsibility between women and men (Article 8.3 of LTD).

Provision and maintenance by the company of means, equipment and tools necessary to carry out the telework activity (Article 11.1 of LTD).

Terms for the use for personal purposes of the IT equipment made available by the company (Article 17 of LTD).

Means and measures to guarantee the effective exercise of the right to disconnection in remote work and the appropriate organisation of the working day in a way that is compatible with the guarantee of rest periods, as well as the extraordinary circumstances for the modulation of this right (Article 18.2 and 1st Additional Provision of LTD).

Conditions to guarantee the exercise of the collective rights of remote workers (Article 19 of LTD).

Conditions and instructions for use and conservation established in the company in relation to computer equipment or tools (Article 21 of LTD).

CHAPTER XI

Digital disconnection

The right to digital disconnection is the limitation of the use of new technologies outside the specific working day to guarantee rest time, public holidays and vacation for workers. This right contributes to health, especially in terms of technological stress, improving the working environment and the quality of work, and to the reconciliation of personal and working life, reinforcing other measures regulated in this area.

Within the framework of collective agreements, and in accordance with the provisions of Article 20 bis of the Workers' Statute and Article 88 of the Organic Act on the Protection of Personal Data and the Guarantee of Digital Rights, the right to digital disconnection shall be guaranteed both for workers who work onsite and for those who provide services through new forms of work organisation (remote working, flexible working hours or others), adapting to the nature and characteristics of each job or function.

For the purpose of regulating this right in collective bargaining, the following criteria should be taken into consideration:

Digital disconnection is recognised and formalised as a right not to attend to digital devices outside working hours. Notwithstanding the above, the voluntary connection of an employee shall not entail any liability on the part of the company.

The right to disconnection shall operate in relation to all devices and tools capable of extending the working day beyond the limits of the legal or conventional working day established and distributed in the working calendar governing each company.

If any type of call or communication is made outside working hours, employees shall not be obliged to respond, nor may their superiors require responses outside working hours, unless there are exceptional and justified circumstances of force majeure that could pose a serious risk to people or potential damage to the business and which require the adoption of urgent and immediate measures.

Companies shall guarantee that employees who make use of this right shall not be subject to any differential treatment or sanctions or be disadvantaged in their performance appraisals or promotion.

Companies may carry out training and awareness-raising activities for their staff regarding the reasonable use of technology tools in order to avoid the risk of computer fatigue.

The following shall be considered good practice for better managing work time:

Scheduling automatic responses during periods of absence, indicating the dates when the person will be unavailable and designating the email or contact details of the persons to whom the tasks have been assigned during their absence.

Using "delayed sending" to ensure that communications are made within the recipient's working hours.

CHAPTER XII

Equality between women and men

The employers' and trade union organisations that have signed this Agreement share the need to promote true equality between women and men in employment. In order to achieve this objective, it is necessary to continue to make progress in measures that contribute to eliminating the inequalities that occur in companies, as well as to go further in measures for the jointly responsible reconciliation of personal, work and family life, which must be made compatible with the organisational and productive needs of companies. Collective bargaining is the appropriate field for making progress on legally established measures and adapting them to the realities of companies and workplaces and to those of workers. Therefore, collective agreements, within the scope of their competences, should:

Make equality between women and men a cross-cutting issue in all the contents of the collective bargaining agreement.

Update the content and language to bring it into line with current legislation, developing the matters that the different regulations refer to collective bargaining.

Establish measures that favour the hiring of women, especially in sectors, companies and occupations where they are under-represented, so as to contribute to real equality and reduce the gender gap.

Promote the participation of women in training processes in companies, particularly in the professional groups in which they are under-represented, and disseminate the training offer through appropriate channels, as well as using inclusive language and images.

Regulate criteria for promotion and advancement, so that they do not entail indirect discrimination, based on objective elements of qualification and ability, establishing positive action measures that contribute to overcoming the under-representation of women in certain groups or categories.

Establish transparent remuneration criteria, including the definition and conditions of all bonuses and salary supplements; avoid the definition of supplements or bonuses with a marked gender bias; determine at company level jobs of equal value; and guarantee effective compliance with the provisions of Royal Decree 902/2020, of 13th October, on equal pay for women and men, in order to close the pay gap.

Incorporate internal flexibility measures that facilitate the jointly responsible reconciliation of the personal, family and working lives of employees.

Guarantee the necessary resources for the effective and efficient development of equality measures.

Develop the terms of the exercise of the right to request an adaptation of working hours, specifying the principles and rules for the granting of such adaptations, their reversal and the deadlines for replying to requests, in order to make the right to reconcile family and working life effective.

Within the framework of annual holiday planning, as set out in Article 38 of the Workers' Statute, advance in flexible alternatives that make the reconciliation needs of workers compatible with the organisational needs of companies.

CHAPTER XIII

Disability

In the opinion of the signatory Organisations, this is a good opportunity to review the functioning and effectiveness of the regulations and public policies developed in this area and to promote, through tripartite social dialogue, the necessary changes and adaptations for the future, these being changes that should reinforce the role that social dialogue and collective bargaining should play in the design and practical implementation of these measures.

Beyond future regulatory changes, collective bargaining must contribute to the establishment of an equitable framework for the development of working conditions for people with disabilities, promoting actions to eliminate the obstacles they encounter in their working lives and, where appropriate, including positive actions when unequal starting situations related to working conditions are observed.

To this end, it is proposed that the following measures be developed in collective agreements:

Overcoming the isolated and partial inclusion of certain clauses which, in many cases, are limited to reproducing issues of strict legal or regulatory compliance, instead favouring a cross-cutting treatment of disability, which allows progress to be made in equality and avoids discrimination in the workplace.

Contributing to the integration of disability in the field of collective bargaining, achieving greater knowledge and awareness of the different agents involved in collective bargaining processes on the elements to be incorporated for the inclusion, non-discrimination and accessibility of people with disabilities in the workplace.

Incorporating specific provisions in the collective agreement that include specific measures to contribute to effective equal opportunities for women and men with disabilities in the workplace.

Including in collective agreements provisions that contribute to the effective implementation of issues such as job adaptations, reasonable adjustments, universal accessibility, equal opportunities in access to employment, vocational training and promotion, working conditions, adaptation and adjustment of working time on the grounds of disability, etc.

Especially, collective bargaining should address the problem of acquired disability, with the aim of establishing the necessary measures to maintain employment: adaptation of the job position; functional mobility processes for jobs adapted to the new situation, associated with training and retraining processes, etc.

Establishing mechanisms for monitoring and evaluating the clauses included in the agreements and their social impact, as well as corrective measures in light of the results of such evaluation.

CHAPTER XIV

Diversity. LGTBI

Employers' organisations and trade unions share the need to promote diversity in the workforce, taking advantage of the human, social and economic potential that this diversity represents.

In order to achieve this objective, collective agreements should:

Promote heterogeneous workforces.

Create inclusive and safe work areas.

Promote integration and non-discrimination of the LGTBI collective in the workplace through specific measures, in accordance with the provisions of Article 15.1 of Act 4/2023, of 28th February, for the real and effective equality of transgender people and for the guarantee of the rights of LGTBI people.

Ensure that protocols on harassment and violence at work include the protection of LGTBI people in the workplace.

CHAPTER XV

Sexual and gender violence

The signatory employers' and trade union organisations share the need to promote the prevention of sexual violence and to address the severe problem of gender-based violence, as well as to guarantee the rights of its victims, and we consider that collective bargaining action should be strengthened in order to:

Promote working conditions that guarantee that companies and workplaces are safe and free of sexual and gender-based violence and harassment, as well as the dignity of workers, avoiding conduct against sexual freedom and integrity at work.

Set up specific procedures or action protocols for the prevention and reporting of sexual harassment and gender-based harassment, in line with the provisions of Article 48 of Organic Act 3/2007, of 22nd March, for the effective equality of women and men, and Article 12 of Organic Act 10/2022, of 6th September, on the comprehensive guarantee of sexual freedom.

Promote the incorporation in harassment protocols of "precautionary" measures to support victims, in order to guarantee their integrity and continuity in employment during the course of the complaint procedure. When foreseen in the harassment protocol or requested by the victim, the participation of the legal representatives of the workers or a delegation thereof shall be ensured. In all cases, the principles of confidentiality, quickness, guarantee of privacy and impartiality shall be preserved, protecting the victim and the persons involved in the procedure derived from the complaint.

Promote the elaboration and dissemination of codes of good practice, the implementation of information campaigns, as well as sensitisation and training for comprehensive protection against sexual violence (Article 12 of Organic Act 10/2022, cited above).

Facilitate the exercise of the rights recognised in the labour sphere for victims of gender-based violence by Organic Act 1/2004, of 28th December, on comprehensive protection measures against gender-based violence.

CHAPTER XVI

Technology, digital and ecological transition

1. Technology and digital transition

The introduction of new technologies in work organisation is a basic strategic investment for the future of enterprises and for the increase of their productivity and competitiveness.

The implementation of digital technologies brings clear benefits for both companies and employees insofar as it brings about new work opportunities, productivity increases, new ways

of organising work, as well as in enhancing the quality of services and products but, at the same time, it entails challenges as a result of its impact on working conditions. With the aim of promoting a fair, inclusive and beneficial transition for all parties, it is essential that sectoral and company collective agreements incorporate measures to address these challenges, in keeping with the European Framework Agreement on Digitalisation[1] and this AENC, adapting these measures to the realities of each sector, activity and company and anticipating their impact on workplaces.

[1] https://ec.europa.eu/social/main.jsp?catId=521&langId=en&agreementId=5665.

In development of this Framework Agreement, signed by the European social partners, the signatories of the 5th AENC consider that sector and company collective agreements should promote and encourage the digital transformation in the workplace within the framework of participatory processes and we believe it is appropriate that they establish specific procedures for prior information to the legal representatives of workers, of business digitalisation projects and their effects on employment, working conditions and the training and professional adaptation needs of the workforce, with a commitment to continuous training to improve the digital skills of workers so as to facilitate this transition in the company.

Likewise, collective bargaining shall promote a policy of equal opportunities to ensure that digital technology is beneficial for all workers, overcoming the age gap.

Likewise, positive action measures will be promoted to avoid the digital divide between women and men, particularly in advanced skills, guaranteeing the necessary training processes to adapt to changes in the workplace as a result of the company's digital transformations, using the criteria established by labour regulations.

The priority matters in relation to digitalisation that should be developed through collective bargaining include:

2. European Framework Agreement on Digitalisation

The signatory organisations of this Agreement consider it a priority to adapt the European Framework Agreement on Digitalisation to each bargaining area, assuming the shared commitment of the European cross-sectoral social partners to face the common challenge of the digital transformation in the world of work.

In this alignment with their bargaining framework, collective agreements should:

Encourage collaboration between companies, workers and their representatives to address issues such as skills, work organisation and working conditions.

Boost investment in digital skills and their upgrading.

Promote a people-oriented approach, in particular regarding their training and empowerment, the connection and disconnection methods, the use of secure and transparent artificial intelligence systems, as well as the protection of the privacy and dignity of workers.

3. Artificial Intelligence (AI) and guaranteeing the principle of human control and the right to information on algorithms

AI will gradually have a significant impact on the world of work and, if it is not used correctly and transparently, could lead to biased or discriminatory decisions regarding labour relations.

In keeping with the European Framework Agreement on Digitalisation, the deployment of AI systems in companies should follow the principle of human control over AI and must be safe and transparent. Companies shall provide the legal representatives of employees with transparent and understandable information on the processes that use it as the basis for human resources procedures (hiring, evaluation, promotion and layoffs) and shall guarantee that there is no prejudice and no discrimination.

Within the scope of the Spanish tripartite social dialogue, it was agreed, in Royal Decree-Act 9/2021 of 11th May, which amends the revised text of the Workers' Statute Act, approved by Legislative Royal Decree 2/2015 of 23rd October, in order to guarantee the labour rights of persons dedicated to delivery in the field of digital platforms, to incorporate a letter d) in Article 64. 4 of the Workers' Statute regarding the right to information on the parameters, rules and instructions on which algorithms or artificial intelligence systems are based that affect decision-making which may affect working conditions, the access to and maintenance of employment, including profiling.

Collective bargaining has a key role to play in establishing criteria to guarantee the proper use of AI and on the development of the duty of reporting regularly to workers' representatives.

The deployment of AI systems in public administrations must also follow the principle of human control and be secure and transparent. Based on the foregoing, the Confederations signing this Agreement urge the Government to provide the social partners, via the institutional participation bodies, with sufficient information to guarantee digital and algorithmic transparency, especially of those formulas that configure the applications linked to labour relations and social protection.

4. Ecological transition

The ecological transition, energy decarbonisation and the circular economy, together with digitalisation, may alter production processes, affecting jobs, tasks and skills performed by workers. Indeed, new occupations may emerge at the same time as others disappear or are transformed.

These transitions, which are interrelated and mutually reinforcing, need to be addressed early and effectively through collective bargaining, in the framework of participatory processes with workers' representatives, in order to raise awareness and identify solutions that may be adapted to the specificities of the different sectors and raise key issues.

Within this framework, it is essential to identify new qualification needs and improve the skills, redesign jobs, organise transitions between jobs and improve the organisation of work. In order to achieve this objective, it is a priority to promote lines of training and information for workers to ensure their involvement in the adoption of measures required by climate change.

Likewise, in order to guarantee the reduction of emissions and the efficiency of the measures that, if applicable, are applied, both for the benefit of companies and workers, sustainable mobility plans will be promoted, encouraging collective transport through geographical areas, industrial estates or areas with a high concentration of workers.

On behalf of CEOE, the Chairman, Antonio Garamendi Lecanda. –On behalf of CEPYME, the Chairman, Gerardo Cuerva Valdivia. –On behalf of CCOO, the Secretary General, Unai Sordo Calvo. –On behalf of UGT, the Secretary General, Pepe Álvarez Suárez.