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Gómez-Acebo & Pombo



ESG Legal Practice

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Editorial

The proposal for a Directive on Corporate Sustainability Due Diligence (“CSDDD”) currently passing through the legislative procedure aims to set out a horizontal framework to foster the contribution of businesses operating in the single market to the respect of the human rights and environment in their own operations and through their value chains, by identifying, preventing, mitigating and accounting for their adverse human rights, and environmental impacts.

To this end, the companies included in the CSDDD proposal’s scope of application must integrate due diligence in all their corporate governance policies and take the appropriate measures to prevent or mitigate the aforementioned adverse impacts. In the event of non-compliance with their due diligence obligation, said companies may be sanctioned and their directors might be liable for the harm arising from adverse impacts that occur as a result of such non-compliance.

This legislative initiative is a further step in the development of the Commission’s sustainable finance policy, its Action Plan for a cleaner and more competitive Europe and the strategy for financing the transition to a sustainable economy. From this point of view, the proposed CSDDD will complement the Corporate Sustainability Reporting Directive by adding a substantive corporate duty for some companies to perform due diligence to identify, prevent, mitigate and account for external harm resulting from adverse human rights and environmental impacts in the company’s own operations, its subsidiaries and in the value chain; underpin the Sustainable Finance Disclosure Regulation, which requires investment and portfolio fund managers, insurance undertakings selling insurance-based investment products and undertakings providing various pen-

sion products to publish a statement on their due diligence policies with respect to the principal adverse impacts of their investment decisions on sustainability factors; and complement the Taxonomy Regulation, by helping investors to allocate capital to responsible and sustainable companies and by serving as a guiding tool for companies to attract sustainable financing for their corrective action plans and roadmaps that the future CSDDD will require them to put in place to prevent or mitigate adverse impacts on human rights or the environment.

Beyond the strictly financial aspects, the CSDDD proposal is presented as an additional tool to advance the implementation of the EU Action Plan on Human Rights and Democracy 2020-2024, deepening compliance with various European standards such as the Directive on preventing and combating trafficking in human beings and protecting its victims or the Directive providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

But it is worth highlighting, from a legal-environmental perspective, the potential positive impact that the CSDDD proposal will have on the fulfilment of the European Union’s environmental objectives. European legislation had already been regulating certain sectors likely to cause significant environmental impacts outside the internal market, such as those referring to the import of certain minerals, the wood market or, more recently, the Regulation concerning batteries and waste batteries. The future CSDDD will now extend the protection of EU environmental objectives within its own borders, as it constitutes a tool aligned with practically all environmental planning tools, from the fight against climate change to the pro-

tection of biodiversity, the fight against pollution and the promotion of the circular economy.

And it is on this last line of action that a particular comment should be made. The package of circular economy directives and the proposal for a Regulation establishing a framework for setting eco-design requirements for sustainable products have provided and will provide a new regulatory framework for extended producer responsibility and environmental sustainability requirements applicable to products that affect practically all goods marketed in the European Union, with a direct impact on the value chain of companies. In this sense, although compliance with these new product obligations (organising and financing that products placed on the EU market are reused or recycled at the end of their useful life and that products are designed with sustainability criteria) falls to the producers, manufacturers or distributors, as such products are embedded in the value chain of European companies, these are in some way obliged to ensure that their suppliers also comply with their obligations as manufacturers, importers or distributors of these products.

This obligation to supervise compliance with the environmental and social obligations that can be demanded of the operators involved in the

value chain and which is imposed by the CSDDD proposal is not limited, as has been indicated, to obligations in terms of the circular economy. But the expansive nature of the legislation on product design and extended producer responsibility will make the future CSDDD a key tool for ensuring compliance with the European Union's circular economy objectives, simply because, regardless of the nature of the economic activity in question, it will involve the consumption of thousands, if not millions, of products whose design and placing on the market must comply with the aforementioned legislation. And this covers from packaged foodstuffs to textiles, from batteries to commercial and industrial packaging, all of which are incorporated as a matter of course and on a daily basis in the production process of companies. European companies, as part of their sustainability strategies, will now also have to take responsibility as part of their due diligence for ensuring that their supply chain provides them with ecologically designed products that can be reused or recycled.

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GA_P News

- European sustainability legislation: where do we stand?
 - Implementación de criterios ESG: experiencias de negocio y jurídicas en Latinoamérica y Europa (Implementing ESG criteria: business and legal experiences in Latin America and Europe)
 - Ana Martínez-Pina's participation in the Bank of Spain's Green Friday workshops
- Workshops organised by GA_P on 26 and 27 October with roundtables moderated by GA_P lawyers and with speakers from law firms in Latin America and Europe, as well as representatives from all business sectors.

Legal practice: GA_P experience

ESG Advice

Governance and sustainable finance

- a) Advice to leading credit institutions on the granting of financing for the development and promotion of projects classified and certified by an independent expert as sustainable and aligned with the Green Loan Principles published by the Loan Market Association, and which are covered by CESCE through the purchase of insurance policies for investment loans (green insurance policies) under the provisions of Act 8/2014 of 22 April and Royal Decree 1006/2014 of 5 December implementing it.
- b) Advice to entities in the renewable energy sector on obtaining financing through the incorporation into the Alternative Fixed Income Market of programmes for the issuance of green promissory notes certified by an independent expert as sustainable and aligned with the Green Bond Principles published by the International Capital Market Association.

¹ Link.

² Link.

Environment, sustainable mobility and energy transition

Environment

- Recurrent regulatory advice on extended producer responsibility obligations.
- Regulatory report on the implementation of the Taxonomy Regulation in the water sector.
- Regulatory report on compliance with the company's obligations in relation to the value chain in the packaging waste management sector.

Sustainable mobility

- Drafting of a report to analyse the adequacy of the mobility plan for customers' work with the applicable legislation.
- Recurrent regulatory and contractual advice on the rental for use of motorbikes (MaaS) and removable and rechargeable electric batteries in battery stations (BaaS)).

Energy transition

- Recurring advice on the development of green hydrogen projects in Spain

- Advice on the implementation of a biofuel plant in Andalusia.
- Support in the structuring of a collective self-consumption project in large shopping centres.

Social

- Advice on collective redundancies including drafting of legal reports; negotiation with trade unions; and accompanying redundancy schemes along with alternative work and outplacement plans.
- Advice in different sectors on equality issues with the preparation and negotiation of equality diagnoses and plans with the statutory body of worker representatives or trade unions. Advice on the preparation of a register of average salaries broken down by sex and staff category.
- Investigations into reports of harassment at work and/or sexual or gender-based harassment. Review of protocols on harassment at work and/or sexual or gender-based harassment and diversity and inclusion policies.
- Inclusion-related advice on obtaining certificates of exceptionality and proof of alternative measures to the fulfilment of the reserve quota in the hiring of disabled staff.

Current legislation

Developments

Governance and sustainable finance

European Green Bonds Regulation

On 5 October 2023, the plenary of the European Parliament (EP) approved the text of the EU Green Bonds Regulation (known as the EU Green Bond Standard), which establishes uniform rules for issuers wishing to use the term “European Green Bond” or “EuGB” for the marketing of their bonds.

Proposed Green Claims Directive

Claiming that products are “green” and sustainable has become a competitive factor.

The Green Claims Directive proposed in March 2023 by the European Commission seeks to establish criteria against greenwashing, as well as misleading claims and unfair commercial practices.

Public statement of 11 July 2023 of the European Securities and Markets Authority, entitled “Sustainability disclosure in prospectuses”

ESMA published a statement highlighting the importance of sustainability issues for investors and of promoting coordinated action by national authorities in relation to sustainability disclosures to be included in prospectuses under existing legislation. While this statement is addressed to national authorities, its content should be taken into

account by issuers and advisors when drawing up prospectuses, including sustainability disclosures.

Commission Recommendation (EU) 2023/1425 of 27 June 2023 on facilitating finance for the transition to a sustainable economy

The recommendation aims to stimulate transition financing in an environment of investor confidence by encouraging the voluntary use of sustainable financing tools and disclosing related information in a way that ensures the credibility of transition investment opportunities.

Companies, financial intermediaries and investors, Member States and supervisory authorities could raise, provide or target transition financing through the voluntary use of sustainable financing tools.

Proposal for a Regulation of the European Parliament and of the Council on the transparency and integrity of environmental, social and governance (ESG) rating activities, 13 June 2023

“ESG rating providers”, i.e. legal entities engaged in the professional provision and distribution of ESG scores or ratings, will have to be authorised by ESMA under this future Regulation.

Approval of Delegated Acts approving sustainability reporting standards

On 31 July 2023, the European Commission (EC) adopted, under a delegated act, the first set of

European Sustainability Reporting Standards (ESRS), which will gradually come into force in the coming years, for the purpose of sustainability reporting under Directive 2022/2464.

Communication from the Commission on the interpretation and application of certain legal provisions of the delegated act on Disclosures Delegated Act under Article 8 of EU Taxonomy Regulation on the reporting of taxonomy-eligible and taxonomy-compliant economic activities and assets (second Commission Communication)

The Communication is published together with another Commission Communication containing answers to frequently asked questions concerning the technical selection criteria for economic activities that comply with the taxonomy set out in the delegated act on climate taxonomy (Commission Communication on the delegated act on climate taxonomy).

Progress Report on Greenwashing

The European Supervisory Authorities for banks, securities markets and insurance and pension funds (ESAs) published in June 2023 a report on greenwashing (one per authority, EBA, EIOPA and ESMA). In these reports, the authorities highlighted what they consider to be greenwashing in their respective fields of activity.

Consultation on the implementation of the Regulation (EU) 2019/2088 on sustainability—related disclosures in the financial services sector

The aim of the consultation is to see how the requirements of the regulation are being imple-

mented, their interaction with other sustainable finance legislation, possible changes to disclosure obligations and the possible establishment of a system of categorisation of financial products.

Report on the breakdowns concerning the European Taxonomy

The CNMV, based on data broken down for the first time (article 8 of the Taxonomy Regulation) by issuers of Spanish securities admitted to trading on regulated markets in the EU, has published a report describing the degree of eligibility and alignment with the taxonomy on climate change of the economic activities of those issuers.

Environment, sustainable mobility and energy transition

Environment

COMMISSION NOTICE (C/2023/111). Technical guidance on the application of ‘do no significant harm’ under the Recovery and Resilience Facility Regulation

This technical guidance was published on 11 October 2023, replacing the previous version from 2021. It is of interpretative interest for the application of the ‘do no significant harm’ principle (DNSH) at national level.

According to the Notice, this document is based on the text of the Regulation on the Recovery and Resilience Facility. The guidance provides interpretative guidelines in relation to the DNSH as stipulated in Article 17 of the Taxonomy Regulation. In addition, it sets out guidance criteria on crucial aspects of the DNSH assessment and provides guidelines for Member States to

describe precisely in their plans the measures that comply with the DNSH.

New package of measures to boost and strengthen the foundations of sustainable finance in the European Union

The European Union is building a sustainable finance framework to channel private finance towards investments that meet the objectives of the European Green Deal. To achieve this goal, on 27 June 2023 the European Commission adopted a new package of measures to boost and strengthen the foundations of sustainable finance in the European Union, including two new delegated acts of the Taxonomy Regulation:

COMMISSION DELEGATED REGULATION (EU) /... amending Delegated Regulation (EU) 2021/2139 establishing additional technical screening criteria for determining the conditions under which certain economic activities qualify as contributing substantially to climate change mitigation or climate change adaptation and for determining whether those activities cause no significant harm to any of the other environmental objectives

This Delegated Regulation amends the Taxonomy Regulation to extend the economic activities contributing to climate change mitigation and adaptation not included so far by adding technical selection criteria relating to: (i) climate change mitigation or by supplementing them in relation to certain economic activities in the transport and manufacturing sector; (ii) climate change adaptation of certain economic activities adapted to climate change or enabling adaptation of other economic activities in the water, construction, disaster risk management, information and communication, and professional services sectors.

DELEGATED REGULATION (EU) /.... SUPPLEMENTING REGULATION (EU) 2020/852 OF THE

EUROPEAN PARLIAMENT AND OF THE COUNCIL by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to the sustainable use and protection of water and marine resources, to the transition to a circular economy, to pollution prevention and control, or to the protection and restoration of biodiversity and ecosystems and for determining whether that economic activity causes no significant harm to any of the other environmental objectives and amending Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities

This Delegated Regulation complements the Taxonomy Regulation by incorporating four annexes defining the technical screening criteria for the remaining four environmental objectives (the non-climate ones) relating to: (i) the sustainable use and protection of water and marine resources, (ii) the transition to a circular economy, (iii) pollution prevention and control and (iv) the protection and restoration of biodiversity and ecosystems.

EU to ban greenwashing and improve consumer information on product durability

On 19 September 2023, the European Parliament and the European Council reached a provisional agreement on new rules to ban misleading advertising and provide consumers with better product information, thus putting an end to greenwashing. The Parliament and Council agreed to ban generic environmental claims, for example “environmentally friendly”, “natural”, “biodegradable”, “climate neutral” or “eco”, without proof of recognised excellent environmental performance relevant to the claim. This provisional agreement will have to be given final approval by both the Parliament and the Council.

Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC

This new Regulation strengthens the sustainability guidelines related to batteries and battery waste. The Regulation will cover the entire process involving batteries, from their manufacture to their re-use and recycling, ensuring that they meet safety, sustainability and competitiveness standards.

The purpose of this Regulation is to establish the technical characteristics of the products falling within its scope, as well as to define the responsibilities of the economic operators involved in the manufacture and sale of these products. In addition, a future framework for extended producer responsibility for batteries and waste management is developed.

Royal Decree 665/2023, of 18 July, amending the Regulation of Publicly-Owned Hydraulic Resources, approved by Royal Decree 849/1986 of 11 April; the Regulation of the Public Administration of Water, approved by Royal Decree 927/1988, of 29 July; and Royal Decree 9/2005, of 14 January, setting out the list of potentially soil-polluting activities and the criteria and standards for the contaminated soil declaration

This Royal Decree introduces substantial changes to the Publicly-Owned Hydraulic Resources Regulation with the primary objective of preserving and safeguarding the quality of inland waters, both in terms of quantity and chemical composition.

The main objectives of the amendment are to update the Regulation, focusing on the simplifi-

cation of administrative procedures and the transition towards digitalised water management. It also seeks to update the regulatory framework to meet the new demands and challenges affecting the administration of the Publicly-Owned Hydraulic Resources, especially with regard to the protection perimeters of water catchments for human consumption and other areas of interest established in hydrological planning.

Order TED/834/2023, of 18 July, laying down the minimum requirements for treatment prior to landfill deposition of municipal waste

The purpose of this order is to lay down the minimum requirements for the treatment of municipal waste prior to landfill, which will make it possible to assess the efficiency of the treatment prior to landfill, in accordance with Article 7(1) and the first additional provision of Royal Decree 646/2020, of 7 July, regulating the disposal of waste by means of landfill deposits.

Pre-treatment prior to landfill has a dual purpose. Firstly, it seeks to maximise the utilisation of the resources present in the waste through their recovery by mechanical methods. Secondly, through biological treatment, it aims to ensure that the waste behaves appropriately once it has been landfilled. Therefore, the efficiency of the treatment of waste destined for landfill must consider both the organic matter content of the waste after mechanical treatment and the degree of stabilisation of waste intended for landfill.

Sustainable mobility

Draft Order ICT/736/2023, of 5 July, establishing the regulatory bases for granting aid to projects to promote the electric and connected vehicle value chain within the Strategic Project for Economic Recovery and Transformation in the Electric and Connected Vehicle sector, within the

framework of the Recovery, Transformation and Resilience Plan, and the call for applications for the award of aid for electric vehicle battery production projects for the year 2023

In order to access the European “Next Generation EU” funds in Spain, the Recovery, Transformation and Resilience Plan was approved. In this context, this document responds to the need to include the amendments made to the regulation on State aid and the regulatory bases applicable to the next calls for applications for the award of aid, which have as their legislative sources the Temporary Crisis and Transition Framework and Commission Regulation (EU) No. 651/2014 of 17 June 2014.

This aid is aimed at projects that seek to provide incentives for investment in industrial capacity for electric vehicle batteries, their essential components and the production or recovery of the essential raw materials needed, and at projects that support investment plans aimed at the industrial value chain of electric and connected vehicles, their systems, subsystems and components, and certain ancillary infrastructure systems necessary for their deployment.

Royal Decree 661/2023, of 18 July, regulating the direct granting of aid in 2023 for the development of innovative projects related to models, systems and components of hybrid vehicles and battery and hydrogen fuel cell electric vehicles to advance the decarbonisation process and maintain the competitiveness of the automotive ecosystem

In line with the environmental objectives of the European Union and with the aim of moving towards orderly and progressive decarbonisation, this royal decree is published for the direct granting of aid for 2023 for projects that develop models, systems and components for hybrid vehicles and battery and hydrogen fuel cell

electric vehicles, excluding those related to lead batteries. The deadline for applying for this aid began on 21 August and was open until 23 October 2023, with those interested having to formalise their application to the electronic register of the Ministry of Industry, Trade and Tourism by providing the required documentation, including the application form and the descriptive report of the investment with detailed information on the company and the project, as well as information on the commercial and temporal viability of the proposal.

Projects for the development of models, systems and components of hybrid vehicles and battery and hydrogen fuel cell electric vehicles and which fall within one of the established project types, such as industrial research, are eligible for aid. The projects submitted must meet the requirements to be eligible, as well as the economic and technical eligibility requirements of the applicant, the general eligibility of the proposed project and the reasonableness of the proposal submitted, in accordance with the scoring criteria set out in the regulation itself. It should be noted that the aid granted will be awarded directly in the form of a subsidy payment, the maximum amount of which will be €40,000,000 taking into account the type of project and the size of the company applying for the aid.

Council adopts position on emissions from cars, vans, buses and trucks

The Council agreed on 25 September on a “general approach” on the proposed regulation for the type-approval of motor vehicles and engines, and of systems, components and separate technical units intended for such vehicles, with respect to their emissions and battery durability (Euro 7), suggesting a number of changes it will negotiate with the European Parliament as soon as the latter adopts its position.

Energy transition

Directive (EU) 2023/1791 of the European Parliament and of the Council of 13 September 2023 on energy efficiency and amending Regulation (EU) 2023/955

This new recast Directive establishes a common framework of measures to promote energy efficiency within the Union in order to ensure that the Union's targets on energy efficiency are met, including the application of the 'energy efficiency first' principle in all sectors (beyond the energy system).

It also provides for Member States collectively to meet (i) the binding EU final energy consumption reduction target of at least 11,7% in 2030 (compared to the EU 2020 reference scenario), so as not to exceed 763 million tonnes of oil equivalent ("Mtoe"), and (ii) the indicative EU primary energy consumption target of no more than 992,5 Mtoe in 2030. To this end, the Directive provides for the establishment of indicative national energy efficiency contributions by 2030.

The Directive also sets annual energy savings targets for final energy consumption (which will gradually increase) and imposes specific obligations on the public sector, such as achieving an annual reduction in energy consumption of 1,9%.

Commission Delegated Regulation (EU) 2023/1184 of 10 February 2023 supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council by establishing a Union methodology setting out detailed rules for the production of renewable liquid and gaseous transport fuels of non-biological origin

This Delegated Regulation implements the seventh subparagraph of Article 27(3) of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the

promotion of the use of energy from renewable sources, and aims to define rules for determining when electricity used for the production of renewable liquid and gaseous transport fuels of non-biological origin (RFNBO) - including renewable hydrogen, via electrolysis and analogously for less common production pathways - can be considered fully renewable.

Royal Decree-law 5/2023 of 28 June adopting and extending certain measures in response to the economic and social consequences of the war in Ukraine, supporting the reconstruction of the island of La Palma and other situations of vulnerability; transposing European Union directives on conversions of commercial companies and the work-life balance for parents and carers; and implementing and enforcing European Union law.

Among the new developments in energy matters introduced by Royal Decree-law 5/2023, from the ESG point of view, the following stand out: (i) the implementation of the regulatory principles of renewable energy communities and citizen energy communities in the Electricity Sector Act 24/2013 of 26 December, as vehicles for citizen participation that allow greater involvement in the energy transition, and (ii) the simplification of the administrative processing of charging points for electric vehicles with less than 3.3,000 kW power, which are exempted from certain formalities in order to promote the deployment of these charging points and, thus, electric mobility.

Order TED/845/2023, of 18 July, approving the catalogue of standardised energy efficiency measures

This order approves the catalogue of standardised energy efficiency measures that may entitle the issuance of Energy Saving Certificates (CAE), in accordance with Article 18 of Royal Decree 36/2023 of 24 January. This catalogue allows

interested parties to know in advance which actions are likely to generate certifiable energy savings and what amount of energy savings will be recognised according to the type of action carried out (in accordance with the information included in the technical sheets in Schedule I that make up this catalogue, which will be periodically reviewed, expanded and updated).

Social

Work-life balance rights

Royal Decree-law 5/2023 of 28 June adopting and extending certain measures in response to the economic and social consequences of the war in Ukraine, supporting the reconstruction of the island of La Palma and other situations of vulnerability; transposing European Union directives on conversions of commercial companies and the work-life balance for parents and carers; and implementing and enforcing European Union law

Royal Decree-Law 5/2023 transposes Directive (EU) 2019/1158, which aims to guarantee the exercise of paternity leave (art. 4); parental leave (art. 5); carers' leave (art. 6); time off from work on grounds of force majeure (art. 7); and flexible working arrangements (art. 9).

In addition, the Directive includes in Article 11 the provision that Member States shall take the necessary measures to prohibit workers from being treated less favourably on the grounds that they have applied for or taken leave or time off covered by the Directive.

This Royal Decree-law 5/2023 amends several articles of the Workers' Statute Act, mainly relating to:

- a) Consideration of discrimination on grounds of gender.

- b) The modification of applications for the adaptation of working hours length and distribution, the arrangement of working time and the form of work (including teleworking).
- c) The extension of new work-life balance rights in pre-existing leave, and the creation of a new parental leave with a maximum duration of 8 weeks (in this case unpaid).
- d) The extension of the rights to reduced working hours and leave of absence to care for dependents or children between 18 and 23 years of age with a previous serious illness and up to 26 years of age for children with a disability of over 65%.
- e) Modification of the characterisation of unlawful dismissal and void contractual termination by reason of redundancy under the Employment Jurisdiction Act.

Framework Agreement on the application of Article 16(1) of Regulation (EC) No. 883/2004 in cases of habitual cross-border telework

The aim of this framework agreement is to allow home-based teleworkers to keep their contributions in the country where their employer is established (a new voluntary derogation), provided that they telework less than 50% of their time from home. To qualify for this derogation, the employee must meet a number of cumulative criteria.

The employee or the employer may request, in accordance with Article 18 of Regulation 987/2009, the application of the framework agreement from the competent social security body of the country whose legislation is applicable.

Social Security Scheme for workers posted abroad in the service of companies that operate in Spanish territory

Order ISM/835/2023, of 20 July, regulating the situation equated to that of registration in the Social Security system of workers posted abroad in the service of companies that operate in Spanish territory.

The regulation defines posted workers as those who, being employed in Spain by a company that carries out its activities in Spanish territory, are sent to another country in order to perform salaried work on behalf of that company.

One of the main novelties is that the regulation provides that if the posted worker is obliged (according to the legislation of the destination country) to disassociate him/herself from the Spanish Social Security system, after a period of time, he/she will be able to continue paying contributions in Spain.

The Order entered into force as of 1 November 2023, with a detailed transitional regime set out in the same.

Employment Flexibility and Stability. RED and ERTE mechanisms

Royal Decree 608/2023 of 11 July implementing the RED Employment Flexibility and Stability Mechanism

This piece of legislation details the general functioning of the RED Mechanism, including its purpose, modalities (cyclical and sectoral) and applicable measures (reduction of working hours or suspension of employment contracts). It also sets out the procedure that companies must follow to join a mechanism that is active. It includes the communication to the workforce and the for-

mation of a representative committee within a specific timeframe, as well as the submission of supporting documentation.

It also addresses guarantees related to the RED Mechanism, such as the protection of workers, benefits in company contributions, training and the commitment to maintain jobs in order to obtain exemptions from contributions. It also establishes limits on overtime, hiring and outsourcing, and regulates access to data by public authorities on authorised reductions in working hours and suspensions of contracts.

Occupational pension schemes

Royal Decree 668/2023 of 18 July amending the Regulation on pension schemes and funds, approved by Royal Decree 304/2004 of 20 February 2004, to promote occupational pension plans

Royal Decree 668/2023 started to apply on 21 July 2023, except as regards the obligation of the occupational pension scheme scrutiny committees to meet at least twice a year, which will come into force in 2024.

This piece of legislation addresses a number of key issues in the field of supplementary employee welfare:

- a) It establishes the principle of non-discrimination in occupational pension schemes,
- b) It defines the length of service of one month for workers' access to occupational pension schemes, taking into account the time elapsed since they joined the promoter's staff under any type of employment contract.
- c) It establishes that, in the case of corporate operations involving the same entity as promoter



of several occupational pension schemes or as promoter of one scheme and policyholder of one or several workplace pension schemes, all members, insured persons and beneficiaries must be integrated into a single scheme within a period of twelve months.

- d) A maximum period of twelve months is set from the entry into force of the royal decree to adapt the documentation and the new information obligations for participants and beneficiaries of the occupational pension schemes, as well as to comply with the rest of the new regulation provided in the decree.

Employment compliance programmes are an important asset in companies' ESG (Environment, Social and Governance) strategies, as they focus on compliance with employment standards, human rights, diversity, occupational safety and talent attraction. This is because the UNE 19604 standard itself includes five main dimensions: 1) Individual employee relations; 2) Collective employee relations; 3) Constitutional rights of equality and non-discrimination; 4) Welfare protection, which covers social security benefits, voluntary improvements and supplementary employee welfare systems; and 5) Any other employment-related obligations that the organisation is obliged to comply with.

Employment compliance

Standard UNE 19604 Social-employment compliance management systems. Requirements with guidance for use

The UNE 19604 standard establishes policies, objectives, principles, procedures and internal resources with indicators and controls to comply with employment standards.

Following the approval of the UNE 19604 standard, GA_P has developed a self-diagnosis tool called GA_P Compliance Laboral that will allow users to identify the possible risks of non-compliance with employment legislation, as well as the areas that need to be improved, providing, in addition, specific actions to control and mitigate these risks. You can access this tool through the following [link](#).

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