

INFORMATIVE NOTE



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MAIN TRENDS EXPECTED IN EMPLOYMENT LAW¹

The Government's General Planning Options for 2017, approved by Law no. 41/2016 of 28 December, leads us to conclude that the adoption of measures restricting the amount of flexibility companies have to manage their employees using fixed-term employment policies, will be one of the main choices of the Government in the field of individual employment law.

Against this background, there is a list of measures to be implemented. These measures include the limitation, as a general guideline, of the possibility to use fixed-term contracts. The first aim of this limitation is to increase the numbers of people being hired on permanent contracts. Its second aim is to repeal the rule in the Employment Code that allows companies to give fixed-term contracts to young people seeking their first job and the long-term unemployed when they fill permanent positions.

Another important development relates to the fight against false provisions of services (workers falsely being treated as self-employed). New legislative measures will make it easier to demonstrate to the courts that employment contracts do, in fact, exist in these situations. These changes will be accompanied by an improvement in the capacity of the Authority for Working Conditions.

Another important point is the intention of the Government, with the aim of strengthening the role of collective bargaining, to repeal the rule that allows companies to implement hours bank schemes through agreements with a worker or workers.

In the area of collective labour law, the omission of any change to the legal rules on expiry of collective agreements stands out. A change in these rules could be the Government's payback for the commitment made, among others, by employers' confederations – in the context of negotiations on the national minimum salary for 2017 – to recommend the integrated structure not to promote the termination of collective agreements during the 18-month period beginning in January 2017. In any case, we would emphasise the Government's reaffirmation of its focus on the model of intervention in collective labour agreements by using ministerial extension orders, and by adopting rules that make it much faster to issue and publish them.

Another important point is the intention of the Government (which, indeed, appears in the Government Programme), with the aim of strengthening the role of collective bargaining, to repeal the rule that allows companies to implement hours bank schemes through agreements with a worker or workers.

Finally, in the area of policies for equality between women and men, we will see the following significant developments:

- Negotiation of a commitment with social partners to make provisions in collective bargaining instruments relating to reconciliation of private and family life with professional life, and prevention of gender-based inequalities and assault in the workplace;
- Evolution to a 33% minimum point of reference for exercising the total period of parental leave to be enjoyed by each one of the parents. Among others, this measure will imply, as appears in the General Planning Options, "under the current scheme, increasing the period of leave enjoyed by the man to three weeks, given that the woman's non-waivable period of leave is six weeks."

¹ This note only covers measures that may be adopted in 2017. Therefore, no reference is made to legislative changes approved in 2016, but taking effect in 2017. These include the rules on payment in twelfths of 50% of the holiday subsidy and the Christmas subsidy, under the terms of article 274 of Law no. 42/2016 of 28 December, which approved the 2017 State Budget. Neither does this note cover the increase in the national minimum salary to €557 approved by Decree-Law no. 86-B/2016 of 29 December.

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Portuguese Law Firm of the Year
Who's Who Legal, 2016-2015, 2011-2006
Chambers European Excellence Awards, 2014, 2012, 2009

Top 50 - Most Innovative Law Firm in Continental Europe
Financial Times - Innovative Lawyers Awards, 2016-2011