

# Newsletter

## Employment

Amendments to Employment Law



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MARCH 2023

### CHANGES TO THE REMOTE WORK REGIME.

#### I - From the shadow to the *plateau*

Foreseen in the Labour Code since 2003, the telework regime was a legal instrument with little use until the COVID-19 pandemic crisis.

With the arrival of the pandemic and the sudden need to implement the remote work regime, imposed by the Government, many companies had to deal with a regime that they were not familiarized with and that proved to be quite incomplete, as it did not solve the emerging needs, regarding the increase of expenses borne by remote employees and its payment.

Since then, the remote work regime has been one of the central legal figures in the national business panorama.

As such, it was also the object of the latest employment reform.

#### II - Right to the remote work regime

The list of situations which confer the right to work under a remote work regime without opposition from the employer has been extended.

In addition to the situations of employees who are victims of domestic violence or employees with children up to the age of 3, it is now added that employees who have children with disabilities, chronic or oncological illnesses have the right to work under this regime, regardless of the age of the child.

However, remote work regime must be compatible with the activity performed by the employee and the company must have the resources and means for such purpose.

### III – Additional expenses

It is now foreseen that the compensation due to the employee for additional expenses resulting from the acquisition or use of IT tools and systems must be provided for in the individual employment contract and in the collective bargaining agreement.

But what happens if there is no such agreement?

In this case, the law identifies the following as ‘additional expenses’:

- Those incurred in the acquisition of goods and/or services that the employee did not have before the remote work agreement was concluded,
- as well as the expenses borne by employees when compared to the ones the employees have incurred to during the last month of on-site work.

In this regard, the law clarifies that the compensation that is paid by the company is deemed, for tax purposes, as a cost for the employer and not as income of the employee, up to the limit that will be defined by an ordinance to be approved by the members of the Government responsible for tax and social security matters.

The law maker was concerned in clarifying that this is a cost of companies, which undoubtedly resolves the framework applicable to these expenses for tax purposes. On another hand, on a less positive perspective, the legislator chose not to identify the limit up to which the compensation is exempt from taxes and refers it to an ordinance yet to be approved.

These changes will come into force on the first day of the month following the publication of the law that foresees them.

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