



## **Changes to Labour Compensation Funds Regime**

*On 1 January 2024, Decree-Law no. 115/2023 of 15 December came into force, introducing important changes to the Labour Compensation Funds regime.*

*Among these changes, we highlight the following:*

### **Labour Compensation Fund**

- The Labour Compensation Fund ("FCT") is converted into a closed accounting fund and has been given new purposes, namely (i) to support costs and investments in employees' housing or other investments agreed between employers and employees' representative structures; (ii) to finance the qualification and certified training of employees; and (iii) to pay up to 50 % of the compensation due on termination of the employment contract of employees included in the FCT, calculated in accordance with the law.*
- FCT is currently constituted by the employers' global accounts therein, each employer's balance corresponding to the total value of each employee's account balances, which cease to exist. The amounts owed to the Labour Compensation Guarantee Fund ("FGCT") and operating costs are deducted from the global balance.*
- Employers can check their account balance on the Labour Compensation Funds website. According to the information made available on this website, it is estimated that the employers' global accounts will be constituted and can be consulted as of 15 February 2024.*
- Obligations for employers to join FCT (or equivalent mechanism), as well as to pay amounts to this fund for employees, cease to exist.*
- Ongoing administrative offence proceedings and debts relating to overdue payments to FCT are terminated, as are executive proceedings initiated and ongoing with a view to collecting them, as well as late payment interest.*
- The law expressly confirms that payments to the FCT and FGCT relating to April 2023 are not owed by employers.*
- Provided it is for one of the purposes mentioned above, employers will be able to access the balance of their global accounts. This access will be made taking into account the value in euros of the global account on the date it was created, and can be used from the last quarter of 2023 to 31 December 2026.*
- Regardless of the value of each mobilisation, balances of less than EUR 400,000.00 may be mobilised up to two times, and higher balances may be mobilised up to four times.*

- *Without detriment to the above it is anticipated that the constitution of the employers' global accounts will not be completed until 15 February 2024, not being expected that access to and mobilisation of balances may take place before such date.*
- *Mobilisation will occur via the Labour Compensation Funds website, and the legal formalities and procedures for this must be complied with.*

### **Labour Compensation Guarantee Fund**

- *The communication of employers' adherence to the FGCT is suspended. Upon the end of the suspension, this communication will be done by Social Security, following employers' communication of employees' admission, as per general terms.*
- *Legal consequences for non-compliance with FGCT payments (i.e., no debts are generated during the suspension) and start of collection procedures to regularize non-compliance situations are also suspended.*
- *This suspension will remain in effect for the duration of the Medium-Term Agreement for Income, Salary, and Competitiveness Improvement, i.e., until the end of 2026.*
- *Payment obligations to the FGCT remain suspended for the same period.*

### **Agenda for Decent Work - Nullity of Clauses In Collective Bargaining Agreements**

*The Decent Work Agenda (approved by Law no. 13/2023, of 3 April) determined that Collective Bargaining Agreement ("IRCT") clauses contrary to the rules that came into force on 1 May 2023 must be amended in the first revision that takes place in the 12 months following that date, under penalty of nullity.*

*However, a transitional period until 1 January 2024, was established in the same decree for the amendment of IRCT clauses contrary to the new regime for overtime payment, which foresees an increase on overtime pay above the threshold of 100 hours on a given year.*

*Therefore, since 1 January, 2024, IRCT clauses related to overtime payment that have not been amended and are therefore contrary to the provisions of the Labor Code ruling this matter should be considered replaced by the latter. This means that employers covered by IRCT falling within this context should pay overtime to their employees in accordance with the terms foreseen in the Labour Code, at least until the revision of the IRCT rules in a manner that does not contradict general labor law.*

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