

Dismissals in times of crisis. Assessment of recent Spanish modifications*

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Abstract: Effects of the crisis on the Spanish economy have led to increased flexibility of working conditions and specifically, in requirements for dismissal and termination of work contracts. This flexibility has increased since 2010, with the onset of the crisis, and is currently even higher. Reforms have focused on direct and indirect cost reductions resulting from contract terminations, particularly from dismissals. Paradoxically, the main legal reforms that were agreed upon in the area of disciplinary dismissal did not attempt to reduce the number of dismissals, but to lower their cost. Thus, reforms focused on two principal elements: the elimination of procedural salaries and the reduction of compensation costs for unfair dismissal.

Keywords: dismissal, flexibility, procedural salaries, working conditions.

1. Introduction

Ever since the economic crisis began revealing its effects on Spain midway through 2007, these effects have been particularly visible in the field of industrial relations and, more specifically, in the area of work contract termination. The difficulties faced by companies in adapting to the crisis have led to an increased flexibility of both employee working conditions and the requirements required for their exit from the company, based on the framework of European objectives¹. This flexibility has been particularly evident in the area of dismissals and work contract termination², in the context of broader labour reform³.

Although legal reform has been a constant in the Spanish legal framework, the true reform process began in 2010, resulting in the current legal schizophrenia, characterised by an unstoppable (and sometimes unacceptable) succession of labour law reforms and counter-reforms that is incapable of

* The following abbreviations are used in this essay: ET (Texto Refundido de la Ley del estatuto de los trabajadores, aprobado por Real Decreto Legislativo 1/1995, de 24 de marzo (Spanish Statute of Workers Rights); LJS (Ley 36/2011, de 10 de octubre, reguladora de la jurisdicción social); RDL (Real Decreto Ley); RD (Real Decreto).

¹ For MONTAÑA MELGAR, A. (Comentario a la reforma laboral de 2012, Civitas Thomson-Reuters, Madrid, 2012, p. 10): “Our belonging to the European Union (and the undeniable sovereignty transfer that it implies) makes it impossible to follow, in this and other matters, a way that is not the one that the high European courts point to”.

² In Spanish law, disciplinary dismissal implies the extinction of the employment contract only by the will of the employer, due to a severe failure to comply by the worker. The Spanish work legislation does not have a system of employment at will, but only casual dismissal, so that the employer has to locate the worker’s infraction in one of the causes that are specifically covered in *Estatuto de los Trabajadores* (art. 54), and follow the formal requirements that are legally established (art. 55). The objective extinction of the work contract, however, is not determined by the worker’s failure to comply, but by objective causes, those being caused by the worker in a non-guilty manner (sudden ineptitude, lack of adaptation in the work position...), by circumstances of the company (restructuring, externalization of the services, severity of the economic situation) or by mutual agreement.

³ DESDENTADO BONETE, A. Introducción a un debate. Los despidos económicos en España, *Lex Nova* (Valladolid, 2011), p. 36.

halting the rise of unemployment and job insecurity. Over the past decade, the following reforms have been made in regards to collective dismissal:

- RDL 10/2010, 16 June, urgent measures for job market reform.
- Act 35/2010, 17 September, urgent measures for job market reform.
- Act 36/2011, 10 October, regulating social jurisdiction.
- RDL 3/2012, 10 February, urgent measures for job market reform.
- Act 3/2012, 6 July, urgent measures for job market reform.
- RDL 11/2013, 2 August, part time worker protection and other urgent measures in social and economic areas.

All of these reforms have included the constant elements of adaptability and cost reduction in individual and collective work contract termination. Both the causes permitting contract termination and the procedure to be followed for said termination have been made more flexible. A more precise definition of the causes of work contract termination has been offered, in order to avoid potential doubts in the interpretation and application and to reduce the involvement of labour courts which tended to protect workers in the application and interpretation of labour laws. On the other hand, termination ceased to serve as a solution for companies in crisis and legislators began to permit “preventive dismissals”⁴, which attempt to anticipate a crisis situation in the company, even before it has occurred.

At the same time, these reforms attempt to reduce both direct and indirect costs caused by contract terminations, particularly in the case of dismissals. The reduction of direct costs has been achieved through a decrease in the amount of legal compensation established for redundancy or improper terminations. Indirect costs have been reduced through the elimination of procedural salaries, except in limited cases. These fees are calculated based upon the amount of time passing since the date of termination and the sentence declaring his termination to be improper or null, and they force companies to pay an amount that often exceeds the worker compensation fees.

In addition to the procedures for individual or multiple dismissals or terminations (art. 52.c ET), collective dismissals (art. 51 ET) are also included. These dismissals are determined by the number of workers affected over a certain time period, based on the total staff. The most recent work reforms have had a particularly large effect on the regulation of collective dismissals, with a dual purpose: first, to determine the definition of justifiable cause, so they can be objectively credited and to prevent the judicial body from making corporate strategy assessments. Second, the procedure followed in the case of collective dismissals has been made more flexible. Previously, agreements made during the negotiation phase between company and worker representatives requiring that the administrative authority permit the dismissal. But based upon the 2012 reforms, it is only required that both parties act in good faith, with the agreement no longer being an indispensable element for dismissals. Today, the authority is limited to supervising the collective dismissals negotiation procedure, issuing warnings or recommendations that do not stop the final decision of the employer. Even should this decision be appealed before labour courts, it may still be in effect as of the date determined by the employer.

Below is a brief (non-exhaustive) analysis of the main reforms that have taken place in regards to dismissal and termination of work contracts in the reforms of 2010, 2012 and 2013.

2. Disciplinary dismissal

One of the main problems of the legal regulation of the termination of work contracts in the Spanish system is the abuse occurring in regards to disciplinary dismissals. This is exclusively due to the worker’s “serious and guilty” failure to fulfil duties of the work contract. Compensation, in the case of dismissals being declared as unfair, was much higher than in the case of work contract termination prior

⁴ MARTÍN JIMÉNEZ, R., *Despido por causas objetivas y expedientes de regulación de empleo*, in volume “La reforma laboral de 2010”, Thomson-Aranzadi (Navarra, 2010), p. 555.

to the 2012 reforms: 45 days of salary per year of work in the case of unfair termination, as opposed to 20 days of salary per year in case of objective work contract termination. Thus, the use of disciplinary dismissal resulted in higher costs for companies, since compensation was higher than in the case of objective work contract termination and due to the procedural salaries that the worker had the right to collect as of the date of the dismissal until the sentence declaring its invalidity. Nevertheless, this situation had been resolved through the so called “express dismissal”, allowing employers to avoid paying these procedural salaries when, from the onset, they acknowledge the unfairness of the dismissal and pay the corresponding compensation, thus avoiding legal proceedings.

This procedural simplification and the saving of economic costs led to the channelling of most individual work contract terminations through express dismissals, even those that were not caused by serious and guilty failure to fulfil contract duties but, rather, had economic, technical, organizational or production causes that were really objective terminations of the work contract. Even though compensation prescribed for express dismissals had higher employer costs, it avoided a relatively lengthy judicial process due to the inaccurate and imprecise definition of objective causes of work contract termination, making it difficult to prove the cause and, thus, the validity of the work contract termination.

Paradoxically, the principal legal reforms agreed upon in regards to disciplinary dismissal did not attempt to reduce the number of dismissals, but to lower their cost. Thus, the reforms focused on two main elements: the elimination of procedural salaries and the reduction of compensation costs for improper disciplinary dismissal.

A) Procedural salaries

In order to avoid abuses in this area, RDL 3/2012 –and its subsequent Act 3/2012– suppressed express dismissals by eliminating procedural salaries in dismissals declared by the courts to be improper, when employers opt to terminate work contracts. In other words, procedural salaries will only be paid under three situations: when the dismissal is declared null (Article 55.6 ET), when it is declared unfair and the employer opts for worker readmission (Article 56.2 ET), or when the worker is a workers’ representative, both when opting for contract termination or for company reincorporation (Article 56.4 ET).

B) Reduction of the compensation for unfair dismissal

The goal of reducing costs derived from dismissals was also achieved through the lowering of the compensation paid by employers who make unfair dismissals. If said compensation was previously established at 45 days of pay per year of service, with a maximum of 42 months, Act 3/2012 lowered it to 33 days of salary per year of service, with a 24 month limit. The 45 days of pay per year compensation had been in enforcement since 1980⁵. On the other hand, the 33 days of pay per year compensation was only stated as an exception for the termination of a specific contract: the indefinite contracting encouragement contract, incorporated into Spanish legislation in 1997⁶, which disappears with this reform. In contrast to what happened in previous reforms, in this case a new contractual mode with a lower compensation for dismissal is not created, but the decrease in compensation is applied generally to all work contracts⁷.

Even when the Spanish system does not acknowledge at-will employment, but only dismissals justified exclusively by one of the causes indicated in the Article 54 ET⁸, it is possible to lay off a worker

⁵ Established this way in the Act 8/1980, 10th March, of the workers’ statute.

⁶ Added by Act 64/1997, 26th December, which regulates incentives in matters of Social Security and fiscal character for the encouragement of indefinite contracting and employment stability.

⁷ GOERLICH PESET, J.M. New perspectives in matters of compensation and other effects linked to the termination of the work contract, in “La reforma laboral de 2012: nuevas perspectivas para el Derecho del Trabajo”, La Ley (Madrid, 2012), p.522.

⁸ According to the referred Article 54 of ET, the following are causes of disciplinary dismissal: “1. The work contract can be terminated by decision of the employer, by a dismissal based on a serious and guilty in compliance by the worker. 2. The following are considered contractual in compliance: a) Repeated and unjustified absence from work or lack of punctuality. b) Indiscipline or disobedience at work. c) Verbal or physical offenses towards the employer or co-workers or their relatives that

without justifying any of these causes, in exchange for compensation due to unfair dismissal. After the 2012 reforms, this possibility remains but now has a lower employer cost, with decreased compensation being paid to employees.

Nevertheless, this rule only applies to those contracts signed after 12 February, 2012, the effective date of the 2012 reform. For contracts signed prior to this date, a compensation of 45 days of pay per year of service before that date and 33 days of pay per year after this date will apply.

3. Contract termination for objective causes

The scarce use of this contractual termination modality in favour of the excessive inclination towards the unfair disciplinary dismissal has resulted in an attempt to define and determine the causes producing these terminations. The purpose of this measure is to reduce the judicial role and to eliminate opportunity judgments made by judges. According to the preamble of RDL 3/2012 and its subsequent Act 3/2012, judges were to limit their decisions to determining whether or not the indicated causes exist, without considering the reasonability of the measure.

A) Redefinition of the causes

The 2010 reforms offer a new, more concrete and specific wording of the causes for termination, especially those of an economic, technical, organizational and productive nature, in order to provide increased certainty for both workers and employers, as well as for the jurisdictional organs in charge of determining the existence of these causes. Prior to these reforms, termination due to economic causes was believed to contribute to effectively “overcoming a negative economic situation”. At the same time, technical, organizational and production causes required termination to contribute to “guaranteeing the viability of the company”

With the 2010 reform, the reference to “foreseen” losses was introduced, which meant no longer considering only the present economic situation, but also including both the current negative economic situation as well as future and foreseen situations⁹.

The 2012 reforms modified the objective causes of termination, aiming to offer increased objectivity in their assessment and lowering the degree of judicial interpretation.

a) Economic, technical, organizational or production causes

This modification has been particularly intense in regards to the definition of “economic causes”. Prior to the 2010 reform, the termination of a contract based on economic causes had to “contribute to overcome a negative economic situation” or “overcome difficulties that prevent the proper operation of the company”. In the case in which said cause was not fully proven in trial, the agreed termination would be declared invalid.

After the 2010 reform, it is no longer required that the termination contribute to overcome a negative economic situation, when the data provided shows the existence of a negative economic situation. Consequently, it is sufficient for this situation to exist. Nevertheless, it does not define what is to be understood as a negative economic situation, as this does not only refer to economic losses occurring in the company over the past years. It also acknowledges the existence of “current or foreseen losses” as well as the “persistent decrease of the level of income that can affect the viability of the company”.

cohabit with them. d) The transgression of the contractual good will, as well as the abuse of trust in the labor. e) Continuous and voluntary lowering in the efficiency of normal or agreed word. f) Habitual inebriation or drug addiction if they negatively influence work. g) Racial, ethnic, religious, ethical, age, handicap or sexual orientation harassment, and sexual harassment towards the employer or co-workers.

⁹ GÁRATE CASTRO, J. *Lecturas sobre el régimen jurídico del contrato de trabajo*, cit., pág. 252.

After the 2012¹⁰ reforms, the requirement that the current or foreseen losses, or the persistent decrease in the company's income level, affect its "viability or ability to maintain the employment volume" has been eliminated. Similarly, it is no longer required that "the company has to credit the alleged results and justify that the reasonability of the decision of the termination to preserve or favour its competitive position in the market can be inferred from them"¹¹. After the 2012 reforms, the existence of a "persistent decrease in the level of revenue or sales" is sufficient, and this is agreed to occur "after three consecutive terms"¹².

b) Absenteeism dismissals

After the labour reforms of 2012, the level of general staff absenteeism is no longer considered¹³, as it considered complex interpretative problems, in favour of the use of individual worker absence control. In this way, Article 52.d), permits the termination of the contract "due to work absences, even if justified but intermittent, reaching 20% of the working days in two consecutive months and if the total of absences in the previous twelve months reaches 5% of the working days, or 25% in four, non-consecutive months over a 12-month period". The goal of this cause of termination is to combat absenteeism and to allow employers to get rid of workers that are repeatedly absent over short periods of time.

No longer considering the general level of staff absenteeism, which generated interpretation problems, thus simplifies the use of this cause of termination.

c) The lack of worker adaptation to modifications included in the work post

It only means a formal adaptation of Article 52.b) ET to the former reality¹⁴. In this way, the reforms introduced in Act 3/2012 specifically state the company's requirement to offer workers training, upon introducing modifications in their work post, prior to proceeding with contract termination. As an aside, the time dedicated to this worker training is considered to be work time, based on the 2012 reform.

d) Lack of budget assignments

The Act 3/2012 also added new wording to Article 52 e) ET in order to permit the termination of temporary work contracts that are directly funded by non-profit organizations to carry out specific plans and public programs, without stable economic resources and financed by the public administration, or annual out-of-budget plans resulting from external revenue with a final character, due to the insufficiency of the corresponding assignments for the maintenance of said contract. These measures may

¹⁰ According to the new wording of Article 51.1 ET provided by RDL 3/2012 and Act 3/2012, it is understood that there are economic causes "when there is a negative economic situation, in cases such as the existence of current or foreseen losses, or the persistent decrease of the normal level of revenue or sales. In any case, it will be understood that the decrease is persistent if during three consecutive terms the level of normal revenue or sales of each term is lower to that registered for the same term the previous year".

¹¹ This way we surpass the reference to "always historic or past (in the best of the present cases) economic results" that, according to MARTÍN JIMÉNEZ, R. (La reforma laboral de 2010, Thomson Reuters, Navarra, 2010, p. 566), characterized the configuration of economic circumstances in the 2010 reform.

¹² This reference prevents the merely occasional or short term negative situation from being considered a negative economic situation (GÁRATE CASTRO, J., *Lecturas sobre el régimen jurídico del contrato de trabajo*, cit., pág. 252). According to the author, even when the negative economic situation is persistent, the intensity of the decrease in revenue or sales is not irrelevant, being this a situation that should be looked into by the judicial body.

¹³ According to the previous wording based on Article 52.d) ET of the 20th additional disposition of the Act 35/2010, the work contract may be terminated "due to work absences, even if justified but intermittent, reaching 20% of the working days in two consecutive months, or 25% in four non-consecutive months in a 12-month period, if the total absenteeism index of the workplace staff is over 5% in the same periods of time."

¹⁴ AS BLASCO PELLICER, A. (La extinción del contrato de trabajo en la reforma laboral de 2012, Tirant lo Blanch, Valencia, 2012, p. 121), states "even if in the previous rule the employer was not legally forced to provide reconversion or professional advancement courses" he was not relieved of having to provide formation for the worker to adapt to the modifications, and "now, as it has been pointed out, formation becomes compulsory".

be applied to personnel with work contracts in public administration services, but not to civil servants, whose contracts are ruled by the state legislation¹⁵.

B) Flexibility of formal requirements

The 2010 reforms reduced the period of prior notice for termination due to economic causes from 30 to 15 days. Nevertheless, the most important modification as far as the formal requisites are concerned is the disappearance of the invalidity of the termination of the objective dismissal due to formal causes. Based on the 2010 reform, as is the case with disciplinary dismissals, non-fulfilment of the formal requirements may lead to the unfairness, and not nullity, of the termination.

4. Collective dismissals

The regulation of collective dismissals in Spain has suffered several changes, especially as a result of the 2012 and 2013 reforms, which have affected both the causes and the procedures followed in determining the dismissal and how to appeal it. The relevance of these modifications has led them to be considered “the central nucleus of the reform in the area of contract termination”¹⁶. Still, the evolution of the regulation of the collective dismissal procedure has been particularly intense over recent years. The purpose of objectifying and meticulously specifying the meaning of each of the causes behind the collective dismissals, to reduce the courts’ margin of manoeuvre, already appeared clearly in the reform that was introduced by RDL 10/2010 and the later Act 35/2010, even if it was later to be intensified with the 2012 reforms¹⁷.

Along with the modification of Article 51 ET, introduced both by RDL 3/2012 and the Act 3/2012, RD 1483/2012, 29th October, was also published. It approves the ruling on procedures of collective dismissal, contract suspension and working time reduction¹⁸.

Below are some of the main points related to the procedure and effects of collective dismissals:

Procedure:

Spanish regulation of collective dismissals, covered mainly in Article 51 ET, is in compliance with Directive 98/59/EC, 20th July, including Directive 75/129/EEC, 17th February, subsequently modified by Directive 92/56/EEC 24th June.

a) Disappearance of administrative authorization. One of the central aspects of the 2012 labour reform is the elimination of administrative authorization, ending the administrative procedure referred to as “*expediente de regulación de empleo*” (ERE, employment regulation dossier), which was considered to be slow, bureaucratic, interventionist and excessively lengthening the time of the dismissal process, making it ineffective¹⁹. Now this control is taken to court, through a procedure whose regulation offers multiple doubts (art. 124 LJS). With the 2010 reform, the labour authority maintained the ability to oversee the definitive content of the measures agreed upon in the consulting period and, consequently, the ability to

¹⁵ ALFONSO MELLADO, C.L. *Despido, suspensión contractual y reducción de jornada por motivos económicos y reorganizativos en la Administración Pública*, Bomarzo, Albacete, 2013.

¹⁶ BLASCO PELLICER, A., *La extinción del contrato de trabajo...*, cit., p. 29. According to this author “In this way, both of the deficiencies of the traditional system of collective regulation of employment are acted on. Firstly, the deficient configuration of causes and their functioning acts as a measure of assessment of the company decision; and, in second place, it acts on a procedure that may be considered slow, bureaucratic, and that allowed for the certainty of goodwill, or lack of thereof, of the company measure to be elongated so much in time that, in many occasions, made it inefficient and distorting”.

¹⁷ For more information, see GÁRATE CASTRO, J., *Lecturas sobre el régimen jurídico del contrato de trabajo*, Netbiblo, A Coruña, 2012, p. 251.

¹⁸ This, at the same time, is completed by RD 1484/2012, 29 October, on the economic contributions to be made by companies with benefits that carry out collective dismissals affecting workers of fifty years or more.

¹⁹ BLASCO PELLICER, A. *Nuevas perspectivas en materia de despido colectivo: aspectos procedimentales*, in “La reforma laboral de 2012: nuevas perspectivas para el Derecho del Trabajo”, La Ley, (Madrid, 2012), p. 455.

permit or not allow the collective dismissal procedure²⁰. After the 2010 reform, the requirement of prior administrative authorization was eliminated. The labour authority now has only a mediating role in the negotiation of the collective dismissal, and “will watch for the effectiveness of the consulting period, being able, if needed, to issue warnings and recommendations that will not result in any case in a standstill or the stoppage of the procedure” (art. 51.2 ET). Similarly, the labour authority may appeal the dismissal when detecting deceit, coercion or the unreasonable exercising of rights during the negotiation procedure.

b) Negotiating procedure. The collective dismissal decision must come after a period of consultation with the workers’ representatives in the company, which should be in regards to a specific issue (art. 51.2 ET). Before 2010, the negotiation period between company and workers’ representatives did not need to have a specific content, but only required that measures be taken to reduce the effects of the ERE. With the 2010 reform, it was established that the consulting period must consider “the causes that originate the expedient and the possibility of avoiding or reducing its effects, as well as with the measures that are needed to reduce its consequences on the affected workers, as are reassignment measures that could be taken through authorised reassignment companies or formative and professional recycling actions allowing for improved employment possibilities, and to enable the continuity and viability of the project” (Article 51.4 ET). After the 2010 reform, it is stated that the consulting with the legal workers’ representatives “should be, at least, about the possibilities of avoiding or reducing collective dismissals and reducing their consequences by using social support measures, such as reassignment measures or formative and professional recycling actions for better employment possibilities” (Article 51.2 ET)²¹.

In the same way, with the use of agreements in the consulting period we can set permanence priorities for people with family duties, people older than a certain age or handicapped workers, as well as for the legal or trade union representatives. In companies with more than 50 workers, collective dismissals must have plans of viability and reassignment of the workers.

The legislator of 2012 considers the period of negotiation with the workers’ legal representatives to be a central aspect of collective dismissals, so special attention is given to the situation of the companies, moreover small and micro companies which have no legal representation. Thus, even if before 2010 the absence of legal representatives in the companies was not contemplated when dealing with the negotiation procedure during the consulting period, this was fixed after the 2010 reform, and remained in effect after the 2012 reforms. This final reform introduced, for companies with no legal representation considered the possibility of forming an “ad hoc” commission made up of 3 representatives elected among trade unions or the company workers.

c) Other aspects that have been recently modified include the following:

The viability of the ERES in the public sector for technical, organizational, production or economic (defined *ad hoc*) causes is acknowledged.

Companies with benefits and more than 100 workers that lay off workers over the age of 50 years old have to make an economic payment to the Public Treasury.

The responsibility of the *Fondo de Garantía Salarial* (FOGASA, salary Guarantee Fund) is limited to a part of the compensations when redundancies occur in small and medium companies having under 25 workers. For that it is also necessary for the redundancy to have been declared improper. On the other hand, FOGASA does not take any responsibility for compensation corresponding to dismissals that are declared improper in conciliation or by judicial sentence. This implies an increase in the cost of the dismissal for the company²², as it will have to pay for the compensation in advance and later claim

²⁰ For MERCADER UGINA, J.R. y DE LA PUEBLA PINILLA, A. (*Los procedimientos de despido colectivo, suspensión de contratos y reducción de jornada*, Tirant lo Blanch, Valencia, 2013, p.148): “we are, this way, facing an Administration that facilitates, in procedure, the adoption of a private decision with the assurance of the consulting period and the presentation of public and private documents that, eventually, would justify the decision. After that the question turns into a clearly judicial one, that is, precisely, the one that will have to assure the correct operation of this institution”.

²¹ To MERCADER UGINA, J.R. y DE LA PUEBLA PINILLA, A., *Los procedimientos de despido colectivo, suspensión de contratos y reducción de jornada*, Tirant lo Blanch, Valencia, 2013, p. 143), “the consulting period has to take place under true will of dialogue, looking for the achievement of agreement in each and all circumstances affecting the proposed measure”. For more, see STSJ Cataluña de 26 de junio de 2012.

²² SEMPERE NAVARRO, A.V. y MARTÍN JIMÉNEZ, R., “Claves de la reforma laboral de 2012”, 2ª edición, Thomson-Aranzadi (Navarra, 2012), p. 257.

the corresponding part from FOGASA. In the same way, the compensation responsibility of FOGASA in case of the work contract for economic and similar causes is reduced from triple to double the amount of minimum wage (RDL 20/2012, art. 33.1 ET).

d) Disagreement solution: A new procedural modality for appealing collective dismissals is created (art. 124 LJS), at the same time that the addition in collective agreements of out-of-court procedures (conciliation, mediation or arbitration) is strengthened, in order to solve the disagreements that might come about during the consulting period, in an attempt to avoid the need to go to court.

If an agreement is come to during the consultation period, the employer will send a copy to the administrative authority, which may appeal the same if it considers that the agreement has been reached in error, deceit, coercion or abuse of rights, or when the entity administrating the compensation for unemployment informs them that the agreement may attempt to wrongfully obtain compensation. (Article 51.6 ET).

If an agreement is not reached during the period of consultation, the employer will communicate the final decision of collective dismissal to the labour authority and the workers' representatives, stating, among other things, the identity of the affected workers, the time the dismissal will take place and other social support measures that could be agreed on. This company communication may be appealed via a special procedural modality of collective dismissal regulated by Article 124 LJS²³, if contested by the workers' representatives; through the office process regulated by Articles 148 and following LJS, if contested by the labour authority; or through the process of individual work contract termination when, in the absence of an appeal by the previous two, it is presented by the affected workers in order to appeal their own dismissals (Articles 120-123 LJS).

²³ MANEIRO VÁZQUEZ, Y. La nueva modalidad procesal de despido colectivo tras la reforma laboral de 2012, *Actualidad Laboral*, nº 3, 2013.