

IN-DEPTH

# Employment Law

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# Employment Law

EDITION 16

Contributing Editor

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*In-Depth: Employment Law* (formerly The Employment Law Review) is an insightful global survey of the employment law frameworks and related developments in key jurisdictions around the world. It analyses the most consequential current issues faced by employers, including recent case law, legislative and regulatory changes and best practices.

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**Generated: October 30, 2025**

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# Portugal

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## Introduction

The Portuguese employment law framework is generally known for its high degree of employment protection, mainly because dismissal at will is forbidden by the Portuguese Constitution. The general understanding of an employment relationship is that it is long-term. However, in practice, employees face labour market segmentation because employers, despite accepting a certain degree of risk, tend to use alternative forms of employment to provide for their staffing needs, such as fixed-term contracts, temporary agency work, independent contractors and outsourcing of services.

Most of the relevant regulations are consolidated in the Labour Code (Law No. 7/2009 of 12 February 2009) (LC). Several other laws regulate important issues, such as those relating to parenthood protection (Decree-Law 91/2009 of 9 April 2009), occupational accidents and sickness (Law No. 98/2009 of 4 September 2009) and occupational health and safety (Law No. 102/2009 of 10 September 2009). There are special regulations in respect of employment relationships within the civil service and the public sector.

Judicial litigation and the application of administrative fines are handled by labour courts, which are part of the system of ordinary courts, but with a specialised competence. This specialisation led to the creation of specific labour divisions within the higher courts: the social divisions of the appeal courts and of the Supreme Court of Justice.

The main authority responsible for inspecting and enforcing the labour legislation is the Working Conditions Authority (ACT), which undertakes the duties of the Labour Inspectorate. Social security matters are handled by the Social Security Institute under the supervision of the Ministry of Employment and Social Solidarity. Another relevant public agency is the Commission for Equality in Labour and Employment (CITE), which focuses on matters relating to equality and non-discrimination between women and men, and the protection of parental rights.

## Year in review

Although 2024 was comparatively restrained from a purely legislative standpoint, the year was marked by incremental but significant developments in Portuguese employment law. Notable trends included targeted amendments to the Labour Code, such as the introduction of justified absences and enhanced healthcare access for employees with endometriosis or adenomyosis. The enactment of the EU Artificial Intelligence Regulation prompted many employers to begin compliance preparations, especially those using algorithmic tools in HR processes. Immigration policy saw the revocation of residence permits based on an 'expression of interest', and proposed changes to Community of Portuguese-Speaking Countries (CPLP) visas and family reunification, which were partially struck down by the Constitutional Court in July 2025. Meanwhile, case law continued to clarify the employment status of platform workers, and enforcement activity by the Portuguese Labour Authority (ACT) intensified, particularly regarding the gender pay gap and quotas for employing workers with disabilities. Collective bargaining and union activity also increased, with more collective agreements deposited and a rise in strike notices.

## Significant cases

### Successive abstract review: decision of non-unconstitutionality

By a judgment delivered in July 2025,<sup>[2]</sup> the Constitutional Court decided not to declare unconstitutional two provisions of the Labour Code, namely: (1) the provision allowing a services provider in a situation of economic dependence, but without legal subordination, to be temporarily replaced by third parties in the event of birth, adoption or care for a child or grandchild, breastfeeding and nursing, voluntary termination of pregnancy or clinical risk during pregnancy, for the duration of the corresponding leave or exemptions provided for in the Labour Code for subordinate employees; and (2) the provision prohibiting the use of outsourcing to meet needs that were previously met by an employee whose employment contract was terminated in the preceding 12 months as a result of collective dismissal or individual redundancy.

This decision resulted from a request for successive abstract review and the consequent request for a declaration of unconstitutionality, submitted to the Constitutional Court by the Ombudsperson, who argued that these provisions, introduced by the 2023 labour reform, constituted a violation of the right to free private economic initiative, specifically the freedom of management and organisation or activity of the company. The Constitutional Court held that the first provision does not conflict with the principle of free economic initiative and that the second, although it does restrict that principle, does so in a necessary and proportionate manner, taking into account the protection of the right to job security.

### Counting of bereavement leave days

In a judgment published in June 2025,<sup>[3]</sup> the Supreme Court of Justice resolved the debate over how bereavement leave days should be calculated under the Labour Code, specifically, whether these days should include only working days or also rest days and public holidays. Referring to its own April 2023 decision on a similar clause in a collective labour agreement (mentioned in edition 15 of In-Depth: Employment Law), the Supreme Court held that the term 'consecutive days' in Article 251 must be interpreted as successive calendar days, regardless of whether they are working days, rest days or public holidays.

The Court based its decision on three main arguments: (1) the literal interpretation, where 'consecutive days' means 'successive calendar days' and not just business or working days; (2) the purpose of the rule, which is to ensure the employee has a reasonable period to address the emotional and practical consequences of a family member's death, irrespective of whether this period overlaps with working days; and (3) the avoidance of absurd and discriminatory results, such as allowing an employee who works only one day per week to be absent for several weeks, depending on the degree of kinship with the deceased.

### Judgment of uniform case law – deadline for returning severance compensation: rebuttal of the presumption of acceptance of dismissal

The issue raised in the appeal concerned the deadline the employee has to return the severance compensation received in cases of collective dismissal, individual redundancy and dismissal for unsuitability, to rebut the presumption of acceptance of dismissal provided for in the Labour Code, according to which the employee is presumed to accept the dismissal when they receive the full compensation. To rebut this presumption, the Labour Code states that the employee must return or, in any way, make the full compensation available to the employer simultaneously with its payment. Given the disparity of responses in both jurisprudence and legal doctrine, the Supreme Court of Justice, by a judgment of June 2024,<sup>[4]</sup> established uniform case law to the effect that, to rebut the presumption of acceptance of dismissal, the full amount of compensation received by the employee must be returned up to the filing of the respective injunction or action challenging the dismissal, this being the meaning of the expression 'simultaneously' as set out in the relevant provision of the Labour Code.

### Presumption of employment in the context of digital labour platforms: application of the law over time

In May 2025,<sup>[5]</sup> the Supreme Court of Justice addressed the application over time of the presumption of employment for digital labour platforms under the Labour Code, which is in force since 1 May 2023. While the Courts of Appeal had previously held that the legal classification of relationships should be based on the presumption regime in force at the time the relationship was established – unless there was a substantial change – the Supreme Court clarified that, for ongoing relationships that began before the new law but continued after its entry into force, the decisive factor is the law applicable at the time of each relevant event. The Court further highlighted that, particularly for digital platform work, it is not necessary to require positive proof of a reconfiguration of the relationship, because of its inherently fluid and dynamic nature. Consequently, the Supreme Court concluded that the presumption of employment for digital labour platforms applies to facts occurring after 1 May 2023, even if the relationship started earlier, with the applicable law at each moment determining the legal classification.

## Basics of entering into an employment relationship

### Employment relationship

Permanent employment contracts follow the general rule that applies to civil contracts: no written document is required and the employment relationship may be proven by any means. The following types of contracts, however, must be in writing: fixed-term, part-time, home-based and certain contracts for senior management.<sup>[6]</sup>

Although not mandatory, it is increasingly common for permanent contracts to be in writing, as this makes it easier to determine the agreed terms and conditions. Furthermore, the employer may take advantage in executing written contracts to comply simultaneously with mandatory information obligations and include clauses to facilitate the future management of the employment relationship.

Fixed-term contracts are limited to those situations where it is necessary to provide for temporary staffing needs or for reasons of state employment policies, such as to promote the hiring of certain categories of employees (individuals unemployed for more than 24 months) and the start-up of new enterprises or companies that have fewer than 250 employees. These contracts may be renewed up to three times and their overall duration (including renewals, if any) is limited to two years.

Parties are entitled to amend or change the contract, unless it is expressly forbidden by law.<sup>[7]</sup>

Contracts for an unfixed term are more commonly used whenever the duration of the staffing need is uncertain (e.g., replacing a sick employee) and may not exceed four years.

The minimum duration for a contract of very short length is 35 days. This type of contract may be used in any industry, as long as there is an exceptional increase in activity to warrant it.

Contracts for temporary work are limited to a maximum of six renewals, except when they are executed to replace an employee who is absent because of illness or accident or is on parental leave.

## Probationary periods

Probationary periods in employment contracts are allowed for the following durations:

1. for term contracts:
  - 15 days when the duration is less than six months; and
  - 30 days when the duration is six months or more;
2. for permanent contracts:
  - 90 days for most employees;
  - 180 days for employees performing services of a highly complex technical nature, or requiring a high level of responsibility or a high degree of trust, or for people looking for their first job or the long-term unemployed (more than 24 months); and
  - 240 days for senior management and other senior staff; and
3. for senior management contracts: 180 days.

The duration of the probationary period set by the law cannot be increased, but it may be reduced or eliminated, by either collective or individual agreement, in writing.<sup>[8]</sup>

The party that unilaterally terminates a contract during a probationary period is under no obligation to justify the decision or to pay any compensation. However, if the contract has lasted more than 60 days, the employer must comply with the requirement to provide seven days' notice; if the contract has lasted more than 120 days, the employer must comply with a 30-day notice period.

## Establishing a presence

Any foreign company without any form of representation in Portugal or any permanent establishment (PE) within Portuguese territory aiming to enter into an employment contract to be executed in Portugal must be registered with the social security agency. For this purpose, it is necessary to have a Portuguese valued added tax number, which must be requested from the National Registry of Companies by means of the submission of a signed form accompanied by a certificate of legal standing and a statement confirming the reasons for the request. It is also necessary to have a designated representative for social security purposes, which can be one of the employees hired by the company.

For specific time-limited projects, a foreign company may also hire employees through a temporary agency or another third party without having to register in the Portuguese social security system.

The lack of the incorporation of a PE prevents the foreign company from withholding personal income tax. Therefore, employees hired by companies without a PE are subject to social security deductions only, and not any withholdings.

## Restrictive covenants

There is a general prohibition on any clauses intended to limit a person's freedom to work, with the exception of the non-compete clause.

As a rule, post-contractual non-compete covenants are not enforceable in Portugal. However, according to the LC, these covenants are enforceable provided all the following requirements are met:

1. the non-compete period is capped at two years after the termination of the employment agreement, or three years if the nature of the activity implies a special relationship of trust, or if the employee has access to particularly sensitive information relating to competition;
2. the covenant is executed in writing (either in the employment contract or in the termination agreement);
3. the activity that is being limited may in fact cause damage to the former employer; and
4. the former employee is paid compensation for agreeing to the non-compete covenant, which means that gardening leave (whereby the employee is not paid any amount) cannot be enforced throughout the non-compete period.

In terms of geography, there are no mandatory limitations, although restrictions may result either from the business requirements of the employer or from the scope of limitations agreed in the non-compete covenant.

There are no specific provisions to regulate the amount of compensation to be paid under non-compete covenants. In any case, the compensation must be fair and adequate in view of the restrictions to be complied with by the former employee. The compensation must be assessed case by case and may be lower than the employee's last monthly salary. Recent case law has held that non-compete covenants are enforceable provided that the

compensation is agreed beforehand or, at the very least, both parties have agreed on the formula to be used to calculate the compensation. The compensation may be reduced if the employer incurred significant expense in respect of the employee's vocational training.

## Wages

### Working time

The legal limit is a maximum of eight working hours a day up to a maximum of 40 hours per week. A collective bargaining agreement (CBA) may, nonetheless set a higher daily or weekly limits as long as the employee does not work, on average, more than 40 hours per week over a certain reference period (four months, as a rule). Special flexible working schemes may also be established in certain circumstances and may allow an extension of the normal working times up to 12 hours a day and 60 hours a week. This is the case for the adaptability regime (in which the normal working period is stated as an average), the group bank of hours regime (in which the flexible working time arrangement has to be agreed by 65 per cent of the relevant employees) and the concentrated working period regime (in which the working period is concentrated into three or four days per week).

The aggregate working time cannot exceed an average of 48 hours (including overtime) per week, and a daily rest period of at least 11 consecutive hours between two consecutive working days must be guaranteed. By means of an agreement, the employee may opt out of working time limits and choose to receive an extra salary instead. If the employee is in a management role, they have the option of waiving the right to receive extra salary.

The working day must include a rest period of at least one hour to avoid employees working for more than five consecutive hours, but it cannot exceed two hours.

As a rule, employees take two days off per week, although only one is mandatory according to the LC. The law also sets forth mandatory public holidays.

The LC defines night work as work performed between 10pm and 7am (although a CBA may amend these times), in consideration of which the employee is paid their normal salary plus 25 per cent. There are no specific limits for the number of night work hours as the general limits apply.

### Overtime

All work outside normal working hours qualifies as overtime and may be performed only when there are specific reasons (such as when the employer has to cope with a temporary increase of work, in cases of force majeure or when it is essential to prevent or repair serious damage to the company or its viability) and within a certain limit, which is principally a maximum of 150 or 175 hours per year, depending on the company's size, and two hours per working day. A CBA may extend the annual limit to 200 hours per year.

The minimum additional salary due for overtime is, on a normal working day, 25 per cent for the first hour and 37.5 per cent for any subsequent hours, and 50 per cent on public holidays and weekly rest days, for overtime below the 100-hours threshold. For overtime

work exceeding 100 hours per year, the minimum additional salary is, on a normal working day, 50 per cent for the first hour and 75 per cent for any subsequent hours, and 100 per cent on public holidays and weekly rest days. For overtime worked on a mandatory rest day, the employee is also entitled to a full day paid time off. The mandatory rest day is established by the employer and is usually Sunday.

Employees who opted-out from the working time limits are not entitled to overtime payments, except for work on weekly rest days and public holidays.

## Foreign workers

A foreign employee authorised to work in Portugal is granted the same rights and is subject to the same obligations as any Portuguese employee; however, their contract must be in writing and incorporate copies of the documents that confirm compliance with the legal obligations of the foreign employee in terms of entering and residing in Portugal. Employment contracts with foreign employees may only be executed after the employee has obtained the proper visa.

There are neither limits regarding the number of foreign workers a company may hire nor time limits for the duration of the respective employment contracts, and companies do not have to support any additional taxes or local benefits in relation to them.

Companies are under no obligation to keep a separate register of foreign workers. Nevertheless, these workers are identified separately in the company's annual social report, and companies must ensure that they are duly authorised to work in Portugal. In this regard, Law No. 23/2007 of 4 July 2007 requires foreign workers to apply for a visa. This requirement will not be necessary if the worker is an EU national or a citizen of a country with which the European Union has signed an agreement on the free movement of people.

## Global policies

Employers may implement internal regulations covering rules on organisation and discipline at work. These rules can include the conditions and terms of the fringe benefits granted to employees, as well as specific policies; for example, those regarding use of the company's assets and internet access, remote working, benefits and policies regarding discrimination, harassment and corruption.

Internal regulations will not enter into force unless employees are notified via postings at the employer's headquarters and work locations, and the labour authority is notified. They represent the employer's exercise of its particular powers and, while they are not incorporated into employment contracts, employees must comply with them. If the internal regulations include some of the terms and contractual conditions the employer wishes to offer its employees, it will be necessary to obtain employees' consent to those conditions. The employees must adhere to those clauses unless they object in writing within 21 days of the date their contract starts, or when they are notified of the regulations, if this occurs later.

## Parental leave

Maternity and paternity are eminent social values; therefore, employees have the right to receive the protection they are due from their employer and the state in respect of exercising parenthood.

Parental leave comprises the following arrangements:

1. initial parental leave;
2. initial parental leave exclusive to the mother;
3. initial parental leave required to be taken by the father because of the mother's incapacity; and
4. parental leave exclusive to the father.

Working mothers and fathers are entitled, by virtue of the birth of a child, to an initial period of parental leave of 120 or 150 consecutive days, which they may share after the birth.<sup>[9]</sup> After the 120 days, both parents can choose to take the remaining period of leave under a part-time work arrangement.

An expectant mother can take up to days of leave before the birth, and it is mandatory for a mother to take 42 days of leave after her child's birth.

It is mandatory for a father to take leave for 28 days, consecutively or at intervals, within the six weeks following the birth, seven of which are to be taken consecutively and immediately after the child's birth.

If childbirth occurs at up to 33 weeks' gestation, initial paternity leave is increased to 30 days, and if the mother requires hospitalisation, paternity leave is extended to cover the whole period of hospitalisation.

Initial paternity leave is also increased to 30 days if the child is hospitalised immediately after the recommended post-partum hospitalisation period.

Parents of children with a disability, chronic illness or oncological disease benefit from childcare leave, which may be extended to apply for up to six years, subject to the necessary medical certificates.

The LC also sets forth several forms of parental leave of absence: assessment for adoption, appointments in respect of medically assisted procreation, prenatal appointments, and urgent and indispensable assistance in the event of illness or accident of a child under 12 years old or, regardless of the age, to a child with a disability, chronic illness or oncological disease, up to 30 days a year.

Employees who are pregnant, have recently given birth or are breastfeeding have the right to be excused from working overtime or other flexible working time arrangements.

Furthermore, working parents with children under 12 years old or, irrespective of their age, children who are disabled, chronically ill or have an oncological disease, have the right to a flexible work schedule. Provided that the functions of working parents with children under

three years old or, irrespective of their age, children who are disabled, chronically ill or have an oncological disease, allow it, they also have the right to work from home.

Finally, all kinds of discrimination (such as wage discrimination and career progression) towards employees exercising their maternity and paternity rights is forbidden.

## Translation

Portugal does not have any legislation regulating the language that must be adopted for contracts and other related documents. The only requirement is that the language used shall be one that both parties understand. However, it is advisable for employers to make employees sign employment documents, including contracts, drawn up in both Portuguese and their native language, to avoid claims by employees based on a misunderstanding of the contents of employment documents.

Although there are no limitations in these situations, if any document not written in Portuguese has to be presented in court, a translation of its contents must also be presented. In addition, all documents that have to be presented to the Portuguese authorities (in particular, to the ACT) must be written in Portuguese or accompanied by a translation into Portuguese.

## Employee representation

The right to form a works council in any company, regardless of its size, is guaranteed by the Constitution. The initiative to do so lies wholly with the employees, which means that employers are under no obligation to implement this form of representation.

The role of a works council is advisory, for the purpose of safeguarding employees' interests. Consequently, works councils are entitled to be informed and consulted on several matters regarding a company's overall organisation, activities and budget, working conditions and changes to share capital, as well as to control the company's management and participate in any restructuring process.

The employer must allow the works council to meet on its premises, either outside or during working hours (in the latter instance, for up to 15 hours annually), provided the employee representatives give 48 hours' notice.

Works council members may be appointed for a maximum of four years and are elected from lists presented by the employees, by secret and direct vote, according to the principle of proportional representation.

The number of members of the works council depends on the company's size:

1. up to 50 employees: two members;
2. between 51 and 200 employees: three members;
3. between 201 and 500 employees: between three and five members;
4. between 501 and 1,000 employees: between five and seven members; and

5. more than 1,000 employees: between seven and 11 members.

Employees are also entitled to be members of a union and to exercise their rights within the company. Unions have an important role, which includes the negotiation and execution of CBAs, the provision of economic and social services to their affiliates and participation in the labour legislation creation process.

Union representatives may be elected for a maximum of four years. They have the right to hold meetings at the company, to present information directly to the employees on the company's premises and to request information regarding specific legally established situations.

All employee representatives have special protection in matters such as change of workplace, disciplinary proceedings and dismissals. Another important privilege for employee representatives is the right to time off or 'hours credit', which is the right to interrupt the performance of their work for periods of varying duration, notwithstanding any other right or entitlement, including the right to receive the remuneration corresponding to the time off.

## Data protection

### Requirements for registration

The LC has several provisions concerning the processing of employees' personal data, but there are no specific provisions concerning the processing of employees' personal data within the employment relationship other than normal data processed by the company's human resources department.

This means that all instances of data processing shall comply with both the General Data Protection Regulation (GDPR)<sup>[10]</sup> and the Portuguese Data Protection Law.<sup>[11]</sup> In particular, the processing of data shall be lawful only if and to the extent that at least one of the lawfulness conditions set forth in the GDPR applies, namely:

1. if the data subject has given consent to the processing of their personal data for one or more specific purposes;
2. if the processing is necessary for the performance of a contract to which the data subject is party or to take steps at the request of the data subject prior to entering into a contract;
3. if the processing is necessary for compliance with a legal obligation to which the data controller (employer) is subject; or
4. if the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the data controller (employer).

In the context of labour relations, the Portuguese Data Protection Law establishes that the employee's consent is not a lawful condition for the processing of their personal data if the

processing results in a legal or economic advantage for the employee or if the processing is necessary for the performance of the contract or compliance with a legal or regulatory obligation. The Portuguese Data Protection Law further provides that recorded images and other personal data of employees recorded through video systems or other technological means of remote surveillance may be used only in the context of criminal proceedings and for the purpose of establishing disciplinary liability (insofar as the data are used in the context of criminal proceedings). The processing of the biometric data of employees is also limited and may be legitimately processed only for two purposes: attendance control and control of access to the employer's premises.

In addition to the lawfulness conditions for processing data, employers must also comply with other rules contained in both the GDPR and the Portuguese Data Protection Law, including the need to provide employees with information on the terms of the processing of data, the obligation to ensure that data is adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed and the obligation to implement adequate organisational and security measures to protect the data.

In some situations, considering the type of data processing, the employer is required to carry out a data protection impact assessment before the processing of data takes place; in this context, the Portuguese Data Protection Authority may be consulted.

### Cross-border data transfers

Any transfer of an employee's data from the employer to another entity shall be lawful only if and to the extent that at least one of the lawfulness conditions set forth in the GDPR applies.

As regards cross-border data transfers (i.e., data transfers to a country outside the European Economic Area), GDPR data transfer rules must be complied with. A transfer of personal data to a third country or an international organisation may take place if the European Commission has decided that the third country, a territory or one or more specified sectors within that third country, or the international organisation in question, ensures an adequate level of protection. The transfer shall not require any specific authorisation. In the absence of an adequacy decision by the Commission, a data controller or processor may transfer personal data to a third country or an international organisation only if the data controller or processor has provided appropriate safeguards and on condition that enforceable data subject rights and effective legal remedies for data subjects are available. In particular, entities must ensure that adequate safeguards are in place, including, but not limited to, the adoption of standard contractual clauses approved by the Commission (which have recently been replaced by the Commission), the adoption of binding corporate rules or the adoption of an approved code of conduct or certification scheme.

### Sensitive data

Both the GDPR and the Portuguese Data Protection Law consider information that reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, or data concerning health or concerning a natural

person's sex life or sexual orientation as special categories of data. The processing of these special categories of data is prohibited, except when one of the GDPR exemptions applies. This would be the case if the processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the employer or of the employee in the field of employment, and social security and social protection law, insofar as it is authorised by EU or Member State law or a collective agreement pursuant to Member State law providing for appropriate safeguards for the fundamental rights and the interests of the data subject.

In this situation, special safeguards and security measures must be implemented, taking account of the nature of the data in question.

## Background checks

The Constitution contains a general right to privacy regarding personal and family life, which is confirmed by the LC. An employer may not demand that an applicant or employee provide information relating to their private life, except when the information is strictly necessary and relevant to evaluate the person's aptitude for the performance of employment and the respective motivation is provided in writing. However, no background checks are allowed unless the information is strictly necessary because of the nature of the job and is authorised by the candidate or the employee.

## Electronic signatures

Electronic signatures are legally valid in Portugal, meaning that when the signing of documents is required, both wet ink signatures and electronic signatures are fit for purpose. There are three types of electronic signatures: simple, advanced and qualified. However, only qualified electronic signatures are legally comparable to wet ink signatures. As such, for contracts and other documents that require to be signed in written form, a qualified electronic signature is required (a simple or advanced signature will not suffice). For other contracts and documents that do not require to be approved in writing, any type of electronic signature may be used.

# Discontinuing employment

## Dismissal

Although employment relationships in Portugal are still characterised by an almost permanent bond between the employer and the employee, the employer may, under certain circumstances, terminate the contract with just cause. The concept of just cause includes not only disciplinary dismissal but also other forms of dismissal, provided that they are justified according to the law. Currently, the LC regulates (1) dismissal based on unlawful conduct of the employee, (2) redundancies or dismissals resulting from the elimination of jobs and (3) dismissal for failure to adapt.

Regarding dismissal based on unlawful conduct by the employee, the concept of just cause is of significant importance as it implies the impossibility, in practice, of continuing

the employment relationship owing to the seriousness of the employee's misconduct. When dismissed with disciplinary cause, the employee is not entitled to any notice or compensation, but they will be entitled to standard credits that are payable upon termination, regardless of the reason (prorated 13th and 14th monthly payments, unused annual leave, etc.).

Any kind of dismissal requires the previous implementation of a consultation proceeding; these proceedings are extensively regulated by law. The works council should be involved in the procedure and has the right to give a written opinion, but this will not prevent the dismissal. As a rule, no form of dismissal requires authorisation from government authorities. If, however, it concerns a pregnant or breastfeeding employee, or an employee on parental leave, the CITE must be consulted and has the right to provide a binding opinion.

The employee has the right to challenge the dismissal in court within 60 days of the dismissal, or six months in the case of collective dismissals. If the court rules the dismissal to be unlawful, the employee is entitled to receive compensation for salary and benefits lost while the lawsuit was pending. Additionally, the employee is entitled to be reinstated with all their former rights and guarantees or, instead, may choose to receive compensation to be set by the court depending on the specifics of the case (between 15 days' and 45 days' basic pay and seniority allowances for each year of service, with a minimum limit of three months' pay). The reinstatement can be avoided if the company has fewer than 10 employees or if the dismissed employee is a senior manager. In this case, provided the court agrees that the return of the employee would be disruptive to the company's business, the compensation shall be set by the court, according to the specifics of the case (between 30 days' and 60 days' basic pay and seniority allowances for each year of service, with a minimum limit of six months' pay).

Settlement agreements for termination of the employment contract are quite common and must be executed in writing. Termination agreements for which the employee's signature has not been duly notarised may be revoked by the employee by means of a written communication sent to the employer up to seven days after the execution of the agreement.

## Redundancies

Termination of an employment contract by an employer for business reasons can be in the form of collective dismissal or individual redundancy. A dismissal will be considered collective whenever the employer terminates, either simultaneously or over three months, the employment contracts of at least two employees (in companies with up to 49 employees) or five employees (in companies with 50 or more employees). If the number of employees to be dismissed falls below these thresholds, it will be considered an individual redundancy.

In both cases, the dismissal must be justified by business-related reasons, namely closing down one or more departments of the company or by the elimination of jobs or work positions owing to economic, market, technological or structural reasons.

When collective dismissals are mandatory, the employer must first enter into consultations with the employees' representatives and the Ministry of Labour with a view to reaching

an agreement in relation to matters such as the possibility of avoiding redundancies or reducing the number of employees to be made redundant.

Similarly, individual redundancy requires the previous implementation of a consultation proceeding involving the employee to be dismissed and the employee's representatives (if any). The ACT will participate in the proceeding if the employee so requires.

In both situations, the dismissal shall require authorisation from the CITE if it involves a pregnant or breastfeeding employee or an employee on parental leave.

An important factor for the evaluation of whether the dismissals are considered justified is the criteria used to select the employees to be made redundant. Within a collective dismissal, the employer is free to set the criteria provided they are non-discriminatory and relevant to the needs of the business. Conversely, with an individual redundancy, the criteria are preset by the law whenever there are two or more employees in a comparable situation in terms of job scope within the same team or department. These criteria are as follows:

1. worst performance review;
2. worst academic or professional qualifications;
3. higher salary;
4. shorter length of service in the current post; and
5. shorter length of service with the company.

Again, in both cases, the employee is entitled to a notice period of between 15 days and 75 days, depending on their seniority.

Employees dismissed within redundancy proceedings are entitled to statutory compensation. Compensation for dismissal varies between 12 days' and 30 days' salary, depending on the employee's start date and seniority.

The parties also have the option of executing a termination agreement at any time, which eliminates the need to justify the dismissal. Only if the agreement is an alternative to redundancy is it necessary to notify the social security system of the reasons for termination for the purposes of unemployment benefit. Regarding the formal requirements, the agreement must be in writing, and two copies must be made and signed by both parties. It must also include the date on which it is signed and the date the agreement will go into effect. The agreement can be revoked by the same terms as mentioned above.

## Transfer of business

Regarding the transfer of business, the LC transposed the EU Acquired Rights Directive.<sup>[12]</sup>

A transfer of business is not a cause for dismissal. Any dismissal based solely on the employer's transfer of business would be deemed unlawful. The underlying principle is that the employment agreements are transferred by way of law to the transferor under the same terms and conditions. In these cases, employment contracts will be transferred automatically to the transferee with the exact terms and conditions in force at the moment the transfer occurs.

The transferor and transferee are jointly and severally liable for the payment of any credits due to the employees until the date of the transfer. The liability of the transferor is maintained for two years following the transfer. The transferee may not limit its responsibility. The transferee also assumes liability for payment of contributions and interest to the social security system at the time of completion of the transfer and is responsible for the payment of any fines to the labour authorities for non-compliance with the labour rules. The transferee is obliged to observe a CBA that has been in force for a minimum of 12 months, unless a new CBA is applicable to the transferee's employment relationships.

Prior to the transfer, the transferor and the transferee must inform the employees' representatives or, should there not be any, the employees themselves of the transfer. This information must be made by means of a written document, including the date of, and reasons for, the transfer, its legal, economic and social consequences, and the measures regarding the employees that shall be adopted as a result of the transfer.

An extensive amendment to the Portuguese transfer regulations was enacted in mid 2018, of which the main points are:

1. the employee may object, in writing, to the transfer whenever it may be seriously detrimental to their labour status;
2. under the same circumstances, the employee may resign with cause and claim compensation from the transferor; and
3. the relevant contract must be shared with the transferring employees and their representatives.

## Outlook and conclusions

The past year has seen significant developments in Portuguese employment law, with several legislative initiatives and policy proposals expected to impact employment in the coming year. Proposed amendments to the Labour Code are very extensive and (given the recent combination of parliamentary forces) structural changes to the Portuguese labour framework are to be expected.

Employers should closely monitor the anticipated amendments to the strike law, which may introduce mandatory minimum service requirements to ensure a fair balance between the right to strike and the rights of non-striking employees. The Government Programme presented in June 2025 also signals a robust reform agenda, including a gradual increase of the minimum wage, the introduction of part-time retirement options to promote longer working lives, and changes to the tax treatment of productivity bonuses. Additional measures under consideration include allowing employees to acquire extra vacation days, comprehensive reviews of parenthood rights, teleworking, working time arrangements and digital platform work. Employers should also prepare for the transposition of the EU pay transparency directive, which will require greater pay transparency and may impact pay structures and reporting obligations. In light of these trends, employers are advised to

proactively assess and review their policies to stay compliant with new rules and remain attractive to employees.

## Endnotes

- 1 Benedita Gonçalves is a partner and Helena Manoel Viana is an associate at Vieira de Almeida. [^ Back to section](#)
- 2 Judgement No. 555/2025, accessible through <https://www.tribunalconstitucional.pt/tc/acordaos/20250555.html>. [^ Back to section](#)
- 3 Case 8957/23.7T8LSB.L2.S1. [^ Back to section](#)
- 4 Case No. 474/21.6T8MTS.P1.S1, <https://www.dgsi.pt/jstj.nsf/954f0ce6ad9dd8b980256b5f003fa814/50e56c8144e6e34080258b03004b9be3?OpenDocument>. [^ Back to section](#)
- 5 Case No. 1980/23.3T8CTB.C2.S1, <https://www.dgsi.pt/jstj.nsf/954f0ce6ad9dd8b980256b5f003fa814/a5ccd0eec286740d80258c8c0034ffda?OpenDocument>. [^ Back to section](#)
- 6 Failure to comply with the obligation to enter into a written contract, whenever it is mandatory, does not render the contract invalid but may lead to it becoming a full-time permanent contract. [^ Back to section](#)
- 7 For instance, as a rule, an employer is not allowed to reduce an employee's salary unilaterally or to demote an employee, even with their consent. [^ Back to section](#)
- 8 Except in the case of senior management contracts, when the probationary period must be expressly stipulated by the parties. [^ Back to section](#)
- 9 In the case of the adoption of a child under 15 years of age, the candidate has the right to the same amount of parental leave. [^ Back to section](#)
- 10 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC. [^ Back to section](#)
- 11 Law No. 58/2019 of 8 August 2019. [^ Back to section](#)
- 12 Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses. [^ Back to section](#)



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