

**Contributors:**



Américo Oliveira Fragoso



## **PORTUGAL: An Introduction to Employment**

### **PORTUGAL: EMPLOYMENT OVERVIEW**

The Portuguese economy has been showing encouraging signs of post-pandemic recovery since the second half of 2021, with projections of economic growth being consecutively revised upwards.

For 2022 - and despite the latest COVID-19 spike and uncertainty triggered by the early elections in the beginning of the year - growth forecasts for the Portuguese economy point to a gross domestic product growth of around 5.5%. In contrast, the forecasts point to an inflation rate of around 1.8%, a sharp increase compared to what was expected in June 2021.

The optimism of the strong recovery of the Portuguese economy was, however, suddenly affected by the recent military conflict in Ukraine, which has unpredictable implications on distribution chains, markets and economic conditions, and may increase the already identified inflationary pressure. A downturn in forecasts is therefore likely because of the potential slowdown in the foreseen growth of the Portuguese economy, with more evident effects in the second half of the year.

The increase in energy and food costs, coupled with the uncertainty caused by a military conflict, may, in view of the expected slowdown in consumption, lead companies to push back investment decisions and take cost-cutting measures.

## **Latest legislative changes**

The SARS-CoV-2 (COVID-19) pandemic has been the focus of Portuguese employment law these past 24 months, with a constant stream of measures to help businesses and their employees ride out the emerging economic effects. These fast-paced amendments generated significant uncertainty for companies operating in an already challenging environment.

In the context of the pandemic measures, we of course highlight the simplified lay-off schemes and the measures to support the recovery of companies, which, in combination with the strong acceptance of teleworking, remote working and hybrid working models by companies, have ensured that Portuguese companies are more resistant to the effects of the pandemic and prepared for a swift economic recovery. Regarding teleworking, it is increasingly clear that this is not a temporary trend in the national market, but rather a model that more and more Portuguese companies are implementing based on different approaches but in a structured way.

Notwithstanding the dissolution of the Portuguese Parliament at the end of 2021 and the holding of a new election process on January 30, 2022, the truth is that the beginning of 2022 brought significant legislative changes in the labour field, the following being especially noteworthy: (i) the minimum wage was increased from 665 euros to 705 euros; (ii) the increase in the national minimum wage in 2022 was offset in companies through the allocation of a subsidy that can go to 112 euros for each employee who received the national minimum wage in December 2021; (iii) the minimum value of the unemployment benefit was set at 1.15 Social Support Indexes (IAS) as of January 1, 2022, which means that in 2022 it will be 509.68 euros per month. It was also determined that the unemployment benefit will be increased by 10% where both parents are unemployed or in the case of single-parent families; (iv) the teleworking framework under the Labour Code was revised to clarify - not always successfully - some of the issues raised by the imposition of the remote working regime during the pandemic (the law now, among other changes, establishes the payment of exceptional expenses with teleworking, notably that the employee is to be fully compensated for all additional expenses that he demonstrably incurs, including increased costs for energy and for the network installed at the workplace at a speed compatible with the service communication needs, as well as for the maintenance of equipment and systems); (v) the labour law now also provides that employers have the duty to refrain from contacting the employee during rest periods, except in "situations of force majeure", and the violation of this rule constitutes a serious administrative offence.

In another perspective, but also with labour implications for companies, Law No. 93/2021 of December 20 was approved, establishing the general system of protection for whistleblowers which incorporates the 'Whistleblowing Directive' (Directive (EU) 2019/1937 on the protection of whistleblowers) into the Portuguese legal system.

Bearing in mind the adaptation to the new procedures and obligations, the law provides for a transitional period of 180 days, so it will come into force on June 18, 2022. During

the first half of 2022, companies should prepare themselves by establishing a whistleblowing channel that ensures the guarantees of confidentiality, anonymity and independence set forth in the law, and well-defined procedures to follow up on complaints within the legal deadlines, without retaliation.

### **Expected labour legislation: *Decent Work Agenda***

With the conclusion of the elections on January 30, 2022 and the existence of a parliamentary majority for the Government for the next 4-year term, it is expected that the Government will enact new legislation consistent with the so-called "*Decent Work Agenda*", as announced in the last days of its previous administration. The Agenda includes a significant set of changes to labour legislation which, if implemented, will have an impact on the national labour market.

The set of measures foreseen in the Agenda - that the Government has already announced that it will undertake in the new legislature - is based on five labour-relevant pillars:

- (a) Fight against work precariousness: introduction of new rules on successive fixed-term and temporary employment contracts;
- (b) Regulation of new forms of work: reinforcement of the presumption of existence of an employment contract for digital platform workers;
- (c) Reconciliation between work and family life: revision of rules in different dimensions such as parental leave, protection of informal caregivers, and promotion of work and non-work time;
- (d) Strengthening the powers of the Authority for Working Conditions: reinforcing the control powers of the labour authority regarding the assessment of dismissals, conversion of fixed-term contracts, and actions for recognition of employment contracts;
- (e) Boosting collective bargaining: extending the suspension period for the expiry of collective bargaining agreements.

The measures announced will necessarily have a relevant impact on companies' labour management, reinforcing public control in certain matters and allowing for less flexibility in labour relations.

### **Trends for 2022: *Between the international uncertainty and the challenges of post-pandemic work***

Given the significant labour changes that came into force in 2022 and those that in all likelihood will come into force pursuant to the "*Decent Work Agenda*", it is clear that this year will be an eventful year for labour law in Portugal, which will obviously have an impact on the management of human resources and pose multiple challenges to companies and employees.

The strengthening of smart working trends will also be a source of challenges that Portuguese companies are expected to take on. Furthermore, Portuguese companies will continue to embrace the ESG sustainability mechanisms. This is a trend that is expected to be reinforced in 2022 and that will require a decisive role for human resources managers in the coming years.

It is also expected that the increase in labour disputes arising from the pandemic period will continue its upward trend due to the reinforced powers of labour authorities. There are also growing signs that there is a widespread union agenda to increase their activity.

Lastly and despite the above, the truth is that the unpredictability of the current international political context and the effects of a long-lasting pandemic advise caution when it comes to predicting how the Portuguese labour market will evolve this year. The current context is uncertain and very volatile.