

# Ten employment commandments for regulatory compliance in 2024

## 01

### Equality

#### Compliance

Diagnosis, salary recording, job evaluation, salary audit and equality plan.

#### Regulation

Workers' Statute Act ("ET"), Act 3/2007, Act 1/2023, Act 4/2023, Royal Decree 901/2020 and Royal Decree 902/2020. Criminal Code (Art. 314).

#### Liabilities

Fines of up to €225,018, prohibition from dealing with the public sector, reputational risks and damages. Serious discrimination in employment offence.

## 02

### Complaint channels and anti-discrimination measures

#### Compliance

Preparation and implementation of protocols for workplace, sexual and gender-based harassment and other anti-discrimination measures and internal channels for complaints and investigations. Internal reporting system.

#### Regulation

Act 3/2007, Act 15/2022 and Act 10/2022. Act 2/2023. Criminal Code (Art. 173 and 184).

#### Liabilities

Fines of up to €1,000,000, damages and criminal liability.

## 03

### Working time records and overtime

#### Compliance

Objective, reliable and accessible recording of working hours and overtime monitoring.

#### Regulation

ET (Articles 34(9) and 35).

#### Liabilities

Fines of up to €7,500, as well as notices of additional Social Security contributions.

## 04

## Temporary and permanent employees

**Compliance**

Avoidance of abuse of law in temporary and seasonal contracts. Hiring audit.

**Regulation**

ET (Articles 15 and 16).

**Liabilities**

Fines of €10,000 per employee and increase in permanent staff, including associated compensation costs.

## 05

## Disability

**Compliance**

Reserve quotas (2% of the workforce) in favour of disabled staff or fulfilment of alternative measures.

**Regulation**

Royal Legislative Decree 1/2013.

**Liabilities**

Fines of up to €7,500, ancillary penalties consisting of loss or exclusion from certain Social Security benefits and prohibition from dealing with the public sector.

## 06

## Telework and digital nomads

**Compliance**

Individual teleworking agreement. Special importance of cost compensation and self-assessment of occupational hazards. Visa and residence authorisation for non-EU teleworkers.

**Regulation**

ET (Article 13). Act 10/2021. Act 28/2022.

**Liabilities**

Fines of up to €7,500, additional compensation in the event of reimbursement of expenses, notices of assessment and contribution for unpaid contributions and penalties of up to 100% of unpaid contributions, including interest, costs and surcharges.

## 07

## Contributions

**Compliance**

Under-contributions for remuneration in kind (telephones and vehicles), undue bonuses, non-compliance with COVID-related temporary collective redundancy procedures or incorrect application of the Standard Industrial Classification code or occupation heading A.

**Regulation**

Social Security Act and Royal Decree-Law 1/2023. Criminal Code (Art. 307; 307bis and 307ter).

**Liabilities**

Notices of assessment and, where applicable, penalties of up to 100% of the unpaid contributions, including interest, costs and surcharges. Offence against the Social Security.



## Illegal transfers and bogus self-employment

### Compliance

Protocolisation of relations with third parties.  
Illegal transfers audit. Test of dependence and paid employment.

### Regulation

ET (Articles 42 and 43).  
Criminal Code (Art. 311).

### Liabilities

Fines of up to €225,018 in the event of illegal transfer and, in the event of false self-employment, fines of up to €12,000 (per affected person) and up to 150% of the unpaid contributions, including interest, costs and surcharges. Notices of assessment for non-payment or under-payment of contributions. Prohibition from dealing with the public sector if sanctioned. Offence against workers' rights.



## Collective redundancies. Dismissals. Strikes

### Compliance

Causality and procedure. Sufficient documentation and good faith in negotiations. Technical reports. Individual letters.

### Regulation

ET (Articles 47 and 51). Upcoming developments in 2023. European Social Charter (Art. 24). RDL 17/77 of 4 March. Criminal Code (Articles 308 and 315).

### Liabilities

Voidness in the event of abuse of law, reinstatement, back pay, fines of up to €225,018. Notices of assessments with reimbursement of exonerations. Prohibition from dealing with the public sector if sanctioned. Offence against freedom of association.



## Occupational hazards prevention

### Compliance

Workplace accidents and preventive obligations. Protocols for relations with Labour and Social Security Inspectorate; Public Prosecutor's Office; Police and Examining Courts. Review of powers of attorney and of delegations and supervisions in preventive matters.

### Regulation

Occupational Hazards Prevention Act.  
Criminal Code (Arts. 316, 317 and 318).

### Liabilities

Fines of up to €983,736, potential surcharges on Social Security benefits, claims for damages and criminal responsibility of managers and executives. Offence against the safety of workers.

If you have any doubts related to these points, if you think we should examine or delve into any matter or if you want to implement any improvement action, please do not hesitate to contact us.

#### GA\_P is your answer because:

1. We are members of the Group of experts for the preparation of the standard UNE-ISO 37100 on employment compliance already approved in 2023 and we are highly specialised in complex labour inspections.
2. We are a member of the International Bar Association (IBA), the Association of HR Managers (ADIRELAB), we are the only Spanish law firm that is a member of the Employment Law Alliance (ELA) and we have won the 'Expansión' Award for Best Law Firm in Sustainable Transformation.
3. Our priority is our clients, focusing on their needs, responding promptly to their queries and offering employment law advice in more than 150 countries through ELA's 3,000 employment lawyers.

#### Contact us:



**Ignacio del Fraile**  
Partner, Employment  
ifraile@ga-p.com



**Carlos de la Torre**  
Partner, Employment  
cdelatorre@ga-p



**Lourdes Escassi**  
Counsel, Employment  
lescassi@ga-p



**Delia Castaños**  
Employment lawyer  
dcastanos@ga-p.com