



PARAGUAY

Decent Work Check 2019

Iftikhar Ahmad

Ayesha Mir

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.

The authors

Ayesha Mir works with WageIndicator Islamabad Office.

Corresponding Author: Iftikhar Ahmad works as Labour Law Specialist with WageIndicator Foundation. He can be contacted at iftikharahmad@wageindicator.org

Acknowledgements

Many people contributed to the development of the Decent Work Check as a tool and to this Check for Paraguay. 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. 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 Islamabad team, which works on Decent Work Checks since 2012. The team currently comprises Iftikhar Ahmad (team leader), Ayesha Mir, Ayesha Ahmed, Shabana Malik and Aizaz Raof Ali. Lorena Ponce De Leon translated the Decent Work Check to Spanish.

Bibliographical information

Ahmad I, Mir A (2019) *Paraguay Decent Work Check 2019*. Amsterdam, WageIndicator Foundation, January.

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

Copyright 2019 by WageIndicator Foundation. All rights reserved.

WageIndicator Foundation, 2019

Address: P O Box 94025, 1090 GA Amsterdam, The Netherlands

Email office@wageindicator.org.

Table of Contents

INTRODUCTION	1
Major Legislation on Employment and Labour	2
01/13 WORK & WAGES	3
02/13 COMPENSATION	6
03/13 ANNUAL LEAVE & HOLIDAYS.....	9
04/13 EMPLOYMENT SECURITY	12
05/13 FAMILY RESPONSIBILITIES.....	16
06/13 MATERNITY & WORK.....	18
07/13 HEALTH & SAFETY.....	22
08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT	25
09/13 SOCIAL SECURITY	28
10/13 FAIR TREATMENT	31
11/13 MINORS & YOUTH.....	33
12/13 FORCED LABOUR	35
13/13 TRADE UNION.....	37
DECENT WORK QUESTIONNAIRE.....	41

INTRODUCTION

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

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., **Decent Work Check**. The Decent Work Check considers different work aspects, which are deemed important in attaining "decent work". The work makes the rather 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 gives a score to 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. Workers can compare their own score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

Decent Work Check is useful 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 useful for researchers, labour rights organizations conducting surveys on the situation of rights at work and general public wanting to know more about the world of work. WageIndicator teams, around the world, 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 workers, self-employed, employee, employer, policy maker, 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, rise of precarious employment and measuring the impact of regulatory regimes.

Currently, there are more than 100 countries for which a Decent Work Check is available here: www.decentworkcheck.org During 2019, the team aims to include at least 10 more countries, thus taking the number of countries with a Decent Work Check to 115!

Major Legislation on Employment and Labour

1. Political Constitution of 1992 of the Republic of Paraguay, 1992
2. Labour Code, 1993 (Law No. 213)
3. Law 1860/50 on Establishment of Social Security
4. Paraguay Penal Code, 160/97

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

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

Paraguay has ratified the Convention 95 & 117 only.

Summary of Provisions under ILO Conventions

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

Regulations on work and wages:

- Labour Code, 1993 (Law No. 213)

Minimum Wage

In accordance with the Labour Code Minimum wage is wage which is sufficient to satisfy the normal living needs of a worker such as food, living, clothes, transport, culture, recreation.

Labour Code and the Paraguayan Constitution provides every worker the right to earn a minimum wage that covers his/her normal needs of life relating to food, housing, clothing, transportation, security, culture and recreation. Minimum wage is adjusted periodically in a percentage from the preceding applicable rate. Factors that are considered while determining minimum wage include the cost of living according to time and place; the general level of wages in the country or region where the work is performed; the economic conditions of the relevant industry; the nature and performance of the work; the worker's age, as influencing their productivity; and other factors affecting the cost of living of the worker.

Minimum wage is determined by the Government in consultation with the proposal made by the National Minimum Wage Council. Minimum Wage Council is a tripartite body involved in setting of minimum wage and is composed of three members each from government, employer organizations and worker organizations. It is chaired by the Director of Labour. Wages can also be fixed by collective agreement provided that it cannot be lower than the minimum wage rate set by the government. The Minimum wage is determined at the sectoral and regional levels in Paraguay. The minimum wage is paid to all the workers over eighteen years of age for work performed during legal working hours. Wages for apprentices and people with poor physical and mental ability can be fixed lower than that of legal minimum wage.

Minimum wage rate is fixed after every two years. In case there is a significant alteration in the conditions of a sector or industry due to economic-financial factors and there is a variation of at least 10 % of the cost of living, the wage rate can be fixed before completion of two years.

Compliance with Labour Code provisions including minimum wages is ensured by the competent administrative authority through inspection and monitoring. The competent authority is Ministry of Justice and Labour or its agencies with delegated powers. A worker who is paid less than the minimum wage is entitled to claim the due amount from the employer. Worker can also file a complaint with the Labour Inspector in case of violation of minimum wage regulation by the employer. A worker may also inform the trade union at the workplace about his issue. Trade unions are mandated to represent workers before the labour authorities at workers' request to ensure compliance with the provisions of Labour Code.

If an employer pays a worker below the minimum wage level, he is punished by a fine of 30 minimum daily wages. The fine is doubled in the case of repeat offence.

Source: §92 of the Constitution of Paraguay 1992; §249-260, , 290, 291, 385, 390, 407, 408 of the Labour Code 1993

Regular Pay

Labour Code defines wage as the remuneration calculated in cash which is owed by an employer to a worker due to the rendering of services or execution of works that the worker had performed or must perform in accordance with the labour contract.

In accordance with the Labour Code, wages must be paid regularly in legal tender on working day at workplace to the worker or any authorised person and within two hours after the end of the day, except in presence of a different agreement in writing or in case of force majeure. Payment is made on weekly, fortnightly or monthly basis. Workers can also be paid on daily basis with the condition that their daily wage is not less than the amount obtained from dividing the national minimum wage by 26 days. Wages may also be paid per unit of work (part, task or piecework) and commissions on sales or receipts by the employer, every fortnight, for the work completed in this period. Payment of wages in vouchers, promissory notes, coupons, tokens or other representative signs that seek to replace the coin is strictly prohibited. In kind payment up to 30% is allowed, provided that those services are appropriate for the personal use of the worker and his family, beneficial for them and that the value attributed to them is fair and reasonable.

Workers receive their salary along with payment slip signed by the employer, stating the basic pay on which the settlement is made; the number of days worked and paid, the parts or tasks done, when the wage is agreed piecework or a percentage; and the sums to which the worker is entitled in addition to base salary. It is signed by the worker and both parties keep the originals.

Generally, employer is not allowed to deduct wages unless mutually agreed upon in writing. Deduction is only allowed for payments made in excess or for any errors, losses, damages, buying goods produced by the same company or other liabilities is amortized payment periods, provided that the amount of deduction may not exceed 30% (thirty percent) of the computation of the monthly salary.

Source: §231 & 232 of the Labour Code 1993

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Paraguay has ratified Convention 01 only.

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 times (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:

- Labour Code, 1993 (Law No. 213)

Overtime Compensation

The normal working hours are 8 hours a day and 48 hours per week during daytime. For night workers, this limit is 7 hours a night and 42 hours a week while for workers with mixed schedule, this limit is 7.5 hours a day/night and 45 hours a week. Workers involved in dangerous and hazardous work and rotating/continuous shifts or work that is carried out in hazardous condition normally cannot work for more than 6 hours per day and 36 hours per week. Normal working hours limit is not applicable to managers, administrators and workers who are not subject to direct supervision; workers whose presence alone is required; workers who do not work at the employer's premises, e.g., agents, workers on commission; and workers who by the nature of their work are not subject to the general working hours schedule, such as domestic and agricultural workers. However, they are not required to work for more than 12 hours a day and are entitled to a rest break of one and a half hours.

Working time is the time the worker spends at the disposal of the employer. Rest periods are not included as part of the working time. The total working hours inclusive of overtime may not exceed 11 hours a day. The maximum overtime hours are 3 hours a day and 9 hours a week. Workers are not allowed to work overtime except in following cases:

- risks of accidents, occurring or imminent;
- emergency repairs to machinery or workplace;
- to meet urgent or extraordinary work demands, and
- for exceptional demands of the national economy or the company, based on the view of collaboration for purposes of common interest of the company and workers.

If a worker works beyond the stipulated working hours, he/she is entitled to an overtime pay at following rate:

- 150% of normal hourly rate for the overtime hours worked during the day; and
- 200% of the normal wage rate for overtime hours worked during the night.

Source: §193-211 & 234 of the Labour Code 1993

Night Work Compensation

Night work is the work done during 20:00 and 06:00 a.m. of following day. Night workers are not allowed to work more than 7 hours a day and 42 hours a week. Night work is paid at 130% of the normal wages for day work. If a worker has to perform overtime during night, his pay is 100% of the ordinary wages for work performed at night (in actual 260% of the normal daily wage rate).

Source: §234 of the Labour Code 1993

Compensatory Holidays / Rest Days

In extraordinary circumstances, workers may perform work on weekly rest days and public holidays. Instead of getting higher wages for working on weekly rest day, workers get a compensatory day-off in lieu of the rest day during the following week. There is no provision for compensatory holiday for workers working on a public holiday.

Source: §213 of the Labour Code 1993

Weekend / Public Holiday Work Compensation

Workers may be required to work on weekly rest days and public holidays. In such circumstances when employees have to work on official holidays, they are entitled to receive wages at a premium rate of 200% of the normal hourly wage rate. There is no provision of premium pay for working on weekly rest days.

Source: §234 of the Labour Code 1993

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.

Paraguay has ratified the Convention 14 & 106 only.

Summary of Provisions under ILO Conventions

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

A worker should be entitled to paid leave during national and officially 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:

- Labour Code, 1993 (Law No. 213)

Paid Vacation / Annual Leave

The Labour Code provides for paid annual leave after completion of 12 months of continuous service with the same employer. Annual leave increases with the length of service. In case of tasks that are not performed continuously during the year, the worker must have performed at least 180 days of work per year with the same employer to apply annual leave, and for piece-rate work, when the worker must have earned at least 180 salaries. In these cases, the duration of the annual leave shall be proportional to days of work performed. An employee is entitled to annual leave as per the following formula:

- 12 consecutive days paid annual for less than 5 years of service;
- 18 consecutive days paid annual leave after 5 but less than 10 years of service;
- 30 consecutive days paid annual leave after 10 years of continuous service.

In accordance with the labour law, the amount due for annual leave is equal to the salary received by worker and in no case is less than the minimum wage. The payment for annual leave has to be done before commencement of the leave. An employer must schedule the timing of annual leave within six months of the entitlement date of annual leave and inform the worker in writing about the vacation dates fifteen days prior to the beginning of annual leave. This leave should be granted informally or at the request of the employee without compromising the working of enterprise and effectiveness of rest. If annual leave is granted after six months, employer is required to pay double compensation for these vacations. Labour law further states that leave should start on Monday or the next working day if Monday is a public holiday.

Workers are entitled to uninterrupted annual leaves. However, in case of emergency or urgent need of the undertaking, the employer may ask the worker to return to work. An employee resumes his/her annual leave once such urgency at work finishes. The cost of reinstatement to work and to the subsequent annual leave is assumed by the employer.

Annual leave cannot be accumulated. However, an employee may request for leave accumulation for a period of two years provided that it does not harm the interests of the company.

Source: §218-226 of the Labour Code 1993

Pay on Public Holidays

Workers are entitled to paid holidays during Festival (public and religious) holidays. These are usually 12 in number.

Public Holidays includes; New Year's Day (January 01), Heroes Day (March 04), Holy Thursday (April 17), Good Friday (April 18), Labour Day (May 01), Independence Day (May 14 & 15), Chaco Armistice Day (June 12), Asuncion Foundation Day (August 15), Battle of Boqueron Day (September 29), Virgin of Caacupe Day (December 08) and Christmas Day (December 25).

Source: §217 of the Labour Code 1993;
www.tusalario.org/paraguay/Portada/derechos-laborales/feriados-y-descansos-semanales

Weekly Rest Days

Workers are entitled to 24 consecutive hours of rest per week. Labour Law requires that weekly rest day, in principle, should be Sunday for all employees. Both parties may reschedule the 48 weekly working hours in other manner than 8 hours per day to enjoy weekly rest from Saturday noon. For this purpose, the additional daily hours do not count as overtime hours.

Labour Code requires that daily working hours of the workers must be divided in at least two equal parts (keeping into consideration nature of work and workers' needs) with a rest interval at least 30 minutes. The agricultural workers and domestic workers cannot be obliged to work more than 12 hours per day without a rest break of one and a half hour during the working day.

The normal daily rest period is 10 hours. For domestic workers, the daily rest period is 12 hours for live-out domestic workers and 10 hours for live-in domestic workers in addition to two hours for taking meals.

Source: §154(a). 200, 205, 212, 213 & 215 of the Labour Code 1993

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

Paraguay has not ratified the Convention 158.

Summary of Provisions under ILO Convention

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

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

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

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

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

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

Regulations on employment security:

- Labour Code, 1993 (Law No. 213)

Written Employment Particulars

Employment contract may be written or oral, can be specified for an indefinite duration, for a fixed term or for certain work/service. Individual employment contract may be verbal for domestic service; accidental or temporary work not exceeding 90 days; and the contract for certain work whose value does not exceed minimum wage.

In all other cases, contract of employment must be in writing and it must contain following terms: place and date of execution; full name, age, sex, marital status, profession or occupation, nationality and domicile of the parties; type of work or services to be provided and the place or places of its provision; amount, form and period of payment of the agreed remuneration; duration and division of the working day; provide the employee benefits as room, food and uniforms, if the employer is obliged to provide them and the estimates of its value; and the terms agreed between the parties.

Any provision in the employment contract that is contrary to the provisions of labour law is considered null and void.

Source: §43-49 of the Labour Code 1993

Fixed Term Contracts

Paraguayan Labour Law prohibits hiring fixed term contract workers for tasks of permanent nature. In accordance with the Labour Code, a fixed term contract may be concluded for 12 months for labourers and 60 months for employees. However, the maximum term of a fixed term contract is not provided under the law. The law still requires that a fixed term contracts may be executed only when it is required by the accidental or temporary nature of service to be performed or work to be executed.

A 2013 Youth Employment Law provides work opportunities for vulnerable youth aged between 18 and 29 years. These include young workers with 33% disability, male youth whose home falls within 20% poorest in the country, youth woman whose whom falls within 30% poorest in the country. Workers engaged through such contracts must not exceed 20% of the total enterprise workforce. Companies can hire the beneficiaries under the job training or apprenticeship contract and then under the contract of first employment as long as above provisions are applicable.

Source: §49-50 of the Labour Code 1993; Law No. 4951 of 2013

Probation Period

In accordance with the Labour Code, probation/trial period in the initial stage of employment contract aims on the employer to appreciate skills of workers and the employee may verify the suitability of the conditions of the contracted work. Duration of probationary period provided by the labour law is as under:

- 30 days for domestic workers and unskilled workers;
- 60 days for skilled workers or apprentices; and
- A different period as agreed between the parties for highly skilled technical workers, depending upon the period of contracted work

Worker is paid during the trial period in accordance with the term of the contract. Either party can terminate the probationary contract without any liability. Workers on probation are provided all benefits except for notice and severance pay.

Source: §58-60 of the Labour Code 1993

Notice Requirement

Employment contract terminates by mutual agreement, worker's death or physical or mental disability; the unforeseeable circumstances or force majeure; the expiration of the term or completion of the work; the death or incapacity of the employer; the employer's bankruptcy or liquidation of the company; the closure of the company, or the definitive reduction of tasks; depletion of the subject matter of an extractive industry; the dismissal of the employee by the employer for cause; retirement; the termination of the contract declared by competent authority; and other causes specified in the contract. Valid reasons for unilateral termination of the employment contract are provided in labour law

Labour law requires an employer (and even employee) to provide dismissal notice to an employee before terminating his/her employment contract.

Either party may terminate the employment contract by serving a written notice or paying in lieu thereof. For terminating an indefinite term contract, the required notice period depends on the worker's length of service as follows:

- (i) 30 days' notice for up to one year of service (after completion of probation period);
- (ii) 45 days' notice for more than 1 and up to 5 years of service;
- (iii) 60 days' notice for more than 5 years and up to 10 years of service; and
- (iv) 90 days' notice for 10 years of service and beyond.

In case employer is unable to provide notice period or does not comply with the legal

requirements, the employer is obliged to pay compensation in lieu of notice period equivalent to his salary for the term of notice. In case of dismissal without just cause, the employer must pay the indemnity equal to 15 daily wages for each year of service or fraction of six months.

During notice period, the worker continues working with same terms and condition except that the worker may take up to 2 hours of leave daily during working hours to look for a new job.

Source: §78-91 of the Labour Code 1993

Severance Pay

The Labour Code provides severance pay when an employment contract of indefinite duration is terminated by an employee due to certain reasons as specified in the section 79 of the Labour Code.

Depending on the length of service the amount of severance pay is equal to:

- one month's salary for workers who have completed probationary period up to 5 years (after completion of probation period);
- two months' salary for workers with more than five years and up to 10 years of service; and
- three months' salary for workers with more than 10 years of service.

Source: §79 of the Labour Code 1993

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

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

Paraguay has ratified the Convention 156.

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:

- Labour Code, 1993 (Law No. 213)

Paternity Leave

Law provides for 2 weeks of paid paternity leave to the male workers, after their request, on the birth of a child. These leaves are paid by the employer

Source: §13(b) of the law no. 5508 of the promotion and protection of motherhood and breastfeeding support

Parental Leave

There is no provision in the law on paid or unpaid parental leave.

Flexible Work Option for Parents / Work-Life Balance

No provisions could be located in the law supporting work-life balance for parents or workers with family responsibilities.

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.

Paraguay has not ratified both Conventions 103 & 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:

- Labour Code, 1993 (Law No. 213)
- Law 1860/50 on Establishment of Social Security

Free Medical Care

Social Security provides complete medical assistance (before, during and after confinement) to the pregnant women, which includes free medical and hospital care as well as surgical and dental care.

Source: §133 of the Labour Code 1993

No Harmful Work

In accordance with the Labour Code, if there is a threat to the health of a woman, her unborn child or a nursing child, a pregnant or nursing woman may not undertake dangerous and unhealthy work as well as overtime and night work.

Pregnant workers employed in hazardous conditions are transferred to other posts with adequate tasks according to their pregnancy, without reduction of their salary. The transfer takes place from the date of notification of the pregnancy. Pregnant workers are strictly prohibited from the work which, by its nature, by the physical, chemical or biological conditions under which it is carried out or by the composition of the raw materials involved, could affect the life or mental or physical health of the woman or her baby.

Pregnant workers, during three months prior to confinement, must not be involved in work that requires physical exertion.

Source: §130-135 of the Labour Code 1993

Maternity Leave

Female employees are entitled to a maximum of eighteen weeks of maternity leave, including 02 weeks of pre natal leave. Maternity leave is provided when a worker presents a medical certificate, indicating the date of confinement, issued by the Social Institution for the Ministry of Public Health and Social Welfare. The maternity leave has been increased in a gradual way. From October 2015 to October 2016, the maternity leave was 14 weeks. From 30 October 2016 onward, the maternity leave duration is 18 weeks.

Maternity leave can be extended up to 24 weeks in case of complications or as necessary to her recovery if a worker's health is not restored after maternity leave and she is unable to return to work. In case of multiple births, maternity leave increases with a rate of one month per child from second child.

Law 5508 provides for adoption leave of 12 to 18 weeks depending on the age of child at the time of adoption. If the child is under 6 months, the adoption leave is 18 weeks. The leave duration is reduced to 12 weeks if a child over 6 months is adopted.

Source: §11 of the law no. 5508 of the promotion and protection of motherhood and breastfeeding support

Income

Female workers are entitled to cash benefits during maternity leave. Benefit is provided by Social Security/Government and is equivalent to the average salary the worker received at the time of delivery. If the enterprise has not registered the worker with the Social Security Institute, it has to pay the worker her wages in the term of maternity or adoption leave along with fine.

However, the benefit payment by Social Security Institute will also be gradual and as follows:

- i. 50% of average wages for 14 week leave: 30 October 2015 to 29 April 2016
- ii. 75% of the average wages for 14 week leave: 30 April 2016 to 29 October 2016
- iii. 75% of the average wages for 18 week leave: 30 October 2016 to 29 October 2018
- iv. 100% of the average wages for 18 week leave: from 30 October onward

Source: §12 of the law no. 5508 of the promotion and protection of motherhood and breastfeeding support

Protection from Dismissals

In accordance with the Labour Code, a female worker can't be dismissed during the period of her pregnancy and maternity leave. Any kind of warnings and dismissals by the employer during this period is considered nullified.

In accordance with the Constitution, The workers of both sexes have the same labor rights and obligations, but maternity will be subject to special protection, that will include the assistance services and the corresponding leaves of absence [descansos], which will not be less than 12 weeks. A woman may not be terminated [despedida] during the pregnancy, or as long as the leaves of absence for maternity continue.

According to Law No. 5508, employment of a woman is secure until one year after the birth or adoption of child.

Source: §89 of the Constitution of Paraguay; §128 & 136 of the Labour Code 1993; §15 of the law no. 5508 of the promotion and protection of motherhood and breastfeeding support

Right to Return to Same Position

Labour code provides a female worker the right to return to same position after availing her maternity leave.

Source: §135 of the Labour Code 1993

Breastfeeding

Female workers are entitled to 90 minutes of nursing break for the first 06 months after maternity leave. This period may extend to seven (07) months or even up to twenty-four (24) months according to medical instructions. During the extended period the duration of break reduce to sixty (60) minutes per day. The breast-feeding/nursing breaks are in addition to the normal breaks an employee receives during the working day.

In case of multiple births, the duration of nursing breaks increases sixty (60) minutes per day from the second child.

Labour Law also requires the employer to establish a child care facility in an enterprise if the total number of female workers is more than 50. Children under 2 years of age are kept in custody during the working hours of mothers. This obligation ceases when the social security institutions attend such assistance.

In accordance with the Law No. 5508, lactation room must be provided in the companies with 30 or more working women. This room must be fully equipped ensuring proper hygiene and comply with the provisions of this law and those provided by Ministry of labour, employment and social security.

Source: §134 of the Labour Code 1993; §14 & 17-19 of the law no. 5508 of the promotion and protection of motherhood and breastfeeding support

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)

Paraguay has ratified Convention 81 only.

Summary of Provisions under ILO Conventions

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

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

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

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

Regulations on health and safety:

Labour Code, 1993 (Law No. 213)

Employer Cares

In order to protect the life, safety and health of employees, an employer is required to take all precautionary measures. An employer is also required to provide healthy work environment.

Employers must take all necessary steps, including provision of information, training activities and risk management to ensure the health, safety and well-being of workers in the workplace. All workers must undergo a medical examination prior to their hiring. The employers must also ensure a free periodic medical exam at least once a year of workers employed under non-hazardous working condition; and after every 06 months for workers carrying out hazardous tasks.

It is obligatory for an employer to develop a prevention plan and ensure the safety and health for workers by setting up protective measures for occupational risks, workplace, machinery, operations, hazardous substances and others. In accordance with the OSH legislation, organisations with 150 or more workers are required to have a Safety Service; a Medical Service; and a Hygiene Service. Organisations with less than 150 workers must use external services.

The employer must also ensure the provision of well-equipped first-aid kit; sanitary installations and dormitories; clean drinking water; and rest and eating areas. The employer must provide information about the identification of chemicals or biological products used at work, their hazardous properties and preventive measures; post on labels and symbols; provide access to safety data sheets; and provide any other useful information regarding their safety and health.

Workers must also follow and respect the law, regulations and orders related to accident prevention, safety, and occupational hygiene and refrain from any act that might endanger the safety of their co-workers as well as of other persons. Workers have the right to remove themselves from a situation and promptly report to the responsible person upon detecting the imminent or serious danger to their safety or health.

A new Law (No. 5804) has been enacted in December 2017 which establishes National System for the Prevention of Occupational Risks. The legislation stipulates promotion and prevention activities aimed at improving the health and working conditions of the workforce, protecting it against the risks arising from the organization of work that may affect individual or collective health in workplaces. The law further regulates the obligations against the contingencies of work accidents and occupational diseases.

Source: §65(e), 272-275 of the Labour Code 1993; §241(1 & 2), 271-282 & 295 of the Decree No. 14.390 of the General Technical Regulation on Occupational Safety, Hygiene and Medicine

The text in this document was last updated in January 2019. For the most recent and updated text on Employment & Labour Legislation in Paraguay, please refer to: <https://tusalario.org/paraguay>

Free Protection

An employer must provide, where necessary, appropriate equipment and protective clothing to the workers free of cost in order to prevent accidents and occupational hazards. It is also a duty of the employer to train workers on how to use them.

Source: §272 of the Labour Code 1993; §249(5) of the Decree No. 14.390 of the General Technical Regulation on Occupational Safety, Hygiene and Medicine

Training

An employer is obliged to provide information on the risks to their health and safety and organize constant training for workers () on health, safety, and hygiene at work. They must also provide workers with training on tools to prevent and control such risks and to protect themselves. The General Technical Regulation on Occupational Safety, Hygiene and Medicine provides detailed content of such trainings.

Employers must provide workers with information on the risks to their safety and health. Trainings are organised for all the workers especially those newly hired, changing jobs or have to apply a new technique in performing work.

Source: §276 of the Labour Code 1993; §15 of the Decree No. 14.390 of the General Technical Regulation on Occupational Safety, Hygiene and Medicine

Labour Inspection System

Labour Inspection System is present in the country however it is not in line with the requirements of Convention 81. The Ministry of Justice and Labour organises an Inspectorate Service especially trained on the prevention of occupational accidents and diseases. The Ministry of Justice and Labour and the Under-Secretariat of Labour and Social Security, through the General Directorate of Labour has an Inspection and Surveillance Department.

Labour inspectors are authorized to enter freely without prior notice at any hour of the day or night any workplace liable to inspection; ask for the required documents; carry out any examination, test or enquiry. They must also provide information and advice to employers and workers on how to comply with the provisions of labour law.

Inspectors are empowered to provide a specified time limit for the required changes that are necessary to ensure compliance with legal OSH provisions. In the event of imminent danger to the health or safety of the workers, the inspector may require the employer to implement immediate measures.

The Ministry of Justice and Labour has power to impose financial penalties for violations of labour legislation and the employers have the right to appeal to the Labour Courts.

Source: §391, 398 & 407-411 of the Labour Code 1993; §1 C81-12 of the Law No. 1235 approves and ratifies the Convention No. 81 of the ILO (Law No. 1,235 Adopting ILO C81)

The text in this document was last updated in January 2019. For the most recent and updated text on Employment & Labour Legislation in Paraguay, please refer to: <https://tusalarario.org/paraguay>

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

Paraguay has not ratified the Conventions 102, 121 & 130.

Summary of Provisions under ILO Conventions

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness 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, 1993 (Law No. 213)
- Law 1860/50 on Establishment of Social Security

Income

There is no clear provision on the paid sick leave however law requires that medical care for same disease will last up to 26 weeks. Taking this into account, the duration of paid sick leave is 26 weeks. The medical benefit can be extended for an additional 24 weeks in special cases.

The amount of benefit provided during the sick leave is equivalent to 50% of average salary on which the insured prevailed in the past four months at the start of the disability. During the periods of hospitalisation, the amount of benefit reduces to half if there are no dependents.

Source: ISSA Country Profile 2017

Medical Care

The Social Insurance Institute (IPS) provides medical benefits to the insured workers. Benefits include general and specialist care, hospitalization, medicine and prostheses are provided by the.

Job Security

In accordance with the Labour Code, employment of a worker is secure during the term of his/her paid sick leave, i.e., 26 weeks.

Source: §92 of the Labour Code 1993

Disability / Work Injury Benefit

Work injuries are divided into four categories: (i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to death of a worker.

In the case of permanent total incapacity/disability, 30% to 100% of the insured worker's average earnings in the last 3 years before the disability began is paid according to the number of contributions and assessed degree of disability.

In the case of partial disability, if the assessed degree of disability is less than 30%, 60% of the lost earnings are paid, as provided under the law. If the value of partial disability pension is less than 30% of total disability pension, a lump-sum of five years pension is paid.

In the case of temporary disability, 75% of an insured worker's earnings in the last four months are paid up to 52 weeks.

In the case of fatal injury, 40% of the pension deceased worker received or was eligible to receive is paid to a widow(er) aged 40 or older. 20% of the pension deceased received or was eligible to receive is paid to each orphan younger than 16 years. If there are no eligible survivors like widow, widower, partner or children, these benefits are payable to the deceased worker's parents.

All survivors' benefits can't exceed 100% of the pension a deceased worker received or was eligible to receive.

Source: ISSA Country Profile 2017

09/13 SOCIAL SECURITY

ILO Conventions

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

Employment Injury Benefits: Conventions 121 (1964),

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

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

Paraguay has not ratified any of the Conventions mentioned above.

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:

- Law 1860/50 on Establishment of Social Security

Pension Rights

Law provides for both old-age pension and early pension. For full pension, a worker must have attained 60 years of age (same for women) with at least 1250 weeks of contributions (around 24 years). In order to acquire early pension, the required age is 55 years with at least 1500 weeks (around 29 years) of contributions. There is also an option of reduced proportional pension with age limit of 65 years and at least 750 weeks of contributions.

Old age pension is 100% of an insured worker's average earnings. The minimum monthly old-age pension is 33% of the legal monthly minimum wage and the maximum old age pension is 300 times the minimum daily wage. The early pension is 80% of the insured worker's average earnings plus 4% of average earnings for each year the insured is older than age 55, up to age 59. The reduced proportional pension is the 60% of the insured average earning in the last 36 months.

Twelve monthly payments and December bonus is paid to a retired worker as old-age pension. These benefits are adjusted annually according to changes in the cost of living, depending on available funds.

Source: §60 of the Law 1860/50 on Establishment of Social Security; ISSA Country Profile 2017

Dependents' / Survivors' Benefit

Law 1860/50 provides for survivor benefit to the dependents including widow/er who lived for at least five years with the deceased (or two years in case of children), children younger than 18 years of age (no age limit if disabled) and parents (if there are no other eligible survivors). The deceased worker must have at least 750 weeks of contributions. At the time of death, a worker must be entitled to receive old-age or disability pension or was already receiving this pension.

Survivors' benefit is 60% of the deceased's total disability or old-age pension and is split equally between a widow (er), partner old than 40 years and children younger than 18. A lump sum of three times the annual old-age or disability pension the deceased received or was entitled to receive is paid to a widow(er) or partner younger than age 40. In case of remarriage and cohabitation, a lump sum of twice the annual old-age or disability pension the deceased received or was entitled to receive is paid as settlement. The pension is paid monthly plus a December bonus of one month of pension.

If the deceased worker has less than 750 weeks of contribution, a lump sum of one month of the legal monthly minimum wage is paid as survivor's grant for each year of contributions.

Funeral grant is paid as a lump sum of 75% of the legal daily minimum wage to the person who pays for the funeral if there are no eligible survivors.

Source: §62 of the Law 1860/50 on Establishment of Social Security; ISSA Country Profile 2017

Unemployment Benefits

There is no provision for monetary unemployment benefit under Paraguayan labor laws.

Invalidity Benefits

The law 1860/50 provides for invalidity benefit in the case of non-occupational accident/injury/disease resulting into permanent invalidity. The worker must be assessed with at least 30% loss of earning capacity and have at least 150 weeks of contributions if younger than age 55; 150 weeks to 250 weeks if aged 55 to 59; or 250 weeks to 400 weeks if aged 60 to 65.

The amount of invalidity pension is 50% of an insured worker's average earnings in the last 3 years plus 1.5% for each 50 weeks of contributions exceeding 150 weeks, up to 100%. The minimum monthly disability pension is 33% of the legal monthly minimum wage and the maximum disability pension is 300 times the minimum daily wage.

Twelve monthly payments and December bonus is paid to a retired worker as invalidity benefit. These benefits are adjusted annually according to changes in the cost of living, depending on available funds.

Source: §62 of the Law 1860/50 on Establishment of Social Security; ISSA Country Profile 2017

10/13 FAIR TREATMENT

ILO Conventions

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

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

Paraguay has ratified both Conventions 100 & 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.

Not clearly provided in ILO Conventions. However, sexual intimidation/harassment is gender discrimination.

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:

- Political Constitution of 1992 of the Republic of Paraguay, 1992
- Labour Code, 1993 (Law No. 213)
- Paraguay Penal Code, 160/97

Equal Pay

The Constitution of Paraguay guarantees equal remuneration for equal amount of work. In accordance with the Labour Code the principle of equal remuneration for work of equal value between workers applies without any discrimination on the basis of gender, nationality, religion, social status, political opinion and union activity. Remuneration remains the same for a work of equal value, duration and effectiveness, except the higher salary based on seniority and merit.

Source: §92 of the Constitution of Paraguay 1992; §229 of the Labour Code 1993

Sexual Harassment

The Penal Code prohibits sexual harassment and stipulates a penalty of two years in prison or fine. In accordance with the Labour Code, an employer may terminate the employment contract of an employee who is sexually harassing others at the workplace. Similarly, an employee may unilaterally terminate an employment contract if he/she has been subject to sexual harassment at the workplace.

Source: §81 & 84 of the Labour Code 1993; §133 of the Penal Code 160/97

Non-Discrimination

The Constitution of Paraguay prohibits any kind of discrimination between the workers on the basis of ethnicity, gender [sexo], age, religion, social status and political or syndical preferences. The work of persons with limitations or physical or mental incapacities is especially protected [amparado].

In accordance with labour code, there can't be any discrimination on the ground of race, gender/sex, colour, religion, political opinion and social status.

Source: §88 of the Constitution of Paraguay 1992; §09 of the Labour Code 1993

Equal Choice of Profession

Women can work in the same industries men as no restrictive provision could be located in the law. In accordance with the Constitution, all the inhabitant of the Republic has the right to a legal job, freely chosen and to realize it in dignifying and just conditions.

Source: §86 of the Constitution of Paraguay 1992

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Paraguay has ratified both Conventions 138 & 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:

- Political Constitution of 1992 of the Republic of Paraguay, 1992
- Labour Code, 1993 (Law No. 213)

Minimum Age for Employment

Minimum age for employment is 15 years except in the case of family enterprise provided that the work does not endanger life, health or morals of children. Minors between fourteen to eighteen years may be employed in non-industrial undertakings under following conditions: they must have completed compulsory education; must have a medical certificate certifying physical and mental capacity to do the work; must be involved in day time and for tasks that are light and non-hazardous; must have authorization from legal representative; must not work more than four hours a day and 24 hours a week (for children attending school, the daily working hours are 02 hours); and must not work on Sundays and Public Holidays.

Minors between the ages of 15-18 years must have their birth certificate; annual fitness certificate with them and must be authorized by the legal representative to engage in work. Their working hours must be limited to 06 hours a day and 36 hours a week. Moreover, they should not be employed in jobs that dangerous to life, health and morals. These young workers may also not be employed at night (10 p.m. to 06 a.m.).

The compulsory education age is 15 years in Paraguay.

Source: §119-127 of the Labour Code 1993; §32 of the General Education Law (No. 1264) of 1998

Minimum Age for Hazardous Work

Minimum Age for Hazardous Work is set as 18 years. Apprenticeships can also be started from the age of 18 years. Employment of children under 18 is prohibited in works such as sale of alcoholic beverages; tasks that could affect moral of children; work involving travel; dangerous or unhealthy work; work at night; and work beyond normal working hours. The List of Hazardous Work for Children (Decree 4951) prohibits children under age 18 from working in 26 broad classifications of work including work with dangerous tools, toxic substances, livestock, prolonged exposure to extreme climactic conditions (noise, temperatures), night work (07 p.m. to 07 a.m.), modelling with erotic images, work in confined spaces or at heights or under water, work of public and private security, care of sick people, and work in public transport, public areas, mines, and domestic service.

Source: §119-127 of the Labour Code 1993; The List of Hazardous Work for Children, Decree No. 4951

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.

Paraguay 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:

- Political Constitution of 1992 of the Republic of Paraguay, 1992
- Labour Code, 1993 (Law No. 213)

Prohibition on Forced and Compulsory Labour

Forced Labour is prohibited under the Constitution and labour law as it allows all the inhabitants to under freely chosen legal employment.

Law No. 4788 of the comprehensive anti-trafficking aims to prevent and punish trafficking in persons in all its manifestations, perpetrated in the country and abroad. It also seeks to protect and assist victims, strengthening state action against this offense. Article 36 governs cases of children and adolescent victims of trafficking.

Source: §86 of the Constitution of Paraguay 1992; §10 of the Labour Code 1993; §35 of the Law No. 4788 of the comprehensive anti-trafficking

Freedom to Change Jobs and Right to Quit

Workers have the right to change jobs after serving due notice on their employer. For more information on this, please refer to the section on employment security.

Source: §87 of the Labour Code 1993

Inhumane Working Conditions

Working time may be extended beyond normal working hours of forty eight hours per week and eight hours a day. However, total hours of work inclusive of overtime must not exceed eleven hours a day. The maximum overtime hours are 3 hours a day and 9 hours a week.

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

Source: §193-211 & 234 of the Labour Code 1993

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)

Paraguay 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:

- Political Constitution of 1992 of the Republic of Paraguay, 1992
- Labour Code, 1993 (Law No. 213)

Freedom to Join and Form a Union

Constitution and labour law provide for freedom of association and allow workers and employers to join and form unions. This right is regulated by the labour code.

The Constitution of Paraguay states that all persons are free to associate or unionize themselves with legal ends and no one is obligated to belong to a specific [determinado] association. The law will regulate the form of the colleges of professionals [colegiación profesional]. The Constitution further states that the workers have the right to organize themselves in trade unions [sindicatos] without a prior authorization. The employers enjoy an equal freedom of organization. No one may be obligated to belong to a trade union [sindicato]. For the recognition of a trade union [sindicato], it will be enough to register it with the competent administrative organ. For the election of authorities and for the functioning of the trade unions [sindicatos], democratic practices established in the law will be observed, which will also guarantee the stability of the syndical leader [dirigente]. Secret associations, the members of the Armed Forces, paramilitary characters and of the Police Forces are exempted from this right.

The labour law grants workers and employers, without distinction of sex or nationality and without prior authorization the right to establish organizations with the objective of studying, defending, promoting and protecting professional interests as well as improving social, economic, cultural and moral development partners.

Union members are free to elect their representatives and formulate their work program. They may draw up their own statutes and administrative regulations, as long as these are not contrary to laws in effect and public order. The founding charter must include place and date of the constituent assembly; names, identity card number, age, marital status, nationality and occupation or profession of the members present; name of the union; address; objective, and how it will be managed and administered.

The unions must get registered with the Ministry by filing their original certified copy of the charter; a copy of the bylaws, approved by the assembly, and a list of the founding members and their signatures. The labour administration authority registers the union within 30 days of submission of all the required documents. Employer's and worker's unions are not allowed to interfere in each other's matters.

Source: §42 & 96 of the Constitution of Paraguay 1992; §283-302 of the Labour Code 1993

Freedom of Collective Bargaining

Right to collective bargaining is recognised under the Constitution regulated by Labour Code. The Constitution of Paraguay states that the trade unions [sindicatos] have the right to promote collective actions and to concur in [concertar] agreements on the conditions of work. The State favors conciliatory solutions of the conflicts of labor and social concurrence [concertación]. Arbitration is optional.

The collective bargaining agreement includes all written agreement on conditions of employment between an employer, a group of employers, on the one hand, and on the other, one or more representative workers' organizations or, in the absence of such organizations, the representatives of workers duly elected and authorized by them, in order to establish working conditions. A CBA usually provides better benefits to the worker than those provided in the law. If a CBA has provisions which are less favourable than those provided under the law, it cannot be enforced.

The CBA is drawn up in triplicate; one for each party and the third copy is submitted for approval and registration in the administrative body of work. It becomes legally effective after approval and registration with the administrative body at work, at the request of either party.

A CBA may be concluded for definite or indefinite time period. It is wholly or partly reviewable every two years, at the written request of any party. The CBA ends by mutual consent of the parties for the reasons agreed and by accident or force majeure. The CBA of indefinite duration terminates by either party upon written notice given to the other, with thirty days' notice. The provisions of collective agreements are applicable to all people working in the company either they are union members or not. Collective agreements also specify their scope of application.

National Country Strategy Team (ENEP), established in 2014, has been established to promote social dialogue as a strategy to strengthen institutions, attaining inclusive and sustainable development and fight against extreme poverty. It is a tripartite plus forum with 42 members in total. There are members from social sector (including trade unions), business and corporate sector, academic, scientific and cultural sector as well as Government (executive branch).

ENEP is an advisory body of the Executive Power and was an active participant in the construction of the National Development Plan (PND) Paraguay 2030. It supports the installation, communication, appropriation and implementation of the PND Paraguay 2030 in various sectors of society, in order to ensure its implementation as a State policy with short, medium and long term objectives.

Source: §97 of the Constitution of Paraguay 1992; §326-349 of the Labour Code 1993; Decree No. 1732/2014 on establishing the ENEP

Right to Strike

Right to strike (and lockout) is enshrined in the Constitution and regulated by the Labour Code. Labour Code does not place excessive restrictions on the right to strike.

The Constitution of Paraguay states that all the workers of the public and private sectors have the right to invoke [recurrir] the strike in the case of conflict of interests. The employers enjoy the right of lock-out in the same conditions. The rights to strike and of lock-out do not extend to [alcanzan] the members of the Armed Forces of the Nation, nor those of the police. The law will regulate the exercise of these rights, so that they do not affect public services indispensable [imprescindibles] to the community.

A strike is a temporary suspension, collective and concerted work on the initiative of workers to directly and exclusively to their professional interests. Peaceful strike is allowed only after all the methods of dispute resolution (negotiation, conciliation and arbitration) fail.

The strike plea agreement, the content of the Act and the signatures of those attending the Assembly, and the appointment of negotiators or strike committee members will be provided to the competent authority at least seventy-two hours prior to the start date of the strike. In the same time be communicated to the employer the strike, negotiators for the union or the members of the strike committee, the objectives of the strike and its duration.

A strike is considered illegal when it has the purpose or end which is not connected to promoting and defending the interests of workers; when it is declared or maintained for strictly political reasons, or is directly aimed at coercing the branches of government; when workers in essential public services do not ensure essential minimum services for the population; and if collective negotiation is in process.

The employment contract of strikers suspends during the period of strike. So the employer is not obliged to pay salary during this period. If the parties reach an agreement to end the conflict after the strike, they may agree to full or partial recovery of wages not paid for it, and full or partial recovery of lost working hours. Employers are prohibited from hiring workers to replace strikers.

Source: §98 of the Constitution of Paraguay 1992; §358-378 of the Labour Code 1993



DECENT WORK QUESTIONNAIRE

DECENTWORKCHECK.ORG

Check

Decent Work Check Paraguay is a product of WageIndicator.org and
www.tusalarario.org/paraguay



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.

Paraguay scored 40 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.