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Check

DecentWorkCheck Tunisia is a product of
WageIndicator.org and www.votresalaire.org/tunisie



National Regulation exists



National Regulation does not exist

01/13 Work & Wages

	NR	Yes	No
1. I earn at least the minimum wage announced by the Government		<input type="checkbox"/>	<input type="checkbox"/>
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)		<input type="checkbox"/>	<input type="checkbox"/>

02/13 Compensation

3. Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate)</i>		<input type="checkbox"/>	<input type="checkbox"/>
4. Whenever I work at night, I get higher compensation for night work		<input type="checkbox"/>	<input type="checkbox"/>
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day		<input type="checkbox"/>	<input type="checkbox"/>
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it		<input type="checkbox"/>	<input type="checkbox"/>

03/13 Annual Leave & Holidays

7. How many weeks of paid annual leave are you entitled to?*		<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 4+
8. I get paid during public (national and religious) holidays		<input type="checkbox"/>	<input type="checkbox"/>
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week		<input type="checkbox"/>	<input type="checkbox"/>

04/13 Employment Security

10. I was provided a written statement of particulars at the start of my employment		<input type="checkbox"/>	<input type="checkbox"/>
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature <i>Please tick "NO" if your employer hires contract workers for permanent tasks</i>		<input type="checkbox"/>	<input type="checkbox"/>
12. My probation period is only 06 months		<input type="checkbox"/>	<input type="checkbox"/>
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)		<input type="checkbox"/>	<input type="checkbox"/>
14. My employer offers severance pay in case of termination of employment <i>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</i>		<input type="checkbox"/>	<input type="checkbox"/>

05/13 Family Responsibilities





15. My employer provides paid paternity leave <i>This leave is for new fathers/partners and is given at the time of child birth</i>		<input type="checkbox"/>	<input type="checkbox"/>
16. My employer provides (paid or unpaid) parental leave <i>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</i>		<input type="checkbox"/>	<input type="checkbox"/>
17. My work schedule is flexible enough to combine work with family responsibilities <i>Through part-time work or other flex time options</i>		<input type="checkbox"/>	<input type="checkbox"/>

06/13 Maternity & Work





18. I get free ante and post natal medical care		<input type="checkbox"/>	<input type="checkbox"/>
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work		<input type="checkbox"/>	<input type="checkbox"/>
20. My maternity leave lasts at least 14 weeks		<input type="checkbox"/>	<input type="checkbox"/>

* On question 7, only 3 or 4 working weeks is equivalent to 1 "YES".





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- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy
<i>Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity</i> |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | I have the right to get same/similar job when I return from maternity leave |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | My employer allows nursing breaks, during working hours, to feed my child |  | <input type="checkbox"/> | <input type="checkbox"/> |





07/13 Health & Safety

- | | | | | |
|-----|--|---|--------------------------|--------------------------|
| 25. | My employer makes sure my workplace is safe and healthy |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | My employer provides protective equipment, including protective clothing, free of cost |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |









08/13 Sick Leave & Employment Injury Benefits

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 29. | My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. | I have access to free medical care during my sickness and work injury |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | My employment is secure during the first 6 months of my illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | I get adequate compensation in the case of an occupational accident/work injury or occupational disease |  | <input type="checkbox"/> | <input type="checkbox"/> |

09/13 Social Security













- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 33. | I am entitled to a pension when I turn 60 |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | When I, as a worker, die, my next of kin/survivors get some benefit |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | I get unemployment benefit in case I lose my job |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident |  | <input type="checkbox"/> | <input type="checkbox"/> |

10/13 Fair Treatment



- | | | | | |
|-----|--|---|--------------------------|--------------------------|
| 37. | My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. | My employer take strict action against sexual harassment at workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 39. | I am treated equally in employment opportunities (appointment,promotion, training and transfer) without discrimination on the basis of:* |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Sex/Gender |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Race |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Colour |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Religion |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Political Opinion |  | <input type="checkbox"/> | <input type="checkbox"/> |

* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.




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	Nationality/Place of Birth		<input type="checkbox"/>	<input type="checkbox"/>
	Social Origin/Caste		<input type="checkbox"/>	<input type="checkbox"/>
	Family responsibilities/family status		<input type="checkbox"/>	<input type="checkbox"/>
	Age		<input type="checkbox"/>	<input type="checkbox"/>
	Disability/HIV-AIDS		<input type="checkbox"/>	<input type="checkbox"/>
	Trade union membership and related activities		<input type="checkbox"/>	<input type="checkbox"/>
	Language		<input type="checkbox"/>	<input type="checkbox"/>
	Sexual Orientation (homosexual, bisexual or heterosexual orientation)		<input type="checkbox"/>	<input type="checkbox"/>
	Marital Status		<input type="checkbox"/>	<input type="checkbox"/>
	Physical Appearance		<input type="checkbox"/>	<input type="checkbox"/>
	Pregnancy/Maternity		<input type="checkbox"/>	<input type="checkbox"/>
40	I, as a woman, can work in the same industries as men and have the freedom to choose my profession		<input type="checkbox"/>	<input type="checkbox"/>





11/13 Minors & Youth

41.	In my workplace, children under 15 are forbidden		<input type="checkbox"/>	<input type="checkbox"/>
42.	In my workplace, children under 18 are forbidden for hazardous work		<input type="checkbox"/>	<input type="checkbox"/>

12/13 Forced Labour

43.	I have the right to terminate employment at will or after serving a notice		<input type="checkbox"/>	<input type="checkbox"/>
44.	My employer keeps my workplace free of forced or bonded labour		<input type="checkbox"/>	<input type="checkbox"/>
45.	My total hours of work, inclusive of overtime, do not exceed 56 hours per week		<input type="checkbox"/>	<input type="checkbox"/>

13/13 Trade Union Rights

46.	I have a labour union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
47.	I have the right to join a union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
48.	My employer allows collective bargaining at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
49.	I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination		<input type="checkbox"/>	<input type="checkbox"/>

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Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:



is your amount of "YES" accumulated.

Tunisia scored 38 times "YES" on 49 questions related to International Labour Standards

If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.



DECENT WORK CHECK

TUNISIA 2023

Iftikhar Ahmad

WageIndicator Foundation - www.wageindicator.org

WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

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Bibliographical information

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For an updated version in the national language, please refer to <https://votresalaire.org/tunisie>

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TABLE OF CONTENTS

INTRODUCTION	1
MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR.....	2
01/13 WORK & WAGES	3
03/13 ANNUAL LEAVE & HOLIDAYS	9
04/13 EMPLOYMENT SECURITY	12
05/13 FAMILY RESPONSIBILITIES.....	16
06/13 MATERNITY & WORK	18
07/13 HEALTH & SAFETY	21
08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT	24
09/13 SOCIAL SECURITY	27
10/13 FAIR TREATMENT	30
11/13 MINORS & YOUTH	33
12/13 FORCED LABOUR.....	36
13/13 TRADE UNION.....	38
QUESTIONNAIRE.....	41

INTRODUCTION

Decent Work is the type of work for which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental Principles and Rights at Work and Core ILO Conventions, are practised, promoted and respected.

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., **Decent Work Check**. The Decent Work Check considers different work aspects deemed necessary in attaining “decent work”. The work makes the abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and scores the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Finally, workers can compare their personal score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

A Decent Work Check is beneficial both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also helpful for researchers, labour rights organisations conducting surveys on the situation of rights at work and the general public wanting to know more about the world of work. For example, WageIndicator teams worldwide have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed – being a worker, self-employed, employee, employer, policymaker, labour inspector – there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer), and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work, especially the effective enforcement of legislation in financially constrained states, a rise in precarious employment and analysing the impact of regulatory regimes.

In 2023, the team aims to include at least 15 more countries, thus taking the number of countries with a Decent Work Check to 125!

The text in this document was last updated in April 2023. For the most recent and updated text on Employment & Labour Legislation in Tunisia in French, please refer to: <https://votresalaire.org/tunisie>

MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. Tunisian Constitution of 2014
2. Labour Code 1966, last amended in 2017
3. Penal Code, 2005
4. Framework Collective Agreement 1973
5. Criminal Code 2005
6. Decree No. 2000-98 on Prohibition of Hazardous Occupations or Activities for Children
7. Law on Education and Schooling, 2002
8. Law No. 2000-17
9. Decree No. 86-433 of the Protection against Ionizing Radiations
10. Act No. 83-112
11. Act No. 60/30 of the Organisation of Social Security Schemes
12. Act No. 81-6 of Organizing Social Security Schemes in Agriculture
13. Decree No. 3230 of 2006
14. Act No. 58 of 2006
15. Decree No. 2011-317 of 26 March 2011
16. Decree No. 87-1097
17. Décret gouvernemental n° 2015-1762 du 9 novembre 2015, fixant le salaire minimum interprofessionnel garanti dans les secteurs non agricoles régis par le code du travail
18. Décret gouvernemental n° 2015-1763 du 9 novembre 2015, fixant le salaire minimum agricole garanti

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

Tunisia has ratified the Conventions 95 and 117.

Summary of Provisions under ILO Conventions

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

Regulations on work and wages:

- Labour Code 1966, last amended in 2017
- Décret gouvernemental n° 2015-1762 du 9 novembre 2015, fixant le salaire minimum interprofessionnel garanti dans les secteurs non agricoles régis par le code du travail
- Décret gouvernemental n° 2015-1763 du 9 novembre 2015, fixant le salaire minimum agricole garanti

Minimum Wage

The minimum wage rate is the wage level set for workers in positions that do not require a professional qualification and below which no employee should be remunerated.

Minimum wage rate for agricultural (SMAG) and non-agricultural (SMIG) sector are determined and revised by the government in a decree, after consultations with the most representative employers' and workers' organisations. In those sectors where minimum wages are not determined by the collective agreements, these can be fixed by the Decree.

Recommendations for minimum wage rates for both agricultural and non-agricultural workers are made by the "National Committee on Social Dialogue", headed by the Minister of Social Affairs. Wage rate may also be set through collective agreement, provided that the wage rate must not be lower than the minimum wage rate determined by the Government.

Minimum wage rate is fixed on the basis of productivity. However, minimum wages may vary in the agricultural and non-

agricultural sector. Wage rate for piece-rate workers is determined at such a level that workers are assured of receiving at least the minimum wage rate set by decree or sectorial collective agreement.

The current guaranteed minimum inter-professional wage, determined in August 2018, in the non-agricultural sectors is fixed at 378.560 dinars and at 323.439 dinars per month and 1820 millimes and 1868 millimes per hour, respectively for the working system of 48 hours and 40 hours a week, for the employees for worker (irrespective of gender) who are at least 18 years old. The young employees who are at least eighteen (18) years old may under no circumstances receive a wage inferior to 85% than that of the adult.

The guaranteed minimum agricultural wage is fixed at 14.560 dinars a working day for workers who are at least eighteen (18) years old. The specialized and qualified agricultural workers are allowed a premium referred to as "technicality premium" whose amount is uniformly fixed as follows:

- For the specialized workers: 776 millimes a day;
- For the qualified workers: 1460 millimes a day

The above-referred premium is added to the amount of the guaranteed minimum agricultural wage, and for each day during which the worker has done a work requiring a specialization or a qualification.

Failure to pay the minimum wage shall result in a fine of 24 to 60 dinars. This fine is applied for each employee being paid a wage that is less than the minimum rate provided for in the legislation. In the event of repetitive offence/recurrence, the penalty is doubled.

Source: §134 & 234 of the Labour Code 1966, last amended in 2017; Décret gouvernemental n° 2018-672 du 7 août 2018, fixant le salaire minimum interprofessionnel garanti dans les secteurs non agricoles régis par le code de travail; Décret gouvernemental n° 2018-673 du 7 août 2018, fixant le salaire minimum agricole garanti; Décret gouvernemental n° 2018-674 du 7 août 2018, portant majoration des salaires dans les secteurs non agricoles régis par le code de travail et non couverts par des conventions collectives sectorielles ou par des statuts particuliers

Regular Pay

The term "wage" refers to the remuneration owed to the worker in return for work done for his employer, and which is determined either by agreement between the parties or by collective agreement. Wages include the basic salary as well as all allowances and benefits in cash or in kind, whatever their nature.

Wages must be paid in legal currency in Tunisia unless provided otherwise in an agreement. In kind allowances are permitted however these benefits may not be deducted from the minimum wages paid in cash. Wages of workers employed on hourly and daily basis must be paid at least once a week; and those employed on monthly basis must be paid monthly. Payment date for piece rate workers is determined by agreement between the parties, provided that the workers receive payments every week and it is fully paid within a week of delivery of the work. The payment of wages cannot be made the day that the worker or employee has the right to rest.

The employer must also provide payment slip to his/her workers stating the name and address of employer or business name of the establishment; the number under which the employer pays its contributions the Social Security Fund; the employee's name and the position held by him or qualification; the period and the number of hours or day's work; a list of allowances and benefits in addition to the wages and their amounts; the amount of the gross compensation due to the worker; the nature and amount of deductions made from the gross pay; the amount of net take-home pay by the worker; and the compensation payment date.

Source: §139-149 of the Labour Code 1966, last amended in 2017

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Tunisia has not ratified any of the above-mentioned Conventions.

Summary of Provisions under ILO Conventions

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, the overtime pay rate should not be less than one and a quarter-time (125%) of the regular rate.

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires the performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay, or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

If a worker has to work on a national/religious holiday or a weekly rest day, he/she should be entitled to compensation. Not necessarily in the same week, provided that the right to paid compensation is not.

If a worker has to work during the weekend, he/she should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily at the weekend, but at least in the course of the following week. Similarly, if a worker has to work on a public holiday, he/she must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take away the right to a holiday/ rest.

Regulations on compensation:

- Labour Code 1966, last amended in 2017
- Decree No. 87-1097

Overtime Compensation

Normal working hours are 48 hours per week. Forty-hour work week is also allowed since the minimum wage Decree sets the wage rates for both 40 and 48-hour work week.

Workers may be required to work in excess of normal weekly working hours. However, maximum weekly working hours inclusive of overtime hours cannot exceed 60 hours. This limit is not applicable in case of emergency or urgent work that cannot be postponed in order to prevent accidents or to organise saving measures. In case of civil servants, overtime work cannot exceed two hours per day.

A worker is entitled to monetary compensation for overtime work (allowed for extra activity to increase production) in reference to basic rate of wages as follows:

- 75% for full time workers over a 48-hour work week;
- 25% increase for the hours worked up to 48 hours and 50% increase for subsequent hours for full time workers with less than 48 hours work week; and
- 50% for part-time workers

Civil servants are entitled either to compensatory rest or overtime compensation for overtime work performed.

Hours lost as a result of collective work stoppage in a facility or part of a business,

can be recovered within two months following the interruption of work. The hours thus recovered are paid at a standard rate. Even when recovering the lost working hours, the total hours of work cannot exceed 60 hours per week.

The Labour Code provides for part-time work (not exceeding 70% of the normal working hours applicable to the company — varying between 40-48 hours per week). The part-time contract may be concluded for definite or indefinite time periods however it must be written specifically indicating the professional qualification of the worker, remuneration components, hours of work and mode of work distribution over week, month or a year. Part-time workers have the same rights and obligations as full-time workers.

Source: §79-94 of the Labour Code 1966, last amended in 2017; §1 of the Decree No. 87-1097

Night Work Compensation

Labour code does not provide higher premium pay or reduction in working hours for the workers employed for night work. However, Labour Code prohibits young workers and women from night work.

Young workers under 14 years are not allowed to work during a period of at least 14 consecutive hours that comprise the period between 8:00 pm and 8:00 am. Similarly, women and young workers between 14 and 18 years of age may not work during a period of at least 12 consecutive hours that must comprise the period between 10:00 pm and 6:00 am.

The ban on women's night work is not applicable in the case of:

- a) force majeure;
- b) preserving the materials subject to rapid deterioration;
- c) women holding responsible positions of a managerial or technical nature involving responsibility;
- d) women employed in social services and who does not ordinarily engaged in manual work

In the event of serious emergency where the national interest so requires, the prohibition of night work for children of sixteen to eighteen years and for women may be suspended by decree.

Source: §65 & 66 of the Labour Code 1966, last amended in 2017

Compensatory Holidays / Rest Days

In extraordinary circumstances, workers may perform work on weekly rest days and public holidays. Labour Code does not specify any provision for compensatory holiday for workers working on a weekly rest day and public holiday.

Weekend / Public Holiday Work Compensation

Workers may be required to work on weekly rest days and public holidays. In such circumstances when employees have to work on official holidays, they are entitled to receive wages at a premium rate of 200% of the normal hourly wage rate. Workers are not entitled to any premium compensation for working on weekly rest days.

Source: §109 of the Labour Code 1966, last amended in 2017

03/13 ANNUAL LEAVE & HOLIDAYS

ILO Conventions

Convention 132 (1970) on Holidays with Pay Convention
Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days.
In addition, for several industries, different Conventions apply.

Tunisia has ratified the Conventions 14 & 106 only.

Summary of Provisions under ILO Conventions

An employee is entitled to at least 21 consecutive days of paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

A worker should be entitled to paid leave during national and officially recognised public holidays.

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7-day period, i.e., a week.

Regulations on annual leave and holidays:

- Labour Code 1966, last amended in 2017
- Decree No. 2011-317 of 26 March 2011

Paid Vacation / Annual Leave

The Labour Code provides for annual leave to all workers on completion of at least one month of service. Workers are entitled to 01-day leave per month with the total duration of 15 calendar days (12 working days) of annual leave. The duration of annual leave for workers under 18 years of age cannot exceed 30 calendar days (24 working days) at the rate of two working days per month. The duration of annual leave for workers aged 18-21 years cannot exceed 21 calendar days (18 working days) at the rate of one and a half working days per month.

Annual leave also increases with the length of service. The increase in annual leave is 01 day of extra leave for every 05 years of continuous service with the same employer to a maximum of 18 days of annual leave.

A worker is entitled to his normal wages in the duration of his/her annual leave plus other benefits. The annual leave period should be granted between 1 June and 31 October or in another period as determined by collective or individual agreement or by the employer when worker needs so necessitate and after having consulted the enterprise committee or shop stewards. Labour Code allows for splitting of annual leave however the minimum duration specified is 6 working days.

If the employment contract expires before a

worker could acquire the right to annual leave, compensation for leave is made except when the termination of employment contract is caused by gross negligence of the employee. Interruption in the annual leave caused by the public holiday(s) and/or employee sickness or accident is not considered part of annual leave.

Source: §113-121 of the Labour Code 1966, last amended in 2017

Pay on Public Holidays

In accordance with the Labour Code, workers are entitled to 06 days of paid public holidays, including: Revolution & Youth Festival (14 January), Independence Day (20 March), Labour Day (1 May), Republic Day (25 July), the day of Eid el Fitr (end of Ramadan) and the day of the Eid el Adha (Festival of the Sacrifice).

However, civil servants are entitled to 15 public holidays: First day of the new Hijri year, Mouled (birthday of the Prophet Muhammad PBUH), Eid el Fitr (end of Ramadan — three days), Eid el Adha (Festival of the Sacrifice — two days); New Year (1 January); Revolution & Youth Festival (14 January); Independence Day (20 March); Martyrs' Day (9 April); Labour Day (1 May); Republic Day (25 July); Women's Day (13 August); and Evacuation Day (15 October)

The dates of religious holidays depend on the sighting of moon and are thus liable to change every year.

Source: §445 of the Labour Code 1966, last amended in 2017; §01 of the Decree No. 2011-317 of 26 March 2011

Weekly Rest Days

Workers, other than those employed in agriculture, are entitled to 24 consecutive hours of rest per week. Labour Law requires that weekly rest day should fall on Friday or Saturday or Sunday for all employees. If providing the same day-off for all staff is not possible, weekly rest may be provided on any other day fixed by agreement between the parties or after the authorization by the Government.

The weekly rest day may be granted on a rotation basis to certain listed categories of establishments, such as hotel and catering establishments, tobacco and flower shops, medical establishments, newspapers, and transport firms.

In case of emergency, weekly rest day can be suspended or reduced to one-half (if weekly rest is provided on the same day to all the staff) for certain staff such as employees whose work involves driving machines, cleaning of industrial sites, stores or offices, and employees who are security guards or concierges. Further exceptions apply to retail establishments, mining and quarrying, seasonal outdoor work and for perishable goods/workloads.

Source: §95-96 & 99 of the Labour Code 1966, last amended in 2017

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

Tunisia has not ratified the Convention 158.

Summary of Provisions under ILO Convention

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed-term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

A reasonable probation period must be allowed to let a worker learn new skills. A newly hired employee may be fired during the probation period without any negative consequences.

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

Regulations on employment security:

- Labour Code 1966, last amended in 2017
- Framework Collective Agreement 1973 (as amended)

Written Employment Particulars

The employment contract is an agreement between two parties where the first party (worker) provides the other party (employer) his personal services under the direction and control of the latter for compensation. The working relationship is proven by any means. The employment contract can be of indefinite or limited duration. Labour Code does not require written employment contracts rather stipulates that employment relationships may be proved by all means. The fixed term contracts are however required to be in writing with one copy for each party.

Source: §06 of the Labour Code 1966, last amended in 2017

Fixed Term Contracts

The employment contract is concluded for an indefinite period or for a fixed term. The work contract of limited duration may include a limitation of the duration of its implementation or specification of work the fulfilment of which terminates the contract.

A fixed term contract can be concluded in following cases: the fulfilment of work for a new establishment; the performance of work required by additional extraordinary work; the temporary replacement of a permanent worker absent or whose employment contract is suspended; the accomplishment of urgent work to prevent

imminent accidents, conduct rescue operations or to repair defects in the material, equipment or the company's buildings; and the performance of seasonal work or other activities for which a worker cannot be hired on the contract of indefinite duration.

A fixed term contract can also be concluded by agreement between the employer and the worker, provided that the duration of this contract may not exceed 04 years (including renewals). If the length of contract exceeds 4 years, the concerned workers are made permanent without any trial period.

Workers under the fixed term contract cannot be discriminated against in salary and other allowances compared to the permanent workers.

The Investment Law of 2016 allows foreign investors to recruit foreign managing staff up to 30% of the entire managing staff size during the first three years of business activity. However, it must be reduced to 10% of the whole managing staff size starting from the 4th year onward. Moreover, the hiring of foreigners is subject to the prior approval of Labour Ministry.

Office of Employment and Self-Employment (ANETI) has many programs which incentivize the hiring of Tunisian nationals. Under the Professional Life Initiation Internship, young diploma holders are engaged on an internship contract for one year, extendable to two years. During the term of internship contract, employer and ANETI grant the trainee a monthly allowance of 150 TND each (300 TND in total).

There is a separate program for young graduates who have been unemployed for

three years or more after graduation. Under the Contract for Integration of Higher Education Graduate, a trainee is engaged for a maximum period of one year on the basis of a specific training program adopted for this purpose between a host company, the trainee, and ANETI. The trainee is paid a monthly allowance of 300 TND as above. Companies are required to hire these trainees on completion of training. Business get support paid from the national employment fund for employer social security contributions on wages paid to the graduates under this program for a period of 7 years (During first two years, full social security contributions for these workers are paid through national employment fund while the ratio decreases to 25% in the 7th year.

There are also professional adaptation and integration contract, labour market reintegration contract, and employment solidarity contract.

For graduates with long term unemployment, Tunisian government starts in early 2017 a “contract with dignity” program under which graduates will be hired for a period of two years at monthly remuneration of 600 TND (400 TND paid by state and 200 TND paid by the enterprise). This program will benefit 25,000 youth.

Source: §6(2)-6(4) of the Labour Code 1966, last amended in 2017

Probation Period

In accordance with the Labour Code, the duration of probationary period in an employment contract is governed by collective or individual agreement, by custom or by the law.

The Labour Code does not set out any maximum or minimum duration for the probationary period. However, the duration of the probationary period is regulated by the Collective Framework Agreement (as amended).

The stipulated duration of trial period can be:

- 6 months for workers ("agents d'exécution")
- 9 months for first line supervisors ("agents de maîtrise")
- 1 year for executives.

The trial period can be renewed once.

Source: §18 of the Labour Code 1966, last amended in 2017; §10 of the Framework Collective Agreement 1973 (as amended)

Notice Requirement

A fixed term contract terminates at the end of its term or completion of work under the contract. The employment contract of indefinite duration terminates by agreement of the parties; by the will of either party; force majeure; worker's death; by resolution passed by the judge in cases determined by law; or in other cases provided by law.

In order to terminate the indefinite term employment contract, the Labour Code requires a written notice to the other party least one month prior to termination. Longer notice period can also be provided if there are provisions, which result from a contractual or collective agreement. The period of notice for journalists and commercial travellers and sales representatives varies between one and three months.

Employment contract termination may take place due to serious misconduct or economic or technological reasons. A list of serious misconduct justifying dismissal is set out in the law. Serious misconduct includes, among others, wilful damage to the property of the undertaking, non-observance of OSH rules, disobedience to legitimate orders, bribe taking, theft, turning up for work in the state of intoxication, and divulging trade secrets. Labour code requires an employer to mention the reason for dismissal in written notice. The dismissal is considered unfair if it is not justified by a genuine and serious reason. Workers however cannot be terminated because of pregnancy, maternity leave, temporary work injury or illness, trade union membership & activities, and engagement in military duties.

Workers are allowed to be absent during the second half of the notice period to seek other employment. This period of absence is considered as work and does not lead to any reduction in wages or compensation,

Source: §14, 398 & 410 of the Labour Code 1966, last amended in 2017

Severance Pay

The Labour Law provides for severance pay to the workers upon termination of employment contract. Every employee employed on indefinite term contract and dismissed after the expiration of the probationary period is entitled to receive a severance allowance, calculated on the basis of one day's salary (which is paid at the moment of the dismissal) for each month of effective service in the same enterprise. Regardless of the duration of service, severance pay may not exceed

three months' salary. However, collective agreements can raise the amount of compensation.

Severance pay is not provided in case of serious misconduct. It covers dismissal for economic reasons. Specific redundancy payment is not provided.

Source: §22 of the Labour Code 1966, last amended in 2017

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

Convention 156: Workers with Family Responsibilities Convention (1981) Recommendation 165: Workers with Family Responsibilities (1981)

Tunisia has not ratified the Convention 156.

Summary of Provisions under ILO Convention

Paternity leave is for new fathers around the time of childbirth and is usually of a shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take a long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks employers to look into the measures for improving general working conditions through flexible work arrangements.

Regulations on family responsibilities:

- Labour Code 1966, last amended in 2017
- Act No. 83-122
- Decree No. 3230 of 2006
- Act No. 58 of 2006

Paternity Leave

Labour Code and Act No. 83-122 provide paternity leave to the male employees on child's birth. Private sector employees are entitled to 01 day of paternity leave, which must be availed within 07 days of child's birth. The leave must be taken after agreement between the worker and employer. The paternity leave is paid by the Government through Social Security Institution.

Civil servants are entitled to 02 days of paternity leave, which must be taken within 10 days following the child's birth.

Source: §122 of the Labour Code 1966, last amended in 2017; §40(4) of the Act No. 83-122

Parental Leave

No specific leave entitlements found in the law on parental leave.

Flexible Work Option for Parents / Work-Life Balance

Full time workers are allowed to work part-time due to pregnancy or the need to take care of child under 6 years. These workers have the option to get back a full-time position in the event of vacancy

corresponding to their qualifications.

Pregnant women, employed in private sector, must provide written application in advance. The application is then subject to the approval of a technical commission. Part-time work is allowed to a worker for 03 years with two-third of the basic salary. It is renewable twice, up to the child's 16th birthday. This time limit does not apply for mothers of handicapped children.

Source: §94 - of the Labour Code 1966, last amended in 2017; §3 of the Act No. 58 of 2006; §2 of the Decree No. 3230 of 2006

06/13 MATERNITY & WORK

ILO Conventions

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

Tunisia has not ratified the Conventions 103 and 183.

Summary of Provisions under ILO Convention

During pregnancy and maternity leave, a worker should be entitled to medical and midwife care without any additional cost.

During pregnancy and while breastfeeding, a worker should be exempt from work that might bring harm to you or your baby.

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two-thirds of your preceding salary.

During pregnancy and maternity leave, a worker should be protected from dismissal or any other discriminatory treatment.

Workers have the right to return to the same or equivalent position after availing maternity leave.

After childbirth and re-joining work, a worker must be allowed paid nursing breaks for breastfeeding the child.

Regulations on maternity and work:

- Labour Code 1966, last amended in 2017
- Decree No. 86-433 of the Protection against Ionizing Radiations
- Act No. 83-112
- Act No. 60/30 of the Organisation of Social Security Schemes
- Act No. 81-6 of Organizing Social Security Schemes in Agriculture

Free Medical Care

Law does not provide any specific provision related to medical care for pregnant workers.

No Harmful Work

The Labour Code prohibits all women from performing underground work specially mining. Pregnant women are not allowed to work under radiation exposure. Female workers in reproductive age can be exposed to uniform levels of radiation as far as practical but not to exceptional levels.

Night work is not allowed to the female workers for at least 16 weeks before and after confinement. Chief labour inspector may authorize night work on woman's request in writing, after medical advice and when her health and the child's health are not endangered.

Source: §68(3 & 4) & 77 of the Labour Code 1966, last amended in 2017; §15, 20 & 32 of the Decree No. 86-433 of the Protection against Ionizing Radiations

Maternity Leave

Female employees are entitled to 30 days of

paid maternity leave on the birth of a child. In case of illness or complications arising due to pregnancy and confinement, a female worker is entitled to 15 days extra leave. Leaves are granted on provision of medical certificate.

Civil servants (female) are entitled to 02 months of maternity leave. The postnatal leave can be extended up to 04 months after the expiry of maternity leave. These extended leaves are optional.

Source: §64(a) of the Labour Code 1966, last amended in 2017; §48 of the Act No. 83-112

Income

Paid maternity leave is provided to the women with at least 80 days of contribution during the four calendar quarters or at least two quarters in the course of the four quarters (in agriculture) preceding that in which confinement occurs.

Labour Code provides two-third (66.7%) of the average daily wage as a maternity leave benefit during the period of maternity leave (30 days) and any extension thereof on medical grounds. Amount of cash benefit, for women working in agriculture, is 50% of the flat-rate daily wage calculated on the basis of the guaranteed minimum wage in agriculture.

Cash benefits are paid to civil servants during the optional period of additional postnatal leave (up to 04 months). Full salary is paid during maternity leave and 50% of the salary is paid during the optional period of additional postnatal leave.

Source: §79 & 82 of the Act No. 60/30 of the Organisation of Social Security Schemes; §30, 32 & 35 of the Act No. 81-6 of Organizing

Social Security Schemes in Agriculture; §48 of the Act No. 83-112

Protection from Dismissals

Labour Code states that a women worker cannot be dismissed during her pregnancy. Employment contract of a female worker is suspended during the period before and after confinement.

In case of dismissal, the employer is liable to pay damages provided that she informed her employer of the reason of her absence.

Source: §20 of the Labour Code 1966, last amended in 2017

Right to Return to Same Position

There is no specific provision in the Labour Code regarding a worker's right to return to same position after availing her maternity leave. However, it is mentioned that a worker can't be dismissed during the term of her maternity leave, which means that right to return to work is implicitly guaranteed under the law.

Notice of dismissal is prohibited up to a maximum of 12 weeks after maternity leave if the woman produces a medical certificate that she is incapable of returning to work because of an illness arising out of her pregnancy and confinement.

Source: §20 of the Labour Code 1966, last amended in 2017

Breastfeeding

Female workers are entitled to two paid nursing breaks, each of 30-minute duration, for new mothers to breastfeed their child(ren) until a child is twelve (12) months

old. The breast-feeding/nursing breaks are in addition to the normal breaks an employee receives during the working day and it does not imply the reduction in pay.

Labour Code also requires the employer to establish a childcare facility in an enterprise if the total number of female workers is 50 or more.

Source: §64 & 94-100 of the Labour Code 1966, last amended in 2017

07/13 HEALTH & SAFETY

ILO Conventions

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

Tunisia has ratified the Convention 81 only.

Summary of Provisions under ILO Conventions

The employer, in all fairness, should make sure that the work process is safe.

The employer should provide protective clothing and other necessary safety precautions for free.

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

Regulations on health and safety:

- Labour Code 1966, last amended in 2017

Employer Cares

In accordance with the Labour Code, the employer is responsible to take the necessary measure appropriate for the protection of workers and for risk prevention. The employer must ensure the protection of the health of workers at the workplace and guarantee suitable working environment.

Every employer must provide measures for prevention at both individual and collective levels and ensure that workers adopt these measures. Employer may also establish health and safety committees to create programs on occupational risk prevention in the establishment and monitor the implementation of these programs. Medical services provided by the employer assume an essentially preventive role with respect to OSH.

In an establishment of 500 or more workers, employer must create a special section/department that provides medical services. If the number of workers in an establishment is less than five hundred, the employer must either create such departments in collaboration with other establishments, or to set up their own.

The employer is required to hire an OSH officer who is responsible to ensure the implementation of laws, regulations and conventions related to safety; supervise the implementation of safety programs; monitor the workplace to identify sources of danger and warn in order to prevent the occurrence of risks and ensure the use of

means of prevention; identify the causes of accidents and present proposals to prevent and to ensure the safety of workers in the company; ensure that workers use protective equipment; and conduct awareness and dissemination of preventive education among workers.

The worker is also under a duty to comply with the requirements for health and safety at work. He/she must not involve in any act or failure that may impede the implementation of these requirements.

Source: §152-154 & 161 of the Labour Code 1966, last amended in 2017

Free Protection

The employer is obliged to provide protective equipment to workers and train them the proper use of such equipment. It is also a duty of an employer to hire an OSH officer who is responsible for ensuring that workers use the protective equipment.

Source: §152(2) & 154(5) of the Labour Code 1966, last amended in 2017

Training

The employers are required to take the necessary measures to inform and educate workers about the risks of their profession. They shall also train workers on the use of protective equipment.

Source: §152(2) of the Labour Code 1966, last amended in 2017

Labour Inspection System

Labour Law provides for a vibrant labour inspection system.

Labour inspectors are responsible for ensuring the implementation of legislation on occupational safety and health in coordination with medical inspectors. They have power to enter freely and without prior notice at any hour of the day or night at any workplace liable to inspection control; examine workers; take samples; and analyse the materials and products used. The inspector must notify the employer or his/her representatives that the samples are taken for analysis. These samples may include gases, vapours and other substances diluted in the atmosphere.

The inspector may issue improvement or prohibition notices to the employer to make the necessary changes to ensure the strict enforcement of laws, regulations or agreements concerning health and safety (the employer has a period of a minimum of 4 days). The Labour Medical Inspector works in collaboration with the Labour Inspectors and cooperates with them in providing the information and technical advice on the most effective ways for the application of the legislation on health and safety at work.

The inspector also has the right to stop work at the enterprise (partially or totally) in the case of an imminent danger. In case of violation of provision related to occupational safety and health of the Labour Code and its related decree, the law imposes a fine of 24-60 dinars and a fine of 144-720 dinars in case of contempt against an inspector.

Source: §174-175, 234, 240 & 291 of the Labour Code 1966, last amended in 2017

08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

ILO Conventions

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

Tunisia has not ratified the Conventions 102, 121 and 130.

Summary of Provisions under ILO Conventions

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefits may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during the first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). A worker must be entitled to paid sick leave.

During illness, a worker should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, he/she must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage, while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

Regulations on sick leave & Employment Injury Benefits:

Income

Sickness benefit is paid after a five-day waiting period for up to 180 days a year. Two-third (66.7%) of the insured worker's average daily wage is paid for the first three years; 50% for up to 180 days a year for each subsequent year. Benefits are paid every two weeks.

The average daily wage used to calculate benefits is the highest quarter of earnings in the last four quarters before the incapacity began.

In case of hospitalization, government recognized long-term illnesses, or for incapacity that is the result of a non-work-related accident, there is no waiting period or the time duration limit.

Source: SSPTW country profile for Tunisia 2017

Medical Care

Medical care is provided to the insured worker with at least 50 days of covered employment in the last two quarters or 80 days of insured employment in the last four quarters before the incapacity began. Long-term sickness (for a period greater than 180 days) must be certified by the medical commission. Along with insured person, medical benefits are also provided to the insured's spouse and dependent minor children (no age limit if disabled), dependent parents, and unmarried daughters without income.

Benefits include medical care, hospitalization, surgery, specialist care, laboratory services, kidney dialysis, appliances, and medicine. Cost sharing is based on a schedule in law.

Source: SSPTW country profile for Tunisia 2017

Job Security

Labour Code does not specify if the employment of a worker is secure during sick leave. However, it can be presumed from above info that the employment of a worker is secure during the period of sick leave, i.e., six months.

Source: SSPTW country profile for Tunisia 2017

Disability / Work Injury Benefit

Work injuries are divided into four categories: (i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to death of a worker. Work injury includes any accident that occurs while commuting to and from work.

In case of permanent disability, the insured worker is entitled to annual earnings multiplied by 0.5 times the assessed degree of disability from 15% to 50% and by 1.5 times for the portion greater than 50%. The annual earnings used to calculate benefits ranges from legal annual minimum wage to six times the legal annual minimum wage. The permanent disability pension can be paid as a lump sum after receiving a benefit for a five-year period for an assessed degree of disability of 35% or less. The lump sum is calculated according to a schedule in law. For an assessed degree of disability of 5% to

15%, a lump sum of 150% of the annual earnings used to calculate benefits multiplied by the assessed degree of disability is paid.

In case of temporary disability, amount of benefit paid is equivalent to 66.7% of the insured's highest average daily wage in the highest quarter of the last four quarters before the disability began. It is paid after a three-day waiting period (after one day if hospitalized) until full recovery or certification of permanent disability.

In the case of fatal injury, dependents (widow/ widower, children, parents) receive survivors' pension. 50% of the insured's annual earnings used to calculate the permanent disability pension the deceased received or was entitled to receive is paid to a widow(er) without children and 40% is paid in case of one or more children. The pension ceases on remarriage.

An orphan is entitled to 20% of the insured's annual earnings used to calculate the permanent disability pension the deceased received or was entitled to receive, 30% for two, or 40% for three or more orphans; and 50% for one full orphan, 60% for two, 70% for three, or 80% for four or more full orphans. Pension is paid to an orphan only if he/she is younger than 16 years of age (21 years if a secondary or professional school student; 25 years if a university student, no limit if disabled or an unmarried daughter without income).

In case there is no surviving widow(er) or child, 20% of the insured's annual earnings used to calculate the permanent disability pension the deceased received or was entitled to receive is paid for each dependent parent, grandparent, and grandchild, up to 50% of the annual

earnings.

All survivor benefits combined must not exceed 80% of the deceased's earnings.

One month of the deceased's earnings is paid to eligible survivors as a funeral grant. The maximum grant is the legal monthly minimum wage.

Source: SSPTW country profile for Tunisia 2017

09/13 SOCIAL SECURITY

ILO Conventions

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat, higher standards have been set in subsequent Conventions

Employment Injury Benefits: Conventions 121 (1964),

Invalidity, Old age and survivors' benefits: Convention 128(1967)

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

Tunisia has not ratified any of the above-mentioned Conventions.

Summary of Provisions under ILO Conventions

In normal circumstances, the pensionable age may not be set higher than 65 years of age. If the retirement age is fixed above 65 years, it should give “due regard to the working ability of elderly persons” and “demographic, economic and social criteria, which shall be demonstrated statistically”. The pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage or a percentage of the earned wage. This must at least be 40% of the reference wage.

For a limited period of time, the unemployed have a right to unemployment benefits set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity benefit is provided when a protected person is unable to engage in gainful employment, before the standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

Regulations on social security:

Pension Rights

Law provides for old-age pension, early pension and partial pension. For old-age pension, a worker must have attained 60 years of age with at least 120 months (10 years) of contributions or 50 years of age (in case of hazardous work) with at least 180 months (15 years) of contributions. Old-age pension is equal to 40% of the insured's average earnings in the 10 years before retirement + 0.5% of average earnings for each three-month period of contributions exceeding 120 months. The amount of pension ranges from 66.7% to 80% of the insured person's average earnings up to six times the legal monthly minimum wage.

A worker is entitled to early pension at the age of 55 years with at least 360 months of contribution. The amount for early pension is reduced by 0.5% for each quarter (2% for each year) that the pension is taken before 60 years of age.

Partial pension is provided to the insured worker having 60 to 119 months of contribution. The amount of pension is reduced according to the number of quarters of contributions; a lump sum of the value of the insured's contributions is paid with less than 60 months of contributions at retirement. The partial pension is at least 50% of the legal monthly minimum wage.

Source: SSPTW country profile for Tunisia 2017

Dependents' / Survivors' Benefit

Law provides dependents'/survivors' benefit to the eligible survivors including

the widow(er) and children younger than age 16 (age 21 if a student, no limit if disabled or an unmarried daughter without income). The benefit is provided to the dependents only if the deceased was insured and he/she was pensioner at the time of death or had at least 60 months of contributions.

Spouse of the deceased is entitled to 75% of the old-age or invalidity pension the deceased receives or was entitled to receive without a dependent child; 70% in case of one orphan; or 50% in case of two or more orphans. Simultaneously, an orphan is entitled to 30% of the old-age or invalidity pension the deceased received or was entitled to receive; 50% for two or more orphans; 30% for one full orphan, 60% for two, 90% for three, or 100% for four or more full orphans.

Pension of the surviving spouse ceases on remarriage before 55 years of age. The amount of survivors' benefit, combined, must not exceed 100% of the old-age or disability pension the deceased received or was entitled to receive.

Source: SSPTW country profile for Tunisia 2017

Unemployment Benefits

Law provides unemployment benefit to the workers having at least 12 quarters of contributions, be involuntarily unemployed, be ineligible for an old-age pension or a disability pension, and be registered at an employment office.

Amount of unemployment benefit is one month of the insured worker's salary up to the legal monthly minimum wage. The unemployment benefit is paid for up to 12

months. During unemployment, a person may also receive family allowances and supplements and have access to medical benefits for up to a year beginning the first day after the end of the quarter in which employment ceased.

Source: SSPTW country profile for Tunisia
2017

Invalidity Benefits

Insured worker assessed with at least a 66.7% permanent loss of earning capacity and having at least 60 months of contributions is entitled to invalidity benefit. Employment of a worker must have ceased due to invalidity. The degree of disability is assessed annually by a medical commission until the insured reaches 55 years of age.

Invalidity benefit is 50% of the insured's average earnings in the last 10 years before the disability began + 0.5% of average earnings for each three-month period of contributions exceeding 180 months are paid. The total amount of pension ranges from 66.7% of the legal monthly minimum wage to 80% of average earnings, up to six times the legal monthly minimum wage.

20% of the insured person's invalidity benefit is paid as a constant-attendance supplement if the insured requires the constant attendance of others to perform daily functions.

Source: SSPTW country profile for Tunisia
2017

10/13 FAIR TREATMENT

ILO Conventions

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

Convention 190 (2019) is about elimination of violence and harassment in the world of work.

Tunisia has ratified the Conventions 100 and 111.

Summary of Provisions under ILO Conventions

At workplaces, equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and a clear matching of pay and position should be in place to help prevent wage discrimination.

Convention No. 190 recognises the right of everyone to a world of work free from violence and harassment. It defines violence and harassment as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aims at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”. This definition covers physical abuse, verbal abuse, bullying and mobbing, sexual harassment, threats and stalking, among other things.

An employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

People have the right to work and there can't be occupational segregation on the basis of gender.

Regulations on fair treatment:

- Tunisian Constitution of 2014
- Labour Code 1966, last amended in 2017
- Criminal Code 2005
- Law No. 2000-17

Equal Pay

The Constitution of Tunisia guarantees equal pay for equal amount of work regardless of gender. The Constitution states that all citizens have the right to decent working conditions and to a fair wage.

In accordance with the Labour Code, discrimination between men and women cannot be made under the current labour law, resulting in a difference in wages or in job affectation based upon gender. Employers who are using gender discrimination risk being sanctioned with fines between 24 and 60 dinar as a penalty. The minimum wage decrees similarly fix the same wage for both sexes without any discrimination on the ground of sex.

Source: §40 of the Tunisian Constitution of 2014; §5bis of the Labour Code 1966, last amended in 2017

Sexual Harassment

Labour Code does not provide any provision related to prohibition of sexual harassment at workplace and measure that could be taken in this situation. However, Penal Code prohibits sexual harassment.

Sexual harassment is defined as “any persistence which embarrasses another person through the repetition of acts,

words or gestures likely to prejudice that person’s dignity or offend her or his decency and with the aim of causing the said person to submit to the sexual desires of the offender or of a third party, or exerting upon the said person pressure such as to weaken her or his will to resist such approaches”.

The Penal Code punishes sexual harassment with one year of imprisonment and a fine of 3,000 dinars. The penalty is doubled when the offence is committed against a child or other persons particularly exposed because of a mental or physical impediment to resisting harassment.

Source: §226(b) of the Criminal Code 2005

Non-Discrimination

In accordance with the Constitution, all citizens, male and female, have equal rights and duties, and are equal before the law without any discrimination. Although there is no direct provision on discrimination in the Labour Code, however in the light of article 20 of the Constitution (which says that the international agreements approved and ratified by the Assembly of the Representatives of the People have a status superior to that of laws and inferior to that of the Constitution), it can be said that law prohibits discrimination on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation since Tunisia has ratified this Convention since 1959. Tunisia has also ratified ILO Convention 159, which prohibits discrimination on the ground of disability.

Penal code criminalizes discrimination, imposing penalties of 08 years imprisonment to the perpetrators of discrimination.

Source: §20 & 21 of the Tunisian Constitution of 2014; §101bis of the Criminal Code 2005

Equal Choice of Profession

Constitution grants the right to work in any profession to all the citizens. It says, "Work is a right for every citizen, male and female. The state shall take the necessary measures to guarantee work on the basis of competence and fairness." However, the Labour Code prohibits employment of women in underground mines, quarries or sites where recovery, processing or storage of scrap metal is done.

Law No. 2000-17 of 7 February 2000, which had earlier repealed certain articles of the Code of Obligations and Contracts and doing away with provisions is now obsolete. The law required the husband's prior approval for his wife to work, and gave him the right to cancel at will any work contract she might have signed with her employer.

Source: §40 of the Tunisian Constitution of 2014

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Tunisia has ratified the Conventions 138 and 182.

Summary of Provisions under ILO Conventions

At workplaces, children may not be forced to perform work that could harm their health and hamper their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however, developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardise the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

Regulations on minors and youth:

- Tunisian Constitution of 2014
- Labour Code 1966, last amended in 2017
- Decree No. 2000-98 on Prohibition of Hazardous Occupations or Activities for Children
- Law on Education and Schooling, 2002

Minimum Age for Employment

Minimum age of employment is 16 years. The compulsory schooling age is also 16 years. However, this age limit is not applicable to children working in general school education, vocational or technical and the other training institutions. The Constitution provides for free public education.

Minors aged 14 years or above can be hired to perform light work in enterprises including a course of study or training which responsibility lies primarily with the school or the establishment of training; a professional training program approved by the competent public authorities and executed largely or entirely in an undertaking; an information program or orientation for the choice of profession or type of training. Young workers under 16 years of age can be employed only under the authority of the father, mother or guardian provided that the employment of these children has no negative effect on their health, physical and mental development and their education.

Minimum age of employment is lowered to 13 years in light agricultural work that is not harmful to health and the normal development of the children and not detrimental to attendance and academic

ability or their participation in guidance programs or vocational training approved by the competent public authorities.

Young workers are prohibited from working on weekly rest days, night-time and public holidays.

Source: §38 of the Tunisian Constitution of 2014; §53-57 of the Labour Code 1966, last amended in 2017; §1 of the Law on Education and Schooling, 2002

Minimum Age for Hazardous Work

Minimum Age of employment for Hazardous Work is 18 years. Young workers below 18 years of age cannot be hired in work that involves exposing the health, safety or morals of children in danger. Type of work in which young worker can be hired is determined by an Order of the Minister of Social Affairs made after consultation with the professional organizations most representative employers and workers.

Young workers of 16 years or more can be hired for hazardous work by the authorization of labour inspectorate, after consulting medical labour inspection and consultation the most representative organizations of workers and employers, provided that their health, safety and morals are fully safeguarded and they have received adequate specific instruction or vocational training in the branch of activity concerned.

The employer hiring young workers must maintain a register containing names, dates of birth of all persons under 18 years, the nature of their work, the number of working hours, rest periods and certificate of fitness for work. The register should be presented to labour inspection officers and medical

labour inspection and representatives of staff upon request. The medical labour inspectorate may on its own or at the request of the Labour inspectorate conduct the medical examination of children under 18 years admitted to Work to find whether the work which they are engaged in exceeds their capabilities. If this is the case, it is ordered to stop child from that work. Medical examination for fitness for employment along with successive renewals must take place until a young worker reaches 21 years of age.

Decree No. 2000-98 on Prohibition of Hazardous Occupations or Activities for Children prohibits employment of children in various occupations which include, among others, underground work in mines or quarries; work in sewers; work in tanneries; work on the façade of big buildings; demolition work; work in garbage collection and treatment; and work in nightclubs, night cabarets and bars. Young workers are not allowed to work overtime ant at night.

Source: §58-63 & 66 of the Labour Code 1966, last amended in 2017; Decree No. 2000-98 on Prohibition of Hazardous Occupations or Activities for Children

12/13 FORCED LABOUR

ILO Conventions

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

Tunisia has ratified both Conventions 29 & 105.

Summary of Provisions under ILO Conventions

Except for certain cases, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

If the total working hours, inclusive of overtime, exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.

Regulations on forced labour:

- Criminal Code 2005
- Labour Code 1966, last amended in 2017

Prohibition on Forced and Compulsory Labour

The law prohibits forced and compulsory labour, and provides for penalties of up to 10 years' imprisonment for capturing, detaining, or sequestering a person for forced labour. Public officials are also prohibited to force others to do work other than what is ordered by the Government or recognized as urgent in the interest of the population. Moreover, Tunisia has also ratified ILO core Conventions 29 & 105 prohibiting forced labour.

Source: §105 & 250 of the Criminal Code 2005

Freedom to Change Jobs and Right to Quit

Labour Code states that workers have the right to change jobs after serving due notice to their employers. The duration of notice period is one month. Longer notice period can also be provided if there are provisions which result from a contractual or collective agreement.

For more information on this, please refer to the section on employment security.

Source: §14 of the Labour Code 1966, last amended in 2017

Inhumane Working Conditions

Working time may be extended beyond normal working hours of forty-eight hours per week. However, total hours of work inclusive of overtime must not exceed sixty (60) hours per week. This limit is not applicable in case of emergency or urgent work that cannot be postponed in order to prevent accidents or to organise saving measures.

For more information on this, please refer to the section on compensation.

Source: §79 & 90-94 of the Labour Code 1966, last amended in 2017

13/13 TRADE UNION

ILO Conventions

Freedom of association and protection of the right to organize: Convention 87 (1948)
Right to Organize and Collective Bargaining: Convention 98 (1949)

Tunisia has ratified both Conventions 87 & 98.

Summary of Provisions under ILO Conventions

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside of working hours. The list of exclusions for sectors of economic activity and workers in an organisation should be short.

Trade unions are entitled to negotiate with employers on the terms of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violations of this principle).

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organise provided in ILO convention 87.

Regulations on trade unions:

- Tunisian Constitution of 2014
- Labour Code 1966, last amended in 2017
- Penal Code, 2005
- Framework Collective Agreement 1973

Freedom to Join and Form a Union

The Constitution guarantees the freedom to establish political parties, unions, and associations. In the next article, the Constitution clarifies that although the right to join and form unions is guaranteed, it does not apply to the national army.

Main objective of the union is to study and defend economic and social interests of their members. Workers, who have left their line of duty or their profession, may continue to be a part of trade union if they have exerted at least a year. Minors over 16 years of age may join union if not opposed by their father or guardian.

The union representative must register a union by submitting registered letter with acknowledgment in five copies, at the headquarters of Governorate or Delegation. They must submit the articles and the list of persons responsible in one capacity any of its directors or its management.

The statute of the union must determine the rules by which these unions are represented in the board of directors and in general meeting of each of them.

The violation of the provisions provided in the Labour Code can lead to the dissolution of the union by a judgment of the trial court.

Source: §35 & 36 of the Tunisian Constitution of 2014; §242-256 of the

Labour Code 1966, last amended in 2017

Freedom of Collective Bargaining

The collective agreement is an agreement to working conditions concluded between, on the one hand, employers organized in-group or separately and secondly, one or more trade unions workers. A collective agreement must be concluded in writing. A CBA usually provides better benefits to the worker than those provided in the law. If a CBA has provisions which are less favourable than those provided under the law, it cannot be enforced.

A CBA may be concluded for definite or indefinite time period. The duration of a CBA signed for definite time period may not exceed 05 years. A CBA of indefinite term may be cancelled at the discretion of either party, and with regard to notification of at least one-month advance.

A CBA is applicable only from the day following their filing triplicate to the registry of the competent court where the CBA was concluded. Either party may deposit the CBA. Two copies of the CBA signed by the parties is sent within two days filing by the secretary or clerk of the court in question. One copy is for the Secretary of State for Youth, Sports and Social Affairs, the other to the Labour Inspectorate of that territorial jurisdiction.

Collective agreement must contain provisions regarding: freedom of association and freedom of opinion; salaries and applicable professional categories of workers between the said classification procedure categories; the conditions of hiring and firing workers, the notice period; the modalities of operation of a commission Joint responsible for

resolving difficulties arising from the application of the Convention. Collective bargaining in Tunisia happens at the sectoral level and 51 collective agreements are available, one for each sector. A Framework Agreement signed between Tunisian General Labour Union (UGTT) and the Tunisian Confederation of Industry, Trade and Handicrafts (UTICA) in 1973 is also a major source of regulation after the Labour Code.

On 14 January 2013, the Government, the Tunisian General Labour Union (UGTT) and the Tunisian Union for Industry, Trade and Handicrafts (UTICA) signed the social contract, also known as the “social constitution”, and the committees charged with implementing the main pillars of the contract commenced their work.

The social contract led to the creation of a National Council for Social Dialogue. The Council, principally responsible for gauging the overall atmosphere of social dialogue and monitoring adherence to social legislation, is authorized to deal with all economic and social matters related to labour and labour relations and submit proposals to the concerned parties. However, the bill regulating the functioning of this Committee has not been passed by the Parliament yet.

Source: §31-52 of the Labour Code 1966, last amended in 2017

Right to Strike

Right to peaceful strike is recognized under the Constitution and is regulated under the Labour Law.

The constitution guarantees right to assembly and peaceful demonstration only

if parties comply with the Constitution, law, financial transparency and the rejection of violence in their internal charter and activities. This right does not apply to forces of internal security and customs officers.

The main federation (generally UGTT) must approve the strike and strikers must inform the other party and regional conciliation office or Regional Inspectorate at least 10 days prior to the proposed date of strike. A striking union must also receive approval from the Ministry of Interior. Notice must be sent simultaneously to the parties concerned by registered letter with a receipt. The notice must contain the place, date, duration and reason of strike. Date of strike can be changed after agreement between the parties to the conflict.

Strike is considered illegal if it is not peaceful and does not comply with the provisions of labour law. In case the strike is illegal, whoever initiates the strike and the strikers are liable to imprisonment from three to eight months and a fine of one hundred to five hundred dinars. The penalty doubles in case of repeat offence. Anyone who occupy the workplace; or use the machines, equipment or instruments for any purpose other than whom they are intended; or damage or attempt to damage anything belonging to the company is liable to the penalties provided in the Penal Code. The law prohibits antiunion discrimination by employers and retribution against strikers.

Source: §35-37 of the Tunisia's Constitution of 2014; §376-390 of the Labour Code 1966, last amended in 2017; §137 of the Penal Code 2005

QUESTIONNAIRE