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Employment 2024

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Portugal: Trends and Developments

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Trends and Developments

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VdA

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Introduction

Employment and labour law in Portugal underwent extensive and far-reaching reform in 2023 with the publication of Law 13/2023 of 13 April. This reform reflected the Decent Work Agenda programme of the previous government, aiming to enhance the value of work and combat precarious employment relationships. Some provisions have sparked controversy and generated significant scholarly debate over the past year. Notably, the Ombudsperson has submitted a request to the Constitutional Court for a declaration of unconstitutionality, with general binding force, regarding certain rules. Following the change of government in April 2024, the new administration has already expressed its intention to revisit aspects of the 2023 reform. As a result, further changes to Portugal's employment and labour legislation are expected in 2025.

By contrast, 2024 has been a relatively quiet year in terms of legislative developments in employment and labour law. However, it is worth noting the active labour market policies introduced in September to address unemployment, including Estágios INICIAR, +Emprego, and +Talento.

Additionally, 2024 has been a particularly challenging year regarding immigration in Portugal, with authorities struggling to process hundreds of thousands of pending cases. This backlog stems from issues inherited from previous legislation and has been exacerbated by the restructuring of Portugal's border control system. In response, legislation was introduced to revoke residence authorisation mechanisms based solely on an expression of interest, marking a significant shift in immigration policy.

At the European level, several legal instruments have emerged as particularly relevant, including the Artificial Intelligence Regulation (also known as the AI Act), the Pay Transparency Directive, and the Corporate Sustainability Reporting Directive (CSRD).

In terms of case law, 2024 saw an increasing number of judicial decisions from Portuguese courts addressing the classification of employment relationships between couriers and digital platforms.

Finally, the past year has also been notable for labour inspections carried out by the Portuguese

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Labour Authority (*Autoridade para as Condições do Trabalho*, ACT). Moreover, the current government has given renewed impetus to dialogue with social partners, making it a key priority in its policy programme.

Active Market Policies

According to the OECD Impact Evaluation of Active Labour Market Policies in Portugal, dated 13 November 2024, the Portuguese labour market has experienced significant improvements in recent years. Notably, in the second quarter of 2024, the employment rate for the population aged 15-64 reached 72.7%, while the unemployment rate decreased to 6.6%.

However, the OECD Impact Evaluation highlights ongoing challenges for Portugal, such as an ageing population and the high number of temporary contracts, particularly among young people. In 2023, the youth unemployment rate for individuals aged 15-24 was approximately four times higher than for adults aged 25-64. To address these issues, Ordinances 219/2024, 220/2024, and 221/2024 were published on 23 September.

Estágios INICIAR (*INICIAR Internships*)

The target audience of this measure includes unemployed individuals with level 4 or 5 qualifications under the National Qualifications Framework (NQF). The measure provides financial support for employers that promote professional internships with these individuals. Applications are open from 3 October 2024 until 28 April 2025.

+Emprego (+Employment)

This measure consists of financial support for employers that enter into permanent, full-time employment contracts with unemployed individuals registered at the Institute for Employment and Professional Training, I.P. (IEFP, I.P.) for at

least three consecutive months. The granting of this support is conditioned on the fulfilment of requirements related to net job creation and maintaining the employment level. The application period for the +Employment measure runs from 11 November 2024 to 30 June 2025.

+Talent (+Talent)

This programme also involves financial support to employers and consists of two measures:

+Talent Internships Measure

This measure involves supporting the integration into the labour market of young unemployed individuals with qualifications equal to or higher than level 6 of the NQF through professional internships. Applications are open from 3 October 2024 until 28 April 2025.

+Talent Employment Measure

This measure involves granting financial support to the promoting entity for concluding permanent employment contracts with young unemployed individuals with qualifications equal to or higher than level 6 of the NQF, including those who have emigrated permanently for at least 12 months. The application period runs from 11 November 2024 to 30 June 2025.

Immigration

Since 2017, Portugal's legal framework governing the entry, stay, exit, and removal of foreigners allowed individuals who had legally entered the country and were engaged in either subordinate or independent professional activities – or who held a promise of employment – to regularise their status through an expression of interest, without the need for a specific visa. In 2019, additional presumptions of legal entry were introduced for foreigners engaged in dependent or independent work, provided they had been registered with Social Security for at least twelve months. This

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system led to an exponential rise in legalisation requests through this route, ultimately distorting the rules regulating border crossing.

The situation was further exacerbated by the prolonged dismantling of the Immigration and Border Service (*Serviço de Estrangeiros e Fronteiras*, SEF) and the redistribution of its resources and functions across both existing and newly created entities, leaving hundreds of thousands of immigration cases unresolved.

To address this issue, Decree-Law 37-A/2024 of 3 June, later amended by Law 40/2024 of 7 November, revoked residence permit mechanisms based solely on an expression of interest. However, safeguards were introduced for those who had already initiated residence authorisation procedures under the previous framework, as well as for individuals who, regardless of having submitted an expression of interest, were registered with Social Security and had been making contributions towards the required 12-month period. By the end of September, this legislative measure had already resulted in an 80% reduction in residence permit requests.

In parallel, a large-scale operation was launched in September by the Agency for Integration, Migration, and Asylum (*Agência para a Integração, Migrações e Asilo*, AIMA) to accelerate the resolution of pending cases.

European Legislation

Pay Transparency Directive

Directive (EU) 2023/970 of the European Parliament and the Council of 10 May 2023, which must be transposed by 7 June 2026, reinforces the principle of equal treatment between men and women in the workplace. While this is not a new issue, the Directive has given fresh impetus to the topic by imposing a range of obligations

on companies regarding pay transparency for both employees and job applicants.

Portugal's legal framework already affirms the principle of non-discriminatory pay practices and includes some pay transparency requirements under Law No 60/2018. Additionally, state-owned and publicly listed companies are already required to submit reports on pay equality. As a result, transposing the Directive into Portuguese law is expected to be relatively straightforward. However, certain adjustments will be necessary, particularly concerning disclosure obligations and the introduction of joint pay assessments.

CSRD – Corporate Sustainability Reporting Directive

The sustainability reporting obligations introduced by Directive (EU) 2022/2464 of the European Parliament and the Council of 14 December 2022 apply to financial years beginning on or after 1 January 2024. The transposition of this Directive into Portuguese law is expected to have implications for employment legislation, particularly in relation to the social aspects of the European Sustainability Reporting Standards (ESRS), which cover employment matters.

However, based on available public information, Portugal has not yet initiated any legislative procedure for transposing this Directive.

Artificial intelligence

The rapid rise of algorithm-based and artificial intelligence tools presents significant opportunities for employment relations but also introduces notable risks. In response, legal frameworks worldwide are evolving to ensure transparency and ethical compliance in AI-driven decision-making.

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As part of Portugal's 2023 Decent Work Agenda reform, AI-related provisions were incorporated into the Labour Code for the first time. Employers are now subject to specific obligations, including an information duty regarding the use of AI systems, which must be communicated to individual employees and their representatives where applicable. Furthermore, algorithmic discrimination is now explicitly prohibited: this provision ensures that existing protections for job candidates and employees apply equally to decisions made using these systems.

These national provisions were introduced while the EU was still finalising its Artificial Intelligence Regulation – Regulation (EU) 2024/1689 of the European Parliament and the Council of 13 June 2024. This Regulation, which came into force on 1 August 2024 and will generally apply 24 months later, has direct implications for organisations in the context of employment relations, as most AI systems already in use by companies in this context are classified as high-risk under this Regulation.

Limited AI literacy and the complexity of the Regulation may delay the emergence of disputes in this area. However, the coming period will be crucial for employers to prepare for compliance and mitigate potential legal risks in the future.

Case Law: Platform Work

As part of the Decent Work Agenda reform, Portugal introduced a set of provisions in the Labour Code in 2023 to regulate new forms of work arising from the digital transition and to strengthen the fight against job insecurity. These rules specifically address working conditions within digital platforms.

One of the most significant changes was the introduction of a specific presumption of employ-

ment status for individuals working through digital platforms. This measure anticipated Directive (EU) 2024/2831 of the European Parliament and the Council, dated 23 October 2024, which seeks to improve working conditions in platform-based employment.

To ensure the effective application of this presumption, the powers of the Portuguese Labour Authority have been expanded. During a labour inspection, if an inspector identifies characteristics indicative of an employment contract under the new presumption, the employer is notified and given ten days to regularise the worker's status or provide a response. If the deadline expires without compliance, the Labour Authority submits a report of the findings, along with supporting evidence, to the Public Prosecutor's Office, so that legal action can be initiated to formally recognise the existence of an employment contract.

The first labour inspections targeting digital platforms took place a few months after Law No 13/2023 of 13 April came into force, leading to notifications being issued to 16 platforms. By early 2024, the Labour Authority had already forwarded 861 reports to the Public Prosecutor, identifying couriers and drivers who had been misclassified as service providers.

As a result, 2024 saw the first judicial rulings on the classification of couriers as subordinate workers. By the end of November, 15 decisions had been issued by the Courts of Appeal, with 12 of them affirming that an employment relationship existed between the platforms and the couriers.

Labour Authority Inspections

The year 2024 began with the Labour Authority issuing notifications in early February to 9,699

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employers, instructing them to regularise the employment status of 17,701 economically dependent self-employed workers – meaning those who derive 80% or more of their income from a single entity.

By May, the Labour Authority reported that 19% of the hiring entities had regularised approximately 2,400 of these workers and confirmed the preparation of 130 reports to be submitted to the Public Prosecutor's Office.

On 22 July, the Labour Authority announced the launch of a nationwide inspection campaign starting in September 2024, set to continue until the end of the first quarter of 2025. This campaign aims to ensure compliance with the employment quota for persons with disabilities, as established by Law No 4/2019 of 10 January. This law mandates an employment quota for individuals with a degree of disability equal to or greater than 60%.

This wave of inspections follows a pattern established in 2023, when the ACT issued notifications concerning fixed-term contracts that had exceeded their legal duration, as well as notifications to companies with over 50 employees displaying a gender pay gap exceeding 5%. This trend appears set to continue, and companies need to be prepared to address it.

Social Dialogue

Re-establishing dialogue with social partners – the so-called Social Dialogue – was identified as a key priority in the current government's programme, with an emphasis on new approaches.

In line with this commitment, the government initiated the Tripartite Social Dialogue on 7 May 2024. This process culminated in a meeting with social partners on 1 October 2024, celebrating the resulting agreement: the Tripartite Agreement on Wage Valorisation and Economic Growth 2025-2028.

A notable measure arising from this agreement, already incorporated into the 2025 State Budget and approved, is the exemption of performance bonuses from taxes and Social Security, provided the bonus does not exceed 6% of the employee's annual base salary and the company has implemented salary increases.

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