

LABOUR CONTRACT

When a migrant arrives in Portugal to work, several questions arise about their labour rights and duties. This is completely normal. Public institutions operate in different manners and the information may not be clear. That's why you should always consult an immigrant association, or the Local Support Centre for the Integration of Migrants (CLAIM) nearest to your residence.



I'VE GOT A JOB WITH AN EMPLOYMENT/LABOUR CONTRACT. WHAT DO I NEED TO KNOW



I'm a migrant in Portugal and I've been offered a job. How should this employment relationship be established?

The relationship between a person and an employer can be formed by a formal employment relationship or by the provision of services. The first requires an employment/labour contract and the other can be formalised by a provision of services contract, regardless of the employee's migration status. For now, we'll only deal with the first situation.

My employer wants to draw up a Promissory Contract of Employment. What are they?

The promissory contract of employment is regulated by Article 410(1) of the Civil Code and Article 103 of the Labour Code. Many people believe that the promissory contract is a simple pre-contract, but that's not the case. This document already counts as a real contract, in which there is a future promise on the part of the employer to hire a worker. The parties' willingness to sign a future labour contract must be stated in writing.



It is important to remember that failure by either party to fulfil a promise will generate an obligation to pay compensation. In other words, the non-compliant party has the duty to financially compensate the other party for the damage caused. Even so, the injured party cannot force the conclusion of the employment/labour contract that the defaulting party has breached.

EXEMPLE:

If Restaurant Comida Boa starts an employment/labour contract with João dos Santos in January, to start work in August, but fails to fulfil it, João cannot demand to be hired by the restaurant, but he can ask for financial compensation for not being hired.

What about us migrants? Does this contract help at all?

There is a lack of information about hiring migrant workers in the country and, unfortunately, many companies are afraid and don't know how to proceed. When a migrant person wants to become regularised, the employment/labour contract can be an alternative. It allows the worker to express their interest in accordance with Article 88(2) of the Law on Foreigners (Law 23/2007 of 4 July).

The Employment/Labour Contract

Article 11 of the Labour Code explains what an employment/labour contract is:

"An employment/labour contract is one whereby a natural person undertakes, for remuneration, to provide his or her activity to another person or persons, within the framework of organisation and under the authority of the latter."

To help you understand, let's explain a few concepts:

ACTIVITY:

- It can be an intellectual activity;
- It may be a manual activity.

REMUNERATION:

- The working person carries out an activity at the service of the employer in exchange for a salary;
- In most contracts, this remuneration must comply with the national minimum wage or be higher than the minimum wage established.

NATURAL PERSON:

- It's a person (worker or employer);
- It cannot be a legal person (judicial person).

EMPLOYER:

- It can be only one employer;
- It may also be several employers;
- It can be a natural person;
- But it can also be a legal person (a company).

ORGANISATION AND AUTHORITY:

- Subordination: the main criterion for an employment/labour contract. The employer is the one who defines when, where and how the labour activity will be carried out and thus gives instructions to the hired worker.
- But beware: this subordination must not be abusive and violate the rights of the worker!

USEFUL CONTACTS:

ACT - Authority for Working Conditions

www.act.gov.pt | 300 069 300
(working days, 9.30am - 12pm / 2pm - 5pm)
Call free of charge via the CALL US (LIGUE-NOS) button available on the homepage of the ACT portal.

CITE - Commission for Equality in Labour and Employment

www.cite.gov.pt | 800 204 684
Appointments for face-to-face and telephone legal assistance.
(working days, 2.30pm - 4pm) | geral@cite.p

Migrant Support Line

808 257 257 (local call cost)
218 106 191 (9 am - 7 pm on working days)

CLAIM (Local Support Centres for the Integration of Migrants)

offices that provide information and support throughout the process of integrating migrants. Find a CLAIM near you by following the link www.plim.acm.gov.pt/contactos/contactos-rede-claim

CLAIM Sintra - Sintra Town Hall

claii@cm-sintra.pt
219 236 925/26 or 219 236 016
(Working days, 9am - 4.30pm)

CICDR - Commission for Equality and Against Racial Discrimination

www.cicdr.pt | cicdr@acm.gov.pt |
218 106 100

Social Security

www.seg-social.pt
210 545 400 / 300 502 502

Casa do Brasil de Lisboa

www.casadobrasildelisboa.pt
goe.lisboa@casadobrasildelisboa.pt
213 400 000

Public Prosecution Service (PPS)

www.ministerio-publico.pt/ministerio-publico-e-os-trabalhadores/?lang=en



Portuguese
Labour Code

Promotora:



Cofinanciado por



Parceiras:

