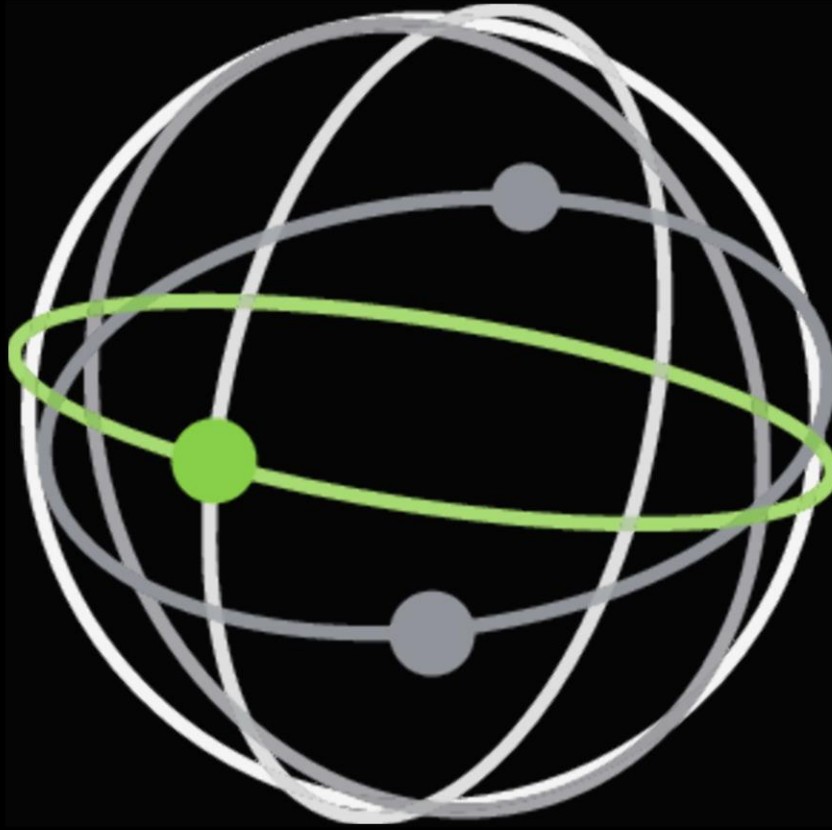


**CTSU**

Sociedade de Advogados

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COVID-19 Legal Insights  
August 3, 2020



## **COVID-19**

### **Legal Insights no. 43**

Decree-Law no. 46-A/2020

Extraordinary support for  
progressive recovery of activity

Decree-Law no. 46-A/2020, published on July 30, 2020, created an extraordinary support for progressive recovery of activity in companies in a business crisis situation, with a temporary reduction in the normal working period, with a view to maintaining employment contracts.

A **business crisis situation** is considered when there is a drop of 40% or more of invoicing:

- Within the month prior to the application of the initial request immediately preceding the calendar month to which the initial application for support or extension refers, with reference to the calendar month of the same year or with the monthly average of the two months preceding that period; or
- For those companies who have initiated their activity within less than 12 months ago, with reference to the average monthly invoicing between the begin of their activity and the penultimate complete month preceding the calendar month to which the initial application for support or extension refers.

### **Reduction of the Normal Working Period (PNT)**

The employer can access to the extraordinary support for progressive recovery only in the modality of temporary reduction of the PNT of all or some of its employees.

To this purpose, the employer must communicate in writing, to the employees to be covered by the respective decision, the percentage of reduction per employee and the foreseeable duration of the measure.

The reduction of the PNT has the duration of one calendar month, being extendable monthly until December 31, 2020. If there is an interruption of the temporary reduction of the PNT, the extension of the support in interpolated months may be requested.

### **How the extraordinary support works**

The table below mentions the threshold for the reduction of PNT, remuneration, retributive compensation, the exceptional support foreseen and the possibility of total exemption and partial exemption from payment of Social Security contributions:

| Period  | August and September  |   | October to December  |   |
|---|---|---|--|---|
| <b>Eligible companies</b>   | Drop of 40% or more of invoicing  | Drop of 60% or more of invoicing  | Drop of 40% or more of invoicing   | Drop of 60% or more of invoicing  |
| <b>Modality</b>   | Reduction of the Normal Working Period by 50% or less   | Reduction of the Normal Working Period by 70% or less                     | Reduction of the Normal Working Period by 40% or less  | Reduction of the Normal Working Period by 60% or less                     |
| <b>Retribution due to the employee (hours performed + retributive compensation)</b> | At least 83% of the gross normal salary or 635,00 € (whichever is higher)                                 | At least 77% of the gross normal salary or 635,00 € (whichever is higher) | At least 92% of the gross normal salary or 635,00 € (whichever is higher)  | At least 88% of the gross normal salary or 635,00 € (whichever is higher) |
| <b>Hours performed</b>  | Paid 100% by the Company  |   |  |   |
| <b>Hours not performed (retributive compensation)</b>                               | In the correspondent to 2/3 of the hours not performed, up to 1.905,00 €                                  |   | In the correspondent to 4/5 of the hours not performed, up to 1.905,00 €   |   |
| <b>Social Security's support</b>  | 70% of the retributive compensation for the hours not performed   |   |  |   |
| <b>Contributions to Social Security (Company's responsibility)</b>                  | Micro (less than 10 employees) and medium-sized companies (between 10 and 250 employees): total exemption |   | Micro (less than 10 employees) and small and medium-sized companies (between 10 and 250 employees): remission of 50% |   |
|   | Large companies (250 or more employees): remission of 50%   |   |  |   |

### Additional support

In situations where the drop in invoicing is 75 % or more, the employer is entitled to an additional support corresponding to 35 % of the gross normal pay for hours performed owed to each employee with a reduction of the PNT.

### How to access to the extraordinary support

For the purpose of access to the extraordinary support for progressive recovery of activity with a temporary reduction of the PNT, the employer must submit an automatic application, in a specific form to be available by the Social Security, containing the employer's declaration and the certified accountant's certification attesting to the business crisis situation, accompanied by a nominative list of the employees to be covered.

As a rule, the application takes effect in the month of submission. However, during the month of September the employer may request the application to take effect in August.

### **Employer's obligations**

During the period of reduction of the PNT, the employer must comply with the legally established duties, as well as:

- a) Keep the Tax and Social Security situations regularized;
- b) Comply punctually with the remuneration obligations, as well as the increase in the case of professional training;
- c) Comply punctually with the Social Security contributions on the retribution received by the employees; and
- d) Not to increase the salary or other benefits attributed to members of social bodies, as long as the Social Security contributes to the salary compensation attributed to employees.

During the reduction period, as well as in the following 60 days, the employer should not:

- a) Terminate employment contracts under collective dismissal, dismissal due to the extinction of the work position and dismissal for unfitness or initiate the respective procedures.
- b) Distribute profits, in any form, in particular as a withdrawal on account.

### **Effects of reducing the PNT on vacation, vacation allowance or Christmas allowance**

The reduction of the PNT does not affect the salary and the duration of the vacation period nor does it affect the scheduling and enjoyment of vacation, and the employee is entitled to the payment of the salary and retributive compensation, plus the vacation allowance, paid by the employer, which would be due under normal working conditions. The employee is also entitled to the total amount of the Christmas allowance, being reimbursed, by the Social Security, if the date of payment of such allowance is the same with the period of application of the extraordinary support for progressive recovery of activity.

### **Cumulate and sequentially of supports**

The employer cannot simultaneously benefit from the supports foreseen in this Decree-Law and in Decree-Law no. 10-G/2020, of 26 March, nor from the reduction or suspension measures foreseen in articles 298 and ss of the Labour Code.

The employer that has benefited or is benefiting from the extraordinary incentive for the normalization of business activity cannot access the supports foreseen in this Decree-Law.

### **Professional training**

The extraordinary support can be accumulated with a professional training plan approved by the Institute for Employment and Professional Training (IEFP), which entitles the employer and the employee to a grant of 131,64 € per employee covered, supported by the IEFP.

This Decree-Law entered into force on July 31, 2020 and is effective from August 1, 2020 until December 31, 2020.

For further information, please see below link:

<https://dre.pt/application/file/a/139239694>

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