

July 2022

Labour Law Department

NEW LAW FOR EQUAL TREATMENT AND NON-DISCRIMINATION

[Law 15/2022, of 12 July, comprehensive for equal treatment and non-discrimination](#), is a new law in force since 14 July that protects the right to equal treatment and non-discrimination in certain areas of political, economic, cultural and social life.

Insofar as the workplace is concerned, the following is worth mentioning:

- Regarding access to employment, whether public or private, bans on limitation, segregation or exclusion for the reasons set out in the law. These include selection criteria, training for employment (in professional recruitment, remuneration, working time and other working conditions), as well as suspension, dismissal, or other causes of termination of the employment contract.
- Criteria and systems for accessing employment or working conditions shall be understood as discriminatory when situations of indirect discrimination arise due to the reasons included in the regulation.
- The mention of the use of anonymised CVs (by way of example) for recruitment agencies, public employment services and collaborating entities, as a measure to ensure respect for the right to equal treatment and indirect non-discrimination.
- The Labour and Social Security Inspectorate shall include in its comprehensive annual action plan as a general target, the development of specific action plans on equal treatment and non-discrimination in access to employment and working conditions. In the field of public employment, this shall be carried out by the general inspectorate of services and the equivalent bodies of the autonomous communities
- Employers are banned from asking about the state of health of an applicant for a position.
- Under the regulation companies with more than 250 workers, may be required to publish wage information in order to identify factors leading to wage differences, taking into account any circumstances that may be discriminatory.
- In the field of collective bargaining, without prejudice to the freedom of the parties to determine its content, collective bargaining may not provide for limitations, segregations, or exclusions. In addition, the public authorities shall encourage dialogue with social partners in order to promote the drafting of codes of conduct and good practice.
- Collective bargaining may establish positive action measures to prevent, eliminate and correct all forms of discrimination in the field of employment and working conditions. Thus, goals and mechanisms for periodic information and assessment which will be jointly agreed by the company may be set

and the workers' legal representatives, who will be responsible for ensuring compliance with the right to equal treatment and non-discrimination in the company for the reasons provided for in this law and, in particular, in terms of positive action measures and meeting its goals.

On the legitimacy for a defence of the right to equal treatment and non-discrimination, in social processes, without prejudice to the individual legitimacy of the persons concerned, trade unions, professional associations of self-employed workers and legally constituted associations and organisations whose purposes include defending and promoting human rights shall have standing, in the terms established by the procedural laws, to defend the rights and interests of their members or associated persons, provided that they have their express authorisation.

Companies may assume the implementation of social responsibility actions aimed at promoting conditions of equal treatment and non-discrimination within the company or in their social environment, they must inform the workers' representatives of any actions taken. Likewise, they may advertise this use of their responsible actions regarding matters of equality.

Regarding the guarantees provided for in the regulation, the following should be highlighted:

- The application of sufficient means or tools to detect discrimination, the adoption of preventive measures, and setting up appropriate measures for the cessation of discriminatory situations that, in case of non-compliance, will give rise to administrative liability, and where appropriate, criminal, and civil liability for any damages that may arise.
- In the event of an incident of discrimination, the authorities in charge shall ensure that it is not repeated.
- The nullity by operation of law of any provisions, acts or clauses leading to discrimination.
- Natural and legal persons causing damage due to discrimination shall make reparation for said damage by providing compensation and restoring the victim to their former state, where possible. Within the company, they will be liable when the damage occurs in their field of organisation or management, and they have not complied with the obligations.
- Regarding the burden of proof, where the plaintiff or the interested party alleges discrimination and provides substantiated evidence of its existence, it shall be for the defendant or the person charged with committing the act of discrimination to provide an objective and reasonable justification, sufficiently evidenced, of the measures adopted and their proportionality.

Finally, the Independent Authority for Equal Treatment and Non-Discrimination is created, an independent, single shareholder body, based mainly on the authority of the post-holder, who will have jurisdiction in both the public and private sector.