

DECENT WORK CHECK

PORTUGAL 2023

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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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Acknowledgements

Many people contributed to the development of the Decent Work Check as a tool and to this Check for Portugal. Those who contributed to the development of tool include Paulien Osse, Kea Tijdens, Dirk Dragstra, Leontine Bijleveld, Egidio G. Vaz Raposo and Lorena Ponce De Leon. Iftikhar Ahmad later expanded the work to new topics in 2012-13 and made the work more legally robust. Daniela Ceccon, Huub Bouma, and Gunjan Pandya have supported the work by bringing it online through building and operating labour law database and linking it to the WageIndicator websites. Special thanks are due to the WageIndicator global labour law office (headed by Iftikhar Ahmad), which works on Decent Work Checks since 2012. The Minimum Wages Database, developed by Kea Tijdens, is supported by Paulien Osse, Kim Chee Leong, and Martin Guzi. Khushi Mehta updated the Minimum Wages Database before 2020.

Minimum Wage Database and Labour Law Database are maintained by the Centre for Labour Research, Pakistan, which works as WageIndicator Labour Law office. The team comprises Iftikhar Ahmad (team lead), Ayesha Kiran, Ayesha Mir, Seemab Haider Aziz, Sobia Ahmad, Shanza Sohail, and Tasmeena Tahir. Ludmila Caminha Barros and Rogerio Junior have supported in translation of legal updates of Decent Work Check to Portuguese. The country update in 2023-24 was done by Tasmeena.

Bibliographical information

Ahmad I, Mir A (2023) *Portugal Decent Work Check 2023*. Amsterdam, WageIndicator Foundation, December.

For an updated version in the national language, please refer to <https://meusalario.pt/>

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WageIndicator Foundation, 2023

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INTRODUCTION

Decent Work is the type of work to which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); the 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 of 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 the 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, or 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 12 more countries, thus taking the number of countries with a Decent Work Check to 125!

MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. Código do Trabalho Lei No. 7/2009/Labour Code 2009, amended in April 2023 by Law No. 13/2023
2. Constituição da República Portuguesa 2005/Constitution of the Portuguese Republic (2005 version)
3. Lei Do Conselho Económico E Social N.º 108/91, de 17 de Agosto /Act No. 108/91 of 17 August 1991 on Economic and Social Council
4. Decreto-Lei n.º 143/2010 Actualiza o valor da retribuição mínima mensal garantida para 2011/Law Decree 143/2010 stating the new amount for minimum wage beginning the year 2011
5. Lei 102/2009 Regime jurídico da promoção da segurança e saúde no trabalho/Law No. 102/2009 regarding Promotion of Health and Safety at Work
6. Regulamenta o regime de reparação de acidentes de trabalho e de doenças profissionais, incluindo a reabilitação e reintegração profissionais Lei n.º 98/2009/Law No. 98/2009 regarding accidents at work and occupational diseases
7. Código Penal Decreto-Lei n.º 400/82/Penal Code Decree Law No. 400/82 amended by Law No. 59/2007 and Law No. 60/2013

Portugal Labour Law has been recently amended. In July 2019, happened the last discussions of the Parliament Working Group on the matter and the President enacted the new law as it came out of the discussions at Parliament in September 4th, 2019. The main changes refer to limits to short term contracts, the double extension of very short term contracts, the elimination of individual hours bank, the creation of an additional contribution to social security to be paid by companies who use more short term contracts than the sector's average, fixed limits to renewal of short term contracts, the extension of the probationary period to 180 days for youngsters at their first employment and for those who stayed unemployed for a more than 24 months.

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

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

Portugal has ratified the Convention 95, 117 and 131.

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:

- Código do Trabalho Lei No. 7/2009/Labour Code 2009 (Law No. 7/2009) last amended in 2019
- Constituição da República Portuguesa 2005/Constitution of the Portuguese Republic (2005 version)
- Lei Do Conselho Económico E Social N.º 108/91, de 17 de Agosto /Act No. 108/91 of 17 August 1991 on Economic and Social Council
- Decreto-Lei n.º 143/2010 Actualiza o valor da retribuição mínima mensal garantida para 2011/Law Decree 143/2010 stating the new amount for minimum wage beginning the year 2011

Minimum Wage

Both the Constitution and Labour Code provide for a minimum wage. It is usually updated annually by specific legislation following consultation with the social partners. The value of minimum wage is determined in consultation with the Committee for the Social Consultation of The Social and Economic Council, which is a tripartite body.

In accordance with the Constitution, State is charged with the responsibility to set and update a national minimum wage which, among other factors, has particular regard to workers' needs, increases in the cost of living, the level to which the sectors of production have developed, the requirements imposed by economic and financial stability, and the accumulation of capital for development purposes. Similar provisions are found in article 273(2) of the Labour Code.

Workers cannot be paid lower than the minimum wage which is the lowest

remuneration that an employer should pay to the employee.

Minimum wage may also be set through collective bargaining however these wages cannot be less than the minimum wage announced by the government.

There is no specific minimum wage for different occupation, sector or region. However, Labour Code allows for reduction in wages for assistants, apprentices and trainees (20% less than minimum wage) for a maximum period of one year. A worker with reduced capacity (due to a disability) is also eligible for a reduced minimum wage. The reduction depends on the difference between full capacity for work and the coefficient of effective capacity for the work the worker was hired for, if the difference is more than 10% up to a maximum limit of 50%.

Non-payment of minimum wages is considered a very serious offence and a fine can be imposed. Compliance with Labour Code provisions including those on the minimum wage is the responsibility of Labour Inspectorate. The amount of fine depends on the enterprise's turnover and the degree of offence perpetrated.

Source: §273-275 and 554-555 of Labour Code 2009, amended in September 2019 by Law No. 93/2019; §59(2) of the Portuguese Constitution; §9 of the Act No. 108/91 of 17 August 1991 on Economic and Social Council; Law Decree 143/2010 stating the new amount for minimum wage beginning the year 2011

Regular Wage

The wage payment can be made weekly, fortnightly, or on a monthly basis. However,

the payment should be made on working days, during work time or immediately after thereafter, in the place where the employee works. Wages may also be paid in kind however the total value of in-kind benefits may not exceed 50% of the minimum wage.

Wages are paid in cash during working hours by cheque, money order or deposit the worker's order at the workplace or any other mutually agreed place.

Source: §274-278 of Labour Code 2009, amended in September 2019 by Law No. 93/2019

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Portugal has ratified the Conventions 01 and 171.

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, overtime pay rate should not be less than one and a quarter time (125%) 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 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 a 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 in 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:

- Código do Trabalho Lei No. 7/2009/Labour Code 2009, amended in April 2023 by Law No. 13/2023

Overtime Compensation

The normal working hours are 08 hours a day and 40 hours a week. The maximum working hours, including overtime, are 48 hours per week. The work performed besides the normal length of the weekly working time is considered overtime. Employer may require a worker to perform overtime in the following cases: in order to cope with the temporary increase in the workload which does not justify hiring additional employees; force majeure; or when it is essential in order to prevent serious risk or damage to the enterprise or in order to ensure its viability.

Workers are under obligation to perform overtime work whenever required by their employer within the terms of law unless they expressly request dispensation and have justifiable reasons for refusal to perform overtime work.

In the event of overtime performance in response to temporary increase in workload, the overtime limits are 2 hours per day; 175 hours per year (small enterprises); and 150 hours per year (medium and large enterprises). Overtime hours can be extended to 200 hours per year through a collective agreement.

Under the individual hour bank system and under an agreement between the worker and employer, the normal working period may be increased to 10 hours per day and 50 hours per week provided that the increase is limited to 150 hours per year.

Under a collective bargaining agreement, the normal working period may be increased to 12 hours per day and 60 hours per week, subject to a limit of 200 hours per year.

The changes brought to the New Portuguese Labour Law include the end of individual hours bank and its replacement with group hours bank. whereas the existing individual hours bank will be kept, valid for a year, the new hour banks will refer to teams, sections and economic unities, provided that it is approved by the workers involved in a referendum. Under the new regimen, the normal working hours may be increased by 2 hours a day, up to the weekly limit of 50 working hours and to the year limit of 150 working hours. the employer prepares a plan for referendum about the collective hour bank, including its scope, the team, section of economic unity involved, stating the professionals that are not included, if there are any. The period of its implementation cannot be more than 4 years.

The collective agreement for the new hour bank system must rule about the compensation for the overtime working hours, which may be either in reduction of number of regular working hours, a longer vacation period or cash payment. It must also state how far in advance the workers must be informed of the need to work overtime, the period when the reduction of work time to compensate overtime work has taken place.

Overtime is paid at 125% of the normal hourly rate for the first hour (or part thereof) and 137.5% for every subsequent hour (or part thereof). For overtime work on an obligatory or additional weekly rest day or a public holiday, overtime is paid at 150% of the normal hourly rate for every hour (or part of an hour).

Source: §203-211, 226-229 & 268 of Labour Code 2009

Reforms Related to COVID-19

Limits for overtime work in all bodies of the Ministry of Health, security forces and services capable of contributing to the fight against the pandemic are suspended. Establishes the on call or stand by work regime in situations of outbreaks and other public health emergencies referring to the SARS-CoV-2 epidemic that may constitute a risk to public health, for health sector professionals who work in the diagnosis and specialized, rapid and integrated laboratory response. Each school group must designate one school to receive the children or other dependents in charge of those workers considered to be essential.

Night Work Compensation

Work performed between 22:00 and 07:00 of the following day is considered night work, including the hours between 00:00 to 05:00. A worker who works at least 3 hours during night hours is considered a night worker. The minimum and maximum duration of night work can be 07 hours and 11 hours respectively.

Night work is paid at a premium rate of 125% of the normal hourly pay. However, this premium pay option can be replaced, through a collective agreement, by an equivalent reduction in the normal working period, or by a fixed increase in basic pay provided that it does not represent a less favourable form of treatment for the worker.

The exceptions to this rule are: workers at activities that run during the night, such as bars, night clubs, concert halls and others related to tourism and nighttime leisure;

workers whose payment was agreed taking into consideration it would be performed during the night.

Source: §223 & 266 of Labour Code 2009

Compensatory Holidays / Rest Days

Workers may be required to work on weekly rest day and public holidays. Employment contract or collective agreement can establish a period of compensatory rest, continuous or not, for working on a weekly rest day. A worker who is required to work on a weekly rest day is provided with compensatory rest day within the next three days. Compensatory rest is also provided to a worker employed on a public holiday however an employer may choose between the compensatory rest and premium pay for working on a public holiday.

Source: §230 & 269 of Labour Code 2009

Weekend / Public Holiday Work Compensation

In accordance with the labour code, the work on weekly rest day and public holidays is considered as overtime (over and above normal working hours). A worker is entitled to 150% of the normal hourly pay for working on these days. In the case of public holidays, employer has the option to choose between time-off and premium pay. Previously to the changes brought by Law 93/2019 a collective agreement could rule out these dispositions on overtime payment, but the recent reform in Labour Code excluded this possibility in its Section 10.

Source: §268 & 269 of Labour Code 2009

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.

Portugal has ratified the Conventions 14, 106 and 132 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 recognized 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:

- Código do Trabalho Lei No. 7/2009/Labour Code 2009, amended in April 2023 by Law No. 13/2023

Paid Vacation / Annual Leave

Labour Code provides for 22 working days of mandatory annual leave to the workers (which should be taken before January 01 of the following year). The right to paid leave cannot be waived, but if the worker has more than 20 days leave and is willing to relinquish the enjoyment of this excess period in exchange for remuneration, the swap is allowed. During the first year of employment, employees are entitled to two working days holiday for each month of employment up to 20 working days which may be taken after 6 months' full performance of the contract. If an employee's usual rest days coincide with the working days, Saturdays and Sundays, other than public holidays are included in the calculation of annual leave period in substitution for them.

Annual leave cannot be accumulated however law permits an outstanding holiday period to be taken up to 30 April of the following year, by agreement between the parties.

The employer and the worker may agree on the timing of the annual leave. In a small or medium enterprise, the employee can only schedule his period of holidays between 1 May and 31 October. The period of the annual leave can also be split but the employee has to take at least 10 consecutive days of annual leave at a time.

An employee, on annual leave, is entitled to receive remuneration in the same amount as would be due if the employee was working. In addition, an employee is also entitled to receive a vacation/annual leave allowance equivalent to the remuneration regarding the vacation period entitlement.

Except when agreed differently, such vacation allowance must be paid by the employer to the employee before the beginning of vacation period and proportionally when vacations are broken into shorter periods.

Source: §237-247 & 264 of Labour Code 2009

Pay on Public Holidays

Public holidays are paid rest days of religious or memorial nature. There are 13 national public holidays and one municipal public holiday. The holidays are New Year's Day (January 01), Good Friday (April 18), Easter (April 20), Liberty Day (April 25), May Day (May 01), Portugal Day (June 10), Assumption Day (August 15), Feast of Immaculate Conception (December 08) and Christmas Day (December 25). Four public were earlier abolished however these have been restored again by the Law No. 8/2016. These holidays are Inauguration of the republic (October 05), Restoration of Independence (December 01), Corpus Christi (moveable feast celebrated 60 days after Easter) and All Saints' Day (November 01). These holidays are restored once again in accordance with the Law No. 8/2016.

In addition to the obligatory public holidays, Shrove Tuesday may be observed as a holiday by collective agreement or terms of an employment contract.

Autonomous regions can declare other public holidays according to their traditions. All businesses which are not allowed to operate on Sundays must remain closed or suspend their work during obligatory public holidays.

Source: §234-236 of Labour Code 2009

Weekly Rest Days

Workers are entitled to a weekly rest of one day per week. Sunday is principally the weekly rest day. The weekly rest day must be cumulated with the daily rest period of 11 hours.

Workers are entitled to daily rest breaks for a minimum of one hour and maximum of two-hour duration. Workers cannot be required to work for more than five hours without a rest break. Young workers under 16 must be granted a rest break before four hours of work. The rest break must be provided after a maximum of four and a half hours of work for young workers aged 16 years and over. Rest breaks are not considered part of the working time. Under a collective agreement, rest breaks may be shortened, extended or cancelled.

Workers are entitled to a daily uninterrupted rest period of at least 11 hours. The daily rest period is 14 consecutive hours for workers under 16 while 12 hours for workers aged 16 years and over.

Source: §77-78, 199, 213-214, and 232-233 of Labour Code 2009; §59(d) of the Portuguese Constitution

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

Portugal has 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 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:

- Código do Trabalho Lei No. 7/2009/Labour Code 2009, amended in April 2023 by Law No. 13/2023

Written Employment Particulars

Portuguese labour law allows for both oral and written employment contracts. There is no obligation on the employer to provide written employment contracts except in certain cases. These contracts, that need to be in writing are, fixed term employment contract; indefinite fixed term employment contract; very short-term employment contract; part time employment contract; intermittent employment contract; teleworker's contract; temporary employment contract; and occasional assignment contract. Although contracts can be both written or oral (other than above exceptions), employer is required to inform the employee of certain terms and conditions of employment including the employer's identity; place of work; employee's job category; date of contract execution; contract duration; amount of pay and frequency and timing of payments; working hours; workmen compensation insurance; and applicable collective agreements, if any. The above information must be provided to the worker within 60 days of the commencement of employment contract.

In line with Law no. 14/2018, employees' rights are secured during the transfer of undertakings. The new law also adds employees' right to object to the transfer of undertaking where the transfer appears to be seriously detrimental to the employees (due to lack of solvency or difficult financial situation due to transferee, or where the workers lack confidence in the new

employers' work organization policy. Such employees are not transferred.

Source: §102-110, 285 and 286 of Labour Code 2009

Reforms Related to COVID-19

The following workers may have their workplaces, institutions, conditions and working hours changed:

- health, civil protection, security and defence, as well as those dedicated to other activities necessary to treat patients, prevent and combat the spread of the epidemic,
- the production, distribution and supply of essential goods and services,
- the functioning of vital sectors of the economy,
- the operation of critical networks and infrastructures and
- maintenance of public order and democratic rule of law.

Persons who are looking for work or responding to a job offer are exceptions to the general duty of citizens to remain in their households. Imposes the adoption of teleworking regime regardless of the employment relationship, whenever the functions allows it.

Fixed Term Contracts

The Portuguese Labour Code prohibits hiring of fixed term contract workers for tasks of permanent nature. Fixed term contracts can be those with a fixed date of termination (duration of contract is known in advance) and those for which expiry date is not known in advance (indefinite fixed term employment contract). Fixed term contracts can only be used to meet a

temporary need of the company and for the period strictly necessary to meet this need. Besides, under the changes brought to Labour Law, the employer must define objectively the temporary need (Section 140 -1 Law 93/2019). The temporary needs of the company are direct or indirect replacement of an absent employee: who, for any reason, is temporary unable to work; with a pending lawsuit challenging the lawfulness of his/her dismissal; who is taking an unpaid leave of absence; and who goes from working fulltime work to part time.

The other examples of temporary need are seasonal activity or activities with irregular production cycles due to the structural nature of the market; exceptional increase in the undertaking's activity.

Performance of an occasional task or certain precisely defined and short-term service; execution of work, project or precisely defined and temporary activity, including the implementation, management or supervision of civil engineering, public works, industrial installations and repairs, in contract work regime or direct administration.

Labour Code also allows the conclusion of fixed term contracts even when temporary needs are not involved. These are: launching a new activity of uncertain duration or starting up an undertaking or branch of enterprise of fewer than 250 employees, instead of 750, as before the Reform (Section 140-a). Now fixed term contracts can no longer be adopted when hiring workers seeking their first job, although it still can be adopted for hiring long-term unemployed worker (more than 24-months duration of unemployment).

There are also changes in provisions for

special cases of very short-term contract (session 142 of Labour Code). The employment contract to cope with an exceptional and substantial increase in the activity of a company whose annual cycle presents irregularities that arise either from its market or from a structural nature that cannot be guaranteed by its permanent structure, namely in seasonal activity in the agricultural or tourism sector, must not exceed 35 days, is not subject to written form, and the employer shall communicate its conclusion and the workplace to the competent social security service, by means of an electronic form containing the elements referred to in subparagraphs a), b) and d) of paragraph 1 of the article 141. Besides the form and contents prescribed in section 141, the total duration of fixed-term employment contracts concluded between the same worker and employer may not exceed 70 working days in the calendar year.

In the situation of a launching of a new activity, the duration of a fixed-term employment contract may not exceed two years after the commencement of its cause, whereas the duration of an uncertain term contract may not exceed four years.

The calculation of the limit referred includes the duration of fixed-term or temporary work contracts, the execution of which takes place at the same place of work, as well as of a service contract for the same purpose, between the worker and the same employer or companies which are in a controlling or group relationship or have common organizational structures.

The fixed term contracts (with fixed duration) may be renewed only three times (total terms equal to four). On the other hand, no such renewal limitation exists for indefinite fixed term contracts

but their total duration cannot be greater than 04 years.

The maximum duration of fixed term contracts(s), including renewals, varies according to the type of contracts and the reasons for which they were concluded. The maximum length of a fixed term contract including three renewals cannot be greater than 2 years as a general rule. The maximum duration for indefinite fixed term contracts is now 4 years.

Decree-Law No. 72/2017 regulates the incentives to employers for the recruitment of young people (under 30 years) seeking their first employment and persons (aged 45 years or more) with long and very long-term unemployment through a partial waiver or total exemption from payment of employer contributions to the general social security scheme. The incentives may comprise a temporary reduction of 50% of the employer contribution to the social security scheme for a period of three to five years or a temporary exemption from social security contributions for a period of three years.

Source: §139-149 of Labour Code 2009

Probation Period

In order to verify the skills of the employee, a trial period/ Probation period is established. While determining the probation period, Labour Code distinguishes between the type and duration of the contract (fixed term or indefinite term/open ended) and the category of worker concerned (blue collar or white collar).

For open ended contracts/contracts of indefinite duration, the standard

probationary period is 90 days. The probationary period is extended to 180 days for employees who hold positions of technical complexity, high level of responsibility or which require special qualification, as well as those who hold positions of trust. This probation period is raised to 180 days workers at their first job, workers hired after more than 24 months of unemployment, workers holding positions of trust and high responsibility. The probationary period for managers or senior executives is 240 days. The probationary period, according to any of the previous numbers, is reduced or excluded, depending on the duration of the previous fixed term contract for the same activity, temporary employment contract performed at the same job, service contract for the same object, or professional internship for the same activity, has been less than or equal to or longer than the duration of that activity, provided that in any case they are entered into by the same employer. For fixed term contracts (whether its term is known or unknown), length of probation period depends on the length of contract and is as follows: 30 days for fixed term contracts concluded for at least 6 months; 15 days for fixed term contracts concluded for a period of less than 6 months. The probationary period is also 15 days for an indefinite fixed term contract (with uncertain duration) if the expected duration does not exceed 6 months. For service commission situations, probationary periods depend on express stipulation in the contract and cannot exceed 180 days.

During the probation period, either party may terminate the employment contract without giving notice, invoking just cause or provide compensation. However, if the probation period has lasted 60 days, employer has to give notice of 7 days (or

payment in lieu of). If the probationary period has lasted 120 days and the employer wants to terminate the contract, a prior notice of 15 days (or payment in lieu thereof) is required.

The probation period may be excluded by a written agreement between the parties. The duration of above probation period may be reduced by a collective bargaining agreement or by a written agreement between the parties.

Source: §111-114 of Labour Code 2009

Notice Requirement

The Labour Code allows for termination of employment at the initiative of the employer for subjective reasons attributable to the employee (conduct-based motives/disciplinary dismissals) or for objective reasons, related to the employee (unsuitability) or others (economic reasons: collective dismissal or elimination of the position).

In accordance with the Labour Code, the decision for dismissal (whether for disciplinary reasons, unsuitability reason, on account of individual redundancy or collective dismissal) must be conveyed in writing.

In the case of disciplinary dismissals, employer is not required to serve a notice of contract termination. However, in the cases of dismissals for unsuitability, individual redundancy (elimination of post) and collective dismissals for economic reasons, notice period has to be observed. The notice period is set according to the worker's seniority, as follows:

- 15 days for length of service less than one year;
- 30 days for length of service greater

than one but less than 5 years;

- 60 days for length of service greater than five but less than 10 years; and
- 75 days for length of service greater than 10 years

During the probationary period, the notice period ranges between 7-15 days. For service commission agreements, the required notice period is 30 days (less than 2 years of service) or 60 days (2 years or more of service).

Labour Code does not allow payment in lieu of notice for individual dismissals. However, for collective dismissals and dismissals due to unsuitability, paying in lieu of notice is allowed.

A worker may also terminate the indefinite term employment contract after serving a written notice. The length of notice depends on the seniority of a worker: 30 days for less than two years of service and 60 days for two or more years of service.

Source: §163 & 338-403 of Labour Code 2009

Severance Pay

Workers are entitled to severance pay in the case of collective dismissal, job elimination (individual redundancy) and dismissal for maladjustment (unsuitability). No severance pay is payable in case of disciplinary dismissals.

In the event of contract termination, workers are entitled to 12 days' basic remuneration and seniority payments for each full year's employment. If an employee has worked for part of a year, this amount is calculated proportionally. In the event of fixed term contracts, the severance payment is equal to 18 days of basic salary

plus seniority allowance for each year of service.

The total basic monthly remuneration and seniority payments cannot exceed 20 times the monthly minimum wage (RMMG), while the maximum amount of compensation may not exceed 12 months or 240 times the minimum wage.

The severance pay is paid by the employer and the employment compensation fund or other relevant scheme. Employer is responsible for the whole payment in case no such employment compensation fund exists or employer has not been a member of one.

Workers who opposed the transfer of undertaking but did not exercise the right are given the right under the law No. 14/2018 to terminate their employment contract for cause and receive compensation as is applicable in the case of economic/collective redundancies.

Source: §366, 372 & 379 of Labour Code 2009

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

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

Portugal has ratified the Convention 156 only.

Summary of Provisions under ILO Convention

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

Recommendation (No. 165) provides for parental leave as an option available to either parent to take 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 the employers to look into the measures for improving general working conditions through flexible work arrangements.

Regulations on family responsibilities:

- Código do Trabalho Lei No. 7/2009/Labour Code 2009, amended in April 2023 by Law No. 13/2023

Paternity Leave

In accordance with the Labour Code, the total length of paternity leave is twenty-eight (28) working days consecutive or in interpolated periods of at least 7 days in the first 42 days after the childbirth while seven (7) of which must be taken immediately after birth. Employees are entitled to their full wages during paternity leave.

Source: §43 of the Labour Code 2009; Act No. 120/2015 of 1st September 2015

Parental Leave

The father and the mother have the right to a complementary parental leave to care for their child, under six years of age, in any of the following schemes: extended parental leave of three months (individual right of each parent); Part-time work for 12 months, with a working period of half the complete working period; intermittent periods of extended parental leave and part-time work, with the total absence and working time reduction equivalent to the normal working periods of three months; and intermittent absences with the duration equivalent to the normal working period of three months, as long as it is provided in a collective bargaining agreement. During this extended 3-month leave, workers are entitled to only 25% of their gross pay.

Source: §40 of the Labour Code 2009; <http://www.seg-social.pt/maternidade-e-paternidade>; <http://www.seg-social.pt/adocao>

Flexible Work Option for Parents / Work-Life Balance

Parents with children below 12 years (no age limit in the case of chronically ill or disabled children) are entitled to 'flexible working'. An employee may choose, within certain limits, when to start and finish daily work. Employees may work up to six consecutive hours and up to ten hours daily as long as the normal weekly hours of work are fulfilled. Both parents are entitled to this 'flexible working schedule for an employee with family responsibilities. Similarly, parents with children under 12 years (no age limit in the case of chronically ill or disabled children) are entitled to part-time work after taking Additional Parental leave (of three months). Part-time work can be taken on the following basis: working half-time during five days a week or working three full days per week. Employers and employees can agree on another basis. Part time work can be extended up to two years (three years in the case of third and subsequent child, four years in the case of chronically ill or disabled child).

In accordance with the Act No. 120/2015, employees with parental responsibilities are entitled to flexible forms of employment (e.g. part-time work or flexible work arrangements) and cannot be placed at any disadvantage concerning performance assessment and career progression.

Source: §55-57 of Labour Code 2009

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.

Portugal has ratified both 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 same or equivalent position after availing maternity leave.

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

Regulations on maternity and work:

- Código do Trabalho Lei No. 7/2009/Labour Code 2009, amended in April 2023 by Law No. 13/2023

Free Medical Care

Pregnant employees are entitled to leave of absence with pay for prenatal medical examinations or for childbirth preparation courses when such examinations cannot be reasonably taking place outside working hours. A father is also entitled to three exemptions from work to accompany the pregnant worker to prenatal visits. Medical services are provided directly to patients by health centres and hospitals. Benefits include general and specialist care, maternity care, hospitalization, surgery, approved medications, and long-term care. There is no limit on time duration of treatment. There is no co-payment for pregnant women and new mothers and all the expenses are paid by the health service.

No Harmful Work

Pregnant workers, workers with a child under 12 months of age, and breastfeeding women workers cannot be required to work overtime. It is also prohibited to request pregnant workers, breastfeeding women and women within a 112-day period before and after birth to perform work between 8 pm and 7 am.

A pregnant woman, a woman who has recently given birth or is breastfeeding is entitled to special safety and health in the workplace to avoid exposure to risks to their safety and health. Employer is required to make an assessment of workplace risks and determine the measures to be taken to safeguard the

health and safety of pregnant workers, breastfeeding mothers and workers who have recently given birth.

If the workplace assessment reveals risks to the health and safety of pregnant worker or breastfeeding employee, employer is required to adapt working conditions accordingly. If adaptation in the working conditions is not feasible (too costly or too time consuming), employer is required to reassign the employee to a suitable (relevant to their current status and position) alternative work. In case the transfer to the other post and adaptation in the working conditions are not feasible, employer is required to release the worker from work for the necessary period.

Source: §62 of Labour Code 2009

Maternity Leave

The maternity leave in Portugal is part of initial parental leave and is 120 or 150 days, depending on the payment level. Mother may take up 30 days' parental leave before birth. Six weeks' post-natal leave is obligatory for new mothers. In the case of multiple births, initial parental leave is extended by 30 days for each additional child. The maternity leave (referred to as initial parental leave) can be increased by 30 days if each of the parents exclusively enjoys a period of 30 consecutive days or two periods of 15 consecutive days each after the mandatory period of six weeks/42 days as referred above.

In case of death/mental illness/physical incapacity of the parent who is taking leave, the other parent is entitled to the remaining leave to which the deceased parent was entitled. A minimum of 30 days leave is granted to the father in case of mother's

death/mental/physical incapacity.

Source: §39-42 of Labour Code 2009

Income

Initial Parental leave may be taken in the following ways: either parent (mother or father after the mother's obligatory six weeks leave) may take all 120 days at 100 per cent of earnings or all 150 days at 80 per cent of earnings; parents may divide between themselves 150 days at 100 per cent of earnings on condition the father takes at least 30 consecutive days or two periods of 15 consecutive days of leave alone, without the mother, or vice versa); parents may divide between themselves 180 days at 83 per cent of earnings on condition the father takes at least 30 consecutive days or two periods of 15 consecutive days of leave alone, without the mother, or vice versa).

In cases of poor health or health risks for the mother and child, the pregnant mother is entitled to receive maternity benefits (at the rate of 100% of her pay) before birth for as long as the period of risk lasts.

All employees with a record of six months of insurance contributions are eligible for this benefit. The benefit is funded by the Social Security system and is financed by the social security system for employers and employees.

Source: §11-14 & 29-38 of Decree Law No. 91/2009 of April 09, 2009 on Social Protection for Parents; <http://www.seg-social.pt/maternidade-e-paternidade>

Protection from Dismissals

The dismissal of pregnant workers, workers who have recently given birth, workers who are breastfeeding is subject to prior opinion of the competent authority in the area of equal opportunity between men and women and is presumed unfair dismissal unless the authority has agreed. If the authority does not approve the dismissal, the dismissal may only take place once the employer has obtained a court order which recognizes the existence of proper grounds.

Source: §63 of Labour Code 2009

Right to Return to Same Position

No relevant provisions could be located in the law requiring employer to assign the worker same/similar post when she returns from maternity/parental leave. However, it is mentioned that a worker can't be demised during the term of her maternity leave which means that right to return to work is implicitly guaranteed under the law.

Source: §63 of Labour Code 2009

Breastfeeding/Nursing Breaks

Parents are entitled to two hours 'nursing' leave per day during the first year after birth. These two hours of nursing leave can be a family entitlement if mothers do not breastfeed their child. In this case, leave may be taken by one parent, either the mother or the father. Parents may also share the nursing leave by taking one hour each per day. In cases of multiple births, leave is increased by 30 minutes for every child. Where mothers are actually breastfeeding, the two hours reduction can last for as long as the child is breastfed.

If a parent works part time, the daily nursing or breastfeeding break can be reduced in proportion to the normal working hours however cannot be less than 30 minutes.

The breastfeeding leave of two hours per day is paid and does not lead to reduction in earnings.

Source: §47-48 of Labour Code 2009

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)

Portugal has ratified both the Conventions 81 and 155.

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:

- Lei 102/2009 Regime jurídico da promoção da segurança e saúde no trabalho/Law No. 102/2009 regarding Promotion of Health and Safety at Work
- Código do Trabalho Lei No. 7/2009/Labour Code 2009, amended in April 2023 by Law No. 13/2023

Employer Cares

An employer has the duty to ensure the health and safety of workers in every aspect related to work. Workers have the right to health and safety in the workplace and it is the duty of the employer to provide and care for the full enjoyment of this right, in every aspect of the work. Specific regulations provide for the organization and functioning of the health and safety services.

In order to protect the health and safety of all workers, employers are obliged to take the necessary measures to: ensure the safety and health of workers; b) prevent occupational risks; c) inform and train workers about occupational risks; d) provide the necessary organization and means of safety and health, taking account of changing conditions, and to improve existing situations. It is also the responsibility of employer to do risk assessment to reduce the risk, choose appropriate work equipment, work methods and place right workers meeting the requirement of jobs. The workers must have choice of equipment, working conditions and environment.

Law places special regulatory conditions on the jobs capable of affecting the genetic characteristics of the worker and its

descendants.

Source: §15 of the Law No. 102/2009 regarding Promotion of Health and Safety at Work; §281-284 of Labour code 2009

Free Protection

The Occupational Safety and Health law requires use of personal protective equipment (PPE) in order to prevent workplace risks. Workers should also be consulted on the type of PPE to use. The personal protective equipment has to be used when risks cannot be avoided or sufficiently limited by technical means of collective protection or by measures, methods or procedures of work organization. It is the responsibility of employer to provide personal protective equipment and ensure its smooth functioning; provide and maintain at the workplace adequate information about each type of PPE; inform workers of the risks against which the PPE protect; and ensure training on the use of personal protective equipment. Workers are also under obligation to correctly use the PPE in accordance with the instructions and maintain the PPE in good condition.

Source: Ordinance No. 348/93 regarding personal protective equipment; Decree Law No. 988/93 on the use of personal protective equipment

Training

An employer has to organize the employee training in the field of health and safety at work and ensure that each worker receives sufficient and adequate safety and health training, in particular in the form of information and instructions specific to his workplace and job. The training of the

workforce or health and safety at work must be ensured so that it cannot lead to the same injury.

The employee is entitled each year to a minimum of forty hours of continuing training or, if he is on permanent employment for a period of three months or more, a minimum number of hours commensurate with the duration of the contract in that year. (section 131-2)

Source: §20 of the Law No. 102/2009 regarding Promotion of Health and Safety at Work; §281-284 of Labour code 2009

Labour Inspection System

The Portuguese national labour inspectorate is part of the central State administration, and is placed under the authority of the Ministry of Labour and Social Solidarity. The Authority for Working Conditions (Autoridade para as Condições do Trabalho-ACT) is a service of promoting the improvement of working conditions, prevention, control, audit and monitoring. The main functions of the inspectorate are to ensure implementation of the rules governing working conditions, health and safety, labour relations, employment and social security; provide employers, workers and their organizations with technical advice and information concerning the most appropriate means of complying with the relevant legislation; and propose to the Government suitable measures in cases in which there is inadequate or no regulation.

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

Portugal has ratified the Convention 102 only.

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 benefit may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during 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:

- Labour Code 1996
- Código do Trabalho Lei No. 7/2009/Labour Code 2009, amended in April 2023 by Law No. 13/2023
- Regulamenta o regime de reparação de acidentes de trabalho e de doenças profissionais, incluindo a reabilitação e reintegração profissionais Lei n.º 98/2009/Law No. 98/2009 regarding accidents at work and occupational diseases

Income

Labour Law provides 30 days of sick leave in a 12-month period. If a worker is unable to return to work after expiry of thirty days, employment contract is suspended until the worker is able to return to work. A suspended contract is terminated only when it has become evident that worker is unable to resume work.

Employer is not obliged to pay cash sickness benefits to the sick workers. The benefits are paid by the Social Security Institute from the fourth day of sickness (after a three-day waiting period). The amount of sickness benefits depends on the length and nature of sickness. It is equal to 55% of average daily pay for the first 30 days of sickness; 60% of average daily pay for sickness from 31 to 90 days; 70% of the average daily pay for sickness lasting from 91 to 365 days; and 75% of the average daily pay for sickness lasting longer than 365 days. The minimum sickness benefit is either 30% of the indexing reference of social support (indexante dos apoios sociais, IAS) or the average daily earnings used for cash sickness benefit calculation, whichever is lower. The sickness benefit is

paid for a maximum of three years after which the insured person is covered under invalidity insurance. For tuberculosis, the benefit is paid as long as the person is unable to work.

Source: §296 of Labour Code 2009; <http://www.seg-social.pt/subsidio-de-doenca>

Reforms Related to COVID-19

For the purpose of receiving sick-leave benefits on the amount of reference remuneration, the 14-day prophylactic isolation period of a worker must be considered illness and the benefit is paid from the first day of illness. If a worker needs to accompany the prophylactic isolation of a child or other dependent, the absence from work is justified, but not paid. The same applies to the retired worker who needs assist a grandchild and to workers who, due to the suspension of school activities, must assist a child or other dependent under 12 years of age, with a disability or chronic illness.

Medical Care

All persons legally residing in Portugal are entitled to health care. No period of prior residence is required and health care is provided as long as the illness lasts without any limit on time. The insured persons have access to preventive and curative care which includes consultations with general practitioners and specialists, medical assistance, diagnostic tests, specialized treatment, medical appliances and hospitalization. There is some cost sharing (in the form of co-payment).

Source: <http://www.seg->

Job Security

Law allows 30 days of sick leave in a 12-month period. If a worker is unable to return to work after expiry of thirty days, employment contract is suspended until the worker is able to return to work. A suspended contract is terminated only when it has become evident that worker is unable to resume work.

If the illness lasts longer than 60 days and employee is unable to resume work, the case is referred to the medical board. There is no need of medical board intervention if employee is hospitalized or is sick abroad. The board can justify sick leave of employees for successive periods from 30 days up to 18 months. Once the limit of 18 months is reached, employee may request within 30 days their submission to the medical board and may apply for retirement if they meet the minimum conditions for retirement (5 years of service). Within those thirty days, an employee may also request unpaid leave up to 90 days, for a year or long term regardless of the length of service. Thus, it is clear that employee's job is secure at least during the first 18 months of illness.

Source: §296 of Labour Code 2009; Decree Law No. 100/99 on absences and leaves of the public sector employees

Disability / Work Injury Benefit

Work injuries may be classified, on the basis of their consequences, as those resulting in: (i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to death of a worker.

Accident on the way to and from workplace are considered workplace injuries.

The temporary disability is divided into temporary total disability and temporary partial disability. In the case of temporary total disability, 70% of the reference earnings (gross annual wage) is paid during the first 12 months and thereafter 75% is paid. The benefit is paid until full recovery or certification of permanent total disability. In the case of temporary partial disability, 70% of the insured person's lost earning capacity is paid.

In the case of permanent total disability for all kinds of work, the benefit is 80% of the reference earnings plus 10% for each dependent, up to 100%. For permanent total disability for usual work/profession, pension is 50-70% depending on the remaining functional capacity to pursue another suitable profession.

In the case of permanent partial disability, 70% of the insured worker's lost earning capacity is paid annually.

In the case of worker's death due to an occupational accident or disease, survivor pension is 40% of deceased worker's reference earnings and paid to the surviving spouse, partner or divorced spouse. The survivor pension is 40% if the beneficiary is aged 65 or older or disabled. The orphan pension is 20% of the deceased worker's reference earnings for orphans younger than 18 (22 or 25 years for students). The orphan's pension is 40% for two orphans and 50% for three or more orphans. The full orphans receive double benefits. The deceased worker's parents are also granted a individual pension which equals 10% of the deceased's reference earnings. A lump sum death grant is paid to the survivors and it is equal to 12 times the 110% of Social

benefit rate (IAS), i.e., €421.32. The cost of funeral is also paid up to four times the 110% of social benefit rate (IAS). The funeral grant is doubled if transportation costs are involved.

Source: §48, 59, 65 & 66 of Law No. 98/2009 regarding accidents at work and occupational diseases; <http://www.seg-social.pt/incapacidade-temporaria>; <http://www.seg-social.pt/prestacoes-por-morte>; <http://www.seg-social.pt/prestacoes-em-especie>; <http://www.seg-social.pt/incapacidade-temporaria>

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).

Portugal has ratified the Convention 102 only.

Summary of Provisions under ILO Conventions

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If 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”. 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 has a right to unemployment benefit 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 a gainful employment, before 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

Normal Retirement age for men and women is 66 years and three months (increasing one month every year) with at least 15 calendar years of contributions. The early retirement age is 55 years but requires 30 years of contributions (suspended between 2012-2014 except for long term unemployed). In accordance with the Decree-Act No. 154/2014, the Government reduced the amount of contribution by 0.75% between November 2014 and January 2016 (including holiday and Christmas allowances). This reduction depends on the employee must have been employed from May 2014 onwards; from January to August 2014, the employee must have been entitled, at least for one month, to the minimum wage set forth in Decree-Act No. 144/2014; and the employer must gain approval from the social security authorities.

Decree-Law no. 119/2018 reduced the early retirement age. From 1 January 2019, employees who are at least 63 years old and have 40 or more years of contributions to Social Security may access early retirement. From 1 October 2019, early retirement is available for beneficiaries who are at least 60 years old and with 40 or more years of contributions to Social Security. These provisions are applicable to all those workers whose early retirement time starts after these dates.

Decreto-lei no. 126-B / 2017 sets the new rules early retirement without any reduction in the amount of the pension for (i) employees with at least 48 years of contributions; or (ii) employees with at

least 46 years of contributions and who began paying contributions at or under the age of 14 years. The beneficiaries of general social security system and integrated system are eligible for old age retirement benefits without any reductions in the amount of benefits if they meet above conditions.

The deferred pension is also possible from the current pensionable age however employment must cease at the age of 70 years. The long term employed who is no longer entitled to receive unemployment benefit may receive old age pension at the age of 62 years. The old age pension is also accessible at the age of 57 years if worker has at least 22 years of contributions at the age of 52 years.

The old age pension formula is based on a percentage (between 2% and 2.3%) per year with 120 days of registered pay. The benefit is at least 30% of the reference wage (total adjusted earnings for the whole career) but not more than 92%. The maximum amount is paid in case the reference wage is less than 110% of the social benefit rate (IAS which is equal to €421.32) provided that employee has 40 years of contributions. A pension ceiling is also in place which is equal to 12 times the social benefit rate. The pension is reduced by 0.5% for each month the pension is received before age 65 (early pension) while pension is increased by a certain percentage (0.33% to 1%) for each additional year of contributions from age 65 to 70.

Source: <http://www.seg-social.pt/pensao-de-velhice>

Reforms Related to COVID-19

Support was established for the families of

employed workers referring to a month wage, or proportional to 2/3 of the basic remuneration, to be shared by the employer and the social security, in an amount between 1 and 3 minimum wages. The benefit is deferred automatically, at the employer's request, provided teleworking is not possible. The social security share is paid to the employer who then pays the entire amount of support to the worker. Similarly, support was provided for the family of self-employed workers, who are prevented by the pandemic from exercising their activities, provided they have contributed to Social Security for at least 3 months in the last year.

Companies that had their activities halted, suffered a drop of 40% or higher or faced disruption of global supply chains receive support for maintaining employment. The worker receives 2/3 of the gross salary up to the limit of 3 minimum wages. The benefit is to be paid for 1 month, but can be extended up to 6 months. Social Security pays 70% and the employer the remaining 30%. If the company promotes trainings for workers, the Ministry of Labour pays a scholarship, the amount of which is split between the trainer and the employer. An extraordinary financial incentive supports companies in resuming activities, so they can pay wages for the 1st month of operation, with the limit of one minimum wage per worker.

Dependents' / Survivors' Benefit

In order to qualify for a spouse pension or orphan pension, a deceased person must have contributed for at least 36 months. The other qualifying condition is that the deceased received or was entitled to receive an old-age pension or a disability pension at the time of death.

The widow(er) pension is 60% of the deceased person's pension however the pension increases to 70% if there are more than one widow(er) and is divided equally between them. The pension is paid only for five years unless the widow(er) is over the age of 35 years, disabled or caring for a child.

The orphan's pension is 20% of the deceased person's pension for one child; 30% for two children and 40% for more than two children. The rates are doubled for full orphans. If there are no spouse(s) or orphan(s), parents may receive pension, ranging from 30-80% of the deceased person's pension.

A lump sum death grant is also paid as part of survivor's pension and is equal to three times the social benefit rate (€1263.96). There are no qualifying conditions for the death grant and it may be shared between the beneficiaries as the survivor's pension.

If there is no family member entitled to the death grant, the funeral expenses are reimbursed to the person who incurred the costs of the funeral. The amount of reimbursement of funeral expenses cannot exceed death grant and thus is €1263.96.

Source: <http://www.seg-social.pt/pensao-de-orfandade1>; <http://www.seg-social.pt/pensao-de-viuvez1>; <http://www.seg-social.pt/reembolso-de-despesas-de-funeral>; <http://www.seg-social.pt/pensao-de-sobrevivencia>

Unemployment Benefits

Unemployment benefit is provided to a worker with at least 360 days in the 24 calendar months immediately prior to the date of unemployment. Unemployment

benefit is calculated on the basis of average monthly earnings received during the last 12 months before the termination of employment contract.

Unemployment benefit is 65% of the insured worker's average earnings (earnings in the past 12 months prior to the two months before the month unemployment began).

The Decree-Law No. 64/2012 introduced some changes in the Decree-Law No. 220/2006 regarding Unemployment Benefits. According to these amendments, the duration of unemployment benefit is determined on the basis of recipient's age and the number of years of social security contributions.

There is also provision of unemployment assistance (amounting to 100% of the social benefit rate for the unemployed with dependants and 80% of the IAS for single unemployed). The partial unemployment benefit is the difference between 135% of the unemployment benefit and remuneration paid for the part time work.

There is also provision for pre-retirement benefit payable by the employer. The Employment and Vocational Training Institute (Instituto do Emprego e Formação Profissional) may pay half the sum for a period of six months, which may be extended for another six months if the agreement is within a certain framework and the employer is in an uncertain economic and financial situation.

Order No. 86/2015 promotes and finances specific occupational training for the long-term unemployed persons (for more than 01 year) and who are over 31 years old.

Source: <http://www.seg-social.pt/desemprego>

Invalidity Benefit

Once a worker has exhausted sickness benefit (for 1095 days), he/she can be directed to the invalidity benefit. A person is in situation of partial incapacity when he/she is not able to earn more than one-third of the earnings corresponding to his/her profession (loss of two-thirds of earning capacity). Absolute disability means permanent and definite incapacity to perform all kinds of jobs. The qualifying period is 3 years (for total disability) and 56 years (for partial disability) with at least 120 days for each year of contribution. For invalidity due to certain chronic diseases, a waiting period of three years is required.

The invalidity benefit is determined according to the number of years of contributions, the average monthly earnings during the insurance period and the sustainability factor. For beneficiaries with 20 years of insurance or less, the pension rate is calculated by adding 2% of the calculation base for each of the calendar years considered. The minimum invalidity benefit is 30% of the reference earnings while the maximum amount is 92% of the reference earnings. For beneficiaries with over 20 years of insurance, the pension rate varies between 2-2.3%.

Source: <http://www.seg-social.pt/pensao-de-invaliddez>; <http://www.seg-social.pt/pensao-social-de-invaliddez>

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.

Portugal 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 the clear matching of pay and position should be in place and to help prevent wage discrimination.

Convention No. 190 recognizes 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 aim 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:

- Código do Trabalho Lei No. 7/2009/Labour Code 2009, amended in April 2023 by Law No. 13/2023
- Constituição da República Portuguesa 2005/Constitution of the Portuguese Republic (2005 version)

Equal Pay

In accordance with the Constitution, every worker, regardless of the age, sex, race, citizenship, place of origin, religion and political and ideological convictions, has the right to remuneration for his work in accordance with its volume, nature, quality and with respect for the principle of equal pay for equal work and in such a way as to guarantee proper living.

According to Labour Code, workers have the right to equal working conditions in particular as regard to remuneration and there can't be any discrimination on the ground of sex in remuneration matters.

Employees who carry out comparable tasks should receive the same salary, the same rank and equal opportunities to progress on their careers.

Any unequal treatment must be objectively justified, notably on the grounds of quantity, quality and nature of the work. Difference in wages does not constitute discrimination if it is based on merit, productivity, attendance or seniority criteria.

Source: §31 of Labour Code 2009

Sexual Harassment

The Labour Code prohibits harassment in general (mobbing), harassment based on any discriminatory factor (including sex) and sexual harassment. sexual harassment is defined as any unwanted behaviour (whether verbal, non-verbal, written, physical or other) of sexual nature, notably based on a discriminatory factor, inflicted upon an employee, trainee or job applicant with the purpose or effect of disturbing or embarrassing the person, affecting his or her dignity or creating an intimidating, hostile, degrading, humiliating or destabilizing environment.

A person who uses his position of authority to compel another person to perform sexual act for himself or for some other person is punished with imprisonment up to two years.

Law No. 28/2015 provides that all workers or job applicants have the right to equal opportunity and treatment as regards access to employment, training and promotion, career and working conditions, and cannot be privileged, favoured, prejudiced, deprived of any right or exempted from any duty because of his ancestry, age, sex, sexual orientation, gender identity, marital status, family or economic status, education, social origin or status, genetic inheritance, decreased working capacity, disability, chronic disease, nationality, ethnic origin or race, place of origin, language, religion or political or ideological beliefs or trade union membership.

Law No. 73 of 2017 amended Labour Code and implements new anti-harassment measures. The new law requires companies with 7 or more employees to adopt codes of

conduct to prevent and tackle sexual harassment at work. Noncompliance can lead to financial penalties, depending on the enterprise's annual turnover and the employer's degree of responsibility.

Source: §163(2) of Penal Code Law No. 400/82 amended by Law No. 59/2007; §29 of the Labour Code 2009; Law No. 28/2015;

Non-Discrimination

The Portuguese Constitution establishes that all citizens have the same social dignity and are equal before the law and that no one can be privileged, benefited, harmed, deprived of any right or exempted from any duty because of ascendancy, sex, race, language, territory of origin, religion, political or ideological convictions, education, economic situation, social status or sexual orientation.

In accordance with the Labour Code, an employee or job applicant has the right to equal opportunities and equal treatment as regards access to employment, vocational training and promotion or career growth and working conditions, and may not be privileged, favoured, prejudiced, deprived of any right or exempted from any duty due to, inter alia, ancestry, age, sex, sexual orientation, gender identity, marital status, family status, economic status, education, social origin or condition, genetic heritage, reduced work capacity, disability, chronic illness, nationality, ethnic origin or race, place of origin, language, religion, political or ideological convictions or trade union membership. State is required to promote equal access to those rights.

The Labour Code considers both direct and indirect discrimination as unlawful.

The employer must take appropriate

measures to ensure that a person with a disability or chronic illness, including an active cancer disease undergoing treatment, has access to a job, can pursue and progress in it, or to have vocational training unless measures entail disproportionate burden to the employer.

Law No. 4/2019 establishes the employment quota of persons with disability of 60% or more. Compliance with employment quotas must be ensured by public and private enterprises. The medium-sized enterprises with 75 employees or more must hire disabled workers as a percentage of at least 1% of total workforce. The large enterprises (employing more than 100 workers) are required to hire at least 2%. Law also allows a transitional period of 5 years for medium enterprises and 4 years for large enterprises.

Source: §13 of the Portuguese Constitution 2005; §24 and 86 of the Labour Code 2009; § of the Law No. 4/2019

Equal Treatment of Women at Work

No restrictive provisions could be located in the law rather the Constitution provides that everyone possesses the right to freely choose a profession or type of work, subject only to such restrictions as the law may impose in the collective interest, or as are inherent to his own capabilities.

Source: §47 of the Portuguese Constitution 2005

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Portugal 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 hampers 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 jeopardize 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:

- Código do Trabalho Lei No. 7/2009/Labour Code 2009, amended in April 2023 by Law No. 13/2023

Minimum Age for Employment

Minimum age for employment is 16 years. A minor under 16 years of age may not be employed to carry out a paid activity delivered with autonomy, except if he/she have completed compulsory education or is enrolled and attending secondary level of education, and its light work. This light work should consist of simple tasks and is not susceptible to negatively affect physical integrity, safety and health, school attendance, or their physical, moral, psychological, intellectual and cultural wellbeing.

The general principle guiding the work of minors establish that minors must work in conditions that respect their age, development, safety, physical, psychical and moral development, as well as their education and training, with special attention to, protect the minor from any risk related to their own inexperience or the unawareness of actual or potential risks. The employer must pay special attention to any relevant change in the workplace that may affect work equipment, site and location; nature, degree and duration of exposure to chemical, physical and biological agents, choice adaptation and use of equipment; choice, adaptation and utilization of work equipment; adaptation of working organization, processes and conditions; the degree of knowledge and risk awareness of the minor employee. These rules are not changed by a minor's consent.

Source: §66-83 of Labour Code 2009

Minimum Age for Hazardous Work

Although the age of majority in Portugal is 18 years however the minimum age for hazardous has not been clearly specified as 18 years in the Labour Code 2009 and Promotion of Health and Safety at Work Law No. 102/2009.

Young workers may not perform overtime work. If the worker is 16 years old (or older), he can perform overtime work when it is essential to prevent or remedy serious injury to the organization, due to unforeseeable events or exceptional circumstance. Young workers under 16 years are prohibited from working between 20:00 and 07:00 unless it is authorized by collective agreement (but not in the period of 00:00 and 05:00) or it is justified by the performance of a cultural or artistic activity, sports or advertising, provided that there is an equivalent period of compensatory rest on the following days.

Source: §75 & 76 of Labour Code 2009;
Source: §68-72 of Law No. 102/2009

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.

Portugal 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:

- Código do Trabalho Lei No. 7/2009/Labour Code 2009, amended in April 2023 by Law No. 13/2023
- Código Penal Decreto-Lei n.º 400/82/Penal Code Decree Law No. 400/82 amended by Law No. 59/2007 and Law No. 60/2013

Prohibition on Forced and Compulsory Labour

In accordance with article 160 of the Penal Code, whoever offers, gives, recruits, solicits, accepts, transports, harbours or receives a person for purposes of exploitation, including sexual exploitation, labour exploitation, begging, slavery, organ harvesting or exploitation by other criminal activities and he/she has abused the authority resulting from a hierarchical relationship of dependency (whether financial, familial or work related) is punished with imprisonment of three to ten years.

Source: §160 of Penal Code Decree Law No. 400/82 amended by Law No. 59/2007; Law No. 60/2013

Freedom to Change Jobs and Right to Quit

The right to choose profession is guaranteed by the Portuguese Constitution. Workers have the right to change jobs after serving required notice on the employer. For more on this issue, please read the topic on employment security.

Source: §47 of Portuguese Constitution 2005; §400 of Labour Code 2009

Inhuman Working Conditions

Working time may be extended beyond normal working hours of forty hours per week and eight hours a day. However, total hours of work inclusive of overtime must not exceed forty-eight hours a week.

Employer may require a worker to perform overtime in the following cases: in order to cope with the temporary increase in the workload which does not justify hiring additional employees; force majeure; or when it is essential in order to prevent serious risk or damage to the enterprise or in order to ensure its viability.

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

Source: §203-211, 226-229 & 268 of Labour Code 2009

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)

Portugal 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 working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

Trade unions are entitled to negotiate with employers on term 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 violation 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 organize provided in ILO convention 87.

Regulations on trade unions:

- Código do Trabalho Lei No. 7/2009/Labour Code 2009, amended in April 2023 by Law No. 13/2023
- Constituição da República Portuguesa 2005/Constitution of the Portuguese Republic (2005 version)

Freedom to Join and Form a Union

According to the Portuguese Constitution and the Labour Code, employees have freedom of association and representation at all levels in order to defend and promote their social/professional interests. Employees are entitled to form unions and workers' councils.

Workers are free to form and operate trade unions as a condition and guarantee of the building of their unity in defense of their rights and interests. In exercising their freedom to form and operate trade unions, workers are guaranteed, without any discrimination, the freedom to form trade unions at every level; freedom of membership and no worker can be obliged to pay dues to a union to which he does not belong; freedom to determine the organisation and internal regulations of trade unions; the right to engage in trade union activities in businesses; and the right to political views.

Trade unions are independent of employers, the state, religious denominations, and parties and other political associations. Trade unions possess the right to establish relations with or join international trade union organisations. Workers' elected representatives enjoy the right to be informed and consulted, as well as to adequate legal protection against any form of subjection to conditions,

constraints or limitations in the legitimate exercise of their functions. Employers also have the right to form associations in order to promote their business interests. Workers have the right to create, in each company, a Works Council to defend their interests and exercise the rights provided for in the Constitution and in the law.

Source: §55 of the Portuguese Constitution 2005; §440 of Labour Code 2009

Freedom of Collective Bargaining

Collective bargaining is supported by the state. Trade Unions have the right to: participate in the drafting of labour legislation; participate in the management of social security institutions and other organisations that aim to satisfy the interests of workers; comment on the economic and social plans and monitor their implementation; be represented in social dialogue bodies, in accordance with the law; e) participate in the company's restructuring process, especially with regard to training or when a change occurs in working conditions; assist employees; right of meeting; enter into collective bargaining agreements; and h) right to represent employees in labour litigations.

Works Councils, despite their constitutional dignity, may not, for instance, declare strikes, this power being exclusive to Trade Unions. Furthermore, Works Councils do not have the right to collective bargaining and depend, therefore, on the Trade Unions. The rules on collective bargaining are found in the Labour Code. Collective agreements are deposited with the competent department of the Labour Ministry. A collective agreement is in force for a term which is agreed in it. It can be renewed under terms as set forth in it. If an

agreement does not have a valid term, it is considered to be valid for a period of one year and is renewed successively for an equal period.

The Economic and Social Council (ESC), originally envisaged under Article 92 of the Portuguese Constitution, is a constitutional body for consultation and social concertation. It promotes the participation of economic and social agents in decision making regarding socioeconomic issues. It is the space for dialogue between the Government, Social Partners and remaining representatives of an organized civil society. The Council is composed of 64 members with 8 members each from Government, employers and workers.

The ESC has two types of responsibilities: one is consultative, which requires drafting of opinions on plans or legislation of socio-economic importance, requested either by the Government or the Parliament, or issued upon its own initiative; and the other one pertains to social concertation, as it aims to promote dialogue and negotiations between the social partners. Under the Economic and Social Council, there is Standing Committee on Social Dialogue. There are also two permanent committees namely the Specialised Standing Committee on Social and Economic Policy and the Specialised Standing Committee for Regional Development and Land Planning.

The Labour Law Reform brought a new section (501-A) about the extension of validity of the collective bargaining agreement that has expired. Now, any party to the agreement may request Social and Economic Council for arbitration, seeking to suspend the extended valid period of the agreement if there is well grounded probability of the parties to revoke it

completely or partially. The arbiter must present a draft of a new agreement to the parties, either partial or total, in two months.

Source: §92 of the Portuguese Constitution 2005; §476-521 of the Labour Code 2009; Law 108/91 on Economic and Social Council

Right to Strike

The Right to Strike is established both in the Portuguese Constitution and the Labour Code. The employees' right to strike cannot be waived, and employees are entitled to define the scope of interests to be defended by strike action. Minimum service has to be provided in certain essential services as defined in the Labour Code. Employers are prohibited from coercing (workers not to strike) or discriminating against striking workers or hiring new workers or replacing the striking workers. Lockouts are strictly prohibited under Labour Code.

When a strike is declared in any of the following public service sectors, the organizers are obliged by law to provide minimum service in postal service and telecommunications; medical services; public health, including funerals; power, supply, mines and fuel; water supply; firefighting; public transport of cattle, public perishable foods and essential goods.

The definition of the minimum service required can be stipulated or changed by collective agreements.

Members of union must approve strike by secret ballot and inform the employer and the Ministry of Labour at least 05 days or in some cases 10 days prior to the proposed date of strike. Strikers may peacefully

persuade other workers to join the strike without forcing or threatening them.

Law prohibits employer from hiring replacement workers in the place of strikers. The employers are also not allowed to show discriminatory behaviour towards strikers.

Source: §57 of Portuguese Constitution 2005; §530-545 of Labour Code 2009

Reforms Related to COVID-19

The right of strike was suspended for workers in critical infrastructures or health care units, as well as in economic sectors that are vital to the production, supply and supply of essential goods and services to the population.

QUESTIONNAIRE

DECENTWORKCHECK.ORG

Check

Decent Work Check Portugal is a product of WageIndicator.org
and www.meusalario.org/portugal



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"/>

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 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.

	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"/>

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.

Portugal scored 47 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.