

Labour Law in 2023 – what is going (?) to change

Amid high market uncertainty and volatility, high energy price pressures, erosion of household's purchasing power and tightening financing conditions, the outlook for 2023 is not a positive one. According to the more optimistic stances, (weak) economic growth is only expected for 2023's second semester and provided that the inflation escalation reduces at the expected rate (which is increasingly less likely to happen).

It is within this context that the Portuguese Parliament is discussing significant changes to labour laws that, according to the information available to date, will lead to higher labour costs for companies, for instance concerning overtime payments and severance payments for the termination of term employment contracts.

The labour market, despite a slight inversion, continues to perform strongly, with surprisingly low unemployment levels considering the underlying economic situation.

In light of the above one may conclude that 2023 will be a particularly challenging year as far as human resources management is concerned. Therefore, it is of the utmost importance to be aware of the already available legal data, as well as of the changes to the labour laws that although still under discussion, given the current political environment, we dare to state that will shortly be approved and enter into force.

1. Minimum Monthly Guaranteed Salary (“MMGS”)

The amount of the MMGS for 2023 was set at € 760.00, which correspond to an increase of 7,8% in relation to the amount which was in force in 2022.

Please note that, according to the Medium-Term Agreement for the Improvement of Income, Wages and Competitiveness, executed between the Government and the Social Partners last October, a continuous increase in the amount of the RMMG is expected to occur in the coming years, as follows:

| Year | 2023 | 2024 | 2025 | 2026 |
|--------|-------|-------|-------|-------|
| Amount | € 760 | € 810 | € 855 | € 900 |

2. Meal allowance – increase on the tax exempted amount

The amount of the meal allowance which is exempted from Personal Income Tax and Social Security Contributions was increased to the amount of € 5.20 per day if paid in cash and to the amount of € 8.32 if paid with meal cards. The change is effective as from October 1, 2022,

3. Communication of hiring of employees to the Social Security services

The communication of the hiring of employees to the Social Security Services shall be made at least 15 days before the date the employment contract starts to be executed.

It will continue to be possible to make such communication within the first 24 hours following the starting of the performance of work by the employee whenever, under exceptional and duly grounded circumstances, it is not possible to make the mentioned communication according to the general rule, such as in cases of very short fixed-term employment contracts or shiftwork.

4. Indexing reference for social aid (“IAS”)

Government Order 298/2022, of December 16, updated the IAS amount to € 480.43 for 2023.

5. Reduction of the tax withholding rate for overtime payments

The autonomous tax withholding rate applicable to overtime payments is reduced by 50% as of the 101st hour of overtime.

6. Reduction of the tax withholding rate for employees with home loans

In 2023 the personal income tax withholding rate is lowered to the immediately previous one on the scale taking into consideration the employee’s monthly salary and household situation, provided that:

- The taxpayer has a home loan over its personal and permanent residence; and
- The taxpayer receives a monthly salary of up to € 2,700.00.

If the employee intends to benefit from the mentioned reduction, he/she shall communicate such intention to the employer prior to the payment of the salary. Such communication must include all the information required to assess if the conditions for the application of the regime are met.

7. Tax incentive to the increase of average salaries

When determining the net taxable profit of CIT and PIT with organized accountancy taxable entities, the expenses linked to salary increases flowing from “Dynamic Collective Bargaining Agreements” and in relation to employees with open-ended contracts are considered in 150% of the respective amounts being deemed as costs of the financial year.

This legal framework is not applicable to taxpayers that increase the salaries ranges (gap between the higher and lower fixed salaries of employees).

They will only be considered as expenses the ones related to employees whose salary has increased by at least 5,1% and whose salary is higher than the MMGS.

For this purposes, they are deemed:

- Expenses – the amounts borne by the employer in relation to the employees' fixed salary and Social Security contributions;
- Dynamic Collective Bargaining Agreement – the execution or renewal of a collective bargaining agreement within the previews three years;
- Salaries range – the difference between the annual amounts of the higher and lower fixed salaries earned by employees, assessed on the last day of the fiscal year.

The maximum amount of qualifying expenses is capped to 4 times the amount of the MMGS per employee (€ 3,040.00 in 2023).

8. Implementation of the Pilot-Program «Four-Day Work Week»

In the end of December 2022, it was published the Government Order 301/2022 which approved the development of the «Four-Day Work Week».

The aim of the pilot-program is to enable private companies and its employees to implement, on an experimental basis, a reduction of the working week to four days.

The program's objectives are:

- Evaluate new ways of organizing and balance working periods that take into consideration employees' interests, reduce companies' operating and environmental costs;
- Evaluate the impacts of the reduction of working period, without reduction of salary, on the employees' and respective households' quality of life;
- Evaluate the impacts on productivity, quality of services and absenteeism levels.

The program will be open to all private sector companies and will have a duration of 6 months. Companies may join the program on a voluntary and reversible basis and the Government provides technical and managerial support to the transition (through IEF, I.P.).

The experience may not involve a reduction of employees' salary and must encompass a reduction of the weekly working hours (which may be of 32, 34 or 36 hours, to be defined by agreement between the company and its employees).

There will be no financial support (the Government's support will only consist of technical and managerial support).

A majority of employees shall be included in the experience, exception made to large companies where the program may be tested in some of its undertakings or departments.

FORESEABLE CHANGES TO LABOUR LAW

Bill 15/XV has already been approved by the Portuguese Parliament and at this stage is being discussed within the Employment, Social Security and Inclusion Parliamentary Commission. The amendments to, among others, the Portuguese Labour Code, will include the following areas:

- Temporary work and agencies;
- Fight against fraudulent resource to independent work and unjustified term employment relationships;
- Digital platform work and use of algorithms;
- Collective Bargaining;
- Work-Life balance;
- Fight against informal work;
- Protection of young student-employees and trainees;
- Strengthening of the Authority for Working Conditions powers and streamlining of administrative procedures;
- Public procurement and support;
- Informal caregivers;
- Increase in the amount of severance payments for termination of employment contracts and payment of overtime work.

One can expect that in the course of the works in the Parliamentary Commission further changes to the Bill will be agreed and included in the law final version.

Further to the amendments to the Portuguese Labour Code, the Bill foresees, among others, changes to the Social Security Contributions Regime Code, from which we highlight the application of the framework for individual service provider whose activity is concentrated by 50% or more in one single beneficiary to single-person limited companies.

An extension to 12 months (from the current 6) when defining the presumptive starting of employment date in situations where the employer failed to communicate the hiring of the employee to the Social Security Services is also foreseen on the Bill.

EMPLOYMENT DEPARTMENT **VCA**



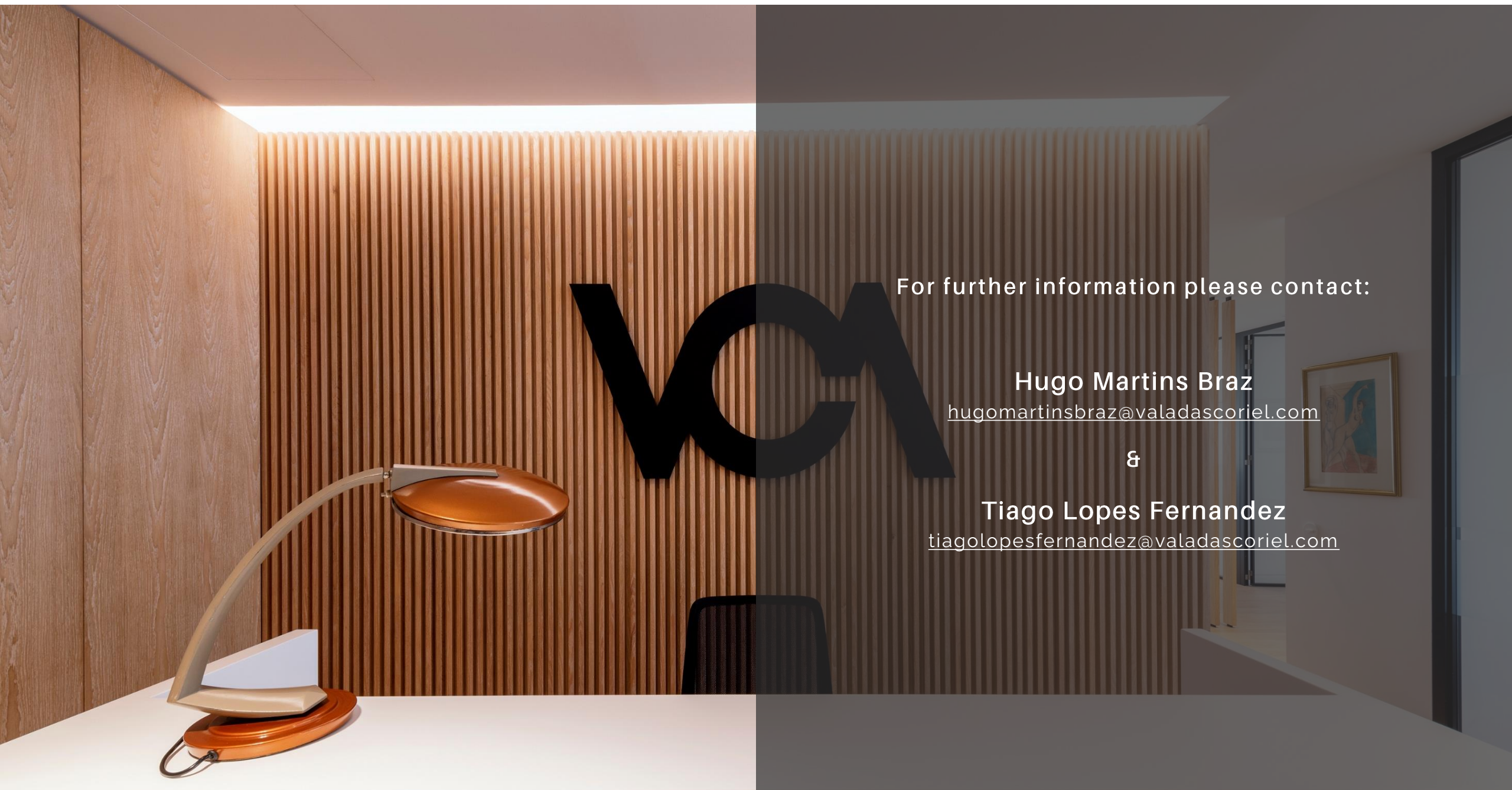
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