

July 2021
Labour Law Department

LAW 10/2021, ON REMOTE WORKING,
NEWS REGARDING ROYAL DECREE-LAW 28/2020

Law 10/2021, of 9 July, on remote working ("Law 10/2021"), which replaces Royal Decree-Law 28/2020, of 22 September, on remote working (which we commented on in our AJ of 24 September 2020). The rule came into force the day after its publication in the Official State Gazette, except for section two of the first final provision, which amends article 40 of the revised text of the Law on Breaches and Sanctions within the Order of the Company ("LISOS"), which will come into force on one October 2021. Specifically, the following new features are introduced regarding RD-L 28/2020:

- **Equal treatment, opportunities, and non-discrimination on the grounds of sex, age, seniority or occupational group or disability (article 4).** It establishes the obligation of companies to avoid any discrimination, direct or indirect, towards those persons who are carrying out remote work. Regarding RD-L 28/2020, age, seniority or professional group or disability are added as grounds of discrimination.
- **Right to adequate provision and maintenance of means, equipment and tools (article 11).** In the case of working people with disabilities the company will ensure that these media, equipment and tools, including digital ones, are universally accessible, to prevent any exclusion on those grounds.
- **Risk assessment and planning of risk prevention activity (article 16).** Risk assessment and risk prevention activity for remote working must take into account the risks characteristic of this type of work, paying particular attention to psychosocial, ergonomic and organisational factors and accessibility to the effective working environment.
- **Increasing the amount of sanctions for breaches in the field of employment relationships and employment, in the field of social security, in the field of migratory movements and foreign workers and in the field of temporary work agencies and user companies (first final provision, second paragraph)** amending Article 40 of the LISOS.

In particular, failing to formalise a remote working agreement will constitute a severe breach with a maximum penalty of 7,500 euros (previously, 6,250 euros). In addition, it should be noted that for very severe breaches attracting maximum sanctions the amounts increase from 187,500 to 225,018 euros. On the other hand, the amount imposed for sanctions in the field of prevention of occupational risk will be penalised, at the highest level, by up to 983,736 euros (previously 819,780 euros).