

Employment Update

**Agreement between the Autonomous State Labour and Social Security
Inspectorate and the Wage Guarantee Fund**

September 2019

The purpose of this Agreement, published in the Official State Gazette on 19 August as an Annex to the Resolution of 8 August of the General Technical Secretariat of the Ministry of Labour, Migration and Social Security, is to establish a general framework for collaboration on the conditions and procedures governing the exchange of information between ITSS and FOGASA in the fight against fraud.

This Agreement will have a duration of four years from the moment it becomes effective and it may be unanimously agreed to extend it for a period of up to four additional years.

Its main characteristics and information obligations arising from it for and between the two bodies are set out below:

A.- Information

1.- To be provided to ITSS by FOGASA:

In general, FOGASA will send the ITSS any evidence of the activity of fictitious companies or simulations of work activity. It shall also send the following information:

- a.-** Judgments in which workers were not registered with Social Security ("SS") and objective dismissals of workers without prior registration with the SS;
- b.-** Cases in which FOGASA was cited in court, the plaintiffs would have withdrawn when FOGASA appeared;
- c.-** Judgments in cases of companies that have disappeared or been declared previously insolvent;
- d.-** Judgments that condemn companies to the payment of salary or extra-salary concepts that are not included in the receipt of salaries for which reason the contributions to the SS and the previous fiscal retentions will not be carried out either.

In addition, it must communicate any evidence and all those judgements in which there are several co-defendants, deducing the existence of possible cases of corporate liability for salary debts or non-payment of quotas to the SS, with special attention to those cases in which the existence of undeclared groups of companies could be appreciated.

B.- To be provided to FOGASA by ITSS:

a.- Actions referring to "fictitious companies", i.e. those that are being inspected by labour simulations, for being instrumental companies with no assets or those that may have been constituted or that may use any other fraudulent formula to achieve the recognition of public benefits, as well as those cases in which there may be possible derivation of responsibility;

b.- Any other case of inspection action that could affect FOGASA's area of competence and, in general, the communication of files in progress from which it may reasonably be deduced that there are indications of the existence of any type of fraud that could affect said Body;



c.- Likewise, the ITSS will attend, as a matter of priority, FOGASA's queries regarding situations of succession of companies or groups of companies that may affect the recognition of benefits by the same.

C.- Permanent communication channel:

The two bodies will designate an interlocutor in each province, who will act as a link between ITSS and the Peripheral Administrative Unit of FOGASA.

D.- Execution of the agreement:

In order to ensure compliance with the object and the informative commitments derived from it, a (i) Monitoring and Evaluation Commission will be constituted at central level for the monitoring, surveillance and control of the execution of the Convention and the resolution of interpretation and compliance problems that may arise, as well as (ii) Monitoring and Evaluation Commissions at provincial level.

These Commissions - Central and Provincial - will carry out an assessment, respectively every six months and annually of the results obtained and will formulate the proposals and modifications or changes of criteria in the management that they deem appropriate.

You can download the annotated sentence [here](#).

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