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AFTER THE STORM: SEVERANCE PAY IN PORTUGAL AND SPAIN (I)

The winds of reform are blowing hard in Southern Europe and few stones seem to be left unturned. Banks, taxes and pensions are some of the favorite targets, although perhaps changes in labor law best exemplify its far-reaching effects.

Relationships between employers and employees are being put to the test with the constant enactment of new legislation. As if this uncertainty weren't enough, the Constitutional Courts are putting their own two cents in the unfolding drama as their rulings deem parts of the reformed law non-constitutional, sending the legislative and the Government back to the drawing board.

In two editions of AVCO News we will compare severance pay for objective dismissal (based on technical, organizational, economic or production-related grounds) in Spain and Portugal.

Reform in Portugal actually kicked off with a major overhauling of the Labor Code by way of Law 7/2009, of February 12. We then passed on to Law 53/2011, of October 14, then on to Law 23/2012, of June 25 and, finally, Law 69/2013, of August 30.

Each one of these laws has reduced the amount of severance pay awarded by employers to employees, slashed by a total of 60% in a matter of two years. The starting point for indefinite agreements was set at one-month pay per year of seniority (with a minimum of 3 months' pay) down to 20 days per year (with no minimum), to 18 days and finally 12.

So how does it work in practice?

We can consider different types of combinations depending on when the agreement begins and when it ends, but we'll use two basic examples: one for an indefinite term agreement; the other for a fixed-term.

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Example 1: Indefinite term agreement

Duration: From January 1, 2011 till December 31, 2016.

Salary: € 1,500/ month

We have to break it down to four parts as per the four laws abovementioned:

a) From January 1, 2011 to October, 31, 2012 – the rule is one month per year of seniority: € 1,500 x 1,833 = € 2,749.50;

b) From November 1, 2012 to September 30, 2013 – the rule is 20 days per year of seniority: (€ 1,500 x 30) x 20 days x 0,913 years = € 913

c) From October 1, 2013 to December 31, 2013 – the rule is 18 days per year of seniority: (€ 1,500 x 30) x 18 x 0,25 = € 225;

d) From January 1, 2014 to December 31, 2016 – the rule is 12 days per year of seniority: (€ 1,500 x 30) x 12 x 3 = € 1,800.

Adding up those four parts we get a total of € 5,687.50, which represents almost 37% less than with the first rule (€ 9,000).

Example 2: Fixed-term agreement

Duration: From January, 1 2011 till December 31, 2015.

Salary: € 1,500/ month

Once again, we have to break it down to four parts:

a) From January 1, 2011 to October 31, 2012 – the rule is two days per month of seniority. Daily salary being € 69.23, our calculation is € 69.23 x 2 x 22 months = € 3,046.12.

b) From November 1, 2012 to September 30, 2013 – the rule is 20 days per year of seniority: (€ 1,500 x 30) x 20 days x 0,913 years = € 913

c) From October 1, 2013 to December 31, 2013 – the rule is 18 days per year of seniority: (€ 1,500 x 30) x 18 x 0,25 = € 225;

d) From January 1, 2014 to December 31, 2016 – the rule is 12 days per year of seniority: (€ 1,500 x 30) x 12 x 2 = € 1,200.

Adding up those four parts we get a total of € 5,384.12, which represents almost 20% less than with the first rule (€ 6,674).

In our next edition we will take a look at the reform on the Spanish side.