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I - INTRODUCTION

Portugal was hit hard by the global crisis and unemployment hit record levels but, fortunately, the unemployment rate has been declining in the last few months¹ and there are signals of recovery.

II - THE INCREASE IN THE MINIMUM WAGE

In January 2017 the minimum wage was increased to 557 euros per month. Article 273, no. 1, of Portuguese Labour Code guarantees all employees a minimum monthly wage, to be annually established by specific legislation, following consultation of the social partners because this topic requires a binding opinion by the CPCS. The Government and the majority of social partners agreed to increase the national minimum wage on December 2016 and following this tripartite agreement the Government approved Decree Law no. 86-B/2016, of 26 December 2016, determining a minimum wage of EUR 557 /month, in line with what was determined last year by the Government². This minimum wage is applicable not only to private employees but also to public ones.

To compensate employers by this increase in the minimum wage and to promote the hiring of unemployed people the social partners signed an agreement in 17 January 2017, called *Tripartite Commitment to a Medium- Term Concertation Agreement - Compromisso Tripartido para um Acordo de Concertação de Médio Prazo*³ - that established a reduction in the social security contributions paid by employers by 1,25% and that was followed by Decree-Law no. 11-A/2017, 17 January. However this measure was largely criticized and was not approved by the parliament. It is important to notice that was the first measure in many years that was approved in the Standing Committee for Social Concertation and that was not approved by the Parliament⁴.

1 Being 10, 4% in December 2016.

2 The government had the aim of increasing the minimum wage every year - in 2017 - 557 euros-, in 2018 - 580 euros, and in 2019 - 600 euros.

3 This Agreement can be seen (in Portuguese) in http://www.ces.pt/download/2052/2017_Compromisso_Trip_Acordo_Concertacao_MP_17jan.pdf (last acceded in February 2017).

4 In Portugal there is a long tradition of social dialogue and many subjects are discussed prior in the Social Concertation Standing Committee. The main tasks of this Standing Committee is to foster dialogue and social concertation to enter into agreements and must also give an opinion on the restructuring and socioeconomic development policies, as well as their implementation; provide solutions for the proper functioning of the economy taking into account its effect on the social and the labour fields; regularly appraise the evolution of the country's social and economic situation; appraise the legislation projects concerning social and labour matters, namely labour law, and employment policies, vocational training, social welfare, tax and public administration policies are included among the matters to be discussed, which includes Active Labour Market Policies. According with article 56, no. 2, a) of Portuguese Constitution and article 470 of PLC, all bills regarding employment and industrial relations issues must be presented to the social partners and have to be discussed with them. The breach of this makes the act unconstitutional and therefore not applicable.

III - ACTIVE LABOUR LAW POLICIES: A NEW HIRING SUBSIDY

Young workers apart from being more affected by non-standard forms of employment, tend to change jobs more often. The proportion of employees looking for a different job and actually changing jobs is higher among young employees and it is mainly those countries where young employees are more affected by non-standard forms of employment that have higher proportions of younger employees looking for a job and/or who have changed jobs in the previous year. The incidence of part-time employment and especially temporary contracts among young workers is already relatively high in Portugal, and the prolonged jobs crisis has probably forced young people to be less selective about the type of job they are prepared to accept, admitting part time works, temporary contracts and fixed term contracts. On the other hand, there is also the problem of the long-term unemployment that is largely comprise by older workers⁵.

To face these situations Portugal has created hiring incentives and start-up subsidies as means to promote the activation of young jobseekers, and has also established hiring incentives to stimulate job creation for other groups among the long-term unemployed. The strengthening of activation measures was accompanied by the introduction of a new hiring subsidy that replaced the *Estímulo-Emprego*, and created a new one called *Contrato-Emprego* - *Contract-Employment*. This new measure, approved by Ministerial Ordinance no. 34/2017, 18 January, aims to create real employment and to reformulate the previous active labour market policies.

This new measure is different from the previous ones because it focus the attention in the creation of open-ended contracts and not fixed term contracts, despite that, in some cases, it accepts the creation of a fixed term contract but that last longer than 12 months for vulnerable groups of workers. On the other hand it introduces a greater differentiation in the support granted to each modality of contract, reinforcing the connection between the allocation of support and the effective creation of employment after the end of the support, by the introduction of incentives for the sustainability of the job that can go up to 9 times the IAS if it is an open-ended contract, or up to 3 times the IAS if it is a fixed contract. These subsidies can be increase up to 10% if the workers belong to special groups, like workers with disabilities; single parents; or in receipt of income support; victims of domestic violence; or ex-convicts; or re-habilitated drug users but also, and we think this is very important, refugees.

This amount can be accumulated with another increase up to 10% if the new employment is situated in economically disadvantaged areas. This measure is important because one cannot forget that barriers to employment can be two-fold: they refer both to barriers to accepting a job offer and barriers for employers to hire. The geographical

5 See TERESA COELHO MOERIRA, No country for young people? The youth (un)employment in Portugal", in *Hungarian Labour Law E- Journal*, no. 1/2016, and "Social dialogue and vulnerable groups: young people, old workers: the Portuguese perspective", in *E-RIPS* no. 1, 2016.

location of employment vacancies can represent a challenge in effectively matching jobs with workers. Portugal has high territorial variations and some regions may show more employment opportunities than others but can also experience skills shortages.

It is also possible to increase the amount according to Ministerial Ordinance no. 84/2015, of 20 March that establishes a financial incentive for the “Promotion of Gender Equality in the Labour Market” in case the employer hires a worker from a sex that is under-represented in that particular profession (i.e. represents less than a third of all workers in that profession).

This new hiring subsidy creates also an *award* to employers who convert the fixed term contract in an open ended one, within certain conditions.

It is also important to mention the creation of a new measure called *Passaporte - Qualifica - Qualification Passport* - by Ministerial Ordinance no. 47/2017, of 1 February, that aims to improve the qualification of the adult population in order to improve their recruitment.

IV - GENDER EQUALITY

It was presented by the Government in 5th January a Law Proposal - no. 52/XIII, which establishes the regime of balanced representation between women and men in the administrative and supervisory bodies of public sector entities and listed companies, and aims to “promote gender balance at the level of 33% in management positions for listed companies, public sector companies and direct and indirect administration of the State and other public corporations”. This initiative is very important because women represent more than half of the Portuguese population and more than half of the population with higher education qualifications, so this underrepresentation in decision-making processes means that their potential is being underutilized and that barriers continue to exist that prevent them from accessing to management positions. This inequality is rooted in stereotypes and discriminatory practices that have conditioned the professional and personal options of both women and men, and which are passed on throughout the life of those who are thus deprived of effective opportunities and the possibility to choose.

This Law Proposal is in line with what was discussed and already approved in the past, like, *inter alia*, Decree-Law No. 133/2013, of 3 October 2013 (*General Features of Public Companies* - ‘Estatuto das Empresas Públicas’), which establishes that the governance boards of public companies (administration board and surveillance board) must aim to have both men and women as members, and establishes the obligation of public companies to put in place equality plans; Law No. 67/2013, of 28 August 2013 (*General Features of Administrative Independent Agencies for the Monitoring of Economic Activity in the Private and in the Public Sector* - ‘Lei-Quadro das Entidades Reguladoras’), establishes that the board of these agencies must include at least 33 % of the members of each sex, and that the presidency of this board must be occupied by persons from both sexes alternatively; and with what was defended in the National Plan for 2017⁶.

6 Law No. 41/2016, 28th December.

V - COLLECTIVE LABOUR LAW AND SECTORAL COLLECTIVE AGREEMENTS IN PORTUGAL

In the second semester of 2015 and in 2016, there was a significant increase in the number of extension ordinances. It is important to bear in mind that Council of Ministers Resolution no. 43/2014 of June 27, after the adjustment programme in 2014, created different criteria aimed at ensuring the representativeness of the parties and adopted to introduce flexibility into the principle for issuing extension ordinances.

Therefore, the employer need only comply with one of the following criteria: to have in its service at least 50% of the workers of that sector of activity, within the envisaged geographic, personal and professional scope; or its associates must include at least 30% of micro, small and medium companies.

According to article 100 of the Portuguese Labour Code, micro, small and medium sized enterprises are defined as firms employing less than 250 employees.

In our opinion, this principle can allow a significant increase in the issuing of extension ordinances, without this meaning a return to the past, when extension ordinances were issued on a case-by-case basis and almost automatically. Maybe collective bargaining can be more dynamic thanks to these amendments, because new contracts have been negotiated. The new option of extending agreements to the whole sector aims precisely at fostering improved collective bargaining.

These new criteria have resulted in a pick-up in the number of extensions issued in 2015 and 2016. Due to these changes, collective bargaining is slowly picking up. According to very recent data, 2016 saw an increase in the collective agreements at sectoral level, being 69 in 2016 compared with 65 of 2015, and 58 company level agreements in 2016⁷.

There has been also an increase in the number of workers covered because of the number of extension ordinances approved, from 490377 thousand workers in 2015 to 749348 thousand workers in 2016.

In the National Plan for 2017⁸, the government intends to have new policy measures in this area that would change collective bargaining rules. There are, however, no concrete plans to foster decentralisation. On the contrary, the general intention seems to be in the direction of reinforcing sectoral collective bargaining.

The government intends to further promote the extensions of collective agreements, which would contribute to this result by issuing clear new criteria, namely about when to enact them, and by promoting co-ordination between the different levels of collective bargaining.

The government is also exploring options for changing the rules regarding the expiry and survival of collective agreements. However, as the European Commission⁹ pointed out, any changes that would imply a prolongation of the survival period could in practice reduce the incentives of social partners to negotiate, and have a negative impact on the capacity of firms to adjust to new economic conditions.

7 These data can be seen in <http://www.dgert.msess.pt/instrumentos-de-regulamentacao-coletiva-publicados> (last accessed in February 2017).

8 Law No. 41/2016, 28th December.

9 Institutional Papers 36, September 2016, p. 26.