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→ Portugal

The law firm SOUSA MACHADO, FERREIRA DA COSTA & ASSOCIADOS, Sociedade de Advogados ("SMFC") was founded in 1991 by 4 partners and now comprises the 4 founding partners, 8 associates and 5 trainee lawyers. SMFC offers legal advisory services particularly in the following practice areas:

- Business law, including commercial law,
- Labor law and commercial contracts
- Civil law in general and in particular civil contracts,
- Law of obligations (contract),
- Insurance law,
- Family and inheritance law;
- Litigation, pre-litigation and debt recovery, notably in areas of mobile telecommunications,
- Credit insurance and motor vehicles (financial lease contracts) and in the chemical, agri-foodstuffs, pharmaceutical and cosmetics, etc., industries

→ Corporate Law

The most relevant legislation to companies in Portugal is:

- the Commercial Code *("Código Comercial"*, dated 1888);
- the Portuguese Companies Code *("Código das Sociedades Comerciais"*, Decree law no. 262/86, dated September 2 – , as further amendments);
- the Portuguese Securities Code *("Código dos Valores Mobiliários"*, Decree law no. 486/99 dated November 13, as further amendments);
- several specific laws and regulations.

There are four types of corporate entities available in Portugal: general partnership companies *(sociedade em nome colectivo)*, private limited liability companies *(sociedade por quotas)*, public limited companies *(sociedade anónima)* and limited co-partnership companies *(sociedade em comandita)*.

European Companies *(Societas Europaea)* may be incorporated in Portugal, provided that they have their registered office in Portugal or if they are participated by companies governed by Portuguese companies law.

Notwithstanding, the three most common legal structures that may be considered when envisaging the settlement of a business or activity in Portugal are the following:

- Representation office or branch
- *Sociedade Anónima* (SA)
- *Sociedade por Quotas* (Lda.)

Branch

A branch is merely a permanent representation of a foreign company, organized to conduct the business outside its original country. It differs from a company due to the following characteristics:

- The branch is not legally independent from the head-office, while a subsidiary company operates as a different legal entity;

- The branch shall appoint a legal representative to manage the business, while limited liability companies must appoint members of the corporate bodies (management body and an audit body).

The procedure for registering a branch in Portugal is simple and consists mostly on the submission of a resolution from the head-office and other documents evidencing the legal existence of the foreign company.

Companies

SAs and Lda.s differ from other structures available where the shareholders' liability is unlimited *(sociedade em nome colectivo and sociedade em comandita)*, although the latter are rarely used nowadays.

When deciding what legal form the subsidiary should assume, the foreign investor must take into consideration the differences between a SA and a Lda., which may influence significantly their business operations. From a day-to-day point of view, the two can be managed in broadly similar terms, although Lda.s may in some cases be less formally managed due to the fact that

they comprise a lighter corporate structure, hence being more appropriated for short-term investments. As for SAs, they are usually recommended for enduring investments, especially where a large number of investors is envisaged.

Share Capital

The minimum share capital for a SA is € 50,000.00, of which at least 30 percent must be fully paid up until the date of incorporation.

The statutory capital for a Lda. is freely set in the articles of association of the company and will correspond to the sum of the quotas subscribed by the quota holders. However, it is not possible for this value to be below the minimum nominal value of the quota set by law, which is € 1.00 (one euro). The Portuguese Law also allows the quota holders to decide to pay the value of each quota on the date of incorporation or at the end of the first economic year.

Under general Portuguese Companies Law, a S.A. must have at least five founding shareholders. Notwithstanding, a company is entitled to incorporate a SA of which it will initially be the sole shareholder under the special regime applicable to groups of companies. Conversely, a Lda. must have at least two shareholders unless it adopts the structure of a single quota holder company (sociedade unipessoal por quotas) in which case the share capital is totally held by a sole quota holder.

Shares and quotas

The share capital of a SA is divided in shares, these can either be nominal or without nominal value (but both cannot coexist in the same SA), furthermore, all shares must have the same nominal value (of no less than € 0,01 per share). Share certificates are issued to represent one or more shares in accordance with the Company's by laws.

Shares can be nominative or bearer *("ao portador")* and may be represented either by certificates or dematerialized. Bearer shares can be transferred simply by physical delivery of the certificate, whilst nominative shares are transferred by endorsement statement signed by the transferor on behalf of the transferee and the correspondent registration with the Company (or the financial institution, if applicable).

Each class of shares must have something that makes it different from the other classes and all the shares within one class must confer the same rights. Common *("ordinárias")* shares are the securities that represent ownership in a corporation. Holders of common shares exercise control by electing the management board and voting on corporate policy. Preferred *("preferenciais")* shares bestow some sort of rights and privileges upon common stock. The nature of these rights or privileges shall consist of patrimonial advantages (mainly concerning dividends).

The share capital of a Lda. is divided in quotas, which can have different nominal values with a minimum of € 1,00. Quotas are not materialized in a document and its transfer must be executed by written agreement, followed by the respective deposit with the Commercial Registry Office.

Liability of shareholders

In both SAs and Lda.s, the liability of each shareholder is limited to the nominal value of his interest in the company. However, the quota holders of a Lda. are joint and severally liable for any unpaid capital contributions foreseen in the company's by-laws.

Corporate Governance

SAs management and supervision bodies' composition depends on the organization system adopted, which may be organized either on (i) a traditional 2-tier structure consisting of a Board of Directors (or a sole Director, should the share capital not exceed € 200,000.00) and an Audit Board or a Single Auditor; or (ii) under a 1-tier structure consisting of a Board of Directors, which shall comprise an Audit Commission and a Chartered Accountant; and (iii) under a 3-tier structure consisting of an Executive Board of Directors, a General and Supervisory Council and a Chartered Accountant. SAs with a capital not exceeding € 200.000,00 may have only one Director instead of a Board of Directors.

The corporate bodies of a Lda. are the General Meeting of Shareholders and the Management (which may be composed of one or more directors). Although a Supervisory Board is not mandatory, in some situations Lda.s are required to appoint a statutory auditor.

General Meeting of Shareholders*

Although most powers to run the company are vested in the directors, the following resolutions are reserved to the Shareholders:
- Approval of financial statements and distribution of profits.
- Appointing and removal of the Directors and members of the Audit Board.
- Amendments to the Bylaws.
- Merger, spin-off, transformation or dissolution of the company.
- Transfer and encumbrance of real estate properties (only applicable to Lda.s).
- Issuance of Preferred Shares.
- Issuance of Bonds.
- The division and consent for the transfer of quotas to third parties (only applicable to Lda.s).

Quorum Majority

■ SAs

	QUORUM	MAJORITY
First call	No quorum or 1/3 for matters comprising the changing of articles of by-laws, merger, spin-off, transformation or dissolution	Majority of votes cast or 2/3 for matters comprising the changing of by-laws, merger, spin-off, transformation or dissolution
Second call	No quorum	Majority of votes cast or, for changing the matters described above, 2/3 of the votes cast or simple majority if at least 50% of the share capital is present or represented

■ Lda.s

QUORUM	MAJORITY
No quorum	Majority of the votes cast or 3/4 of the share capital for matters comprising the changing of by-laws, merger, spin-off, transformation or dissolution

**Certain resolutions may require unanimous vote or other majority according to the company's Bylaws.*

Directors

SAs are required to have a board of directors (or an Executive Board of Directors and a General and Supervisory Council, depending on the organization structure adopted). Lda.s are managed by one or more directors *("gerente/gerência plural"),* although there is not a formal management board.

Managing corporate bodies of SAs and Lda.s have very broad authority to bind the company. Although restrictions may be contained in the by-laws, these are not enforceable against third parties provided the actions of the directors are within the limits of the corporate purpose.

In a SA, the shareholders appoint the board of directors, generally for a four-year term (but the by-laws can provide for a shorter term). There are no requirements for independent directors (except for listed companies). In a Lda., the directors may be appointed for terms of office or without a definite term, in this case remaining appointed until dismissal or resignation. The directors may be remunerated or not.

Annual Accounts

Portuguese law foresees that all companies must approve, at the annual general meeting, the respective year-end accounts within a 3-months period (as from the end of the financial year) and, in special cases, within a 5 months period (in case of companies with consolidated accounts). The documents to be approved are: (i) the year-end financial statements (comprising a detailed balance sheet), (ii) the management report, (iii) a report issued by the audit body, and (iv) in case of SAs, a legal certification of the accounts must be issued by a Chartered Accountant.

Once approved by the general meeting, the accounting documents must be submitted, by Internet, under a new system called *"Informação Empresarial Simplificada" (IES),* under which the annual financial and accounting information is sent simultaneously to all the relevant public services (tax authorities, commercial registrar, etc.).

In case of permanent representations of foreign companies in Portugal (Branches), the process is even easier, as it is only required a declaration confirming that the head-office received the supporting documents of the branch's accounts.

Incorporation of a company

The incorporation of a company (except when depending on special approvals or when the start-up capital is to be made through contributions in kind) may be fully performed in one day, if the shareholders choose to create a company under the special regime that allows a company to be incorporated "in one hour" (on the spot company – *"empresa na hora"*), with or without acquiring or possessing a trade mark. This process is carried out before a Commercial Registry Office or a Company Formalities Centre (CFE). On the other hand, it is now possible to launch and set up a company throughout digital means – the so-called "online company registration".

Regarding the special regime of incorporation "on the spot company" above mentioned, in April 2008, it was also created a special regime that allows a branch from a foreign company to be dully incorporated "in one hour" (on the spot branch – *"Sucursal na hora"*). With this procedure it can be created, immediately and in one place, permanent representations of foreign companies in Portugal, with the simultaneous appointment of their representatives.

In 2008, some measures were approved to simplify the companies' incorporation process as well as other companies' day-to-day procedures, namely:

- COMPANY'S CARD *("Cartão da Empresa"):* as from now on, Companies shall have a sole Identification Card that evidences the three essential numbers: the Company's Tax Identification Number, the Company's number of registration at the Commercial Registry Office and the Company's Social Security number. The Company's Card may be requested online

(www.empresaonline.pt) or at the Commercial Registry Office, remaining the respective issuance dependent on the enrolment of Company with the Tax Authorities and with the Social Security.

■ SICAE (Portuguese Information and Classification System of Economic Activities): this system consists on a permanent and actualized database concerning the companies "economical activity code" ("CAE"), allowing a simplified process of modification regarding this matter.

Listed companies

Listed companies have to comply both with the Portuguese Companies Code and with the Portuguese Securities Code. This act establishes cooperation, communication and publicity duties for corporations, as well as the regulation and supervision of the respective activities by the Portuguese Securities Market Commission.

→ Real Estate Law

Types of Ownership

According to the Portuguese Civil Code, ownership consists in the full and exclusive right of use, enjoyment and disposal of a real estate property or personal property (commodities), including all direct advantages resulting there from (as revenues). Portuguese law foresees other property rights such as the right to use the property *("usufruto"),* the naked property *("nua propriedade"),* the surface property, the timesharing, the horizontal property, and others.

The adverse possession *("usucapião")* is one method of acquiring property through actual, continuous, open occupancy of the property, for a prescribed period of time, under claim of right, and in opposition to the rights of the true owner.

Land Register

All transactions concerning real estate property must be duly registered with the Real Estate Registry Office (which may be submitted online). In order to impose that obligation the law establishes that definitive registration constitutes legal presumption of the existence of the right and its ownership by the person who is inscribed in the registry records. This means that the land certificate *("título de registo da propriedade")* confers to the owner of the property the power to exclude any alien pretension over the registered right.

The onerous acquisitions of property rights made by third parties, in bona fides, from a person who appears in the Registry records as entitled to transfer such right shall be held harmless against any property claims.

All registered records are made available so as to allow the assessment of information concerning the ownership and/or any existing encumbrances on a real estate property.

Transfer formalities (Public deed)

According to Portuguese Law, the constitution, transfer, acquisition or extinction of property regarding real estate assets may be made through a Public Deed or a Simple Document duly authenticated by a Lawyer. Additionally, other documents may be required, as well as the execution of legal and prior formalities, including the payment of taxes, such as:

- Occupation or construction license issued by the city hall (for urban buildings);
- Land registry title, proving the ownership of the transferor;
- Payment of the Real Estate Transfer Tax ("IMT") - between 0% and 8%, depending on the real estate value;
- Real Estate Tax Record *("caderneta predial")* issued by the competent tax services.
Energetic Certificate of the Property (which certifies the class of energy efficiency of the property);
- Technical Datasheet of the Property *("Ficha Técnica da Habitação")* – it is only mandatory for properties build after March 30th, 2004;

Additionally, all real estate properties are subject to the payment of a Property Tax which ranges between 0,2% and 0,8% of the patrimonial value of the real estate. It recently entered into force a new project of the so-called *"Casa Pronta"* (House on the Spot). This regime allows purchases, encumbrances or registrations of real estate properties to be carried out immediately and by a sole entity. Thus, the public deed, the payment of the IMT and the attaining of all necessary documents (habitation license, land registry title and real estate tax record) may be all carried out simultaneously by the same authority, significantly reducing the bureaucratic procedures of the real estate transfers in Portugal.

Mortgages, main rights of mortgages

A Mortgage is a lien by virtue of law (security in rem) that confers to the creditor a preferential right over the other creditors, and that can be defined, in simple terms, as an ancillary guarantee aiming at assuring the fulfillment of contractual obligations.

The law provides for three different types of mortgages: voluntary, judicial and legal. The voluntary mortgage must be constituted by means of a public deed (or will) and must specify the mortgaged property. All kinds of mortgages should be registered, in order to have existence and to produce effects against third parties.

Pre-emption rights

There are pre-emption rights in specific cases, such as:
- The owners of confining buildings;
- The owner of real property burdened with easement of access;
- The co-owners in the case of property transfer;
- The tenant in case the leased property is sold; and
- By the owner of the right of surface, in case of transfer.

In all these cases, the person detaining that specific condition has a pre-emption right over third parties that intend to acquire the respective property. Portuguese law also foresees the so-called "sale secured by a lien on property" that confers to the buyer the possibility of reserving to himself the property of the land until the total fulfillment of the other party's obligations.

Restrictions on acquisition (e.g. by foreigners)

The Portuguese law has no restrictions to what concerns the possibility of property acquisition by foreigners.

Construction and use restrictions (e.g. permits, zoning)

The exercise of rights related to ownership is not absolute, considering that Portuguese Law determines the compliance with restrictions and boundaries imposed by the social and dynamic function of ownership.

Besides the general clause of *"proibição do abuso de direito"* (prohibition of abuse of right), the public expropriations and temporary requisition, we have to note on two different types of restrictions: "public law restrictions" and "private law restrictions". As to public restrictions, we have to consider specific legislation linked to, e.g. town planning law (inspections and supervision of construction works) that covers areas like waters, environment, air quality protection, forests, industry, work licensing, natural parks, sanitation, noise, etc. Concerning the private law restrictions, they are foreseen in the Portuguese Civil Code, and are numerous, as for example easements, excavations, water flowage, right of demarcation, right of dividing and joining rustic buildings, etc.

Lease formalities e.g. written, time limit for lease term and possible registration of lease interest

The urban lease agreement must be made in writing and the contract must include several essential elements, such as Occupation's license, Real Estate Tax Record issued by the tax services, etc.

Unless the parties decide to stipulate an effective term for the lease, the landlord can only prevent the automatic renewal of the contract by means of a notification of such intention sent to the tenant with a minimum prior notice of 60 days or 120 days, depending on the duration of the lease agreement. Nevertheless, either party (tenant or landlord) may terminate the contract in case of breach or default by the other party.

→ Labour Law

This chapter provides a brief overview of the main aspects of Portuguese labour law, specially on the employment contracts and social security related matters. Portuguese Labour law is governed by the Labour Code, which entered into force on late 2003. On 2009, a new version of the Labour Code has been published and it still provides the regulation of the main employment-related features, such as types of employment contracts, holidays, absences to work, professional training, gender equality, maternity rights, termination of employment contract and health and safety at work.

In general terms, the Labour Code 2009 is not very different from the Labour Code 2003 and, from the companies' standpoint, it could have gone further in respect to the flexibility of the labour relations. In the meantime, in the extent of the Memorandum for Financial Assistance entered into between the Portuguese State, the IMF, the European Commission and the European Central Bank, some relevant amendments to the Labour Code have been implemented, namely in respect to the compensation for termination of employment contracts in the cases of individual redundancy and collective dismissal.

Employment Contracts

Under Portuguese law, there are 3 main types of employment contracts: permanent, fixed-term and uncertain term.

Additionally, we also highlight the management employment contract, due to the wider flexibility it offers to companies when hiring top employees.

Common provisions

The following aspects are common to every type of employment contracts:

- RETRIBUTION: besides the base salary, employees are entitled to an annual holiday allowance and Christmas allowance, which amount is equivalent to the base salary. The minimum national wage is currently €485,00, although the applicable collective agreement usually provide higher minimum amounts per each professional category.

Employees may also be paid other allowances, depending on the terms under which the work is performed, such as the nightshift allowance or the shift allowance. Generally, some of these allowances - such as the shift allowance or the meal allowance - are provided in the applicable collective bargaining agreement, as its payment is not mandatory by law. Besides, the payment of the meal subsidy is a common practice, even if not provided in any collective bargaining agreement.

■ WORKING HOURS: as a general rule, employees may be committed to a maximum working schedule of 8 hours per day and 40 hours per week. The parties may also agree on a part-time working schedule.

The work performed beyond these limits (and also on resting days) is considered as overtime work, which, itself, is limited to a certain number of hours per day and per year. The performance of overtime work entitles the employee to a special allowance per each hour of overtime work rendered. Recently, the additional salary for overtime time has been reduced to a half and the employee is no longer entitled to, additionally, have a day-off.

Depending on the type of functions, the employer and the employee may agree on a working hours exemption schedule, case where said daily and weekly limits shall not apply. Being the case, the employee is entitled to a monthly allowance, which amount is equivalent to, roughly, 20%/25% of the base salary, save if provided otherwise in the applicable collective agreement.

The Labour Code 2009 has introduced new types of scheduling the working hours in order to adapt the working schedules to the production needs, enabling the employer to concentrate a greater number of hours of work per day and per week or to manage the daily and weekly limits of hours of work in accordance with the production flows. Initially, the implementation of some of these schedules has to be previously agreed with the employee's representatives in the applicable collective bargaining agreements. Recently, Law n. 23/2012 of June 25 has amended the Labour Code and the employer and the employees (directly of through its representatives) may agree on these flexibility schedules regarding to the working hours, even if not provided in any collective regulation.

■ HOLIDAYS AND DAYS-OFF: employees are entitled to a paid annual holidays period of 22 working days. Recently, the aforementioned Law n. 23/2012 has revoked the provision that entitled employees to additional 3 working days of holidays if their level of absence did not exceed 3 justified absences in a one year term.

In the year of admission, employees are entitled, after 6 months of execution of the contract, to 2 working days of holidays per each month of duration of the contract. Employees are also entitled to a mandatory rest day (usually, on Sundays) and to a complementary rest day (usually, Saturdays). Additionally, there are 9 paid public holidays and 2 non-mandatory public holidays

(local holiday and Mardi Gras). Please note that law n. 23/2012 has reduced the number of mandatory public holidays from 13 to 9.

■ MATERNITY AND PATERNITY LEAVE: this is one of the matters that has been amended by the Labour Code 2009, extending the duration of parental leaves and allowing it to be taken jointly or alternatively by the employee and the spouse.

The main difference is now between parental leave taken exclusively by the employee (whether female of male) or jointly with the spouse. As a general rule, the parental leave is 150 or 180 days after the birth, where 6 weeks are mandatory for the female employee. The spouse (male employee) is always entitled to a leave of 10 working days (consecutive or not) after the birth.

If the parental leave is exclusively taken by one of the spouses, its duration may vary from 120 to 150 days. During the parental leave, these employees are entitled to a subsidy paid by the social security, as the salary is not due by the employer. In some cases where parental leaves are extended by decision of the employee, the subsidy paid by the Social Security may be reduced and salary will still not be due by the employer.

There are also other leaves supported by the social security, for purposes of assistance to family, which duration has also been extended by the Labour Code 2009. The employer and the employee may, at any time, agree on an unpaid leave.

■ SICKNESS AND INJURY: absences to work due to illness or injury are deemed as justified absences. In these cases, the salary is not due by the employer as employees are entitled to a subsidy paid by the social security.

In case of labour accidents, the insurance company shall be responsible for the payment of the salary and other compensation for any damages suffered by the employee as a result of the accident. To such extent, under the law, the employer has to enter into an insurance, otherwise it shall be liable for every costs and compensation due to the employee. Moreover, the non-compliance with this obligation constitutes a serious infringement, subject to a fine applied by the Labour Authorities.

■ TERMINATION: as a general rule and save in the cases of termination with cause for disciplinary reasons, the employer is absolutely prevented from unilaterally terminate the employment contract.

However, during the trial period, either party may unilaterally terminate the employment contract with immediate effects and no compensation is due, save if agreed otherwise. Should the employer wants to terminate the contract in the trial period and if the contract has been in force for more than 60 days, the termination has to be communicated 7 days prior notice and if it the contract is being executed for more than 120 days, said prior notice is extended to 15 days.

The employee may terminate the employment contract at any time by means of a prior written communication, which varies according to the type of contract (see below). The employee may also terminate the employment contract with cause, if the employer has breached any legal or contractual rights, case where it shall be liable for the payment of a compensation, to be settled by the court, ranging from 15 to 45 days of base salary per each of seniority, with a minimum equivalent to 3 months of base salary.

Termination with cause. The termination with cause requires a previous internal written proceeding, where the employee may file a reply and require the hearing of witnesses and other means of proof. This internal proceeding is detailed in the law and should the company fail to comply with certain formalities the dismissal is deemed as wrongful. In the course of this proceeding, the workers' committee (if existing) and the trade union (if the employee is an union representative) have also to be consulted. Additionally, in the case of pregnant and breast feeding employees, the dismissal requires a favourable opinion from a governmental body committed to gender equality and maternity protection.

The law defines cause for termination as a serious and intentional conduct of the employee, which determines the immediate impossibility of maintenance of the employment relation, i.e., the breach of legal and contractual duties. The employee may judicially dispute the dismissal within the year subsequent to the dismissal. The burden of proof of the existence of cause for termination relies on the employer.

Should the dismissal be ruled wrongful, the employee may opt to be reinstated in the company or to be paid a compensation, to be settled by the court, ranging from 15 to 45 days of base salary per each of seniority, with a minimum equivalent to 3 months of base salary. In the case of small companies (less than 10 employees) or management employees, the company may oppose to the reinstatement, case where the compensation shall vary from 30 to 60 days of base salary per each year of seniority.

Additionally, the company has also to pay to the employee a compensation for any moral or patrimonial damages resultant from the dismissal and also the unpaid salaries due since the date of the dismissal until the date of the court's ruling. In the case of term employment contracts, the amount of this compensation cannot be lesser than the unpaid salaries due since the date of the dismissal until the term of the contract (or until the date of the court's ruling, should it occur before the term of the contract).

Individual redundancy and collective dismissal. Besides termination with cause, the employer may only terminate the employment contract grounded on objective reasons, specifically market, financial or technological reasons. The burden of proof of the existence of these grounds for termination relies on the employer.

If, within a 3 months period, the employer intends to terminate, at least, 2 or 5 employees (whether the company has up to 50 employees or more than 50 employees, respectively) the collective dismissal shall apply, otherwise the individual redundancy procedure shall be the applicable one.

In order to terminate the employment contract, either by redundancy or in the extent of a collective dismissal, the employer has to enact a procedure, which involves the affected employee(s), the workers committee and the Ministry of Labour.

In short, the procedure comprises 3 stages: (i) initial written communication to the affected employee(s), (ii) information and consultation with the employees and their representatives and (iii) decision of the procedure, which has to be communicated with prior notice, from 15 to 75 days, depending on the seniority of the affected employee(s). The Labour Code 2009 has reduced the duration of these stages but, in some cases, has increased the prior notice period, which in the Labour Code 2003 has 60 days to every employees, irrespectively of their seniority.

The compliance with the several legal requirements foreseen for the initial communication and for the decision is most relevant, otherwise the termination shall be deemed as wrongful. Please note that, in respect to the individual redundancy procedure, Law n. 23/2012 has brought a relevant amendment: if there are 2 or more employees performing the same functions, to select the position to be terminated, the employer is no longer subject to criteria exclusively based on the seniority of the employees; in fact, the selection of the employee to be terminated in now based on "relevant and non-discriminatory criteria" determined by the employer. However, this amendment has recently been ruled as unconstitutional by the Constitutional Court, thus, the seniority criteria shall remain in force.

The termination by redundancy or by collective dismissal entitles the employee to a compensation. As referred above, this matter has been subject to relevant amendments, implemented by Law n. 53/2011 and, more recently, by Law n. 69/2013 of August 30. The compensation will be calculated in different terms, whether the employment contract has been entered into before of after November 1 2011.

For contracts prior to November 1 2011, compensation shall be calculated in the following terms: (i) in respect to the period of execution of the contract until October 31 2012, compensation is equivalent to one month of base salary per each year of seniority; (ii) in respect to the period from November 1 2012 to September 30 2013, the compensation is equivalent to 20 days of base salary per each year of seniority and (iii) in respect to the period from October 1 2013 until the date of termination, the compensation is equivalent to 18 days of base salary per each complete year of seniority (in the first 3 years, when the contract has not reached 3 years on October 1 2013) and to 12 days of base salary per each complete year of seniority (in the subsequent years until the date of termination). The compensation calculated in accordance has the following with these rules cannot be lesser than the equivalent to 3 months of base

salary. In respect to the periods referred in (ii) and (iii), the relevant salary cannot exceed 20 times the minimum national wage (€485,00) with a maximum amount equivalent to 12 times the monthly base salary or, if the monthly salary exceeds €9.700,00, the compensation cannot exceed €116.400,00 (240 times Portuguese minimum wage).

For contracts entered into between November 1 2011 and September 30 2013, the compensation shall be calculated in the terms referred in (ii) and (iii), with the maximum limits referred above. However, these rules have the following exceptions:

- When the first parcel of the compensation (i.e, from the admission to October 31 2012 or from the admission to September 30 2013, as the case may be) is equivalent or exceeds 12 times the monthly salary of the employee or 240 times the Portuguese minimum wage (i.e., ¤116.400,00), the remaining parcels of the compensation shall not be calculated, thus, the compensation shall be exclusively calculated until said dates.

- If the part of the compensation calculated until the dates referred in (a) above does not exceed 12 times the monthly salary of the employee or 240 times the Portuguese minimum wage (i.e., €116.400,00), the total amount of the compensation cannot exceed these limits.

- If the parts of the compensation for contracts prior to November 1 2011 referred in (i) and (ii) above is equivalent or exceeds 12 times the monthly salary of the employee or 240 times the Portuguese minimum wage (i.e., €116.400,00), the parcel (iii) shall not apply. If the same parts of the compensation referred in (i) and (ii) does not exceed 12 times the monthly salary of the employee or 240 times the Portuguese minimum wage (i.e., €116.400,00), the total amount of the compensation cannot exceed these limits.

For contracts entered into after October 1 2013 compensation is equivalent to 12 days of base salary per each complete year of seniority. If the court rules the termination as wrongful, the terms referred above in respect to termination with cause shall apply.

Termination by agreement. The employer and the employee may, at any time, agree in written on the termination of the employment contract. The law does not provide any minimum or maximum limits for the compensation to be paid (in fact, the payment of a compensation is not mandatory). The employee may revoke the termination agreement within the 7 days subsequent to the date of its signature, save if it is entered into before a public notary, where it shall produce its effects irrevocably as of the date of signature.

Permanent employment contracts

This is the standard type of employment contracts, as term employment contracts may only be entered into under specific conditions (see below).

The contract does not have to be executed in written, although under the law, the employer has to render to the employee information on the basic terms of the agreed employment. The trial period for these contracts varies according to the functions to be performed: (i) 90 days for standard employees, (ii) 180 days for employees holding a trust position or committed to functions requiring high technical skills and (iii) 240 days for management and senior employees. However, the parties may agree on the reduction or exclusion of the trial period.

Save in the cases of termination during the trial period, termination with cause, individual redundancy or collective dismissal, the employer is absolutely prevented from unilaterally terminating the employment contract.

The employee may terminate the contract at any time by means of a written communication addressed to the employer with 30 or 60 days of prior notice, whether he/she has up to 2 years or more than 2 years of seniority, respectively.

Term employment contracts

This type of employment contracts may only be entered into to face a temporary need of workforce and for the period of time strictly necessary. Although the law provides an open clause to define said "temporary need of workforce", it also foresees some situations which generally enable the employer to hire term employees, from which we highlight the following: (i) replacement of employees temporarily prevented from rendering their activity, (ii) exceptional increase of the company's activity, (iii) execution of a determined work or project (e.g., a services agreement entered into by the company), (iv) start-up of a new company or activity and (v) hiring of first-job seekers or long term unemployed persons.

Failure to comply with these requirements determines that the contract shall be deemed as a permanent one. There are fixed-term employment contracts and uncertain term employment contracts, where the first are the most common.

Fixed term employment contract may be entered for a maximum of 3 years and within such period be subject to 3 renewals. Uncertain term employment contract are limited to a maximum duration of 6 years. The employee may terminate the fixed-term contract at any time, by means of a written communication addressed to the employer with 15 or 30 days prior notice, whether the contract has been entered into for less than 6 months or for 6 or more months, respectively.

The fixed term contract terminates in the end of the agreed term (or of its renewals). To such effect, the employer has to communicate the termination to the employee by means of a written communication with 15 days notice before the said term, otherwise the contract shall be automatically renewed or converted into a permanent employment contract (if it cannot be renewed again or if it has reached its maximum duration).

The employee may also terminate the contract in these terms, by means of a written communication addressed to the employee with 8 days prior notice. The termination of the contract by the employer upon its terms entitles the employee to a compensation. The provisions on the calculation of the compensation were also amended by Law n. 23/2012 and by Law n 69/2013, as follows:

For contracts entered into before November 1 2011, compensation shall be calculated in the following terms: (i) in respect to the period of execution of the contract until October 31 2012, compensation is equivalent to 2 or 3 days of base salary per each month of duration of the contract, whether the contract has been in force for more than 6 months or up to 6 months, respectively one month of base salary per each year of seniority; (ii) in respect to the period from November 1 2012 until September 30 2013, compensation in equivalent to 20 days of base salary per each year of seniority and (iii) in respect to the period from October 1 2013 until the date of termination, compensation is equivalent to is equivalent to 18 days of base salary per each complete year of seniority (in the first 3 years, when the contract has not reached 3 years on October 1 2013) and to 12 days of base salary per each complete year of seniority (in the subsequent years until the date of termination).

The exceptions and limits to the amount of the compensation provided above for permanent contracts shall also apply. The termination of a term employment contract by the employee does not entitle him/her to be paid any compensation.

The recent amendments to the provisions on the compensation have enacted a new system of payment of the compensation, applicable only to employment contracts entered into after October 1 2013. To ensure that the compensation is paid by the employer, two public Funds have been created (although the employer may opt by a private Fund). These Funds are funded by the employer, which has to deliver monthly an amount equivalent to 1% of the employee's salary. When the contract terminates – except in the cases of agreement – the compensation is paid by the employer but the Find shall support half of the amount paid.

Management employment contracts

These contracts are less common in Portugal but represent more flexibility to the employer as it may terminate it at any time. The Labour Code has extended the cases where this contract is admissible. Therefore, besides the cases of employees committed to managing (or equivalent) functions directly dependent from the board of directors, as well as to the admission of personal secretaries of employees holding such management positions, management employment contracts may now also be entered into for the so called 2nd line directors (directors dependent of the General Manager).The main aspects of these contracts remain unaltered, as follows:

- 180 days trial period (may be reduced or suppressed by agreement of the parties);-

- Either party may terminate the contract by means of a written communication addressed to the other party with 30 or 60 days of prior notice, whether the employee has up to 2 years or more than 2 years of seniority, respectively (the parties may agree on the extension of the notice period);

- Termination by the employer entitles the employee to a compensation equivalent to 20 days of base salary per each year of seniority, with a maximum amount equivalent to 12 months of base salary, or, if the monthly salary exceeds €9.700,00, the compensation cannot exceed €116.400,00 (240 times Portuguese minimum wage). In any case, the amount of the base salary for calculation of the compensation cannot exceed the equivalent to 20 times the Portuguese minimum wage (currently, €485,00, thus, the limit is €9.700,00).

Social Security

The employer and the employee have to pay contributions to social security, which are calculated over the regular salaries paid to the employee, through a 34,75% rate, where 23,75% is supported by the employer and 11% is supported by the employee under a PAYE system.

In respect to members of the board, since January 1 2013 the social security rate is the same. In this case, the rate is applied over a conventional salary, varying from ¤419,22 to ¤5.030,64 (figures for 2013). The director may opt to pay contributions over the real salary, when it exceeds said maximum limit, as long as he has, in 2010, less than 56 years old and the company authorizes it.

Unemployment subsidy

The termination of an employment contract shall entitle the employee to the unemployment subsidy whenever the unemployment has not resulted from a decision of the employee (save in the cases where the employees terminates the contract with cause).

The unemployment subsidy is granted by the social security services. Its amount is calculated in accordance with the salary of the beneficiary in the 14 months preceding the unemployment and shall be equivalent to 65% of that salary. The amount of the unemployment subsidy is limited to 2,5 times the Social Benefits Index (currently, €1.048,05 = €419,22 * 2,5).

This subsidy is granted for a period which duration varies in accordance with the age and the contributive record of the employee/beneficiary, from a minimum of 150 days to a maximum of 780 days. The maximum amount of the subsidy and the periods of granting have also been recently reduced by Decree-Law n. 64/2012 of March 15.

The beneficiary is prevented from cumulate the unemployment subsidy with other income resultant from a professional activity, save in limited cases of low income.

Retirement

The statutory age for retirement is 65 years old – although it is expectable to raise to 66 years old in 2014 - with a minimum of 15 years of registered and paid contributions to social security.

However, employees may require the retirement with, at least, 55 years old, but the amount of the retirement pension shall be reduced per each month of anticipation. As a general rule, the beneficiary may cumulate the retirement pension (except in the case of anticipated retirement) with income resultant from the performance of a professional activity.