

PORTUGAL

What are the main benefits that are being offered to companies in terms of salaries and social security contributions for companies to retain their workers during the Covid-19? What is the agreed and/or envisaged duration of such benefits?

The main benefits offered to companies so they can maintain job positions and minimize corporate crisis situations are the possibility to use to the regime of simplified layoff (so called "lay-off simplificado").

In order to receive the support provided by this regimen, a company must be found in a corporate crisis situation.

There are three alternative situations which are considered as a business crisis situation:

- i. When companies or establishments/business units whose total or partial closure was order by the Government or health authorities;
- ii. When there is a total breakdown of the company/undertaking activity caused by:
 - ◆ The interruption of global supply chains;
 - ◆ The cancellation or suspension of orders.
- iii. When there is an abrupt and sharp drop of 40% of the company's turnover, during the previous thirty days of the request, with reference to the average of the two months prior to that period, or to the same period of the previous year. In the case of the companies which initiated their activity in the last 12 months, the average turnover should be considered.

Under this measure, the employer has two options:

- a. He can suspend the employment contracts;
- b. He can reduce the employees working hours according with the general layoff regime.

The initial duration of the simplified lay-off is 1 month maximum, but it can be extended monthly, up to a maximum of 3 months. Although this measure is in force until June 30, 2020, the Portuguese government can extend this deadline

The concerned employees are entitled to the follow financial compensation: 2/3 of their gross monthly salary, with a minimum threshold of 1 minimum Portuguese salary (EUR 635.00) and a maximum limit of 3 minimum Portuguese salaries (EUR 1,905.00). This compensation is financed on 30% by the employer, 70% Social Security.

During the *lay-off*, the companies are also temporarily exempted from paying the Social Security contributions in respect of the employees and board members covered by this regime, during its application.

The companies that are also in a business crisis situation and chose not to receive the support provided by the regimen of the simplified lay-off, can access to an extraordinary support for part-time professional formation. This support is supported by IEFP, I.P and is conceded depending on the frequented hours of formation, until the limit of 50% of the gross salary, with the maxim limit of one minimum mensal granted remuneration. The duration of the referred support is one month.

Is there any commitment regarding employment retention or any other relevant obligations by the companies awarded with benefits envisaged in the paragraph above? What do such commitments or obligations involve and how long will they remain applicable?

To use the benefits referred above, the companies need to have their contributory situation regularized and are forbidden to fire their employees (for collective dismissal or dissolution of the job post) during the period of application of those measures as well as in the following 60 days after the end date of the measure.

As a result of the Covid-19, is there any obligations by the employer to enable remote working or is it optional? In the event it is optional, what would be the factors to consider and what would be the envisaged duration of such measures?

Between March 14, 2020 and March 18, 2020 the remote working could be determined unilaterally by the employer or requested by the employee provided that the functions performed by the employee were compatible with this regime, dismissing the necessity of an agreement between both parties.

From March 19, 2020 until the end of May, as a result of the enactment of the State of Emergency followed by the State of Alarm, remote working is mandatory provided that the functions performed by the employee are compatible with this regime.

From June 1, 2020 according to the deconfinement plan approved by the Portuguese government, remote working will be partial, with employees being divided in two teams with identical number of members.

During the Covid-19 situation, can companies force workers to use their vacations and/or to use other kind of leaves (paid or not paid)? For how long?

In the terms of the Labor Legislation, the general rule establishes that the period of vacations should be decided by an agreement between the employer and the employee. If the company has more than 10 employees, the law also establishes that if the parties don't reach an agreement, the employer can unilaterally decide the period of vacation, which must be between May 1, 2020 and October 31, 2020.

Nevertheless, considering that the main aim of vacations is the physical and psychic recuperation of the employee, which assumes the possibility of resting and having freedom to move around, in this particular situation, during the pandemic, it is really hard to consider that this goals can effectively be accomplished.

