

# What Future Awaits Spain after COVID-19?

April 30, 2020

On March 28, 2020, the Spanish Government revealed a Plan for the Transition to a “New Normality environment” (hereinafter the “Plan”), which establishes a series of parameters to progressively restore business activity in the country.

This Plan for the gradual exit from the lockdown consists of four steps, in which different sectors will be reactivated until normality is achieved. The dates and duration of each step are indicative and may be subject to change following the assessment of various indicators and the development of the pandemic situation. In addition, the implementation of the Plan will vary among provinces, depending on the situation.

Every province will be placed in step 0 the May 4, with the exception of the Balearic island of Formentera and the island regions of La Gomera, Hierro and La Graciosa in the Canary Islands, which will be placed directly in step 1.



## 1. What does each step consist of?

At each step of the de-escalation process, different measures will be applied to gradually reactivate the business activities of different sectors and facilitate the return to daily life, while also maintaining the orders and instructions issued by the Ministry of Health.

- Step 0 or preparation phase: This includes the preparation and establishment of the bases for the de-escalation process, characterized by the establishment of relief measures common to all sectors.
- Step 1 or initial phase: The partial opening of some economic activities will be allowed.
- Step 2 or intermediate phase: The opening of economic activities that were restricted in step 1 will be considered, but capacity will continue to be limited.
- Step 3 or advanced phase: The opening of all activities is planned, while maintaining appropriate safety and distance measures.

## 2. Does this mean that the State of Emergency has been lifted?

No. The Government will continue to extend the state of emergency during the steps of the Plan since some limitations will be maintained, while some will be gradually lifted. Therefore, layoffs ("ERTE") carried out due to force majeure, will remain in effect throughout the Plan, since the cause that forced many companies to take such measures still exists.

## 3. How the Plan will affect me if I am applying an ERTE in my company?

The de-escalation plan will not affect the ERTEs that companies have carried out as a result of the COVID-19 health crisis, since:

- **The ERTEs by force majeure:** They remain in effect until the state of emergency is over.
- **ERTEs due to economic, technical, organizational or productive causes ("ETOP"):** Their duration and effects will depend on the cause of the layoffs, and whether the measures in a given Step remove that cause (eg. a shop where employees work is reopened). If not, the ERTE could extend beyond the state of emergency.

Therefore, as business activity returns according to the Steps of the Plan, companies may remove certain employees from the ERTE and the workers may return to their jobs, without the need to increase overall working hours (in the event that they have applied measures to reduce working hours) or to terminate the ERTE while the cause that motivated it persists.

## 4. When can I restart my activity?

Business activity will restart gradually, according to the proposed steps and depending on the sector of the company. In some sectors, such as hotels, restaurants and cultural venues, measures will be implemented to avoid crowding: limited capacity, protective screens, visits by appointment, etc. The table below details the reactivation of the activity according to the different sectors of business activity.

	<b>PHASE 0</b> <b>Preparation</b>	<b>PHASE 1</b> <b>Initial</b>	<b>PHASE 2</b> <b>Intermediate</b>	<b>PHASE 3</b> <b>Advanced</b>
<b>Starting dates</b>	May 4-17, 2020	May 18-31, 2020	June 1-14, 2020	June 15-28, 2020
<b>Common employment measures to all sectors</b>	Teleworking shall be applied, in the companies where it is appropriate.  There will be a staggering in the entrance and exit of the work centers.	The requirements for the Prevention of Occupational Risks will be analyzed and adapted to the Coronavirus.	If no major adverse effect occurs in Step 1, activities that remained restricted in the previous phase will be partially opened, with capacity limitations.	Companies will reopen all activities, while implementing and maintaining safety and distance protocols, and providing appropriate individual protection equipment.

	PHASE 0 Preparation	PHASE 1 Initial	PHASE 2 Intermediate	PHASE 3 Advanced
				A staggered schedule will be promoted.
		Small businesses	Restaurants: limited capacity	
<b>Sectors</b>	Restaurants (home delivery and takeaway)	Hotels (without common areas)	Cinemas, theaters, concerts (1/3 capacity)	Restaurants (with safety measures)
	Premises and establishments (by appointment and limited capacity)	Restaurant terraces (capacity limited to 1/3)	Monuments and exhibitions	Public transport
		Places of worship (capacity limited to 1/3)	Educational establishments (exceptions)	Shopping malls (large centres)
		Sport centers/Gyms	Shopping malls (with limitations)	

## 5. Can I authorize the posting of employees to carry out their duties during the de-escalation process?

As long as the state of emergency continues, citizens'/workers' movement must be restricted as much as possible. However, there is still an exception to allow permitted employees to travel to and from the workplace. For this purpose, whether the company provides essential services or belongs to a sector returning to operation under the Plan, it will need to provide its employees with a responsible statement to evidence that they can go to their workplace.

## 6. Which sectors will not apply the de-escalation measures?

Sectors or activities that are considered essential services, and consequently, have been continuously operating (e.g. pharmacies, supermarkets, nursing homes, sanitary services, etc.) will not be part of the step plan. Notwithstanding, these activities will be reinforced with additional measures and they will have to undertake the corresponding health and safety measures.

## 7. What happens if my company is not included within the activity sectors set forth in the steps?

Those companies whose activity is not expressly included in the foreseen steps, will introduce a progressive

reinstatement as of Step 3 (from June 15, 2020). These companies will need to implement measures to protect the safety of their employees, such as: home based work, shifts, staggered working time, working flexibility, holidays, etc.

## 8. What measures should companies undertake on Health and Safety?

Companies must reinforce their health and safety measures (especially in common areas) and provide clear instructions for employees, such as providing guidance on hand washing and hygiene, maintaining safe distances, and organizing frequent cleaning of the workplace. They must also provide employees with relevant supplies - such as masks, gloves, disinfectant gels and hydro-alcoholic solutions, etc.

## 9. Some particularities to bear in mind

### What happens if my company is an educational center or school?

Educational centers will not restart their normal activity until September this year, coinciding with the opening of the new school year. Three exceptions have been established, which may be applied as of May 25, 2020:

- i. Facilities can be open for children up to 6 years old whose parents evidence that they have to attend their workplace;
- ii. Tutoring lessons; and,
- iii. Exams to access to university.

All schools and educational centres must prepare the necessary health and safety measures for the restarting of the school year.

### Companies that provide long-distance transport?

The restrictions currently established by the royal decrees enacted by the Spanish Government will be progressively removed in a selective way according to the development of the health indicators in the different territories. Transport companies will adjust their supply according to the evolution of the market.

Air transport will be subject to a European or international agreement on security, coordinating the various security measures.

## Your Key Contacts



**Juan Alonso Berberena**  
Counsel, Madrid  
D +34 91 43 63 325  
[juan.alonso@dentons.com](mailto:juan.alonso@dentons.com)