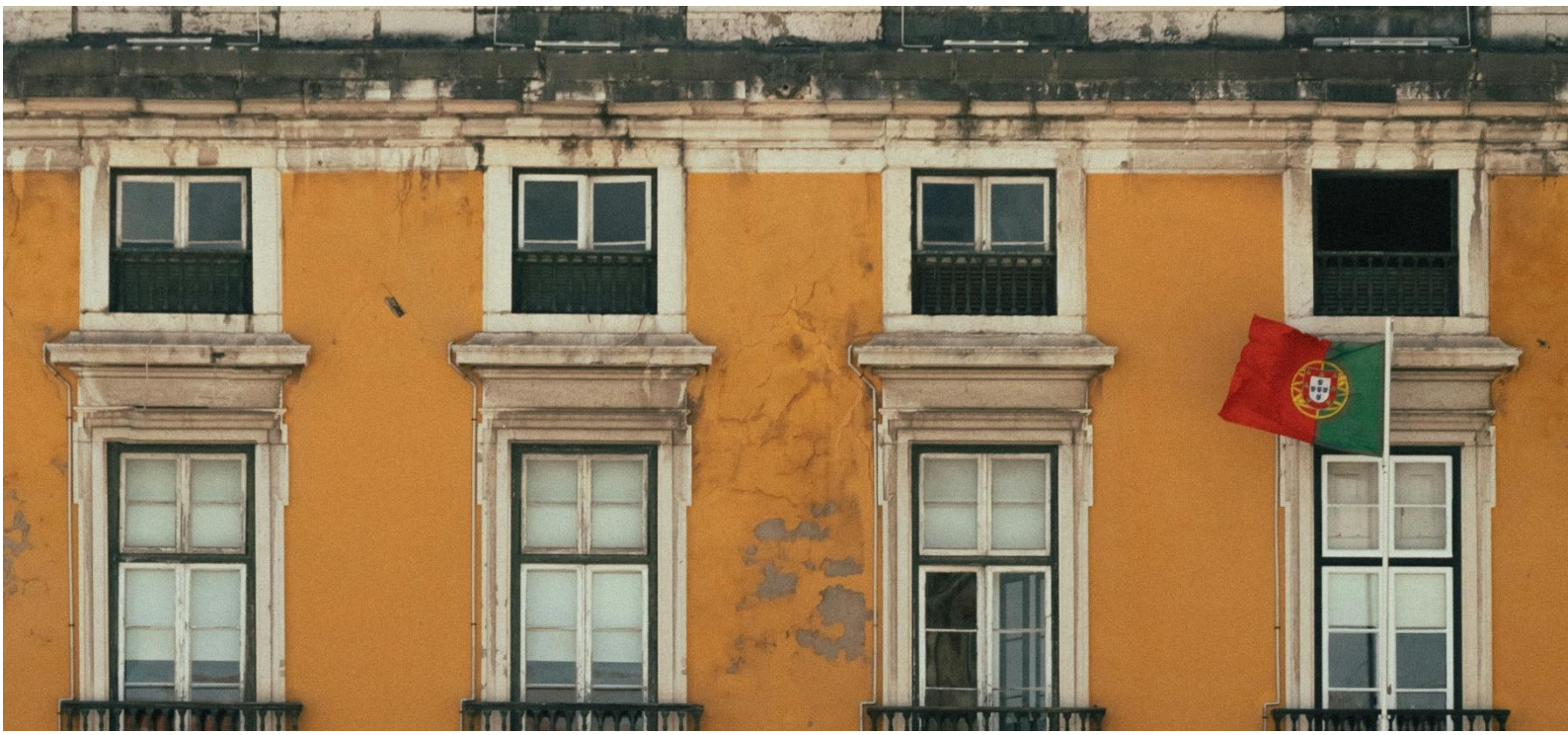


# MdME

## INSIGHT

*When disaster strikes: How should employers react to Portugal's wildfires?*



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*The Portuguese government has declared a state of emergency in some municipalities in response to the wildfires that have ravaged Portugal. The Portuguese Prime Minister highlighted the profound impact on workers and businesses in the affected areas — when faced with wildfires.*

*Portuguese employers may have access to some supporting measures to help them continue with their obligations under Portuguese law.*

Luís Montenegro specifically mentioned the "people who were unable to go to work" and the "companies prevented from producing" due to the fires.

It is therefore important to recall which mechanisms for maintaining employment contracts are provided in the Portuguese Labor Code when workers are unable to perform their duties and employers are unable to receive them for reasons beyond their control.

If the closure or reduction of the company's activity is considered *accidental* or due to *force majeure* (in this case, as a result of the wildfires), the employer can resort to the mechanism of article 309(a) of that Code, **which allows the reduction of workers' wages to 75%**, aiming to provide financial relief to the employer for reinvesting in the company's recovery.

Although, **the traditional Lay-off** (in its standard form, not the exceptional model created to respond to the COVID-19 pandemic) may fulfill this objective more effectively.

Following the legal procedure, through *Lay-off*, the employer can determine that (1) *all or part of their employee* are (2) either *totally or partially inactive*.

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The worker's remuneration during the period of inactivity (whether full or partial) is replaced by a "**compensatory remuneration**" of which 30% is covered by the employer and 70% is co-financed by the Social Security Institute.

It is guaranteed that the employees affected will receive *two-thirds of their remuneration or the minimum wage corresponding to their normal working hours, whichever is higher, up to a maximum of three minimum wages*:

- a. In the case of full suspension of activity, the compensatory remuneration becomes the worker's only income, without prejudice to the following paragraph.
- b. In situations where the normal working hours are reduced, compensatory remuneration is added to the wage for the work performed.

This compensation may be reduced or even cease to be due, if the worker takes up another professional activity outside the company.

During the *Lay-off* period, the employer cannot terminate employment contracts, except in cases of fixed-term employment contracts or dismissal with just cause.

In addition to the mechanisms provided in the Labor Code, *given the industrial and agricultural interests of the affected areas and the importance of keeping populations in rural zones*, it will be essential to create **exceptional measures to support the maintenance of employment contracts**, as was done following the 2017 wildfires that particularly affected Pedrogão Grande. It may also be necessary to **revive or create exceptional contribution exemption schemes**, a measure that was replicated, namely, in 2020 and 2022 following the wildfires that affected Vale do Sousa and Baixo Tâmega, and the Serra da Estrela Natural Park, respectively.

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Our Labor Law team is available to assess the suitability of these measures, verify compliance with the relevant legal requirements, and support their implementation or the adoption of other solutions that may be more advantageous, taking into account the company's specific situation.

Without prejudice to the measures that may be adopted, we are committed to providing comprehensive support to address the specific needs and challenges faced by the companies and employees.

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