Decent Work Agenda

Changes to the current legislation

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Contents

On 10 February 2023, a legislative package of employment legislation known as the Decent Work Agenda was approved. The legislation now approved requires promulgation by the President of the Republic and subsequent publication in the official gazette, Diário da República, and the date of entry into force of these legislative changes is not yet known.

For ease of reading and analysis, we have prepared a comparative table of the main changes to the current legislation.

1. Fixed-term contracts of employment

TOPIC	CURRENT LEGISLATION	CHANGE
1.1. **Compensation for expiry of employment contract**	For fixed-term contracts, the compensation is equal to 18 days of base salary and length of service payments for each full year of service. For contracts of indefinite duration, the compensation is equivalent to 18 days of base salary and length of service payments for each full year of service in the first three years of the contract, and 12 days of base salary and length of service payments for each full year of service in the subsequent years.	In both cases, the amount of compensation is 24 days of basic salary and length of service payments for each full year of service.
1.2. **Successive fixed-term contracts of employment**	The termination of a fixed-term contract of employment prevents the employee from being re-hired or re-assigned under a fixed-term or temporary employment contract for the same job or under a service contract for the same purpose.	The concept of successive contracts is no longer limited to the same job. It is extended to the same professional activity in the case of a new fixed-term or temporary employment contract and to the same activity in the case of a service contract. This extension of the concept of successive contracts may give rise to problems of interpretation if the new contract for the same activity is unrelated to the previous contract.

2. Professional internships

TOPIC	CURRENT LEGISLATION	CHANGE
2.1. **Internship allowance**	The monthly internship allowance cannot be less than the Social Support Index (SSI), which is currently EUR 480.43.	The monthly internship allowance cannot be less than 80% of the guaranteed minimum monthly salary, which is currently EUR 608.00.
2.2. **Insurance**	The company providing the internship must take out personal accident insurance.	The company providing the traineeship is obliged to take out insurance against accidents at work.
2.3. **Social Security contributions**	The professional internship is not covered by compulsory social security arrangements, except for special schemes.	The professional internship is considered as employment for the purposes of social security contributions.

TOPIC	CURRENT LEGISLATION	CHANGE
2.4. Probationary period of an employment contract following a professional internship	The trial period is reduced or excluded depending on whether the duration of the professional internship for the same activity was less than, equal to or greater than the duration of the professional internship, provided that it was concluded with the same employer.	The trial period is further reduced in the case of a professional internship with a positive evaluation, for the same activity and with a different employer, of 90 days or more during the previous 12 months. This last provision raises doubts as to its interpretation in cases where the employer has no knowledge of the previous internship, the context in which it took place or even the evaluation given for it.

3. Temporary work and assignment of workers

TOPIC	CURRENT LEGISLATION	CHANGE
3.1. Invalidity of a contract concluded by a temporary employment agency that is not authorised to carry out its activities	The work is considered to be provided to the temporary employment agency under an employment contract of indefinite duration.	The work is now considered to be provided to the user undertaking under an employment contract of indefinite duration. This amendment thus places the responsibility on the user undertaking to ensure that the temporary employment agencies it uses comply with their legal requirements and obligations.
3.2. Successive contracts for use of temporary workers	Once the maximum duration of a contract for the use of temporary workers has been reached, it is forbidden for a temporary or fixed-term worker to succeed to the same post before the expiry of a period equal to one third of the duration of the contract, including extensions. Any breach of this rule constitutes a serious administrative offence.	The concept of successive temporary employment contracts will no longer correspond to the same job, but will be extended to the same professional activity and, in the case of service contracts, to the same object or activity. In addition, the prohibition will be extended to contracts concluded with a company that has a controlling or group relationship with the employer or that has common organisational structures with the employer. If this rule is breached, the contract is converted into an employment contract of indefinite duration with the user, and all the time worked for the user under successive contracts counts towards the employee's length of service. These amendments raise doubts about the interpretation of situations in which the user is not aware of the previous contract, as well as about the legitimacy of the exchange of information between different companies.
3.3. Maximum duration of successive temporary work contracts in different users	The duration of a temporary employment contract may not exceed the duration of the user contract.	Without prejudice to the existing limit, the duration of successive temporary employment contracts in different user companies, concluded with the same employer or an company with which it has a controlling or group relationship or which has common organisational structures, may not exceed four years. If a temporary employment contract exceeds this limit, it is converted into an employment contract without a fixed term for temporary assignment.

3.4. **Maximum number of renewals of temporary employment contracts**	The fixed-term temporary employment contract may be renewed up to six times.	The fixed-term temporary employment contract may only be renewed up to four times.
3.5. **Companies and employees in the construction and agricultural sectors**	There is no specific provision regarding the assignment and allocation of employees in the construction and agricultural sectors to third parties.	A compulsory public registration system will be established for companies in the agricultural and construction sectors that provide external services involving the assignment and allocation of employees to third parties. This registration system will be regulated and defined in specific legislation to be drawn up. Every employer and user company or final beneficiary of services with 10 or more employees in agricultural undertakings and temporary or mobile construction sites will also be obliged to keep a weekly register of the employees in their service who are assigned by temporary employment agencies or through outsourcing of services. This register may be requested at any time by the ACT (Authority for Working Conditions) or any other competent authority.

4. The student-worker

TOPIC	CURRENT LEGISLATION	CHANGE
4.1. **Student employment contracts during holidays or school holidays**	There are no special rules for this situation and the general rules for fixed-term contracts apply.	Employment contracts for this purpose do not have to be in writing and do not depend on the worker proving that he or she is a student. As it is a fixed-term contract, it is subject to the conditions of admissibility in force. The obligation of prior declaration to the Social Security will be maintained, including the general indication of the reason for the fixed-term contract. These rules do not exclude the application of the special provisions on the participation of minors in a show or other cultural, artistic or promotional activity.
4.2. **Student-workers' working income**	Under the Social Security Contributions Code, the income of young people working during school holidays is not considered to be part of the household's employment income.	In addition to the situation already provided for, the income from dependent work of young working students aged 27 or under, whose annual amount does not exceed 14 times the guaranteed minimum monthly salary (*retribuição mínima mensal garantida* - RMMG), is not considered as the household's income from dependent work for the purposes of entitlement to family allowances, higher education grants and survivor's pensions.

5. Economically dependent self-employed workers

TOPIC	CURRENT LEGISLATION	CHANGE
5.1. Definition of economically dependent self-employed workers	Economically dependent self-employed workers are subject to the legal provisions on personal rights, equality and non-discrimination, and health and safety at work. However, the concept of economic dependence is not defined.	The criterion from the Social Security Contributions Code is used to define an economically dependent self-employed worker. This criterion only takes into account the percentage of income received from beneficiary company, which is considered to be a single beneficiary if the self-employed person works for several beneficiary companies between which there is a mutual shareholding, control or group relationship or which have common organisational structures. However, the application of these rules is subject to a declaration by the self-employed person to the beneficiary of the activity, accompanied by evidence that the self-employed person receives more than 50% of the total value of his or her work activity from the beneficiary.
5.2. Applicable collective labour agreements	There is no provision of the application of collective labour agreements.	This group of workers will be subject to the rules on collective bargaining agreements applicable to the beneficiary of the activity. They will also be subject to the administrative extension of a collective agreement or an arbitration award, and to the administrative fixing of minimum working conditions.
5.3. Collective bargaining	The right to have their socio-professional interests represented by trade unions and works councils and to negotiate collective bargaining instruments is a right reserved for employees with an employment contract.	Economically dependent self-employed workers will have the right to have their socio-professional interests represented by trade unions and works councils. They will also have the right to negotiate collective bargaining instruments specific to the self-employed through trade unions. The right to collective representation of economically dependent self-employed workers is defined in specific legislation which ensures that (i) there is monitoring by a works council and a trade union association; (ii) collective agreements specifically negotiated for economically dependent self-employed workers respect the general principles relating to collective labour agreements and require prior consultation with the self-employed workers' associations representing the sector; and (iii) the application of existing collective bargaining instruments to economically dependent self-employed workers who perform functions corresponding to the object of the undertaking for a period of more than 60 days is subject to an option.
5.4. Substitution by a third party	The possibility for self-employed workers, including those who are economically dependent, to be replaced by a third party depends on the agreement of the parties.	The worker may temporarily ensure the activity through a third party in case of birth, adoption or care of a child or grandchild, breastfeeding and lactation, voluntary interruption or clinical risk during pregnancy, for the duration of the corresponding leave or dispensation provided for in the Labour Code.

6. Work through digital platforms

TOPIC	CURRENT LEGISLATION	CHANGE
	There are no specific rules on employment contracts in the context of digital platforms. The general rules on the presumption of the existence of an employment contract apply.	The new legislation will define a digital platform as "*a legal entity that provides or makes available services at a distance by electronic means, including a website or a software application, at the request of users and which includes, as a necessary and essential component, the organisation of work provided by individuals in return for payment, regardless of whether such work is provided online or at a specific location, under the terms and conditions of a business model and a brand of its own*". These rules will apply to companies, e.g., Uber, engaged in the Individual Transport of Passengers in Unmarked Vehicles for Hire (TVDE). A presumption of employment will be established on the basis of six different criteria, and it is sufficient that only some of these criteria are met for the presumption to apply. In this case, the rules of the Labour Code that are compatible with the nature of the activity carried out apply. As with the general rules, the digital platform may rebut the presumption by proving facts that show that there is no legal subordination. The platform may also argue that the activity is provided to a natural or legal person acting as an "intermediary" of the digital platform in order to make the services available through its workers. In this case, it will be up to the court to determine who the employer is. The digital platform will not be able to establish terms and conditions for access to the provision of the activity that are more unfavourable or discriminatory in nature for workers who establish a direct relationship with the platform compared to the rules and conditions established for "intermediaries". Furthermore, the digital platform and the intermediary will be jointly and severally liable for any claims of the worker arising from the employment contract concluded between the worker and the intermediary. Similarly, the digital platform and the intermediary will be jointly and severally liable for the corresponding social costs and for the payment of fines imposed for labour-related offences during the previous three years. It should be noted that there is a proposal for a directive from the European Commission to regulate work through digital platforms, which also provides for a presumption of employment, although there are differences in the number of indicative criteria and their wording.

7. Information in addition to the employment contract

TOPIC	CURRENT LEGISLATION	CHANGE
	The employer must inform the employee about many relevant aspects of the employment contract.	The range of information to be provided to the employee will increase significantly to include: i) Information on the duration of the contract if it is a fixed-term. Previously, the duration of the contract had to be stated in the contract on pain of nullity. This change is relevant in cases of fixed-term contracts that do not require written form, in particular very short-term contracts and contracts with employees during school holidays. ii) Information on the formal requirements to be met by the employer and the employee in order to terminate the contract. iii) The breakdown of the components of remuneration. iv) The rules applicable to overtime and shift work. v) The parties to the applicable collective agreement, if any. vi) In the case of temporary workers, the identification of the user. vii) The length and conditions of any trial period. If the employer does not respond to the notice within 7 days, it will be assumed that the parties have agreed to exclude the trial period. viii) The individual right to training. ix) In the case of intermittent work, the annual number of hours or days of full-time work, the duration of the provision of work and the applicable rates of pay. x) Social protection schemes, including benefits supplementing or replacing those provided by the general social security system. The parameters, criteria, rules and instructions on which algorithms or other artificial intelligence systems that influence decisions on access to and retention in employment are based, as well as working conditions, including profiling and job monitoring. With regard to the latter, the right of employees' representatives to receive this information is also provided for. The General Data Protection Regulation (GDPR) already imposed an obligation on the data controller to provide information on the existence of automated decisions, including profiling

8. Remote working

TOPIC	CURRENT LEGISLATION	CHANGE
8.1. The right to work remotely	The right to work remotely is granted to (i) employees with children up to the age of 3, (ii) and in certain circumstances, employees with children up to the age of 8, where this is compatible with the work in question and the employer has the resources and means to do so.	The right is extended to employees with children of any age who are disabled, chronically ill or suffering from cancer and who live with them in the same household.
8.2. Compensation for expenses	The employer must reimburse the employee in full for all additional costs that can be shown to have been incurred by the employee as a direct result of the acquisition or use of the computer or telematic equipment and systems necessary to do the work. This includes the additional cost of energy and of the network installed at the workplace at a speed compatible with the requirements of the communication service, as well as the cost of maintaining the same equipment and systems. For tax purposes, compensation under these conditions is considered a cost for the employer and not income for the employee.	The individual employment contract and the collective employment contract must stipulate the amount of compensation due to the employee for the additional expenses. In the absence of an agreement between the parties on a fixed amount, the additional expenses are considered to be those corresponding to the acquisition of goods and/or services that the employee did not have prior to the conclusion of the agreement on remote work, as well as those determined by comparison with the equivalent expenses of the employee in the last month of work at the employer's premises. The limit of the tax exemption will be determined by a government decree, which has not yet been published. Notwithstanding this change, the general principle remains that the employer must reimburse all additional expenses that the employee demonstrably incurs as a direct consequence of the acquisition or use of computer or telematic equipment and systems necessary for the performance of the work. As a result, it is not certain that the doubts regarding taxation and the basis of assessment for social security contributions will be resolved if an amount of compensation is determined that is not based on evidence of the expenses incurred by the employee.

9. Protection of the informal carer (working carer)

TOPIC	CURRENT LEGISLATION	CHANGE
9.1. Leave	There was no provision for entitlement to any leave. The only provision was the right to ask to be able to work remotely.	In addition to maintaining the right to work remotely, annual leave of five working days will be granted, which must be taken consecutively. For this purpose, the employee must inform the employer in writing 10 working days prior to the start of the leave, indicating the days on which the leave is to be taken. The working carer must also submit a declaration that the other members of the household are not taking the same leave in the same period, or are unable to provide assistance. Leave for working carers is suspended due to illness of the employee if the employee informs the employer and submits a medical certificate to prove this. The leave continues as soon as this impediment ceases, and it cannot be suspended for the convenience of the employer.

9.2. Absence to provide care	In addition to parental rights, there is a right to up to 15 days' absence a year to provide immediate and essential care for a spouse or unmarried partner, relative or equivalent in the direct ascending line or in the second degree of the collateral line in the event of sickness or accident.	The entitlement is extended to carers regardless of the family relationship of the person being cared for.
9.3. Exemption from overtime	There was no specific provision.	Exemption from overtime is provided for as long as the need for care exists.
9.4. Working part time or on a flexible timetable	There was no specific provision.	The right to work part-time, whether or not consecutively, for a maximum period of 4 years, or to request flexible working hours, will be provided in a similar manner to that provided for employees with children under the age of 12. In these cases, the procedure to be followed is identical to that previously established for the request for flexible working by an employee with a child under the age of 12. If the employer intends to reject the employee's request, it must send the file for assessment to the CITE (Commission for Equality in Work and Employment). In the event of an unfavourable opinion, the employer may refuse the request only after a court decision recognising the existence of a legitimate reason for the refusal. In addition, dismissal for reasons attributable to a working carer is presumed to be without just cause. Finally, any working carer who has parental rights in relation to the person being cared for cannot enjoy parental protection rights at the same time as the rights provided for the working carer.
9.5. Protection in the case of termination of the contract	There was no specific provision.	The obligation to inform the CITE in the event of termination of a fixed-term contract or termination of a contract during the trial period also applies to working carers. Dismissal of working carers requires a prior opinion from the CITE, as is already the case for employees who have recently given birth or are breastfeeding, or who are on parental leave.

10. Protection in case of adoption and foster care

TOPIC	CURRENT LEGISLATION	CHANGE
10.1. Exemptions in the context of adoption procedures	For the sole purpose of adoption evaluation, employees are entitled to 3 days off work to go to the social security office or to see the social workers at home, and they must provide the employer with the necessary justification.	Employees who are candidates for adoption or foster care are entitled to time off from work to carry out the assessment or to comply with the obligations and procedures established by law for the relevant procedures.
10.2. Initial parental leave exclusively for the father	In the case of adoption of a child under the age of 15, the prospective adopter is entitled to an initial parental leave.	In addition to the initial parental leave, the prospective adopter is also entitled to the father's exclusive parental leave. The prospective adopter may also take up to 30 days of the initial parental leave during the transition and monitoring period. In the case of multiple adoptions, the father's exclusive parental leave is also increased by 2 days for each adoption after the first.

11. Protection of parents

TOPIC	CURRENT LEGISLATION	CHANGE
11.1. Parental leave exclusively for the father	It is compulsory for fathers to take parental leave of 20 working days, whether consecutive or not, in the six weeks following the birth of the child. Five of these days must be taken immediately after the birth. Once this leave has been taken, the father is also entitled to 5 working days' leave, whether consecutive or not, provided it is taken at the same time as the mother's initial parental leave.	Parental leave is now 28 consecutive days, with a minimum of 7 days in the 42 days following the birth of the child, After this leave has been taken, the father is still entitled to 7 days' leave, whether consecutive or not, provided it is taken at the same time as the mother's initial parental leave. This is just a change from working days to calendar days.
11.2. Initial parental leave	Working mothers and fathers are entitled to an initial parental leave of 120 or 150 consecutive days. The leave is increased by 30 days if each parent takes one period of 30 consecutive days or two periods of 15 consecutive days exclusively after the period of compulsory leave taken by the mother.	After 120 consecutive days, the parents may combine the remaining days of leave with part-time work. This period can be taken by both parents at the same time or one after the other. Part-time work is equivalent to normal daily working hours of half the number of hours of full-time work in a comparable situation.
11.3. Part-time work in the context of complementary parental leave	Parents are entitled to non-consecutive periods of extended parental leave and part-time work, provided the total period of absence and reduction in working time corresponds to the normal working periods of three months.	In addition to the existing possibility, leave may be taken on a part-time basis for 3 months, provided it is fully taken up by each parent.

12. Working hours and absences

TOPIC	CURRENT LEGISLATION	CHANGE
12.1. Group adaptability and hours bank	Group adaptability and the hours bank are not applicable to: i) Employees covered by a collective agreement which provides otherwise, or employees represented by a trade union which has lodged an objection to a decree extending the collective agreement in question. ii) Employees with children under the age of 3 who do not give their consent in writing.	In addition to the situations currently provided for, the group adaptability and hours bank schemes may not be applied: i) Employees with children who have a disability or chronic illness, irrespective of their age, unless they give their consent in writing. ii) Employees with a child aged between 3 and 6 who provide a statement that the other parent is working and is unable to care for the child.
12.2. Absence for bereavement during pregnancy	In the case of interruption of pregnancy, the mother is entitled to leave of between 14 and 30 days.	In the case of interruption of pregnancy, if there is no leave for the interruption, the female employee may be absent for up to 3 consecutive days. In the case of maternity leave or the woman's absence, the father is entitled to leave of up to 3 consecutive days. Both the mother and the father must inform their employer. They must provide proof as soon as possible, in the form of a statement from a hospital or health centre or a medical certificate. This absence does not lead to the loss of any rights and is considered as effective work.
12.3. Bereavement due to the death of a spouse	An employee may be absent from work with justification for up to 5 consecutive days due to the death of a spouse, provided they are not legally separated, or of a relative or equivalent in the direct ascending line.	The number of consecutive days of absence due to the death of a spouse who is not legally separated is increased to 20.

TOPIC	CURRENT LEGISLATION	CHANGE
12.4. Proof of absence due to sickness	An employee's sickness can be proved by a declaration issued by a hospital or health centre, or by a medical certificate.	Proof of sickness can also be provided by means of a self-declaration of sickness in the form of a sworn statement. This declaration can only be made if the employee is sick for a maximum of three consecutive days, up to a maximum of twice a year.
12.5. Replacing loss of pay with leave or additional work	Loss of pay due to absence may be compensated by giving up an equivalent number of days of leave or by working hours over the normal period.	The employer may no longer oppose the employee's request for such compensation.
12.6. Overtime	Overtime is paid at the hourly rate, regardless of the number of annual hours worked in overtime, with the following increases: i) 25% for the first hour or part thereof and 37.5% for each additional hour or part thereof worked on a working day. ii) 50% for each hour or part thereof worked on a day of compulsory or additional weekly rest or on a public holiday.	There is a difference in remuneration for overtime worked up to 100 hours per year and for overtime worked in excess of 100 hours. Overtime in excess of 100 hours per year is paid at the hourly rate with the following increases: i) 50 % for the first hour or part thereof and 75 % for each additional hour or part thereof worked on a working day. ii) 100 % for each hour or part thereof worked on a day of compulsory or additional weekly rest or on a public holiday.

13. Termination of the contract

TOPIC	CURRENT LEGISLATION	CHANGE
13.1. Procedure for collective redundancies	The employer is obliged to send a copy of the notice of dismissal to the works council or, if there is no works council, to the inter-union committee or the company union committees representing the employees concerned. Alternatively, if there is no such committee, the notice must be sent to the representative committee appointed by the employees.	The employer is now obliged to send a copy of the notice to each of the employees concerned to the DGERT (Directorate-General of Employment and Labour Relations).
13.2. Compensation for collective redundancies	There are currently three periods to consider when calculating compensation for collective redundancies, as the amount of compensation has changed over time: i) Until 31/10/2012: 1 month's basic salary and length of service payments for each full year of service; ii) Between 01/11/2012 and 30/09/2013: 20 days basic salary and length of service payments for each full year of service; iii) From 01/10/2013 to date: a) 18 days basic salary and length of service payments for each full year of service, for the first three years of the contract only if the employment contract has not yet reached three years on 1 October 2013. b) 12 days of base salary and length of service payments for each full year of service in subsequent years.	The amount of compensation for collective redundancies will now be 14 days of basic salary and length of service payments for each full year of service. This amendment applies only to the period of the duration of the contractual relationship counted from the beginning of the validity and production of effects of this legislative amendment. As a result, the calculation of severance pay has become more complex and now includes four different periods if the employee was hired before 1 November 2011. This rule for calculating compensation also applies to other reasons for termination of the employment contract: (i) dismissal due to abolition of the job, (ii) dismissal due to inability to adapt, (iii) termination of the external service commission, (iv) termination of the employment contract due to the death of the employer and due to the bankruptcy and reorganisation of the company, (v) termination of the employment contract due to the transfer of the economic unit, and (vi) termination of the employment contract due to the transfer of the workplace.
13.3. Prohibition on outsourcing after dismissal	There is no explicit prohibition. However, the reasons for dismissal must be economically and organisationally reasonable.	Any employer who has terminated an employment contract as a result of collective redundancy or the abolition of a job is prohibited from resorting to outsourcing to meet the same needs within the following 12 months.

TOPIC	CURRENT LEGISLATION	CHANGE
13.4. Injunction to suspend dismissal	The law does not confer these powers on the ACT, nor does it allow the Public Prosecutor's Office to apply for an injunction to suspend dismissals.	If the ACT confirms the existence of an unlawful dismissal, a report is drawn up and the employer is given notice to rectify the situation. If the situation is not rectified, the prosecutor has 20 days to apply for an injunction to suspend the dismissal. This change may cause problems if the employee has no interest in contesting the dismissal.
13.5. Abdicative waiver	The majority of case law and doctrine holds that, except in exceptional circumstances, abdicative waiver (*remissão abdicativa*) is valid at the time of or after the termination of the employment contract. Abdicative waiver is the possibility for employees to waive credits due to them, such as holiday or Christmas bonuses, when their contract is terminated.	Employment credits will no longer be subject to abdicative waiver, except in the case of a court settlement. This change reduces the incentive for employers to settle out of court.
13.6. Termination of contract by an employee who is a victim of domestic violence	The law does not provide any specific rules.	Any employee who has been recognised as a victim of domestic violence under the terms of specific legislation is exempt from the requirement to give prior notice of termination of the employment contract at his or her own initiative.

14. Collective bargaining

TOPIC	CURRENT LEGISLATION	CHANGE
14.1. Arbitration to assess the grounds for termination of the collective agreement	There is no provision for recourse to arbitration to assess the grounds for terminating a collective agreement.	It will now be possible for the party against whom the collective agreement is terminated to request arbitration by the President of the Economic and Social Council to assess the grounds invoked by the party that terminated the agreement. This request suspends the effects of the termination and prevents the agreement from entering the additional period of validity that normally applies when a collective agreement is terminated (*regime de sobrevigência*). To this end, the party to whom the termination is addressed must inform the DGERT (Directorate-General of Employment and Labour Relations) of the request made and the arbitration tribunal must inform the DGERT of the content of the arbitration decision on the date of notification to the parties. In the event of a favourable decision by the arbitral tribunal, the termination will not take effect.
14.2. Expiry of a collective agreement	The agreement remains in force during the period of negotiation, including conciliation, mediation or voluntary arbitration, or for at least 12 months. This period is suspended in the event of a break in negotiations and cannot exceed 18 months.	The expiry of collective agreements does not take effect until the day after publication of the notice of suspension and termination in the Labour and Employment Bulletin or 90 days after the party has notified the DGERT. In the latter case, the employer must publish this fact in an appropriate place in the company and inform the DGERT of the date of publication.
14.3. Mandatory arbitration	Mandatory arbitration applies when, after the expiry of one or more collective agreements applicable to a company, group of companies or sector of activity, no new agreement is concluded within the following 12 months and there is no other agreement applicable to at least 50% of the employees of the same company, group of companies or sector of activity.	In addition to the existing case, either of the parties may also immediately request the mandatory arbitration (i) if the negotiations are not referred to mediation by the arbitration tribunal, or (ii) in situations where mediation takes place but it ends without agreement on the full or partial revision of the collective agreement.

15. Administrative obligations

TOPIC	CURRENT LEGISLATION	CHANGE
15.1. Communication to the ACT	The ACT (Authority for Working Conditions) is not automatically notified when an employer notifies the Social Security of the hiring (or termination of the contract) of a foreign or stateless employee. This is an obligation of the employer. There is no obligation to notify the termination of employment contracts during the trial period if they concern employees seeking their first job or the long-term unemployed. 1st day of the 12th month preceding the month in which the non-compliance occurred.	The ACT will now be notified whenever the employer notifies the Social Security of the admission or termination of the contract of a foreign or stateless employee. As a result, it will no longer be compulsory to report the admission and termination of employment contracts with foreign employees. The employer will be obliged to notify the ACT of the termination of employment contracts during the trial period if they concern employees seeking their first job or the long-term unemployed.
15.2. Notification of the admission of employees to the Social Security	If the Social Security is not notified within the prescribed period, the employee is considered to have started work on the 1st day of the 6th month preceding the month in which the non-compliance was detected.	The employee is considered to have started work on the 1st day of the 12th month preceding the month in which the non-compliance was detected.
15.3. Data interconnection	There is no data interconnection between the ACT, Social Security, Tax Authority, Institute of Registration and Notary Affairs, Labour Compensation Guarantee Fund and Labour Compensation Fund.	The interconnection of data between the ACT, Social Security, the Tax Authority, the Institute of Registration and Notary Affairs, the Labour Compensation Guarantee Fund and the Labour Compensation Fund has been approved. The purpose is to exercise the powers conferred on the ACT in the following areas: precariousness, equality and non-discrimination, organisation, duration and remuneration of working time, regularity of labour relations and health and safety at work.
15.4. Work Compensation Funds	The employer is subject to several rules relating to the Work Compensation Fund (WCF) and the Work' Compensation Guarantee Fund (WCGF).	A number of rules relating to the WCF have been amended, the most important of which are the suspension of membership, the notification of the admission of a new employee and the payment of contributions to the WCF, as well as the suspension of the payment of contributions to the WGCF.

16. ACT Due Diligence

TOPIC	CURRENT LEGISLATION	CHANGE
	Previously, the law did not contain any provisions in this respect.	Private entities receiving European funds of more than €25,000 per application are subject to a specific verification of compliance with labour legislation by the ACT, at the request of the audit body responsible for the control action.

The legislative changes also provide for a significant extension of the rules whose non-compliance constitutes an administrative offence, as well as the tightening of some already provided for. Some examples are given below.

- **Violation of the following rules has been established as a very serious administrative offence:**

  i) The provision of workers' services through digital platforms, in an apparently autonomous manner, under conditions that are characteristic of an employment contract, which may cause damage to the worker or to the State.

  ii) The use of outsourcing following collective redundancies or the abolition of jobs.

  iii) The right to trade union activity within the company.

- **Violation of the following rules has been established as a serious administrative offence:**

  i) Right to leave in the event of interruption of pregnancy.

  ii) Leave, right to part-time work, right to flexible working and exemption from overtime for the working carer.

  iii) Procedures in the event of a permanent transfer of employment, which is a minor administrative offence in the event of a temporary transfer.

  iv) Application of a compressed timetable at the same time as the adaptability scheme.

  v) Maximum average working time.

  vi) Substitution of absences by days of leave or additional work to be done in the future.

  vii) Transfer of employees in the event of the transfer of an establishment. Previously, non-compliance with the procedure for transferring an establishment was already considered an administrative offence.

  viii) Employees' rights in the event of redundancy. Previously, it was already an administrative offence not to maintain social benefits or social security benefits.

  ix) Acts prohibited in the event of temporary closure outside situations of business crisis.

  x) Application of the rules of the collective regulatory instruments of the company that uses the services of a third party to carry out activities that correspond to the corporate object of the company.

  xi) Unjustified preventive suspension prior to the notification of the fault or for a period exceeding 30 days. Previously, the violation of the obligation of effective employment was already considered a very serious administrative offence.

  xii) Payment of compensation and employment credits up to the end of the notice period in the case of dismissal due to the abolition of the job.

  xiii) The trade union representative's right to information.

- **Violation of the following rules has been aggravated from a minor to a serious administrative offence:**

  i) The obligation to inform employees and their representatives in the event of collective redundancies.

  ii) Involvement of the DGERT in negotiations in the event of collective redundancies.

  iii) The sending of the notification to the DGERT on the date of the collective dismissal decision.

The law also stipulates that failure to notify the registration of employees in the social security system within six months of the end of the legal deadline will now be considered an offence of abuse of tax trust, punishable by up to three years' imprisonment or a fine of up to 360 days.

About PLMJ

→ Who we are

"PLMJ is the most organised firm and the most committed at doing things on schedule and to the time that is asked. They are the most up to date and one of most professional law offices that work with us."

CLIENT REFERENCE FROM CHAMBERS AND PARTNERS

About the Employment and Labourteam

→ What we do

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