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Update

Employment Law

COVID-19

September 2020

September 2020 | COVID-19 and Contingency

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Labour Implications

Last September 11th, the [Council of Ministers Resolution No. 70-A/2020](#) ("RCM") declared contingency situation. The referred RCM foresees **new exceptional and specific measures** applicable in several sectors, including in the labour area.

The basic rule regarding the employer is maintained: it must provide employees with adequate safety and health conditions to prevent contagion risks arising from the pandemic and, to that end, telework may be adopted, under the general terms set forth in the Labour Code.

Therefore:

Teleworking regime is optional, except for situations in which, when required by the employee, regardless of the employment relationship and whenever the functions allow it, it is mandatory:

- If the employee, through medical certification, proves that s/he is covered by the exceptional protection regime for immunosuppressed and chronically ill, under the terms of Article 25-A of Decree-Law No. 10-A/2020 of March 13;
- If the employee has a degree of disability of 60% or more.

Teleworking regime is also mandatory when, regardless of the employment relationship and whenever the functions in question allow it, the physical spaces and the organization of the work do not allow for compliance with the guidelines of the Directorate-General of Health ("DGS") and the Authority for Labour Conditions ("ACT") on the matter.

If telework regime is not adopted under the terms of the Labour Code, within the maximum limits of the normal work period and with respect to the right to daily and weekly rests provided for in the law or in an applicable collective labor regulation instruments, measures for the prevention and mitigation of risks arising from the COVID-19 disease pandemic may be implemented:

- Daily or weekly scales of rotation between telework regime and work performed in the usual workplace;

- Differentiated entry and exit times;
- Different timetables for meals and breaks.

Given the content of these measures, the employer may, during the period of the contingency situation, change the organization of working time.

Finally, as far as the **Metropolitan Areas of Lisbon and Oporto** are concerned, the above measures are mandatory, unless this is manifestly impracticable.