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PORTUGAL REAL ESTATE SUMMIT

*Regulatory challenges in the context of the COVID'19
Pandemic*

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Regulatory challenges in the context of the COVID'19 Pandemic

SUMMARY

1. Suspension and extension of validity terms and procedural deadlines
2. Moratorium on leases and bank loans
3. Exclusion from the duty of “compensation for sacrifice”
4. Legal waiver of contractual obligations granted to shop users in shopping centers

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1. SUSPENSION AND EXTENSION OF VALIDITY TERMS AND PROCEDURAL DEADLINES

- Several deadlines and validity terms have been suspended or extended since March 2020 to guarantee the exercise of rights by citizens and companies.

Examples:

Extension of validity term of several official documents, licenses and authorizations until 31 December 2021

Suspension of administrative deadlines

Documents and visas for the permanence in national territory

- Final balance of these measures to be made:

Benefits for private citizens | Decision making procedures of the Public Administration

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2. MORATORIUM ON LEASES AND BANK LOANS

- Moratoriums in two different areas:

Rent moratorium on urban residential and non-residential leases

Decree-Law no. 4-C/2020, 6 April
- 6 amendments

Bank moratoriums on loans and financial or operational leases

Decree-Law no. 10-J/2020, of 26 March
- 9 amendments

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2. MORATORIUM ON LEASES AND BANK LOANS

- **Rent moratoriums**

- Provided certain requirements are met, the beneficiaries may defer the payment of rents due during a certain period of time.

- **Bank moratoriums (including for individuals regarding credit for permanent own housing)**

- Prohibition of total or partial revocation of credit lines and loans
- Extension of loans with payment of capital at the end of the contract
- For credits with partial repayment of capital or with maturity installments of other pecuniary obligations → Suspension, during the period the measure is in force, of payment of capital, rents and/or interests with expected maturity until the term of such period.

Most measures apply until 30 September 2021 (other until the end of 2021)

The real problem starts now?

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3. EXCLUSION OF COMPENSATION “FOR SACRIFICE”

- **Measure:**

- *Exclusion of compensation for damages resulting from acts regularly adopted by public entities, when acting in the exercise of powers attributed by public health and civil protection legislation or in the framework of the state of emergency for the purposes of prevention and fight against the COVID-19 pandemic, which constitutes a cause of force majeure for this purpose.*

| Article 9 of Decree-Law no. 19-A/2020, of 30 April |

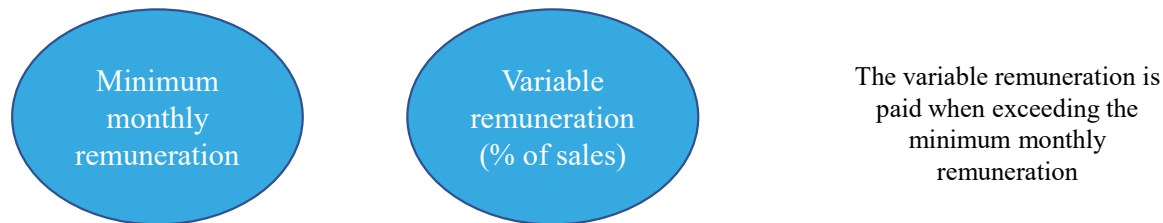
- **What is at stake here?**

- Measure aims to cover acts adopted by the State to fight the pandemic itself and not its economic effects.
- Application of the law to be followed up closely.

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4. LEGAL WAIVER TO SHOP USERS REGARDING THE PAYMENT OF A FIXED REMUNERATION

- Typically, agreements entered into between shop users and owners of shopping centers have a two-tier structure



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- The measure adopted exempted shopkeepers from paying the fixed remuneration and did not exclude stores operated by companies dedicated to activities that did not close during the pandemic period, such as supermarkets (2020).
- For 2021, the State Budget Law provides that the minimum monthly remuneration is to be reduced proportionally to the reduction in monthly sales, up to the limit of 50% of the value of such minimum remuneration.

| **Issues of proportionality, equality and violation of private property** |

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FINAL COMMENTS

- **The pandemic created a legislative pandemonium**

- Multiple legal regimes with an immense number of amendments.

- **The new normal?**

- What will be the “new normal” in terms of interference of the State within relations between private parties?

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One should never miss the opportunity created by a crisis to do what was previously considered impossible (Milton Friedman, Rahm Emmanuel)

Crisis define a new normal (Dick Cheney)

THANK YOU!

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