

TAP, S.A. AND PORTUGÁLIA, S.A. LABOR AGREEMENTS ENSURE A DEEP LABOR RESTRUCTURING OF THE TAP GROUP

GUILHERME DRAY ■ ESTELA GUERRA ■ JOANA FUZETA DA PONTE

TAP, S.A., Portugália, S.A., and the fourteen labor unions that represent the airline concluded, between February 5 and 11, eight fundamental emergency agreements to the company's restructuring¹.

The emergency agreements were signed under article 502, n.º 2, of the Portuguese Labor Code, that allows the suspension of collective agreements by agreement between employers and unions in the event of a serious business crisis.

The labor restructuring process is part of TAP's Restructuring Plan, presented by the Portuguese Government in Brussels (DG Competition) as necessary to the approval of State subsidies given to the company. TAP, along with several airline companies worldwide, was deeply affected by the world economic crisis caused by the pandemic.

This process, absolutely remarkable for the year of 2021, was one of the most relevant labor processes in the history of the airline company and maybe even in the history of collective bargaining in Portugal.

As it is known, TAP Group's Restructuring Plan includes fleet restructuring, financial restructuring, and labor restructuring. The labor restructuring, with savings of 1.4 Billion euros, covers a wide range of measures, such as part-time work, unpaid leave, wage reductions, revocation of employment contracts, pre-retirement agreements and, ultimately, collective dismissals.

The emergency agreements, that will last until December 31, 2024, include the following measures:

- a. Wage reductions across the entire company, through a 25% wage cut, including both the base salary and all wage supplements (seniority, overtime, night work, annuities, shift subsidies, etc.);
- b. Freezing and suspending of all automatic progressions and promotions and any wage increases;
- c. Suspension of several clauses of the company agreements and other regulations that were in force in the company, namely the Salary Regulation, Retirement and Social Guarantees and the Work

¹ The TAP Group had the Boston Consulting Group team as financial consultants, led the partner Carlos Elavai and the labor law team of MACEDO VITORINO, which has extensive experience in collective bargaining, particularly in the road, rail, transport and infrastructure, and health sectors as legal advisors, led by the partner Guilherme Dray.

Use and Performance Regulation, in order to guarantee savings and productivity gains for the company in the organization of time off, working hours and in the management of fleet personnel;

- d. In the case of crew members and aircraft maintenance technicians, transversal and mandatory application of part-time work, with the following reduction in normal working hours: 15% (2021); 10% (2022); 5% (2023);
- e. Suspension of the clause that guaranteed crew members a special allowance corresponding to 15 days per month, in addition to their basic pay, even if they flew less than 15 days. This guarantee will decrease to 6 days in 2021 and cease to apply as of January 1, 2022; flexibility of the airplane crew composition regulation was adjusted as well and, in some cases, will operate with the minimum crew defined by the aircraft manufacturer; for long-haul aircraft, working hours will be defined by European regulations;
- f. Increased wage reduction for pilots on the top of the 25% of reduction applied to all workers. The reduction will be progressive: 50% (2021), 45% (2022), 40% (2023) e 35% (2024); annual exercise and seniority fees and the payment of the "fine", that included paying pilots a special remuneration for the months they flew less, were suspended; increased payment for hours on vacation and time off was also suspended; the number of times the company pays a social security supplement in the case of short-term illness was also reduced, being limited to a maximum of 6 events per year (6X3 days); and a mechanism of equitable distribution of working hours and no overtime work, most of the time, as included.

The Agreements also state that the parties should initiate, in the first trimester of 2021, the renegotiation of the company agreements that were suspended to adjust them to the company's budget targets and environmental sustainability goals for 2025.

The emergency agreements negotiation was concluded in 15 days only, in several negotiating rounds in person and through video conference, that lead to the conclusion of eight agreements with fourteen labor unions, covering pilots, cabin crew and ground employees, including civil aviation and airport workers, aircraft maintenance, metallurgists, commercial aviation managers, economists, handling technicians.

April 19, 2021

This article reflects only the personal opinion of its authors, it is not binding to MACEDO VITORINO. The opinions expressed in this article that deal with legal matters are of a general nature and should not be considered as professional advice. Should you need legal advice on these matters you should contact a lawyer. If you are a client of MACEDO VITORINO, you may contact us by email addressed to mv@macedovitorino.com.