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LAW 23/2013, OF DECEMBER 23, 2013 ON THE SUSTAINABILITY FACTOR AND THE REVALUATION INDEX IN THE SOCIAL SECURITY PENSIONS SYSTEM

This Newsletter summarizes the key elements to be considered from the standpoint of labor and employment law of **Law 23/2013, of December 23, 2013** on the sustainability factor and the revaluation index in the social security pensions system, published in the Official State Gazette on December 26, 2013.

The law has been published to protect the economic and financial balance of the social security system in the medium to long term by including the sustainability factor and redefining the revaluation index for pensions, along the lines of the measures in Law 27/2011, of August 1, 2011 on updating, adapting and modernizing the social security system.

1. SUSTAINABILITY FACTOR

The sustainability factor is defined as an instrument aimed to link the amounts of social security retirement pensions to changes in the pensioners' life expectancies, automatically through a predetermined mechanism adjusting the amounts to be received by those who retire in similar conditions at different times.

It involves ensuring that the total amount that will be received over their lifetimes by pensioners who will start to be paid under the pensions system in a given number of years and will predictably have a longer life expectancy will be equal to the amount that will be received by those who retired earlier, for which their estimated life expectancies are compared at both times.

According to the law, the introduction of the sustainability factor is qualitatively different from the previous reform measures, in that it is not putting in place a specific change in the legal regime for pensions, but rather an automatic rebalancing or adjustment mechanism for them, based on changes in life expectancy, which hitherto did not exist.

The specific characteristics of and rules applicable to the sustainability factor are as follows:

- The sustainability factor will start to be applied on January 1, 2019 to determine the initial amount of the new retirement pensions under the social security system.

- The sustainability factor will be calculated by reference to: a) the mortality tables for the retired pensioner population under the social security system as prepared by the social security authorities and; b) 67 as the reference age.

- The sustainability factor will be obtained using a mechanism based on the year-on-year life expectancy value. This year-on-year variation will be reviewed every five years.

- The sustainability factor will not affect any social security minimum contributory pension top-up supplements.

The relevant sustainability factor at any given time will be applied to the retirement pension amount in accordance with article 163.1 of the General Social Security Law.

The sustainability factor will be applied with absolute transparency, and the systematic life expectancy monitoring will be published. Similarly, when their initial pensions are recognized, pensioners will be informed of the effect the sustainability factor has had on their calculation.

2. NEW PENSIONS INDEX

The provisions on the new revaluation index for pensions amend article 48 of the General Social Security Law by replacing the former reference index, which was the Spanish consumer price index.

Accordingly, starting on January 1, 2014, social security pensions will be increased at the beginning of each year by reference to the new revaluation index set out in the relevant General State Budget Law.

That index will be calculated using a mechanism based on the revenues and expenditures of the system such that, from the entry into force of the law, the rise in pensions each year cannot be lower than 0.25% or higher than the variation in the consumer price index in the previous annual period, plus 0.50%.

The values of the variables used to calculate the revaluation index will be published each year.

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