

2024

# WORKATION IN: PORTUGAL

Overview of Mandatory Employee Protection Law



## Workation in: Portugal – Mandatory employee protection law

In a connected world, mobile delivery of work performance is becoming increasingly more common.

The most popular phenomenon here is probably the so-called "workation". When employers allow work from abroad, it is not uncommon for mandatory employee regulations to be ignored, regularly unintentionally and out of lack of knowledge.

However, according to Art. 9 (1) Rome I Regulation, these must be taken into account. Usually, this concerns personal occupational health and safety law enacted in the public interest for reasons of public welfare.

When allowing an employee to work temporary in Portugal, the following mandatory regulations are to be observed by any employer based in an EU member state regardless of the applicable laws in that state and any contractual choices of law.

The following list is only intended as an overview and cannot replace a specific case assessment.

### **1. Minimum wage** Portugal has mandatory minimum wage provisions:

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The amount of the so-called minimum monthly salary guaranteed (retribuição mínima mensal garantida) is fixed every year. In 2024, any employee working in the Portuguese mainland must be paid at least € 820,00 per month in the case of full-time employment. Different amounts apply in 2024 for the Azores and Madeira: € 861,00 and € 850,00.

(Art. 273/1 Código do Trabalho, Decreto-Lei 107/2023, 17.11.)

In Portugal, 14 monthly salaries are owed and overtime hours must be compensated:

- 25% for the first hour or fraction thereof and 37.5% for each subsequent hour or fraction thereof on a workday.
- 50% for each hour or fraction thereof, on a mandatory or complementary weekly rest day or on a public holiday.

(Art. 263, 264, 268 Código do Trabalho)

### **2. Minimum paid leave** All employees are entitled to at least 22 business days of paid leave a year, during which the minimum wage requirements must also be observed.

(Art. 238/1 Código do Trabalho)

They also receive vacation allowance in the form of a 13th month's salary.

(Art. 264 Código do Trabalho)

Exceptional rules apply in the year of admission and the year of contract termination, depending on the duration of the contract. (Art. 239 and art. 245 Código do Trabalho)

**3. Public holidays** In Portugal there are the following mandatory public holidays (Art. 234 Código do Trabalho):

<b>Name</b>	<b>Date</b>	<b>Scope of application</b>
<b>New Year</b>	January 1st	nationwide
<b>Good Friday (Sexta-Feira-Santa)</b>	Friday before Easter	nationwide
<b>Easter Sunday (Domingo de Páscoa)</b>	Moving date between March 22nd and April 25th	nationwide
<b>Liberty Day (25 de abril/Dia da Liberdade)</b>	April 25st	nationwide
<b>Labour Day (1 de maio/Dia do Trabalhador)</b>	May 1st	nationwide
<b>Corpus Christi (Corpo de Deus)</b>	60 days after Easter	nationwide
<b>Portugal Day (10 de junho /Dia de Portugal)</b>	June 10st	nationwide
<b>Assumption Day (15 de agosto/Assunção de Nossa Senhora)</b>	August 15st	nationwide
<b>Day of the implantation of the republic (5 de outubro/Implantação da República Portuguesa)</b>	October 5st	nationwide
<b>All Saint's Day (1 de novembro/Dia de Todos os Santos)</b>	November 1st	nationwide
<b>Independence Restoration Day (1 de dezembro/Dia da Restauração da Independência)</b>	December 1st	nationwide

<b>Immaculate Conception Day (8 de dezembro/Dia da Imaculada Conceição)</b>	December 8st	nationwide
<b>Christmas (25 de dezembro/Dia de Natal)</b>	December 25st	nationwide

On those days, employers must close or suspend all activities that are not allowed on Sundays. In that case, the public holidays are work-free.

Employees who perform normal work on a public holiday in a company that is not obliged to suspend operations on that day are entitled to compensatory rest for half the number of hours worked, or to an increase of 50% of the corresponding remuneration, the choice being up to the employer.

(Art. 236 Código do Trabalho)

#### **4. Maximum working time**

The Portuguese legal limit of working time amounts to 8 hours a day and 40 hours a week, for a maximum of 6 days a week. (Art. 203/1, 232/1 Código do Trabalho)

Nevertheless, employees can work up to 48 hours per week: This depends on the agreement of certain working time models (v.g.: Definition of the normal working period in average terms, with reference to a four-month period – Adaptabilidade; Agreement on working time exemption – Isenção de horário de trabalho) or the arrangement of overtime.

In any case applies: Working time must be documented. (Art. 202/1 Código do Trabalho)

#### **5. Minimum rest periods**

Generally, an employee must have 11 hours of continuous resting time between the end of a working day and the beginning of the next. (Art. 214/1 Código do Trabalho – Descanso diário)

Without prejudice to this, the daily working period must be interrupted by a resting time of not less than one hour and not more than two hours, so that the worker does not work more than 5 consecutive hours. (Art. 213/1 Código do Trabalho – Intervalo de descanso).

#### **6. Occupational safety laws**

Portugal has a general occupational safety law for the workplace (Lei 102/2009, 10.9 – Regime jurídico da promoção da segurança e da saúde no trabalho) Depending on the labour sector, additional laws come into consideration. (v.g.: Lei 25/10, 30.8 – Segurança e saúde no trabalho – Radiações óticas; Decreto-Lei 24/2021, 6.2 – Segurança e saúde no trabalho – Agentes químicos)

Generally speaking, these provisions are adhered to when there are no dangers to life and limb and typical safety hazards are appropriately minimized.

## 7. Maternity Protection provisions

Employers must also observe the following maternity protection provisions:

The working mother and father are entitled, on the birth of their child, to initial parental leave (Licença parental inicial) of 120 or 150 consecutive days (Social Security pays 100% or 80%, depending on the option taken), which they can share after childbirth, without prejudice to the mother's rights. In the case of multiple births, the leave period is increased by 30 days for each twin besides the first. (Art. 40/1 + 6 Código do Trabalho)

The mother can take up to 30 days of initial parental leave before the birth – it is therefore an option. It is mandatory for the mother to take 42 consecutive days of leave following childbirth. (Art. 41/1+2 Código do Trabalho)

Pregnant employees (trabalhadora grávida) are to be released from work for necessary medical appointments regarding the pregnancy. (Art. 46 Código do Trabalho)

Nursing employees (trabalhadora lactante) are to be released from work for breast feeding. (Art. 47 Código do Trabalho)

Pregnant employees, nursing employees, or the so-called postpartum employees (trabalhadora puérpera - for 120 days after childbirth) can claim:

- Exemption from some forms of working time organization.
- Exemption from overtime work.
- Exemption from night work.

(Art. 58, 59, 60 Código do Trabalho)

Additionally, they enjoy protection in case of dismissal, which means that the employer needs the prior authorization of the competent entity, in order to terminate the contract.

(Art. 63 Código do Trabalho)

The employer must also ensure workplace safety for any pregnant, nursing, or postpartum employees.

(Art. 62 Código do Trabalho)

## 8. Protection of young people at work

Only minors who have reached the minimum age for admission (16!), have completed compulsory education or are enrolled and attending secondary school, and have the physical and mental capacities appropriate to the job may be admitted to work. (Art. 68 Código do Trabalho)

The law determines a maximum working time of 8 hours a day and 40 hours a week. (Art 73 Código do Trabalho)

A minor's weekly resting period lasts two days, if possible. (Art. 79 Código do Trabalho)

Between the end of a workday and the beginning of the next day, there has to be 12 hours of continuous resting time.  
(Art. 78/1 Código do Trabalho - Descanso diário do menor)

The daily working period must be interrupted by a resting time of not less than one hour and not more than two hours, so that the minor employee does not work more than 4 consecutive hours.  
(Art. 77/1 Código do Trabalho – Intervalo de descanso de menor)

Minors are not allowed to work overtime or at night. They are exempt from some forms of working time organization.  
(Art. 74, 75 Código do Trabalho)

The employer must also ensure appropriate work safety measures.  
(Art. 72 Código do Trabalho)

A minor under the age of 16 may be hired only under very especial circumstances, which means that stricter limitations apply.

**9. Anti-discrimination provisions**

As in any EU-member state, employees working in Portugal are protected by the European anti-discrimination provisions (v.g.: Art. 157 THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION) as well as the corresponding Portuguese provisions (art. 23, 24, 25, 30, 31 Código do Trabalho), which limit contractual freedom.

These provisions require, among others, the equal treatment of employees of different genders, religions, nationalities, social and cultural backgrounds, ages, and sexual orientations. Different treatment must have an objective and justified reason.

**10. Reporting obligations to authorities when taking up work**

There are no general reporting obligations for employees from EU member states.

**11. Miscellaneous**

The above information is in accordance with the Labor Code (Código do Trabalho).

Thus, the relevant limits may vary depending on the sector concerned and related collective agreements.

Feel free to contact us if you have any questions about Portuguese labour law.

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