LABOUR CODE

Law no. 7/2009 of 12 February

DRE
DIÁRIO DA REPÚBLICA ELETRÓNICO

Labour Code

Law no. 7/2009 - Official Gazette no. 30/2009, Series I of 2009-02-12

Diploma

It approves the revision of the Labour Code

The National Assembly decrees the following, pursuant to subparagraph c) of article 161 of the Constitution:

Amendments

Amended by the Decision of the Constitutional Court no. 338/2010 - Official Gazette no. 216/2010, Series I of 2010-11-08, in force from 2010-01-01, takes effect as from 2010-01-01

Article 1

Approval of the Labour Code

The Labour Code is approved, which is published as an annex to this law and is an integral part of it.

Article 2

Transposition of Community Directives

The Labour Code transposes all or part of the following Community Directives into national law:

a) Council Directive 91/533/EEC of 14 October on the obligation of the employer to inform the worker of the conditions applicable to the contract or employment relationship;

b) Council Directive 92/85/EEC of 19 October on the introduction of measures to encourage improvements in the safety and health at work of pregnant employees and employees who have recently given birth or are breastfeeding;

c) Council Directive 94/33/EC of 22 June on the protection of young people at work;

d) Council Directive 96/34/EC of 3 June on the framework agreement on parental leave concluded by the Union of Industrial and Employers' Confederations of Europe (UNICE), the Centre of Companies with Public Participation (CEEP) and the European Trade Union Confederation (ETUC);

e) Directive 96/71/EC of the European Parliament and of the Council of 16 December on the posting of employees in the framework of the provision of services;

f) Council Directive 97/81/EC of 15 December on the framework agreement on part-time work concluded by UNICE, CEEP and the ETUC;

g) Council Directive 98/59/EC of 20 July on the approximation of the laws of the Member States relating to collective redundancies;

h) Council Directive 1999/70/EC of 28 June on the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP;

i) Council Directive 2000/43/EC of 29 June implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;

j) Council Directive 2000/78/EC of 27 November establishing a general framework for equal treatment in employment and occupation;

l) Council Directive 2001/23/EC of 12 March 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 establishments;

m) Directive 2002/14/EC of the European Parliament and of the Council of 11 March establishing a general framework for informing and consulting employees in the European Community;
n) Directive 2003/88/EC of the European Parliament and of the Council of 4 November concerning certain aspects of the Organisation of working time;
o) Directive 2006/54/EC of the European Parliament and of the Council of 5 July on the implementation of the principle of equal opportunities and equal treatment of men and women in terms of employment and professional activity (reformulation).

Article 3

Child autonomous labour

1 - The child under the age of 16 years cannot be hired to perform a remunerated activity provided with autonomy, except if he has completed compulsory schooling or is enrolled and attending secondary education level and is light work.
2 – To the conclusion of the contract provided for in the preceding paragraph shall apply the general rules provided for in the Civil Code.
3 - Light work for the purposes of paragraph 1 shall be deemed to be those that are defined for the employment contract entered into with a minor.
4 – To the minor who carries out activities with autonomy shall apply the limitations established for the employment contract concluded with minor.

Amendments
Amended by Article 2 of the Law no. 47/2012 - Official Gazette no. 167/2012, Series I of 2012-08-29, in force from 2012-09-03

Article 4

Accidents at work and occupational diseases

1 - The provisions relating to work accidents and occupational diseases, provided for in articles 283 and 284 of the Labour Code, with the necessary adaptations, shall also apply:
a) To practitioners, apprentices, trainees and other situations that should be considered as professional training;
b) To administrators, directors, managers or equivalent, without an employments contract, who is remunerated for that activity;
c) To a provider of work, without legal subordination, who carries out the activity in economic dependence, according to article 10 of the Labour Code.
2 - A worker who works for his own account must carry out an insurance guaranteeing the payment of the benefits provided for in the articles indicated in the preceding paragraph and corresponding regulatory legislation.

Article 5

Working time regime

The provisions of subparagraph a) of paragraph 2 of article 197 of the Labour Code shall not apply until the entry into force of a collective contract that provides on the matter, and during that period, article 1 of the Law no. 21/96, of July 23, and in subparagraph a) of paragraph 1 of article 2 of the Law no. 73/98, of 10 November.

Article 6

Duties of the State in terms of professional training

1 - It is the State's responsibility to guarantee the citizens' access to professional training, allowing everyone to acquire and keep up-to-date knowledge and skills from entry into working life, and to provide public support for the functioning of the professional training system.
2 - It is the State's responsibility, in particular, to ensure the initial qualification of young people wishing to enter the labour market, the qualification or retraining of the unemployed with a view to their rapid entry into the labour market, and to promote socio-professional integration of groups with particular difficulties of insertion, through the development of special professional training.

Article 7

Application in time

1 - Notwithstanding the provisions of this article and in the following, labour contracts and instruments of collective bargaining concluded or adopted prior to the entry into force of said law shall be subject to the Labour Code regime approved by this law, except as to conditions of validity and the effects of facts or situations totally passed before that moment.
2 - The provisions of collective labour regulation instrument contrary to mandatory norms of the Labour Code shall be changed in the first revision that occurs within 12 months after the entry into force of this law, under penalty of nullity.
3 - The provisions of the preceding paragraph do not validate the provisions of a collective labour regulation that is null and void under the repealed legislation.
4 - The structures of collective representation of employees and employers established before the entry into force of the Labour Code shall be subject to the regime established therein, except as to the conditions of validity and effects related to their constitution or modification.
5 - The regime established in the Labour Code, annexed to this law, does not apply to situations established or initiated before its entry into force and relating to:
a) Duration of trial period;
b) Limitation and peremptory times;
c) Procedures for applying sanctions, as well as for the termination of employment contract;
d) Duration of fixed-term employment contract.
6 - The regime established in paragraph 4 of article 148 of the Labour Code, annexed to this law, concerning the duration of an uncertain fixed-term employment contract applies to situations established or initiated before its entry into force, counting the period of six years there predicted from the date of entry into force of this law.

Article 8

Review of existing statutes

1 - The statutes of trade union associations, employers 'associations, employees' commissions and coordinating committees in force on the date of entry into force of this law that do not conform to the rules contained in the Labour Code must be reviewed within three years.
2 - Upon expiration of the deadline referred to in the previous paragraph, the competent department of the Ministry responsible for labour matters shall make a reasoned assessment of the legality of the statutes that

have not been reviewed and, if there are provisions contrary to the law, notify the structure in question so that change the statutes within 180 days.
3 - If there is a change of statutes within the period referred to in the previous number, or outside this period, but before they are sent to the Public Prosecution in the competent court, the provisions of paragraphs 3 to 6, 8 and 9 of article 447 of the Labour Code, with the necessary adaptations.
4 - If there is no change of statutes within the time limits referred to in paragraphs 2 and 3, the competent department of the Ministry responsible for labour matters shall refer to the magistrate of the Public Prosecution in the competent court a reasoned assessment of their legality for the intended purposes in paragraphs 8 and 9 of article 447 of the Labour Code.
5 - If the reasoned assessment of the legality of the amendment of statutes concludes that there are no provisions contrary to the law, the case shall be referred to the Public Prosecutor for the purposes of subparagraph b) of paragraph 4 of article 447 of the Labour Code.
6 - The entities referred to in paragraph 1 may request the suspension of the proceedings for a period of six months in the case of a judicial proceeding in progress for judicial termination thereof, or a declaration of nullity of rules of the statutes on grounds of non-compliance with the law , and present in the process the amendment of the statutes within the same period.

Article 9

Extinction of associations

1 - Union associations and associations of employers who, in the last six years, have not requested, in the legally established terms, the publication of the identity of the corresponding members of the management have 12 months, counted from the entry into force of this law, to request that publication.
2 - After the deadline referred to in the preceding paragraph, without that request having been verified, the Ministry responsible for the labour area hereby notifies the magistrate of the Public Prosecution in the competent court, in order to promote the judicial declaration of extinction of the association.
3 - The provisions of paragraphs 1 to 3 and 7 of article 456, with due adaptations, shall apply to judicial extinction under the terms of the previous article.

Article 10

Transitory system of oversight and expiration of collective contract

1 - A specific regime for the expiration of a collective contract with a clause that makes the termination of its validity of substitution is established by another instrument of collective regulation of work, according to the following numbers.
2 - The collective contract expires on the date of entry into force of this law, verified the following facts:
a) the last full publication of the contract containing the clause referred to in paragraph 1 has entered into force for at least six and a half years, including the period thereafter;
b) the agreement was validly terminated during the validity of the Labour Code;
c) at least 18 months have elapsed since the termination;
d) there has been no revision of the contract after the complaint.
3 - The contract referred to in paragraph 1 shall also expire, and all other facts shall be verified as soon as 18 months have elapsed from the date of termination.
4 - The provisions of paragraphs 2 and 3 shall be notwithstanding the situations of recognition of the expiry of that agreement, which was previously reported.
5 – the notice of the date of termination of the contract shall be published:

a) Officially, in the case of an earlier application whose refusal was based only on the existence of the clause referred to in paragraph 1;
b) Upon request, in all other cases.

Article 11
Autonomous regions

1 - In applying the Labour Code to the Autonomous Regions, the legal powers attributed to the corresponding regional bodies and services are considered.
2 - In the Autonomous Regions, the publications are made in the corresponding series of the official gazettes.
3 - In the Autonomous Regions, the regulation of the conditions for admissibility of the issuance of extension orders and orders of work conditions is incumbent upon the corresponding Legislative Assemblies.
4 - The Autonomous Regions may establish, according to their traditions, other holidays, in addition to those provided for in the Labour Code, provided they correspond to uses and practices already enshrined.
5 - The Autonomous Regions may also regulate other labour matters set out in the corresponding political and administrative statutes.

Article 12
Repeal rule

1 - The following shall be repealed:
a) Law no. 99/2003 of 27 August, as amended by Law no. 9/2006 of 20 March, Law no. 59/2007, of 4 September, and Law No 12-A/2008 of 27 February;
b) Law no. 35/2004 of 29 July, as amended by Law no. 9/2006 of 20 March, and Decree-Law no. 164/2007 of 3 May;
c) Subparagraphs d) and f) of article 2, the paragraph 2 and 9 of article 6, the paragraph 2 and 3 of article 13, and articles 7, 14 to 40, 42, 44 in the part related to administrative offenses for violation of repealed norms and paragraph 1 and subparagraphs d) and e) of paragraph 2 of article 45, all of the Law No 19/2007 of 22 May.
2 - Article 6 of the Labour Code, approved by Law no. 99/2003 of 27 August, on the law applicable to the employment contract is repealed insofar as Regulation EC/593/2008 applies, of the European Parliament and of the Council of 17 June on the law applicable to contractual obligations (Rome I).
3 - The repeal of the following provisions of the Labour Code, approved by Law no. 99/2003 of August 27, shall take effect as from the entry into force of the diploma regulating the same subject:
a) Articles 272 to 280 and 671 on safety, hygiene and health at work, in the part not referred to in the current wording of the Code;
b) (Revoked);
c) Articles 471 to 473 on European Works Councils;
d) Articles 569, 570 and article 688, on the appointment of arbitrators for mandatory arbitration and lists of arbitrators;
e) Articles 630 to 640, on the procedure for administrative offenses.
4 - The repeal of Articles 34 to 43, 50 and 643 of the Labour Code, approved by Law no. 99/2003, of August 27, and Articles 68 to 77 and 99 to 106 and 475 of the Law no. 35/2004 of 29 July, on protection of maternity and paternity takes effect from the entry into force of the legislation regulating the social protection system in the parenting.

5 - The repeal of Articles 414, 418, 430 and 435, paragraph 2 of Article 436, paragraph 1 of Article 438 and Article 681 in the part concerning the first two articles, of the Labour Code, approved by Law no. 99/2003 of 27 August, takes effect from the entry into force of the revision of the Labour Procedure Code.
6 - The repeal of the following provisions of the Law no. 35/2004 of July 29, as amended by Law no. 9/2006 of March 20, and by the Decree-Law no. 164/2007 of 3 May, shall take effect as from the entry into force of the diploma regulating the same subject:
a) Articles 14 to 26, 469 and 470 on homeworking;
b) Articles 41 to 65 and 474 on the protection of genetic heritage;
c) Articles 84 to 95 on the protection of pregnant employees, employees who have recently given birth or are breastfeeding;
d) Articles 103 to 106, on social security system in various licences, faults and waivers;
e) Articles 107 to 113 on arrangements applicable to Public Administration;
f) Articles 115 to 126 and 476 on protection of minors at work;
g) Articles 139 to 146 and 477, on the participation of minors in shows or other cultural, artistic or publicity activity;
h) Articles 155 and 156 on the specific characteristics of the student's attendance at school, including when applicable to a self-employed person and the student who, if covered by the working student status, is involuntarily unemployed, enrolled in an employment center;
i) Articles 165 to 167, 170 and 480 on professional training;
j) Articles 176 and 481, on the period of operation;
l) Articles 191 to 201 and 206 on the verification of the disease situation;
m) Articles 212 to 280, 484 and 485, the latter in the section referring to those articles, on safety, hygiene and health at work;
n) Articles 306 on entitlement to unemployment benefits and 310 to 315 on suspension of executions;
o) Articles 317 to 326 on the Wage Guarantee Fund;
p) Articles 365 to 395 and 489 on European Works Councils;
q) Articles 407 to 449, on compulsory arbitration and arbitration of minimum services;
r) Articles 452 to 464, paragraph 2 of Article 469 and Articles 490 and 491 on the establishment plan and the social report.
s) Articles 494 to 499 on the Commission for Equality in Labour and Employment, in the part not repealed by Decree-Law no. 164/2007 of 3 May.
7 - The sanctioning regime contained in the Labour Code does not repeal any provision of the Penal Code.

Amendments
Rectified by the Rectification Statement no. 21/2009 - Official Gazette no. 54/2009, Series I of 2009-03-18, in force from 2009-02-17

Article 13

Application of initial and adoption parental leave to current situations

1 - The licences provided for in subparagraph a), b) and c) of Article 39 and Article 44 shall apply to employees who are on maternity, paternity and adoption leave pursuant to Article 35, subparagraph c) of paragraph 2 of article 36 and article 38 of the Labour Code, approved by Law no. 99/2003, of August 27, and pursuant to article 68, no. 3 of article 69 and article 71 of the Law no. 35/2004, of July 29, counting, for the purpose of those licences, the periods of enjoyment of licence already elapsed.

2 - For the purpose of the previous number, employees must inform their employers according to the procedures provided for in those articles, within 15 days of the entry into force of the legislation regulating the social protection regime in parenthood.

Article 14
Entry into force

1 – Paragraphs 1, 3 and 4 of Article 356, articles 358, 382, 387 and 388, paragraph 2 of article 389 and paragraph 1 of article 391 shall enter into force on the effective date of the legislation that proceeds to the revision of the Code of Labour Procedure.
2 - Articles 34 to 62 shall enter into force on the effective date of the legislation regulating the social protection regime of parenthood.

Approved on 21 January 2009.

Signature

The President of the National Assembly, Jaime Gama. Promulgated on 4 February 2009.
To publish.
The President of the Republic, Aníbal Cavaco Silva. Signed on 9 February 2009.
The Prime Minister, José Sócrates Carvalho Pinto de Sousa.

Annex
LABOUR CODE

Book I
General part

Title I
Sources and application of labour law

Chapter I
Sources of labour law

Article 1
Specific sources

The employment contract is subject, in particular, to instruments of collective labour regulation, as well as to labour practices that do not contravene the principle of good faith.

Article 2

Collective labour regulation instruments

1 - Collective labour regulation instruments may be negotiated or non-negotiated.
2 - The Collective labour regulation instruments of negotiation are the collective contract, the adhesion agreement and the arbitral decision in a voluntary arbitration process.
3 - Collective conventions may be:
a) Collective contract, which means the agreement between a trade union association and an association of employers;
b) Collective agreement, which means the agreement between a trade union and a number of employers for different undertakings;
c) Company agreement, which means an agreement concluded between a trade-union association and an employer for an undertaking or establishment.
4 - The non-negotiating instruments of collective labour regulation are the extension order, the working conditions rule and the arbitration decision in a compulsory or necessary arbitration process.

Article 3

Relationship between sources of regulation

1 - The legal norms regulating employment contracts may be excluded by a collective labour regulation instruments, unless otherwise noted.
2 - The legal norms regulating labour contract cannot be removed by ordinance of working conditions.
3 - The legal norms regulating labour contracts can only be excluded by a collective labour regulation instrument that, without opposition from those norms, disposes in a more favourable sense to employees when they respect the following matters:
a) Personality, equality and non-discrimination rights;
b) Protection in parenthood;
c) Child labour;
d) Worker with reduced working capacity, with a disability or chronic illness;
e) Working student;
f) Information duty of the employer;
g) Limits on the duration of normal daily and weekly work periods;
h) Minimum length of rest periods, including the minimum duration of the annual holiday period;
i) Maximum duration of night employees' shift;
j) Form of compliance and guarantees of remuneration;
l) Chapter on prevention and repair of occupational accidents and diseases and legislation that regulates it;
m) Transmission of company or establishment;
n) Rights of the elected representatives of the employees.
4 - The legal norms regulating employment contracts can only be excluded by individual contract that establish conditions more favourable to the worker, if not otherwise.
5 - Whenever a legal regulation regulating an employments contract determines that it can be dismissed by collective labour regulation instrument it is understood that it cannot be by employment contract.

Chapter II
Application of labour law

Article 4
Equal treatment of foreign employees or stateless persons

Notwithstanding the provisions of the law applicable to the posting of employees and the provisions of the following article, a foreign worker or stateless person who is authorized to engage in a subordinate professional activity in Portugal enjoys the same rights and is subject to the same duties as the worker with Portuguese nationality.

Article 5
Form and content of contract with foreign worker or stateless person

1 - The employment contract concluded with a foreign worker or stateless person is subject to written form and must contain, notwithstanding others that may be required in the case of a fixed-term, the following information:
a) Identification, signatures and address or head office of the parties;
b) Reference to the work visa or the Authorisation of residence or residence permit of the worker in Portuguese territory;
c) Activity of the employer;
d) Contracted activity and remuneration of the employee;
e) Place and normal period of work;
f) Value, periodicity and form of remuneration payment;
g) Dates of the conclusion of the contract and start of the activity.
2 - The employee must also attach to the contract the identification and address of the person or persons receiving a pension in case of death resulting from a work accident or occupational disease.
3 - The employment contract must be drawn up in duplicate, with the employer delivering a copy to the worker.
4 - The copy of the contract to the employer must be accompanied by documents proving compliance with the legal obligations related to the entry and residence or residence of the foreign citizen or stateless person in Portugal, and copies of the same documents are appended to the remaining copies.
5 - The employer must communicate to the service with inspection authority of the ministry responsible for the labour area, by electronic form:
a) The conclusion of employment contract with a foreign worker or stateless person, before the beginning of its execution;
b) The termination of the contract, within 15 days.
6 - The provisions of this article shall not apply to employment contract of a national of a member country of the European Economic Area or of another State that establishes equal treatment with national citizens in respect of the free exercise of professional activity.
7 - Violation of the provisions of paragraphs 1, 3, 4 or 5 represents a serious administrative offense.

Article 6
Posting in Portuguese territory

1 - The following situations are considered to be subject to the posting regime in which the employee, hired by an employer established in another State, provides his activity in Portuguese territory:

a) In performance of a contract between the employer and the beneficiary who carries out the activity, provided that the employee remains under the authority and direction of the employer;
b) In the establishment of the same employer, or company of another employer with which there is a corporate relation of reciprocal, domain or group participation;
c) At the service of a user, at the disposal of which he was placed by a temporary employment agency or another company.
2 - The regime shall also apply to posting in situations referred to in subparagraphs a) and b) of the preceding paragraph by a user established in another State under its national law, provided that the employment contract subsists during the secondment.
3 - The regime of posting in Portuguese territory does not apply to the navigating personnel of the merchant navy.

Article 7

Posted employee's employment conditions

1 - Notwithstanding a more favourable regime established by law or employment contract, the posted worker has the right to the working conditions provided for by law and collective labour regulations of general efficacy, which respect:
a) Job security;
b) Maximum duration of working time;
c) Minimum rest periods;
d) Holidays;
e) Minimum remuneration and payment of additional work;
f) Assignment of employees by temporary employment agency;
g) Occasional hiring of employees;
h) Work safety and health;
i) Protection in parenthood;
j) Protection of the minors' work;
l) Equality of treatment and non-discrimination.
2 – For the purpose of the previous number:
a) The minimum remuneration includes the allowances or benefits allocated to the worker on account of the posting that do not represent reimbursement of expenses incurred, namely travel, accommodation and meals;
b) Holidays, minimum remuneration and additional work pay shall not apply to the secondment of a qualified worker by an undertaking supplying the goods in order to carry out the initial assembly or installation necessary for its operation, provided that it is integrated in the supply contract and its duration does not exceed eight days in a period of one year.
3 - The provisions of subparagraph b) of the preceding paragraph do not include the secondment in construction activities that aim at the realization, repair, maintenance, alteration or elimination of constructions, namely excavations, embankments, construction, assembly and disassembly of prefabricated elements, installation of equipment, transformation, renovation, repair, maintenance or maintenance, namely painting and cleaning, dismantling, demolition and sanitation.

Article 8

Posting to another State

1 - A worker hired by a company established in Portugal and working in the territory of another State in a situation referred to in article 6, is entitled to the working conditions provided for in the previous article, notwithstanding a more favourable regime applicable law or contract.
2 - The employer must communicate, with the inspection department of the ministry responsible for the labour area, the identity of the employees to be posted abroad, the user, the workplace, the foreseeable start and term of the trip five days in advance. .
3 - A violation of the provisions of the preceding paragraph represents a serious administrative offense.

Article 9
Employment contract with special regime

The general rules of this Code, which are compatible with its specificity, apply to the employment contract with special regime.

Article 10
Similar situations

Legal provisions concerning personality, equality and non-discrimination, and occupational safety and health rights apply to situations in which work is performed by one person to another without legal subordination, where the provider of work is to be considered in the economic dependence of the beneficiary of the activity.

Title II
Employment contract

Chapter I
General provisions

Section I
Employment contract

Article 11
Concept of employment contract

Employment contract is one in which a natural person undertakes, through retribution, to provide his activity to another persons, within the Organisation and under their authority.

Article 12
Presumption of employment contract

1 - The existence of an employment contract is presumed when, in the relationship between the person providing an activity and another or those who benefit from it, there are some of the following characteristics:
a) The activity is carried out in a place belonging to or determined by the beneficiary;
b) The equipment and instruments of work used belong to the beneficiary of the activity;

c) The activity provider observes the start and end times of the service, determined by the beneficiary of the service;
d) A certain amount is paid to the activity provider, as a consideration, of the activity;
e) The activity provider performs managerial or managerial functions within the Organisational structure of the company.
2 - It represents a very serious administrative offense attributable to the employer to provide activity, in an apparently autonomous manner, under conditions typical of an employments contract, which may cause injury to the employee or the State.
3 - In the event of a repeat offense, the accessory sanction of deprivation of the right to a subsidy or benefit granted by a public entity or service, for up to two years, shall be applied.
4 - For the payment of the fine, the employer shall be jointly and severally liable, companies which are in a relationship of mutual participation, dominion or group, as well as the manager, administrator or director, under the conditions referred to in article 334 and paragraph 2 of Article 335.

Section II
Parties

Subsection I
Capacity

Article 13
General principle of capacity

The capacity to enter into an employments contract is governed by the general terms of the law and by the provisions of this Code.

Subsection II
Personality rights

Article 14
Freedom of expression and opinion

The freedom of expression and dissemination of thought and opinion, with respect to the personality rights of the worker and the employer, including the natural persons who represent him, and the normal functioning of the company, are recognized within the company.

Article 15
Physical and moral integrity

The employer, including the natural persons who represent him, and the worker shall enjoy the right to their physical and moral integrity.

Article 16
Reservation of the privacy of private life

1 - The employer and the employee must respect the personality rights of the counterparty, being responsible, in particular, to keep a reservation on the privacy of private life.
2 - The right to the privacy of private life shall include access to and disclosure of aspects relating to the intimate and personal sphere of the parties, in particular in relation to family, affective and sexual life, health status and beliefs political and religious.

Article 17
Protection of personal data

1 - The employer cannot require a candidate or a worker to provide information on:
a) Their private life, unless they are strictly necessary and relevant for assessing their suitability for the performance of the employment contract and the written statement of the reasoning thereof;
b) Their health or state of pregnancy, unless justified by the particular requirements inherent in the nature of the professional activity and provided in writing with the reasoning therefor.
2 - The information provided in subparagraph b) of the previous number is provided to a physician, who can only communicate to the employer if the worker is or is not able to carry out the activity.
3 - The candidate for employment or the worker who has provided information of a personal nature shall have the right to control his/her personal data, being able to take note of its content and the purposes for which it is intended, as well as require its correction and updating.
4 - The files and computer accesses used by the employer for the processing of personal data of the candidate for employment or worker are subject to the legislation in force regarding the protection of personal data.
5 - Violation of the provisions of paragraphs 1 or 2 represents a very serious administrative offense.

Article 18
Biometric data

1 - The employer can only process biometric data of the employee after notification to the National Data Protection Commission.
2 - The processing of biometric data is only permitted if the data to be used are necessary, appropriate and proportionate to the objectives to be attained.
3 - The biometric data shall be kept for the period necessary to carry out the purposes of the treatment for which they are intended and shall be destroyed at the time of transfer of the worker to another workplace or termination of the employment contract.
4 - The notification referred to in paragraph 1 shall be accompanied by an opinion of the employees' committee or, if it is not available within 10 days after the consultation, of proof of the request for an opinion.
5 - Violation of paragraph 3 represents a serious administrative offense.

Article 19
Medical exams and tests

1 - In addition to the situations provided for in legislation on occupational safety and health, the employer may not, for the purposes of admission or stay in employment, require a job seeker or a worker to perform or submit medical tests or of physical or mental condition, except where the latter have the purpose of the protection and safety of the worker or of third parties, or when particular requirements inherent in the activity so justify it, and must in any case be provided in writing to the candidate for employment or grounds.

2 - The employer may not, under any circumstances, require the candidate for employment or the worker to perform or submit tests or pregnancy tests.
3 - The doctor responsible for the tests and medical examinations can only communicate to the employer if the worker is or is not able to carry out the activity.
4 - Violation of the provisions of paragraphs 1 or 2 represents a very serious administrative offense.

Article 20
Means of remote surveillance

1 - The employer may not use remote surveillance at the workplace by using technological equipment, in order to control the professional performance of the worker.
2 - The use of equipment referred to in the previous number is lawful whenever it has for the purpose the protection and security of people and goods or when particular requirements inherent to the nature of the activity justify it.
3 - In the cases provided for in the preceding paragraph, the employer shall inform the employee of the existence and purpose of the means of surveillance used, and shall, in particular, display the following words in the places indicated: "This place is under surveillance of a closed circuit television" or "This place is under surveillance of an closed circuit television, proceeding to the recording of image and sound", followed by an identifying symbol.
4 - A violation of the provisions of paragraph 1 represents a very serious administrative offense and it is a minor administrative offense to violate the provisions of paragraph 3.

Article 21
Use of means of remote surveillance

1 - The use of means of remote surveillance in the workplace is subject to the authorisation of the National Commission for Data Protection.
2 - Authorisation may be granted only if the use of the means is necessary, appropriate and proportionate to the objectives to be attained.
3 -. Personal data collected by means of distance surveillance shall be kept for the period necessary for the purpose of the intended use and shall be destroyed at the time of transfer of the worker to another workplace or termination of the contract of work.
4 - The request for authorisation referred to in paragraph 1 must be accompanied by an opinion of the employees' committee or, if it is not available 10 days after the consultation, proof of the request for an opinion.
5 - Violation of paragraph 3 represents a serious administrative offense.

Article 22
Confidentiality of messages and access to information

1 - The employee has the right of reservation and confidentiality regarding the content of the messages of a personal nature and access to non-professional information that he or she sends, receives or consults, in particular through electronic mail.
2 - The provisions of the preceding paragraph shall not affect the power of the employer to establish rules for the use of the means of communication in the company, namely electronic mail.

Subsection III
Equality and non-discrimination

Division I
General provisions on equality and non-discrimination

Article 23
Concepts on equality and non-discrimination

1 - For the purposes of this Code, it is considered:
a) direct discrimination where, on account of a factor of discrimination, a person is treated less favorably than he is, has been or will be given to another person in a comparable situation;
b) indirect discrimination where an apparently neutral provision, criterion or practice is likely to put a person on a discriminatory basis in a position of disadvantage compared to others, unless that provision, criterion or practice is objectively justified by a legitimate aim and that the means of achieving it are appropriate and necessary;
c) Equal work, one in which the functions performed at the service of the same employer are equal or objectively similar in nature, quality and quantity;
d) Work of equal value, in which the functions performed at the service of the same employer are equivalent, considering, in particular, the qualification or experience required, the responsibilities attributed, the physical and psychological effort and the conditions under which the work is performed.
2 - Discrimination is the mere order or instruction that has the purpose of harming someone because of a factor of discrimination.

Article 24
Right to equal access to employment and work

1 - A worker or a job seeker shall have the right to equal opportunities and treatment with regard to access to employment, training and promotion or professional career and working conditions, and may not be privileged, benefited, disadvantaged, deprived of any right or freedom from any duty on grounds of descent, age, sex, sexual orientation, gender identity, marital status, family status, economic situation, education, social origin or condition, genetic heritage, disability, chronic illness, nationality, ethnic origin or race, territory of origin, language, religion, political or ideological beliefs and union membership, and the State should promote equal access to these rights.
2 - The right referred to in the previous number shall concern in particular:
a) Selection criteria and employment conditions, in any sector of activity and at all hierarchical levels;
b) Access to all types of vocational guidance, training and retraining at all levels, including the acquisition of practical experience;
c) The remuneration and other patrimonial benefits, promotion at all hierarchical levels and criteria for the selection of employees to be dismissed;
d) Membership or participation in structures of collective representation, or in any other organisation whose members carry out a particular profession, including the benefits attributed by them.
3 - The provisions of the preceding paragraphs shall not affect the application:
a) Of legal provisions regarding the exercise of a professional activity by foreigner or stateless person;
b) Provisions relating to the special protection of genetic heritage, pregnancy, parenthood, adoption and other situations relating to the reconciliation of work and family life.

4 - The employer must display in the company, in an appropriate place, the information regarding the rights and duties of the worker in terms of equality and non-discrimination.
5 - A violation of the provisions of paragraph 1 represents a very serious administrative offense and it is a minor administrative offense to violate the provisions of paragraph 4.

Amendments
Amended by Article 2 of the Law no. 28/2015 - Official Gazette no. 72/2015, Series I of 2015-04-14, in force from 2015-05-01

Article 25
Prohibition of discrimination

1 - The employer may not discriminate, directly or indirectly, on account of the factors referred to in paragraph 1 of the previous article.
2 – A behaviour based on a factor of discrimination which represents a justifiable and determining requirement for the pursuit of the professional activity, by virtue of the nature of the activity in question or the context in which it is carried out, shall not represent discrimination, the objective being legitimate and the proportional requirement .
3 - Differences in treatment based on age, which are necessary and appropriate for the attainment of a legitimate objective, namely employment policy, the labour market or professional training, shall be allowed in particular.
4 - Legal provisions or instruments of collective labour regulation that justify the conduct referred to in the preceding paragraph must be periodically evaluated and revised if they are no longer justified.
5 - It is for those who claim discrimination to indicate the worker or employees in relation to whom they consider themselves discriminated against, and it is incumbent on the employer to prove that the difference in treatment is not based on any factor of discrimination.
6 - The provisions of the previous paragraph are applicable in case of invocation of any discriminatory practice in access to work or professional training or in working conditions, in particular for reasons of exemption for prenatal consultation, protection of the health and safety of employees pregnant, puerperal or breastfeeding, parental leave or absenteeism.
7 - The act of retaliation that damages the worker as a result of rejection or submission to a discriminatory act is invalid.
8 - Violation of the provisions of paragraphs 1 or 7 represents a very serious administrative offense.

Article 26
Rules contrary to the principle of equality and non-discrimination

1 - The provision of a collective labour regulation instrument or of an internal company regulation that establishes a profession or professional category that specifically concerns employees of one of the sexes is considered applicable to employees of both sexes.
2 - The provision of a collective labour regulation instrument or of an internal company regulation that establishes working conditions, namely remuneration, applicable exclusively to employees of one of the sexes for professional category corresponding to equal work or work of equal value is considered replaced by the most favourable provision applicable to employees of both sexes.
3 - The provisions of the preceding paragraphs shall apply to a provision contrary to the principle of equality based on another factor of discrimination.

4 - The provision of statute of representative organisations of employers or employees restricting access to employment, professional activity, professional training, working conditions or professional career exclusively to employees of either sex, except in the cases provided for in paragraph 2 of article 25 and those provided for by a specific law arising from the protection of the genetic heritage of the worker or his or her descendants, shall be deemed to apply to employees of both sexes.

Article 27

Positive action measure

For the purposes of this Code, it is not considered as discrimination the legislative measure of limited duration that benefits a certain group, disadvantaged by a factor of discrimination, with the purpose of guaranteeing the exercise, under equal conditions, of the rights provided by law or correcting situation inequality that persists in social life.

Article 28

Compensation for a discriminatory act

The practice of a discriminatory act adversely affecting a worker or jobseeker confers the right to compensation for pecuniary and non-property damages, under the general terms of law.

Division II

Prohibition of harassment

Article 29

Harassment

1 - The practice of harassment is prohibited.
2 - Unintentional conduct, including discrimination based on access to employment or employment, work or professional training, is defined as harassment with the purpose or effect of disrupting or dignity, or create an intimidating, hostile, degrading, humiliating or destabilizing environment.
3 - Sexual harassment represents unwanted sexual behavior, in a verbal, non-verbal or physical form, with the purpose or effect referred to in the preceding paragraph.
4 - The practice of harassment gives the victim the right to compensation, according to the provisions of the previous article.
5 - The practice of harassment represents a very serious administrative offence, notwithstanding any criminal responsibility provided for under the law.
6 - The denouncer and the witnesses indicated by them cannot be sanctioned disciplinarily, unless they act with intent, based on declarations or facts contained in the records of proceedings, judicial or administrative proceedings, triggered by harassment until a final, final and final decision, notwithstanding the exercise of the right to be heard.

Amendments

Amended by Article 2 of the Law no. 73/2017 - Official Gazette no. 157/2017, Series I of 2017-08-16, in force from 2017-10-01

Division III
Equality and non-discrimination based on sex

Article 30
Access to employment, professional activity or training

1 - The exclusion or restriction of access of a person to a job or a worker on the basis of sex to a particular activity or to the professional training required to gain access to that activity represents discrimination on the basis of sex.
2 - The advertisement of job offers and other forms of advertising linked to pre-selection or recruitment may not contain, directly or indirectly, any restriction, specification or preference based on sex.
3 - In the case of professional training aimed at the predominantly male and female employees, preference should be given to sex employees with less representation, and, where appropriate, to employees with reduced educational levels without qualification or one-parent family member or in the case of parental leave or adoption.
4 - Violation of the provisions of paragraphs 1 or 2 represents a very serious administrative offense.

Article 31
Equal working conditions

1 – The employees have the right to a level playing field, in particular regarding remuneration, and the elements that determine it must not contain any discrimination based on sex.
2 - Equal remuneration implies that, for work of equal value or value:
a) Any type of variable remuneration, namely the one paid to the task, is established based on the same unit of measure;
b) The remuneration calculated according to the working time is the same.
3 - Differences in remuneration shall not represent discrimination based on objective criteria, common to men and women, in particular, based on merit, productivity, attendance or seniority.
4 - Notwithstanding the provisions of the previous paragraph, the licences, absences or waivers related to protection in parenthood cannot justify differences in the remuneration of employees.
5 - Job description and job evaluation systems should be based on objective criteria common to men and women in order to exclude any discrimination based on sex.
6 - A violation of the provisions of paragraph 1 represents a very serious administrative offense and violation of the provisions of paragraph 5 represents a serious administrative offense.

Article 32
Registration of recruitment processes

1 - All entities shall maintain for five years the registration of the recruitment processes carried out, and shall include in the same, with a breakdown by sex, the following elements:
a) Invitations for the filling of posts;
b) Job offers;
c) Number of applications for curricular assessment;
d) Number of candidates present in pre-selection interviews;
e) Number of candidates waiting for admission;
f) Results of tests or admission or selection tests;

g) Social reports relating to data, to enable the analysis of discrimination against persons of either sex in access to employment, professional training and promotion, and working conditions.
2 - It is a minor administrative offense to breach the provisions of this article.

Subsection IV
Parenting

Article 33
Parenting

1 - Motherhood and fatherhood are eminent social values.
2 - Employees have the right to the protection of society and the State in carrying out their irreplaceable action in relation to the exercise of parenthood.

Article 34
Articulation with social protection system

1 - Social protection in the situations provided for in this subsection, in particular the social benefit regimes for the different periods of parental leave, is contained in specific legislation.
2 - For the purposes of this subsection, periods of parental leave shall be deemed to be equivalent to the periods for the granting of the corresponding social benefits, attributed to one parent under the solidarity subsystem and the social security or other social security system. compulsory social protection.

Article 35
Protection in parenthood

1 - Protection in parenthood takes place through the attribution of the following rights:
a) Leave at a clinical risk during pregnancy;
b) Leave for termination of pregnancy;
c) Parental leave, in any of the modalities;
d) Adoption leave;
e) Complementary parental leave in any of the modalities;
f) Exemption from the work of a pregnant worker, puerperal or breastfeeding woman, in order to protect her safety and health;
g) Exemption for prenatal consultation;
h) Exemption for evaluation for adoption;
i) Exemption for breastfeeding;
j) Faults for childcare;
l) Faults for assistance to the net;
m) Leave for childcare;
n) Leave for assistance to a child with a disability or a chronic illness;
o) Part-time work of a worker with family responsibilities;
p) Flexible working time with family responsibilities;
q) Exemption from work on an adaptable basis;
r) Exemption from the provision of additional work;
s) Exemption from work at night.

2 - The rights provided for in the preceding paragraph shall apply only after the birth of the child to working parents who are not prevented or totally inhibited from exercising parental responsibility, except for the right of the mother to enjoy 14 weeks of initial parental leave and concerning protection during breastfeeding.

Article 36

Concepts of parenting protection

1 - Under the regime for the protection of parenthood, the following definitions shall apply:
a) Pregnant worker, the pregnant worker who informs the employer of her state, in writing, with the presentation of a medical certificate;
b) Worker who has recently given birth, is a woman worker and for a period of 120 days following the birth, who informs the employer of her condition in writing with a medical certificate or birth certificate of the child;
c) Nursing worker, the worker who breastfeeds the child and informs the employer of her state, in writing, with the presentation of a medical certificate.
2 - The system of protection of parenthood shall also apply provided that the employer is aware of the relevant situation or fact.

Article 37

Leave of clinical risk during pregnancy

1 - In a situation of clinical risk to the pregnant worker or to the unborn child, impeding the exercise of functions, regardless of the reason that determines this impediment and whether or not this is related to the conditions of work, if the employer does not provide the an activity compatible with her professional status and category, the worker is entitled to leave for the period of time prescribed by medical prescription considered necessary to prevent the risk, notwithstanding initial parental leave.
2 - For the purpose of the preceding paragraph, the worker informs the employer and presents a medical certificate stating the expected duration of the leave, providing this information in advance of 10 days or, in case of urgency proven by the physician, as soon as possible.
3 - Violation of the provisions of paragraph 1 represents a very serious administrative offense.

Article 38

Leave for pregnancy termination

1 - In case of termination of pregnancy, the worker is entitled to a licence lasting between 14 and 30 days.
2 - For the purpose stipulated in the previous number, the worker informs the employer and presents, as soon as possible, a medical certificate stating the period of leave.
3 - Violation of the provisions of paragraph 1 represents a very serious administrative offense.

Article 39

Modalities of parental leave

Parental leave comprises the following modalities:
a) Initial parental leave;
b) Exclusive parental leave of the mother;
c) Initial parental leave to be enjoyed by the father due to the impossibility of the mother;
d) Exclusive parental leave of the father.

Article 40

Initial parental leave

1 - The working mother and father shall be entitled, based on her child's birth, to initial parental leave of 120 or 150 consecutive days, the enjoyment of which may be shared after childbirth, notwithstanding the rights of the mother referred to in the following article.
2 - The enjoyment of the licence referred to in the previous number can be enjoyed simultaneously by the parents between 120 and 150 days.
3 - The leave referred to in paragraph 1 shall be increased by 30 days if each of the parents has a period of 30 consecutive days, or two periods of 15 consecutive days, after the period of compulsory referred to in paragraph 2 of the following article.
4 - In the case of multiple births, the period of leave provided for in the previous numbers shall be increased by 30 days for each twin in addition to the first.
5 - In case of parental leave sharing, the mother and the father shall inform their corresponding employers, within seven days of the birth, of the beginning and end of the periods to be enjoyed by each one, by giving a joint declaration.
6 - The enjoyment of the simultaneous parental leave, of mother and father who work in the same company, being this a microenterprise, depends on agreement with the employer.
7 - If parental leave is not shared by the mother and the father, and notwithstanding the rights of the mother referred to in the following article, the parent who holds the licence shall inform the employer, within seven days of delivery, of the duration of the licence and of the beginning of the corresponding period, together with a statement from the other parent stating that the latter is working and does not enjoy the initial parental leave.
8 - In the absence of the declaration referred to in paragraphs 4 and 5, the licence shall be used by the mother.
9 - In the event of a hospital stay of the child or of the parent who is taking the leave provided for in paragraphs 1, 2 or 3 during the period after childbirth, the leave shall be suspended, at the request of the parent, for the time duration of hospitalisation.
10 - The suspension of the licence in the case stipulated in the previous number is made through communication to the employer, accompanied by a statement issued by the hospital.
11 - Violation of the provisions of paragraphs 1, 2, 3, 7 or 8 represents a very serious administrative offense.

Amendments

Amended by Article 2 of the Law no. 120/2015 - Official Gazette no. 170/2015, Series I of 2015-09-01, in force from 2015-09-06

Article 41

Periods of parental leave exclusive to the mother

1 - The mother can enjoy up to 30 days of the initial parental leave before giving birth.
2 - The mother must enjoy six weeks' leave after childbirth.
3 - A worker who intends to enjoy part of the leave before giving birth must inform the employer of this purpose and submit a medical certificate stating the foreseeable date of delivery, giving this information ten days in advance or, in the case of urgency proven by the doctor, as soon as possible.
4 - Violation of the provisions of paragraphs 1 or 2 represents a very serious administrative offense.

Article 42

Initial parental leave to be enjoyed by one parent in case of impossibility of the other

1 - The father or mother shall be entitled to leave for the duration referred to in paragraph 1, 2 or 3 of Article 40 or the remaining period of the leave in the following cases:
a) The physical or mental incapacity of the parent who is on leave for as long as the licence remains;
b) Death of the parent who is taking the leave.
2 - The total duration of the licence referred to in paragraph 2 of Article 40 shall only apply if the conditions set out therein are fulfilled at the date of the facts referred to in the preceding paragraph.
3 - In case of death or physical or mental incapacity of the mother, the initial parental leave to be enjoyed by the father lasts at least 30 days.
4 - In the event of death or physical or mental incapacity of a non-working mother within 120 days of giving birth, the father shall be entitled to leave under the terms of paragraph 1, with the necessary adaptation, or of the previous number.
5 - For the purpose of the provisions of the preceding paragraphs, the father shall inform the employer as soon as possible and, depending on the situation, present a medical certificate or death certificate and, if applicable, state the period of leave already taken by the mother.
6 - Violation of the provisions of paragraphs 1 to 4 represents a very serious administrative offense.

Article 43

Parental leave exclusive to the father

1 - The father shall be required to take parental leave of 15 working days, followed or interpolated, within 30 days of the birth of the child, five of whom shall be taken consecutively immediately thereafter.
2 - After the leave granted in the previous number, the father is also entitled to 10 working days of leave, followed or interpolated, provided that they enjoy simultaneously with the mother's initial parental leave.
3 - In the case of multiple births, the leave provided for in the preceding numbers adds two days for each twin in addition to the first.
4 - For the purposes of the preceding paragraphs, the employee must advise the employer with the possible advance that, in the case provided for in paragraph 2, it must not be less than five days.
5 - Violation of the provisions of paragraphs 1, 2 or 3 represents a very serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 120/2015 - Official Gazette no. 170/2015, Series I of 2015-09-01

Article 44

Adoption leave

1 - In case of adoption under the age of 15, the applicant for adoption shall be entitled to the leave referred to in article 40, paragraphs 1 or 2.
2 - In the case of multiple adoptions, the period of leave referred to in the preceding number shall be increased by 30 days for each adoption in addition to the first.
3 - If there are two candidates for adopters, the licence shall be taken according to paragraphs 1 and 2 of article 40.
4 - The adoptive candidate shall not be entitled to leave in case of adoption of the child of the spouse or of a person with whom he/she lives in a civil partnership.

5 - In case of incapacity or death of the adoptive candidate during the leave, the surviving spouse, who is not a candidate for adoption and with whom adopts him/her living in communion of table and house, is entitled to a licence corresponding to the period not taken or to a minimum of 14 days.
6 - The leave starts from the judicial or administrative trust, according to the legal regime of adoption.
7 - Where the administrative trust consists in confirming that the child is still in the care of the adoptive parent, the latter shall be entitled to leave for the remaining period, provided that the date on which the child was dependent was before the end of initial parental leave.
8 - In case of hospitalisation of the adopted or adopting candidate, the period of leave is suspended for the duration of the hospitalisation, and the latter must communicate this fact to the employer, presenting a supporting statement passed by the hospital.
9 - In case of sharing of the enjoyment of the leave, candidates for adoptive parents shall inform their employers, in advance of 10 days or, in case of proven urgency, as soon as possible, proving the judicial or administrative trust of the adopter and the age of the beginning and end of the periods to be enjoyed by each one, delivering for that purpose a joint declaration.
10 - If the adoption leave is not shared, the candidate adopting the leave informs the corresponding employer, within the deadlines referred to in the previous number, of the duration of the licence and the beginning of the corresponding period.
11 - Violation of the provisions of paragraphs 1 to 3, 5, 7 or 8 represents a very serious administrative offense.

Article 45

Exemption for evaluation for adoption

In order to carry out an evaluation for adoption, employees are entitled to three layoffs to travel to the social security services or reception of the technicians in their home and must provide the appropriate justification to the employer.

Article 46

Leave for prenatal consultation

1 - The pregnant worker has the right to leave the work for prenatal consultations, for the time and number of times necessary.
2 - The worker should, whenever possible, attend the prenatal appointment outside working hours.
3 - Whenever prenatal consultation is only possible during working hours, the employer may require the worker to provide evidence of this circumstance and to carry out the consultation or declaration of the same facts.
4 - For the purpose of the previous numbers, the preparation for childbirth is equated with prenatal consultation.
5 - The father is entitled to three leaves to accompany the worker to prenatal consultations.
6 - Violation of the provisions of this article represents a serious administrative offense.

Article 47

Dispensing for breastfeeding

1 - The mother who is breastfeeding the child has the right to work leave for this purpose, during the duration of breastfeeding.

2 - If there is no breastfeeding, if both parents exercise professional activity, either one or both, according to a joint decision, are entitled to leave until the child reaches one year.
3 - The daily leave for breastfeeding is taken in two distinct periods, with a maximum duration of one hour each, unless otherwise agreed with the employer.
4 - In the case of multiple births, the waiver referred to in the previous number shall be increased by a further 30 minutes for each twin in addition to the first.
5 - If either parent works part-time, the daily dispensation for breastfeeding is reduced in proportion to the normal working hours and may not be less than 30 minutes.
6 - In the situation referred to in the preceding paragraph, the daily leave shall be taken for a period not exceeding one hour and, if applicable, in a second period of the remaining duration, unless otherwise agreed with the employer.
7 - Violation of the provisions of this article represents a serious administrative offense.

Article 48

Leave procedure for breastfeeding

1 - For the purpose of leave for breastfeeding, the worker informs the employer, 10 days before the start of the leave, that breastfeeds the child, and must present a medical certificate if the leave extends beyond the first year of life of the child .
2 - For purposes of leave for breastfeeding, the parent:
a) Notify the employer that the child is breastfeeding, 10 days before the start of the leave;
b) Submit a document stating the joint decision;
c) Declares the period of leave enjoyed by the other parent, if applicable;
d) Proof that the other parent is engaged in a professional activity and, in the case of an employee, who informed the corresponding employer of the joint decision.

Article 49

Absence for childcare

1 - The worker may be absent from work in order to provide urgent and essential assistance, in case of illness or accident, to a child under 12 years of age or, regardless of age, a child with a disability or a chronic illness, up to 30 days a year or throughout the period of possible hospitalisation.
2 - The worker may miss work up to 15 days a year to provide urgent and essential assistance in case of illness or accident to a child who is 12 years of age or older who, if he is older, is part of his household.
3 - The periods of absence foreseen in the previous numbers add one day for each child besides the first.
4 - The possibility of failure provided for in the previous numbers cannot be exercised simultaneously by the father and the mother.
5 - For the purpose of justifying the fault, the employer may require the worker:
a) Proof of the urgency and indispensable nature of the assistance;
b) Declaration that the other parent has a professional activity and does not lack for the same reason or is unable to provide the assistance;
c) In the case of hospitalisation, a certified statement issued by the hospital.
6 - In the case referred to in paragraph 3 of the following article, the father or mother shall inform the corresponding employer of the assistance in question, and his right referred to in paragraphs 1 or 2 shall be reduced accordingly.
7 - Violation of the provisions of paragraphs 1, 2 or 3 represents a serious administrative offense.

Article 50

Absence for grandchild assistance

1 - The worker may be absent for up to 30 consecutive days, after the birth of a grandchild who is living in communion of table and house and who is the child of a teenager under the age of 16.
2 - If there are two right holders, there is only one period of absences, to be enjoyed by one of them, or by both in part time and in successive periods, according to a joint decision.
3 - The worker may also be absent, in replacement of the parents, to provide urgent and indispensable assistance, in case of illness or accident, to a child or, regardless of age, with a disability or a chronic illness.
4 - For the purposes of paragraphs 1 and 2, the worker shall inform the employer five days in advance, stating that:
a) The grandchild lives with him in communion of table and house;
b) The grandchild is the child of a teenager under the age of 16;
c) The spouse of the worker is engaged in a professional activity or is physically or psychically unable to care for the grandchild or does not live in communion and housing with the grandchild.
5 - The provisions of this article apply to a guardian of the adolescent, to a worker who has been granted judicial or administrative trust, as well as to his or her spouse or unmarried partner.
6 - In the case referred to in paragraph 3, the worker shall inform the employer, within the period provided for in paragraphs 1 or 2 of article 253, stating:
a) The urgency and indispensability of the assistance;
b) That the parents are employed and do not lack for the same reason or are unable to provide assistance, nor that no other family member of the same degree is absent for the same reason.
7 - Violation of the provisions of paragraphs 1, 2 or 3 represents a serious administrative offense.

Article 51

Complementary parental leave

1 - The father and the mother are entitled to supplementary parental leave, for the care of a child or adopted up to six years of age, in any of the following ways:
a) Extended parental leave, for three months;
b) Part-time work for 12 months, with a normal working time equal to half the full time;
c) Interim periods of extended parental leave and part-time work where the total duration of absence and reduction of working time is equal to normal working hours of three months;
d) Interpolated absences from work with duration equal to normal working periods of three months, provided they are provided for in a collective labour regulation instrument.
2 - The father and the mother may enjoy any of the modalities referred to in the preceding number in a consecutive way or up to three interpolated periods, and one parent cannot be cumulated by the parents of the other.
3 - If both parents wish to take the licence simultaneously and are employed by the same employer, the latter may defer the licence of one of them on the basis of overriding requirements relating to the operation of the undertaking or service, provided that the reasoning is given in writing.
4 - During the period of supplementary parental leave in any of the modalities, the employee may not engage in any other activity incompatible with his or her purpose, such as subordinate work or the continuous provision of services outside his or her habitual residence.

5 - The exercise of the rights referred to in the previous numbers depends on information about the desired modality and the beginning and end of each period, written in writing to the employer 30 days before its beginning.
6 - Violation of the provisions of paragraphs 1, 2 or 3 represents a serious administrative offense.

Article 52
Childcare leave

1 - Once the right referred to in the previous article has been exhausted, the parents shall be entitled to leave for childcare, consecutively or interpolated, for up to two years.
2 - In the case of a third child or more, the licence provided for in the previous number is limited to three years.
3 - The worker is entitled to leave if the other parent is engaged in professional activity or is prevented or totally inhibited from exercising parental authority.
4 - If there are two holders, the licence may be enjoyed by either one or both in successive periods.
5 - During the period of leave for childcare, the worker may not carry out any other activity incompatible with his or her purpose, such as subordinate work or the continuous provision of services outside his or her habitual residence.
6 - For the exercise of the right, the worker informs the employer, in writing and with the advance of 30 days:
a) The beginning and end of the period in which he intends to enjoy the licence;
b) That the other parent has a professional activity and is not at the same time in a situation of licence, or that is totally prevented or inhibited from exercising parental authority;
c) That the minor lives with him in communion of table and house;
d) That the maximum duration of the licence is not exhausted.
7 - In the absence of any indication to the contrary by the worker, the licence lasts for six months.
8 - The extension of the period of leave by the worker, within the limits provided for in paragraphs 1 and 2, paragraph 6 shall apply.
9 - Violation of the provisions of paragraphs 1 or 2 represents a serious administrative offense.

Article 53
Leave for assistance to children with disabilities or chronic illness

1 - The parents are entitled to leave for a period of up to six months, extendable up to four years, for the care of a child with a disability or a chronic illness.
2 - If the child with a disability or a chronic illness is 12 or more years of age the need for assistance is confirmed by medical certificate.
3 - The regime set out in paragraphs 3 to 8 of the previous article shall apply to the leave provided for in paragraph 1.
4 - A violation of the provisions of paragraph 1 represents a serious administrative offense.

Article 54
Reduction of working time for assistance to a child with a disabilities or chronic illness

1 - Parents of a minor with a disability or a chronic illness, who are not more than one year of age, are entitled to a reduction of five hours of the normal weekly working period or other special working conditions for childcare.

2 - There is no place for the exercise of the right referred to in the preceding paragraph when one of the parents does not exercise professional activity and is not totally prevented or inhibited from exercising parental authority.
3 - If both parents are entitled, the reduction of the normal working time may be used by either parent or both in successive periods.
4 - The employer must adjust the working hours resulting from the reduction of the normal period of work considering the preference of the worker, notwithstanding imperative requirements of the operation of the company.
5 - The reduction of the normal weekly working period does not imply a reduction of rights enshrined in the law, except for remuneration, which is due only to the extent that the reduction in each year exceeds the number of substitutable absences for loss of enjoyment holidays days.
6 - In order to reduce the normal weekly working period, the worker must inform the employer of his intention 10 days in advance, as well as:
a) Submit a medical certificate proving the disability or chronic illness;
b) Declare that the other parent has a professional activity or that is totally prevented or inhibited from exercising parental authority and, where appropriate, that he/she does not exercise that right at the same time.
7 - Violation of the provisions of paragraphs 1, 3, 4 or 5 represents a serious administrative offense.

Article 55

Part-time work of a worker with family responsibilities

1 - A worker with a child under 12 years of age or, regardless of age, a child with a disability or a chronic illness living with him/her in communion of table and house shall be entitled to work part-time.
2 - The right may be exercised by either parent or by both parents in successive periods after parental leave in any of its forms.
3 - Unless otherwise agreed, the normal period of part-time work shall be half of full-time work in a comparable situation and, as requested by the worker, shall be provided on a daily basis in the morning or afternoon or three days a week.
4 - The provision of part-time work may be extended to two years or, in the case of a third child or more, three years or, in the case of a child with a disability or a chronic illness, four years.
5 - During the part-time working period, the worker may not engage in any other activity incompatible with his or her purpose, such as subordinate work or the continuous provision of services outside his or her habitual residence.
6 - The provision of part-time work shall cease at the end of the period for which it was granted or of its extension, with full-time employment reassigned to the worker.
7 - A worker who opts for part-time work under the terms of this article shall not be penalised in terms of evaluation and career development.
8 - Violation of the provisions of this article represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 120/2015 - Official Gazette no. 170/2015, Series I of 2015-09-01, in force from 2015-09-06

Article 56

Flexible working hours with family responsibilities

1 - A worker with a child under 12 years of age or, regardless of age, a child with a disability or a chronic illness living with him/her in communion of table and house shall be entitled to work under flexible working hours, and the right may be exercised by either parent or both.
2 - Flexible working time is understood to be one in which the worker can choose, within certain limits, the start and end times of the normal daily working period.
3 - The flexible working hours, to be elaborated by the employer, must:
a) Contain one or two periods of mandatory presence, with a duration equal to half of the normal daily working period;
b) Indicate the periods for commencing and ending normal daily work, each lasting not less than one-third of the normal daily working day, and this duration may be reduced to the extent necessary for the schedule to be contained within the operating period of the establishment;
c) Establish a period for rest interval not exceeding two hours.
4 - A worker who works on a flexible schedule may perform up to six consecutive hours of work and up to ten hours of work each day and must fulfill the corresponding normal weekly working period, on average for each four-week period.
5 - A worker who opts for flexible working hours according to this article shall not be penalised in terms of evaluation and career progression.
6 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 120/2015 - Official Gazette no. 170/2015, Series I of 2015-09-01, in force from 2015-09-06

Article 57

Authorisation to work part-time or on a flexible schedule

1 - A worker who intends to work part-time or under flexible working hours must request the employer, in writing, 30 days in advance, with the following elements:
a) Indication of the deadline, within the applicable limit;
b) Declaration stating:
i) That the minor lives with him in communion of table and house;
ii) In the part-time work regime, that the maximum duration is not exhausted;
iii) In the part-time work regime, that the other parent has a professional activity and is not at the same time in a situation of part-time work or that is totally prevented or inhibited from exercising parental authority;
c) The intended method of organising part-time work.
2 - The employer may refuse the application only on the basis of overriding requirements of the operation of the company, or the impossibility of replacing the worker if it is indispensable.
3 - Within 20 days of receiving the request, the employer shall inform the employee in writing of his decision.
4 - In case the employer wishes to reject the request, the employer shall indicate in the communication the grounds for the refusal and the employee may submit an assessment in writing within five days of receipt.
5 - Within five days after the deadline for assessment by the employee, the employer shall submit the file to the competent authority in the field of equal opportunities for men and women, with a copy of the request, the grounds for refusing it and the of the worker.

6 - The entity referred to in the previous number, within 30 days, notifies the employer and the employee of its opinion, which considers favourable to the intention of the employer if it is not issued within that period.
7 - If the opinion referred to in the previous paragraph is unfavourable, the employer can only reject the application after a judicial decision that recognises the existence of a justification.
8 - The employer is considered to accept the employee's request in its precise terms:
a) Failing to communicate the intention to refuse within 20 days of receipt of the request;
b) If has notified the intention to refuse the application, he/she shall not inform the worker of the decision thereon within five days of the notification referred to in paragraph 6 or, as the case may be, at the end of the period laid down in that paragraph;
c) Fails to submit the case to the competent authority in the area of equal opportunities for men and women within the time limit set in paragraph 5.
9 - The application for extension shall apply to the initial application.
10 - Violation of the provisions of paragraphs 2, 3, 5 or 7 represents a serious administrative offense.

Article 58

Waiver of some forms of organisation of working time

1 - A pregnant worker, a puerperal woman or a nursing woman is entitled to be exempted from providing work during working hours organized according to an adaptability regime, an hour bank or a concentrated schedule.
2 - The right referred to in the preceding paragraph shall apply to either parent in case of breastfeeding, when the work performed under the regimes referred to affects its regularity.
3 - Violation of the provisions of this article represents a serious administrative offense.

Article 59

Exemption from Additional work

1 - The pregnant worker, as well as the worker with a child under the age of 12 months, is not obliged to provide additional work.
2 - The worker is not obliged to give Additional work during the whole duration of breastfeeding if it is necessary for her or the child's health.
3 - Violation of the provisions of this article represents a serious administrative offense.

Article 60

Exemption from work at night

1 - A worker has the right to be exempted from work between 20 hours a day and 7 hours the following day:
a) during a period of 112 days before and after confinement, of which at least half before the foreseeable date;
b) during the remainder of the pregnancy, if necessary for the health of the unborn child;
c) for as long as breastfeeding lasts, if it is necessary for the child's or his health.
2 - A worker who is exempted from night work shall be assigned, whenever possible, a compatible working day schedule.
3 - The worker is exempted from work whenever it is not possible to apply the provisions of the previous number.
4 - A worker who wishes to be exempted from providing night work must inform the employer and submit a medical certificate, in the case of subparagraph b) or c) of paragraph 1, in advance of 10 days.

5 - In an emergency situation proven by the doctor, the information referred to in the previous number can be done regardless of the term.
6 - Notwithstanding the provisions of the preceding paragraphs, the dismissal of night work shall be determined by an occupational physician whenever, in the context of the health surveillance of the employees, any risk is identified for the worker who is pregnant, who has recently given birth or is breastfeeding.
7 - Violation of the provisions of paragraphs 1, 2 or 3 represents a serious administrative offense.

Article 61

Training for professional reintegration

The employer must provide the employee, after the leave to assist the child or for assistance to persons with disabilities or chronic illness, to participate in training and professional updating, in order to promote their full reintegration into the profession.

Article 62

Protection of the safety and health of pregnant employees and employees who have recently given birth or are breastfeeding

1 - A pregnant worker, a pregnant woman or a nursing woman is entitled to special health and safety conditions in the workplace in order to avoid exposure to risks to her safety and health, according to the following paragraphs.
2 - Notwithstanding other obligations laid down in special legislation, in an activity liable to present a specific risk of exposure to agents, processes or working conditions, the employer shall assess the nature, degree and duration of the exposure of a pregnant worker, or infant, in order to determine any risk to the safety and health and the repercussions on pregnancy or breastfeeding, as well as the measures to be taken.
3 - In the cases referred to in the preceding paragraph, the employer shall take the necessary action to avoid exposure of the worker to such risks, namely:
a) adapting working conditions;
b) if the adaptation referred to in the preceding subparagraph is impossible, excessively time-consuming or too costly, to assign to the worker other tasks compatible with her professional status and category;
c) If the measures referred to in the previous paragraphs are not feasible, exempt the worker from providing work during the necessary period.
4 - Notwithstanding the right to information and consultation provided for in special legislation, pregnant employees, employees who have recently given birth or who are breastfeeding have the right to be informed in writing of the results of the evaluation referred to in paragraph 2 and of the protective measures taken.
5 - The exercise is prohibited by pregnant employees, employees who have recently given birth or are breastfeeding, of activities whose evaluation has revealed risks of exposure to agents or working conditions that endanger their safety or health or the development of the unborn child.
6 - Activities liable to present a specific risk of exposure to agents, processes or working conditions referred to in paragraph 2, as well as the agents and conditions of work referred to in the preceding paragraph, shall be determined in specific legislation.
7 - A pregnant worker, puerperal or breastfeeding woman, or their representatives, has the right to request the inspection department of the Ministry responsible for labour matters to inspect the work, with priority and urgency, if the employer fails to comply with the obligations arising of this article.
8 - Violation of the provisions of paragraphs 1, 2, 3 or 5 represents a very serious administrative offense and violation of the provisions of paragraph 4 represents a serious administrative offense.

Article 63

Protection in case of dismissal

1 - The dismissal of pregnant employees, employees who have recently given birth or are breastfeeding, or who are employees on parental leave shall require the prior opinion of the competent authority in the area of equal opportunities for men and women.
2 - The dismissal for a fact attributable to a worker who is in any of the situations referred to in the previous number is presumed to have been done without just cause.
3 - For the purposes of the previous number, the employer must send a copy of the file to the competent authority in the area of equal opportunity between men and women:
a) After the evidentiary measures referred to in paragraph 1 of article 356, on the dismissal due to fact imputable to the employee;
b) After the information and negotiation phase provided for in article 361, on collective redundancies;
c) After the consultations referred to in paragraph 1 of article 370, in the dismissal due to termination of employment;
d) After the consultations referred to in article 377, on dismissal due to unsuitability.
4 - The competent authority shall communicate the opinion referred to in paragraph 1 to the employer and to the employee within 30 days of receipt of the case and shall consider favorably the dismissal when it is not issued within the said period.
5 - It is for the employer to prove that he has requested the opinion referred to in paragraph 1.
6 - If the opinion is unfavourable to dismissal, the employer may do so only after a judicial decision recognising the existence of a justification, and the action must be brought within 30 days of the notification of the opinion.
7 - The judicial suspension of dismissal is not enacted only if the opinion is favourable to dismissal and the court considers that there represents a serious likelihood of verification of just cause.
8 - If the dismissal is declared unlawful, the employer cannot oppose the reintegration of the worker under paragraph 1 of article 392 and the employee is entitled, as an alternative to reintegration, the compensation calculated according to paragraph 3 of article 39.
9 - Violation of the provisions of paragraphs 1 or 6 represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 64

Extension of rights granted to parents

1 - The adopter, the guardian, the person to whom the judicial or administrative trust of the minor is granted, as well as the spouse or the person in union with any of them or with the parent, provided that he/she lives in communion of table and house with the minor, benefits from the following rights:
a) Leave for breastfeeding;
b) Complementary parental leave in any of the modalities, childcare leave and leave to assist a child with a disability or a chronic illness;
c) Absence to attend child or grandchild;
d) Reduction of working time for assistance to a child with a disability or chronic illness;
e) Part-time work of a worker with family responsibilities;
f) Flexible working time with family responsibilities.

2 - Whenever the exercise of the rights referred to in the previous numbers depends on a relationship of guardianship or judicial or administrative trust of the minor, the corresponding holder must, in order to exercise it, mention that quality to the employer.

Article 65

Licences, absences and leave regime

1 – The absences do not determine loss of any rights, except for the remuneration, and are considered as effective work benefits when resulting from:
a) Leave at a clinical risk during pregnancy;
b) Leave for termination of pregnancy;
c) Parental leave, in any of the modalities;
d) Adoption leave;
e) Complementary parental leave in any of the modalities;
f) Absence to assist the child;
g) Absence to assist a grandson;
h) Exemption from work during the nighttime;
i) Exemption from work by a pregnant worker, a perpetual woman or a nursing woman, for the purpose of protecting her safety and health;
j) Leave for evaluation for adoption.
2 - The waiver for prenatal consultation or breastfeeding does not determine loss of any rights and is considered as effective work.
3 - Leaves for clinical risk during pregnancy, termination of pregnancy, adoption and parental leave in any form:
a) Shall suspend the enjoyment of their leave, and the remaining days shall be taken after their expiry, even if that is the case in the following year;
b) Do not prejudice the time elapsed since the traineeship or action or training course, and the employee must only comply with the time remaining to complete it;
c) Postpone the provision of evidence for career advancement, which must take place after the end of the licence.
4 - Parental leave and complementary parental leave in any form, by adoption, for the care of a child and for the care of a child with a disability or a chronic illness:
a) are suspended based on illness of the worker, if he informs the employer and submit a medical certificate, and they continue immediately after the cessation of that impediment;
b) Cannot be suspended for the convenience of the employer;
c) Do not prejudice the right of the worker to have access to periodic information issued by the employer to all employees;
d) End with the termination of the situation that gave rise to the corresponding licence that must be communicated to the employer within five days.
5 - Upon termination of any situation of leave, absence or special work regime, the employee is entitled to resume the contracted activity, and in the case provided for in subparagraph d) of the previous number, in the first leave that occurs in the company or, in the meantime, at the end of the licence period.
6 - Leave for the care of a child or for the care of a child with a disability or a chronic illness suspends the rights, duties and guarantees of the parties insofar as they presuppose the effective provision of work remuneration, but does not prejudice the complementary benefits of medical and medical assistance to which the worker is entitled.
7 - Violation of the provisions of paragraphs 1, 2, 3 or 4 represents a serious administrative offense.

Subsection V
Child labour

Article 66
General provisions concerning child labour

1 - The employer shall provide the working conditions appropriate to the age and development of the worker and to the safety, health, physical, mental and moral development, education and training, in particular by preventing any risk arising from his or her lack of experience or unconsciousness of existing or potential risks.
2 - The employer shall, in particular, assess the risks related to work, before the minor starts it or before any major change in working conditions, focusing in particular on:
a) Equipment and Organisation of the place and the workplace;
b) The nature, degree and duration of exposure to physical, biological and chemical agents;
c) The selection, adaptation and use of work equipment, including agents, machinery and apparatus and their use;
d) Adaptation of work organisation, work processes or their execution;
e) The child's level of knowledge of the performance of work, the risks to safety and health, and preventive measures.
3 - The employer shall inform the minor and his/her legal representatives of the risks identified and the measures taken to prevent them.
4 - Emancipation shall not prejudice the application of standards relating to the protection of health, education and training of the minor worker.
5 - Violation of the provisions of paragraphs 1, 2 or 3 represents a very serious administrative offense.

Article 67
Professional training of minors

1 - The State must provide the child who has completed compulsory schooling the professional training appropriate to their preparation for working life.
2 - The employer must ensure the professional training of minors in their service, requesting the collaboration of the competent bodies whenever it does not have the means to this effect.
3 - In particular, the minor shall be entitled to leave without remuneration for the attendance of a professional course which grants a school certificate or course of education and training for young people, except where it is liable to cause serious harm to the company, and notwithstanding the rights of the working student.
4 - The minor who is in the situation of paragraph 1 of article 69 is entitled to go to part-time work, setting, in the absence of agreement, the weekly duration of work in a number of hours , added to the duration of the school or training, per hour forty hours per week.

Article 68
Admission of minors to work

1 - Minors who have completed the minimum age of admission, have completed compulsory schooling or are enrolled and attend secondary education and have adequate physical and psychological capacities for the job can only be admitted to work.
2 - The minimum age of admission to work is 16 years.

3 - A child under the age of 16 who has completed compulsory schooling or is enrolled and attending secondary education may provide light work consisting of simple and defined tasks which, by their nature, by the physical or mental effort required or the specific conditions under which they are carried out, are not liable to harm them as regards physical integrity, safety and health, school attendance, participation in orientation or training programmes, ability to benefit from the instruction given, or to their physical, psychological, moral, intellectual and cultural development.
4 - In a family business, a minor under the age of 16 must work under the supervision and direction of a member of his/her household.
5 - The employer communicates to the department with inspection authority of the ministry responsible for labour area the admission of minors made under paragraph 3, within eight days thereafter.
6 - A violation of the provisions of paragraphs 3 or 4 represents a serious administrative offense and it is a minor administrative offense to violate the provisions of the preceding paragraph.

Amendments
Amended by Article 3 of the Law no. 47/2012 - Official Gazette no. 167/2012, Series I of 2012-08-29, in force from 2012-09-03

Article 69

Admission of a minor without compulsory schooling, attendance at the secondary level of education or without professional qualification

1 - A child under the age of 16 who has completed compulsory education or is enrolled and attending secondary education but does not have a professional qualification, or the child who is at least 16 years old but who has not completed schooling compulsory, is not enrolled and attends secondary level of education or does not have a professional qualification can only be admitted to work as long as it is a frequent form of education or training that confers, as appropriate, compulsory schooling, professional qualification, or both.
2 - The provisions of the previous number shall not apply to minors who only work during school vacations.
3 - In the situation referred to in paragraph 1, the minor shall enjoy the status of working student, with the waiver of work for attendance of classes lasting twice that provided for in paragraph 3 of article 90.
4 - The employer communicates to the department with inspection authority of the ministry responsible for the labour area the admission of minors made under the terms of paragraphs 1 and 2, within eight days thereafter.
5 - It represents a very serious administrative offense to breach the provisions of paragraph 1, violation of the provisions of paragraph 3 and breach of the lack of communication provided for in the previous number.
6 - In case of admission of a minor under 16 years of age and without having completed compulsory education or being enrolled and attending the secondary level of education, ancillary sanction for deprivation of the right to a subsidy or benefit granted by an entity or public service, for a period of up to two years.

Amendments
Amended by Article 3 of the Law no. 47/2012 - Official Gazette no. 167/2012, Series I of 2012-08-29, in force from 2012-09-03

Article 70

Ability of the child to enter into an employment contract and to receive compensation

1 - An employment contract concluded by a minor who has completed 16 years of age and has completed compulsory schooling or is enrolled and attending secondary education is valid, unless there is written opposition from his/her legal representatives.

2 - A contract concluded by a minor who has not reached the age of 16, has not completed compulsory schooling or is not enrolled and attends secondary education is only valid upon written authorisation from his/her legal representatives.
3 - The child has the capacity to receive the remuneration, unless written opposition of its legal representatives.
4 - The legal representatives may at any time declare the opposition or repeal the authorisation referred to in paragraph 2, and the act shall be effective 30 days after its communication to the employer.
5 - In the case provided for in paragraphs 1 or 2, legal representatives may halve the period provided for in the preceding paragraph, on the grounds that this is necessary for the attendance of teaching or professional training.
6 - The payment of compensation to the minor represents a serious administrative offense if there is written opposition from its legal representatives.

Amendments
Amended by Article 3 of the Law no. 47/2012 - Official Gazette no. 167/2012, Series I of 2012-08-29, in force from 2012-09-03

Article 71
Contract termination by the minor

1 - The minor in the situation referred to in Article 69 who reports the employment contract without training during the course of the training, or in an immediately subsequent period of equal duration, shall compensate the employer for the direct cost with the training he has undergone.
2 - The provisions of the previous number also apply if the minor denounces the fixed-term contract after the employer has proposed to him in writing the conversion of the contract into an indefinite contract.

Article 72
Protection of child safety and health

1 - Notwithstanding the obligations laid down in special provisions, the employer shall submit the minor to health examinations, in particular:
a) A health examination certifying that the physical and mental capacity is adequate for the performance of the duties to be performed before the work begins, or within 15 days of admission if it is urgent and with the consent of the legal representatives of the minor;
b) Annual health examination, so that from the exercise of the professional activity does not result in damage to their health and to their physical and mental development.
2 - Works which, by their nature or the conditions under which they are performed, are prejudicial to the physical, psychological and moral development of minors are prohibited or conditioned by specific legislation.
3 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Article 73
Maximum normal working hours

1 - The normal period of work of minor cannot be more than eight hours in each day and to forty hours in each week.
2 - The instruments of collective labour regulation should reduce, whenever possible, the limits of the normal period of work of minors.

3 - In the case of light work carried out under the age of less than 16 years, the normal working period may not exceed seven hours on each day and thirty-five hours in each week.
4 - A violation of the provisions of paragraphs 1 or 3 shall represent a serious administrative offense.

Article 74
Waiver of some forms of organisation of working time of minor

1 - The minor is exempted from providing work at an organised schedule according to the adaptability regime, time bank or concentrated time when it may impair his health or safety at work.
2 - For the purpose of the previous number, the minor must undergo a health examination prior to the beginning of the application of the schedule in question.
3 - Violation of the provisions of this article represents a serious administrative offense.

Article 75
Minor Additional work

1 - The minor worker cannot provide additional work.
2 - The provisions of the preceding paragraph shall not apply if the provision of additional work by a minor aged 16 or over is indispensable to prevent or remedy serious damage to the company due to an abnormal and unforeseeable event or exceptional circumstance even if foreseeable, the consequences of which could not be avoided, provided that no other worker was available and for a period of no more than five working days.
3 - In the situation referred to in the preceding paragraph, the minor shall be entitled to an equivalent period of compensatory rest in the next three weeks.
4 - Violation of the provisions of this article represents a serious administrative offense.

Article 76
Child work at night

1 - The work of minors under 16 years of age between 20 hours a day and 7 hours a day is prohibited.
2 - The minor aged 16 years or over cannot work between the 22 hours of a day and 7 hours of the following day, notwithstanding the provisions of the following numbers.
3 - Minors aged 16 or over may provide night work:
a) In activity provided for in a collective labour regulation instrument, except in the period between 0 and 5 o'clock;
b) When justified on objective grounds, in an activity of a cultural, artistic, sporting or advertising nature, provided that it has an equivalent period of compensatory rest on the next day or as close as possible.
4 - In the case of the previous number, the provision of night work by a minor shall be supervised by an adult, if necessary to protect his safety or health.
5 - The provisions of paragraphs 2 and 3 shall not apply if the night work is performed in circumstances referred to in paragraph 2 of the previous article, and the rest provided for in paragraph 3 of the same article is due.
6 - Violation of the provisions of paragraphs 1, 2 or 4 represents a serious administrative offense.

Article 77

Child rest interval

1 - The daily working period of a minor shall be interrupted for a period of between one and two hours so that he does not give more than four hours of consecutive work if he is less than 16 years old or four hours and thirty minutes if he has age of 16 years or over.
2 - The instrument of collective labour regulation may establish a rest period of more than two hours, as well as the frequency and duration of other rest periods during the daily working period or, in the case of a minor aged up to and including 16 years, reduction of the interval up to thirty minutes.
3 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Article 78

Child daily rest

1 - The minor shall be entitled to daily rest between working periods of two successive days, with a minimum duration of 14 consecutive hours if he is under 16 years of age or 12 consecutive hours if he is 16 years of age or over.
2 - In relation to a minor aged 16 or over, the daily rest provided for in the preceding paragraph may be reduced by a collective labour regulation instrument if it is justified for an objective reason, provided that it does not affect its safety or health and in the agricultural, tourism, hotel or catering sector, on the navy vessel of commerce, hospital or other health establishment or in an activity characterized by periods of work broken down during the day.
3 - The provisions of paragraph 1 shall not apply to a child aged 16 or over who provides work of a normal duration of not more than twenty hours per week or occasional work for a period not exceeding one month:
a) In domestic service performed in a household;
b) In a family business, provided it is not harmful, harmful or dangerous for the child.
4 - Violation of the provisions of paragraphs 1 or 2 of this article represents a serious administrative offense.

Article 79

Child weekly rest

1 - The weekly rest period shall be for two consecutive days, if possible, consecutively, in each seven-day period, unless there are technical reasons or work organisation, to be defined by a collective labor regulation instrument, which justify that weekly rest under the age of 16 years and older has a duration of thirty-six consecutive hours.
2 - The weekly rest of children aged 16 or over may be one day in a situation referred to in paragraphs 2 or 3 of the previous article, provided that the reduction is justified by objective reason and, in the first if it is established in a collective labour regulation instrument, and in any case adequate rest should be assured.
3 - Violation of the provisions of this article represents a serious administrative offense.

Article 80

Weekly rest and periods of child labour in case of multi-employment

1 - If the minor works for several employers, the weekly breaks must be coincident, and the sum of the working periods must not exceed the maximum limits of the normal working period.

2 - For the purposes of the previous number, the minor or, if he is under 16 years of age, his legal representatives must inform in writing:
a) before admission, the new employer, of the existence of another job and the duration of work and the corresponding weekly breaks;
b) on admission or whenever there is a change in the working conditions concerned, the other employers on the duration of work and the corresponding weekly breaks.
3 - The employer who, being informed according to the previous number, concludes an employment contract with the minor or changes the duration of work or weekly breaks is responsible for compliance with paragraph 1.
4 - A violation of the provisions of paragraph 1, for which the employer who is in the situation referred to in the previous paragraph is responsible, represents a serious administrative offense.

Article 81
Participation of a minor in shows or other activity

The participation of a minor in a show or other activity of a cultural, artistic or publicity nature is regulated in specific legislation.

Article 82
Crime for misuse of child labour

1 - The use of child labour in violation of the provisions of paragraph 1 of article 68 or paragraph 2 of article 72 shall be punishable by up to 2 years imprisonment or a fine of up to 240 days , if a more severe penalty is not due by virtue of another legal provision.
2 - In case the child has not completed the minimum age of admission, has not completed compulsory schooling or is not enrolled and attending secondary education, penalty limits are doubled.
3 - In case of recidivism, the minimum limits of the penalties provided in the previous numbers are raised to triple.

Amendments
Amended by Article 3 of the Law no. 47/2012 - Official Gazette no. 167/2012, Series I of 2012-08-29, in force from 2012-09-03

Article 83
Crime of disobedience for non-cessation of the activity of minor

When the service with the inspection authority of the ministry responsible for the labour area finds violations of the provisions of paragraph 1 of article 68 or of the rules on prohibited work referred to in paragraph 2 of article 72, it notifies in writing, the offender to cease immediately the activity of the minor, with the statement that, if he does not do so, he incurs a crime of qualified disobedience.

Subsection VI
Worker with reduced working capacity

Article 84
General provisions on the employment of employees with reduced working capacity

1 - The employer shall facilitate the employment of a worker with a reduced working capacity by providing him with adequate working conditions, such as job adjustment, pay and by promoting or assisting appropriate training and further training.
2 - The State shall stimulate and support, by appropriate means, the action of the companies in the accomplishment of the objectives defined in the previous number.
3 - Notwithstanding the provisions of the preceding paragraphs, special protective measures for employees with reduced working capacity, particularly as regards their admission and conditions of work, may be established by law or collective labour regulation. always considering the interests of the worker and the employer.
4 - The regime of this article consists of specific legislation.
5 - Violation of the provisions of paragraph 1 represents a very serious administrative offense.

Subsection VII
Worker with disability or chronic illness

Article 85
General provisions on the employment of employees with disabilities or chronic illness

1 - A worker with a disability or a chronic illness is entitled to the same rights and is bound by the same duties of other employees in accessing employment, training, promotion or professional career and working conditions, notwithstanding the specificities inherent in their situation.
2 - The State shall stimulate and support the action of the employer in hiring a worker with a disability or a chronic illness and in his or her vocational rehabilitation.
3 - Violation of the provisions of paragraph 1 represents a very serious administrative offense.

Article 86
Positive action measures in favor of employees with disabilities or chronic illness

1 - The employer shall take appropriate measures to enable a person with a disability or a chronic illness to have access to, or to pursue, a job, or to undertake professional training, unless such measures entail disproportionate burdens.
2 - The State shall stimulate and support, by appropriate means, the action of the employer in the accomplishment of the objectives referred in the previous number.
3 - The charges referred to in paragraph 1 shall not be considered disproportionate when they are offset by State support, according to specific legislation.
4 - Specific protection measures for employees with a disability or chronic illness and incentives for the worker or the employer, particularly regarding admission, conditions for the provision of the activity and adaptation of considering their interests.

Article 87
Waiver of some forms of organisation of working time for employees with disabilities or chronic illness

1 - A worker with a disability or a chronic illness is exempted from the work, if this may jeopardize his health or safety at work:
a) At a time organised according to the adaptability, timetable or concentrated schedule;
b) Between 20 hours a day and 7 hours the next day.

2 - For the purpose of the previous number, the worker must undergo a health examination prior to the beginning of the application of the schedule in question.
3 - Violation of the provisions of this article represents a serious administrative offense.

Article 88
Additional work for employees with disabilities or chronic illness

1 - A worker with a disability or a chronic illness is not obliged to provide additional work. 2 - Violation of the provisions of this article represents a serious administrative offense.

Subsection VIII
Working student

Article 89
Notion of working student

1 - A working student is a worker who attends any level of school education, as well as a post-graduate course, master's or doctoral degree in an educational institution, or a professional training or temporary occupation programme for young people of equal duration or more than six months.
2 - The maintenance of working student status depends on school achievement in the previous school year.

Article 90
Organisation of working time of working students

1 - The working time of working student should, whenever possible, be adjusted in order to allow the attendance of classes and the transfer to the educational establishment.
2 - When it is not possible to apply the provisions of the previous number, the working student is entitled to work exemption for attendance of classes, if required by school hours, without loss of rights and that counts as actual work.
3 - The waiver of work for attendance of classes can be used in a single or fractional way, at the choice of the working student, and has the following maximum duration, depending on the normal weekly working period:
a) Three weekly hours for a period equal to or greater than twenty hours and less than thirty hours;
b) Four weekly hours for a period equal to or greater than thirty hours and less than thirty-four hours;
c) Five weekly hours for a period equal to or greater than thirty-four hours and less than thirty-eight hours;
d) Six weekly hours for a period equal to or greater than thirty-eight hours.
4 - The working student whose working period is impossible to adjust, according to the previous numbers, to the regime of shifts to which he is assigned has a preference in the occupation of a job compatible with his professional qualification and with the frequency of classes.
5 - If the adjusted work schedule or work exemption for class attendance clearly affects the operation of the company, in particular because of the number of existing working students, the employer promotes an agreement with the worker concerned and the failing this, the inter-union commission, trade union commissions or trade union delegates, on the extent to which the latter's interest may be satisfied or, in the absence of agreement, decides reasonably, informing the worker in writing.
6 - The working student is not obliged to provide additional work, except for reasons of force majeure, adaptability, hourly or concentrated hours when it coincides with school hours or with proof of evaluation.

7 - The working student who works on an adaptable basis, a bank of hours or concentrated hours is guaranteed one day per month of waiver, without loss of rights, counting as an actual work.
8 - The working student who provides additional work is entitled to compensatory rest lasting half the number of hours provided.
9 - Violation of the provisions of paragraphs 1 to 4 and 6 to 8 represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 91
Absence to attend assessment exams

1 - The working student can justifiably miss due to attend assessment exams, in the following terms:
a) On the day of the exam and in the day before;
b) In the case of tests on consecutive days or of more than one test on the same day, the days immediately preceding are as many as the exams to be given;
c) The immediately preceding days referred to in the preceding paragraphs include days of weekly rest and public holidays;
d) The absences given under the previous paragraphs cannot exceed four days per discipline in each academic year.
2 - The right foreseen in the previous number can only be exercised in two academic years for each subject.
3 - In cases where the course is organized under the European system of transfer and accumulation of credits (ECTS), the working student may, as an alternative to the provisions of paragraph 1, choose to cumulate the days preceding the one of the benefit of the evaluation tests, by a maximum of three days, followed or interpolated or the interpolated half-day correspondent.
4 - The option for the cumulative regime referred to in the preceding paragraph requires, with the necessary adaptations, the fulfillment of the deadline foreseen in the provisions of subparagraphs a) and b) of paragraph 4 of article 96.
5 - Cumulation is allowed only in cases in which the days prior to the evaluation tests that the working student has not enjoyed were not weekly rest days or public holidays.
6 - Absences given per working student are considered justified in the strict measure of the displacements necessary to provide evaluation tests and are rewarded up to 10 absences in each academic year, regardless of the number of subjects.
7 - Examination or other evidence, written or oral, or presentation of work, when it replaces or complements it and provided that it determines directly or indirectly the school achievement, shall be considered as proof of evaluation.
8 - Violation of the provisions of paragraphs 1, 3 and 6 represents a serious administrative offence.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 92
Holidays and working student leave

1 - The working student has the right to mark the holidays period according to his/her school needs and may enjoy up to 15 days of interpolated holidays, insofar as this is compatible with the imperative requirements of the company's operation.
2 - The working student is entitled, in each calendar year, to leave without pay, with a duration of 10 consecutive or interpolated working days.
3 - A violation of the provisions of paragraph 1 represents a serious administrative offense and it is a minor administrative offense to violate the provisions of the preceding paragraph.

Article 93
Professional promotion of working student

The employer must make it possible for the working student professional promotion adequate to the qualification obtained, but it is not compulsory to reclassify the work for the mere effect of the qualification.

Article 94
Granting of working student status

1 - The working student must prove to the employer his status as a student, also showing the schedule of educational activities to attend.
2 - To grant the status to the educational establishment, the working student must prove, by any legally permissible means, his/her status as a worker.
3 - The working student must choose, among the possibilities available, the time most compatible with working hours, otherwise he will not benefit from the inherent rights.
4 - School year transition or approval or progression in at least half of the subjects in which the working student is enrolled, approval or validation of half of the modules or equivalent units of each subject, defined by the educational institution or training entity for the academic year or for the annual period of attendance, in the case of educational courses organized in a modular regime or equivalent that do not define year transition conditions or progression in disciplines.
5 - It is also considered that a student who does not comply with the provisions of the previous number due to an occupational accident or illness, an extended illness, a licence in a situation of clinical risk during pregnancy, or having taken initial parental leave, supplementary parental leave for a period of not less than one month.
6 - The working student may not cumulate the rights provided for in this Code with any regime that serves the same purposes, in particular as regards the waiver of work for class attendance, licences for school reasons or absences for the provision of evaluation tests.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 95
Termination and renewal of rights

1 - The right to adjusted working hours or work exemption for class attendance, the marking of the holidays period according to the school's needs or the unpaid leave cease when the working student is not successful in the year in which he benefits this right.

2 - The remaining rights cease when the working student has not used in two consecutive years or three interpolated.
3 - The rights of the working student shall cease immediately in the event of false declarations concerning the facts on which the granting of the statute or acts constituting rights depends, and when they are used for other purposes.
4 - The working student can exercise the rights again in the academic year following the one in which they ceased, and this situation cannot occur more than twice.

Article 96
Procedure for the exercise of working student rights

1 - The working student must prove to the employer the corresponding utilization, at the end of each academic year.
2 - The control of attendance of the working student can be made, by agreement with the worker, directly by the employer, through the administrative services of the educational establishment, by electronic mail or fax, in which a date and time are bet- the working student finishes his/her school responsibility.
3 - In the absence of an agreement, the employer may, within 15 days following the use of the work waiver for this purpose, require evidence of the frequency of classes, whenever the institution controls frequency.
4 - The working student must apply for the licence without pay as follows:
a) Forty-eight hours or, if it is impracticable, as soon as possible, in case of a day of leave;
b) Eight days, in the case of two to five days of leave;
c) 15 days in case of more than five days of leave.

Article 96-A
Complementary legislation

The provisions of this subsection are regulated by a special law.

Amendments
Addendum to Article 3 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Subsection IX
The employer and the company

Article 97
Orientation power

It is for the employer to establish the terms under which the work must be performed, within the limits of the contract and the rules that govern it.

Article 98
Disciplinary power

The employer has disciplinary power over the employee at his service while the employment contract is in force.

Article 99
Internal Regulations

1 - The employer can draw up internal company regulations on work organisation and discipline.
2 - In the drafting of the internal rules of business, the employees' committee or, failing that, the inter-union commissions, the trade union commissions or the trade union delegates are heard.
3 - The rules of procedure shall take effect after the publication of their content, in particular by posting at the company's head office and at workplaces, so as to enable them to be fully acquainted at all times with the employees.
4 - The elaboration of internal regulation of company on certain matters can be made compulsory by means of collective regulation of negotiating work.
5 - Violation of the provisions of paragraphs 2 and 3 represents serious counter-ordination.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 100
Types of companies

1 - It is considered:
a) Micro company employing less than 10 employees;
b) Small company employing 10 to less than 50 employees;
c) Medium-sized company employing 50 to less than 250 employees;
d) Large company employing 250 or more employees.
2 - For the purposes of the previous number, the number of employees corresponds to the average of the previous calendar year.
3 - In the year of commencement of the activity, the number of employees to be considered for the application of the regime shall be that existing on the day of the occurrence of the event.

Article 101
Plurality of employers

1 - The employee may undertake to provide work to several employers between whom there is a corporate relationship of reciprocal, domain or group participation, or that have common organisational structures.
2 - The employment contract with a plurality of employers is subject to written form and must contain:
a) Identification, signatures and address or head office of the parties;
b) Indication of the activity of the worker, the place and the normal period of work;
c) Indication of the employer who represents the others in the fulfillment of the duties and in the exercise of the rights arising from the employment contract.
3 - Employers are jointly and severally liable for the fulfillment of the obligations arising from the employment contract, whose creditor is the worker or third party.
4 - Terminating the situation referred to in paragraph 1, it is considered that the employee is only bound to the employer referred to in subparagraph c) of paragraph 2, unless otherwise agreed.
5 - The violation of the requirements indicated in paragraphs 1 or 2 gives the employee the right to opt for the employer to whom they are linked.

6 - A violation of the provisions of paragraphs 1 or 2 shall be a serious administrative offense, and all employers shall be responsible for them, who shall be represented for that purpose by the one referred to in subparagraph c) of paragraph 2.

Section III
Formation of the contract

Subsection I
Negotiation

Article 102
Guilt in contract formation

Those who negotiate with others for the conclusion of an employment contract must, in the preliminaries as well as in their formation, proceed according to the rules of good faith, failing to respond to the damages caused by the fault.

Subsection II
Promissory employment contract

Article 103
Regime of the promissory employment contract

1 - The promissory employment contract is subject to written form and must contain:
a) Identification, signatures and address or head office of the parties;
b) Declaration, in unambiguous terms, of the will of the promissory or promissory parties to be obliged to conclude the said contract;
c) Activity to be provided and corresponding remuneration.
2 - Failure to comply with the promissory employment contract gives rise to responsibility in the general terms.
3 - The provisions of article 830 of the Civil Code shall not apply to the promissory employment contract.

Subsection III
Adhesion contract

Article 104
Adhesion employment contract

1 - The contractual will of the employer can be expressed by means of internal regulation of company and the one of the employee by the express or tacit adhesion to the same regulation.
2 - The employee is assumed to be ineligible if he does not object in writing within a period of 21 days from the commencement of performance of the contract or the disclosure of the regulation, whichever is later.

Article 105
General contractual clauses

The regime of general contractual clauses applies to the essential aspects of the employment contract that do not result from specific prior negotiation, even in the part where its content is determined by reference to a collective labour regulation instrument.

Subsection IV
Information on relevant aspects of work delivery

Article 106
Duty of information

1 - The employer must inform the employee about relevant aspects of the employment contract.
2 - The employee must inform the employer about aspects relevant to the provision of the work activity.
3 - The employer shall provide the worker with at least the following information:
a) The corresponding identification, namely, being a company, the existence of a relation of corporate coalition, of reciprocal participation, of dominion or of group, as well as the seat or address;
b) The workplace or, in the absence of a fixed or predominant one, an indication that work is performed in various locations;
c) The category of the employee or the summary description of the corresponding duties;
d) The date of conclusion of the contract and the date of its beginning;
e) The expected duration of the contract, if it is concluded at the end of the contract;
f) The duration of the holiday or the criterion for determining it;
g) The notice periods to be observed by the employer and the worker for the termination of the contract, or the criterion for their determination;
h) The value and periodicity of the remuneration;
i) The normal daily and weekly working period, specifying the cases where it is defined in average terms;
j) The number of the accident insurance policy and the identification of the insurance company;
l) The applicable collective labour regulation instrument, if any.
m) The identification of the labour compensation fund or equivalent mechanism, as well as the labour compensation guarantee fund, provided for in specific legislation.
4 - Information on the elements referred to in subparagraphs f) to i) of the preceding paragraph may be replaced by a reference to the relevant provisions of the law, the collective labour regulation instrument or the internal rules of business.
5 - Violation of the provisions of any paragraph of paragraph 3 represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 69/2013 - Official Gazette no. 167/2013, Series I of 2013-08-30, in force from 2013-10-01.
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01.
Amended by the Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Article 107
Means of information

1 - The information provided in the previous article must be in writing and may be in one or more documents, signed by the employer.
2 - When the information is provided through more than one document, one of them must contain the elements referred to in paragraphs a) to d), h) and i) of paragraph 3 of the previous article.

3 - The duty provided for in paragraph 1 of the previous article shall be deemed to be fulfilled when the information in question is a written employment contract or an employment contract.
4 - The documents referred to in paragraphs 1 and 2 shall be delivered to the employee within 60 days of the performance of the contract or, if it ceases before the expiry of that period, until its expiry.
5 - Violation of the provisions of paragraphs 1, 2 or 4 represents a serious administrative offense.

Article 108
Information on work abroad

1 - If an employee whose employment contract is governed by Portuguese law carries on business in the territory of another State for a period exceeding one month, the employer shall provide him with the following additional information in writing and until his departure:
a) The foreseeable duration of the period of work to be performed abroad;
b) Currency and place of payment of cash benefits;
c) Conditions of repatriation;
d) Access to health care.
2 - The information referred to in subparagraph b) or c) of the previous number may be substituted by reference to provisions of law, collective labour regulation or internal company regulations that regulate the matter referred to therein.
3 - Violation of the provisions of this article represents a serious administrative offense.

Article 109
Information update

1 - The employer shall inform the employee of any change in relation to any item referred to in paragraph 3 of article 106 or in paragraph 1 of the preceding article, in writing and within 30 days thereafter.
2 - The provisions of the previous number shall not apply when the change results from a law, a collective labour regulation instrument or an internal company regulation.
3 - The employee must provide the employer with information on all changes relevant to the performance of the work, within the period provided for in paragraph 1.
4 - A violation of the provisions of paragraph 1 represents a serious administrative offense.

Subsection V
Form of employment contract

Article 110
General rule on the form of employment contract

The employment contract does not depend on observance in a special way, except when the law determines otherwise.

Section IV
Trial period

Article 111
Notion of trial period

1 - The trial period corresponds to the initial time of execution of the employment contract, during which the parties appreciate the interest in its maintenance.
2 - During the trial period, the parties must act in a way that they can appreciate the interest in maintaining the employment contract.
3 - The trial period may be excluded by written agreement between the parties.

Article 112
Duration of the trial period

1 - In the contract of indefinite duration, the trial period has the following duration:
a) 90 days for the majority of employees;
b) 180 days for employees holding positions of technical complexity, a high degree of responsibility or requiring special qualifications, as well as those carrying out functions of trust;
c) 240 days for a manager or senior manager.
2 - In the fixed-term contract, the trial period has the following duration:
a) 30 days in case of a contract with a duration of six months or more;
b) 15 days in the case of a fixed-term contract with a duration of less than six months or an indefinite contract whose expected duration does not exceed that limit.
3 - In the contract in commission of service, the existence of trial period depends on stipulation expressed in the agreement and cannot exceed 180 days.
4 - The trial period, according to any of the preceding paragraphs, is reduced or excluded, depending on the duration of a previous fixed-term contract for the same activity, or temporary work performed in the same job, or a service contract for the same subject, with the same employer, has been less than or equal to or longer than the duration of the same.
5 - The duration of the trial period may be reduced by a collective labour regulation instrument or by written agreement between parties.
6 - The seniority of the worker is counted from the beginning of the trial period.

Article 113
Trial period count

1 - The trial period shall count from the beginning of the performance of the employee's performance, comprising training action determined by the employer, in so far as it does not exceed half the duration of that period.
2 - The days of absence, even if justified, of licence, remission or suspension of the contract are not considered in the count.

Article 114
Termination of the contract during the trial period

1 - During the trial period, unless otherwise agreed in writing, either party may terminate the contract without prior notice and invocation of just cause, nor the right to compensation.

2 - Having the trial period lasting more than 60 days, the termination of the contract by the employer depends on seven days notice.
3 - Since the trial period lasted more than 120 days, the termination of the contract by the employer depends on 15 days notice.
4 - Failure to comply, in whole or in part, with the period of notice provided for in paragraphs 2 and 3 shall determine the payment of the remuneration corresponding to the previous notice.

Section V
Employee's activity

Article 115
Determination of the employee's activity

1 - It is for the parties to determine by agreement the activity for which the employee is hired.
2 - The determination referred to in the previous number may be made by reference to category of instrument of collective labour regulation or internal company regulation.
3 - When the nature of the activity involves the practice of legal business, it is considered that the employment contract grants the employee the necessary powers, unless the law requires special instrument.

Article 116
Technical autonomy

The subjection to the authority and direction of the employer does not affect the technical autonomy of the worker inherent to the activity provided, according to the applicable legal or deontological rules.

Article 117
Effects of lack of professional title

1 - Whenever the exercise of an activity is legally conditional on the possession of a professional title, namely a professional portfolio, failure to do so determines the nullity of the contract.
2 - When the professional title is withdrawn to the worker, by a decision that no longer allows an appeal, the contract expires as soon as the parties are notified of the decision.

Article 118
Functions performed by the employee

1 - The employee must, in principle, carry out functions corresponding to the activity for which he is hired, and the employer must assign to him, in the context of that activity, the functions most appropriate to his/her skills and professional qualification.
2 - The contracted activity, even if determined by reference to a professional category of a collective labour regulation instrument or internal company regulation, includes the functions related to it or functionally linked, for which the worker has adequate qualification and does not imply devaluation.
3 - For the purposes of the preceding paragraph and notwithstanding the provisions of a collective labour regulation instrument, the functions included in the same group or professional career shall be deemed to be related or functionally related.

4 - Whenever the exercise of ancillary functions requires special qualification, the worker is entitled to professional training of not less than 10 hours per year.
5 - Violation of the provisions of the preceding paragraph represents a serious administrative offense.

Article 119
Moving to lower category

The change of the worker to a lower category than the one for which he is hired may take place by agreement, based on the urgent need of the company or the worker, and must be authorised by the department with the inspection authority of the ministry responsible for the labour area in case it determines a decrease in retribution.

Article 120
Functional mobility

1 - The employer may, when the interests of the company so require, instruct the employee to temporarily perform duties not included in the contracted activity, provided that this does not imply a substantial change in the position of the employee.
2 - The parties may extend or restrict the option conferred in the preceding paragraph, by agreement that expires after two years if it has not been applied.
3 - The order of alteration shall be justified, mentioning the agreement referred to in the preceding paragraph and indicating the expected duration of the agreement, which shall not exceed two years.
4 - The provisions of paragraph 1 may not imply a reduction of the remuneration, with the worker entitled to the most favourable working conditions inherent to the duties performed.
5 - Unless stated otherwise, the employee does not acquire the category corresponding to the functions temporarily exercised.
6 - The provisions in the previous numbers may be removed by collective labour regulation instrument.
7 - Violation of the provisions of paragraphs 1, 3 or 4 represents a serious administrative offense.

Section VI
Invalidity of the employment contract

Article 121
Partial invalidity of employment contract

1 - The nullity or partial annulment does not determine the invalidity of the whole employment contract, unless it is shown that it would not have been entered into without the vitiated party.
2 - The clause of labour contract that violates imperative norm is considered replaced by this one.

Article 122
Effects of invalidity of employment contract

1 - The employment contract declared void or canceled shall have effects as valid in relation to the time in which it is performed.
2 - The amending act of employment contract that is invalid applies the provisions of the previous number, as long as it does not affect the guarantees of the worker.

Article 123

Invalidity and termination of employment contract

1 - A termination event occurred before the declaration of nullity or annulment of employment contract shall apply the rules on termination of the contract.
2 - If the fixed-term contract is terminated or terminated, the indemnity is limited to the amount established in article 393 or 401, respectively, for unlawful dismissal or termination without prior notice.
3 - Invalidity shall be invoked by the party in bad faith, the other being in good faith, followed by immediate termination of work, the compensation regime provided for in paragraph 3 of article 392 or article 401 For illicit dismissal or termination without prior notice.
4 - Bad faith consists in the conclusion of the contract or in maintaining it with the knowledge of the cause of invalidity.

Article 124

Contract with object or purpose contrary to law or public order

1 - If the employment contract has as its object or purpose an activity contrary to law or public order, the party who knew the unlawfulness loses to the department responsible for the financial management of the social security budget the advantages derived from the contract.
2 - The party who knew the unlawfulness cannot be exempted from fulfilling any contractual or legal obligation, nor recover what it provided or its value, when the other party ignore this illegality.
3 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Article 125

Revalidation of employment contract

1 - Terminating the cause of invalidity during the execution of an employment contract, the latter shall be deemed to have been validated from the beginning of execution.
2 - In the case of a contract referred to in the previous article, validation shall only take effect as from the moment the invalidity ceases.

Section VII

Rights, duties and warranties of the parties

Subsection I

General provisions

Article 126

General obligations of the parties

1 - The employer and the worker must act in good faith in the exercise of their rights and in the fulfillment of their obligations.
2 - In the execution of the employment contract, the parties must collaborate in obtaining the highest productivity, as well as in the human, professional and social promotion of the worker.

Article 127

Duties of the employer

1 - The employer shall in particular:
a) Respect and treat the worker with civility and probity;
b) Pay punctually the remuneration, which must be fair and adequate to the work;
c) Provide good working conditions from a physical and moral point of view;
d) Contribute to raising the productivity and employability of the worker, in particular by providing him with adequate professional training to develop his qualification;
e) Respect the technical autonomy of the worker who carries out an activity whose professional regulations or deontology require it;
f) Enable the exercise of positions in representative structures of employees;
g) Prevent occupational risks and diseases, considering the protection of the safety and health of employees, and to compensate them for damage resulting from work accidents;
h) Adopt, with regard to occupational safety and health, the measures resulting from a law or instrument of collective labour regulation;
i) Provide the worker with adequate information and training to prevent the risk of an accident or illness;
j) Maintain updated in each establishment the registration of employees with indication of name, dates of birth and admission, modality of contract, category, promotions, salaries, start and end dates of vacations and absences that imply loss of remuneration or decrease of holidays days.
k) Adopt codes of good conduct for the prevention and combat of harassment at work, whenever the company has seven or more employees;
l) Instituting disciplinary proceedings whenever he or she is aware of alleged harassment at work.
2 - In the organisation of the activity, the employer must observe the general principle of adaptation of work to the person, in particular to mitigate monotonous or slow work according to the type of activity, and safety and health requirements, which refers to breaks during working time.
3 - The employer must provide the worker with working conditions that favor the reconciliation of professional activity with family and personal life.
4 - The employer must display all the information on the legislation regarding the right to parenting in the company's premises or, if internal regulations referred to in article 99 are elaborated, to enshrine all such legislation.
5 - (Repealed).
6 - The employer must communicate to the service with the inspection competence of the ministry responsible for the labour area the adhesion to the labour compensation fund or equivalent mechanism, provided for in specific legislation.
7 - A serious administrative offence is the breach of the provisions of paragraph 1, points (k) and (l), and misconduct that violates the provisions of paragraph 1 j), and paragraphs 5 and 6.

Amendments

Amended by Article 2 of the Law no. 73/2017 - Official Gazette no. 157/2017, Series I of 2017-08-16, in force from 2017-10-01.
Amended by Article 2 of the Law no. 120/2015 - Official Gazette no. 170/2015, Series I of 2015-09-01, in force from 2015-09-06.
Amended by the Article 2 of the Law no. 69/2013 - Official Gazette no. 167/2013, Series I of 2013-08-30, in force from 2013-10-01.
Amended by Article 2 of Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01.
Amended by Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Article 128

Duties of the employee

1. Notwithstanding other obligations, the employee shall:
a) Respect and treat the employer, the hierarchical superiors, the work associates and the people who relate to the company, with urbanity and probity;
b) Attend the service with assiduity and punctuality;
c) Do the work with zeal and diligence;
d) Participate diligently in professional training provided by the employer;
e) Comply with the orders and instructions of the employer regarding the execution or discipline of work, as well as occupational safety and health, which are not contrary to their rights or guarantees;
f) Maintain loyalty to the employer, in particular by not negotiating on their own or in competition with them, nor divulging information concerning their organisation, production methods or business;
g) Ensure the conservation and good use of work-related assets entrusted to him by the employer;
h) Promote or to execute the acts tending to the improvement of the productivity of the company;
i) Cooperate for the improvement of occupational safety and health, in particular through the representatives of employees elected for that purpose;
j) Comply with occupational safety and health requirements that are derived from a law or collective labour regulation instrument.
2 - The duty of obedience respects both the orders or instructions of the employer and the hierarchical superior of the worker, within the powers attributed by him.

Article 129

Worker Guarantees

1 - The employer shall be prohibited from:
a) Oppose, in any way, that the employee exercises his rights, as well as dismiss him, apply another sanction, or treat him unfavorably because of that exercise;
b) Unjustifiably submit to actual work;
c) Put pressure on the worker to act in order to influence unfavorably the working conditions of his or his companions;
d) Reduce the remuneration, except in the cases provided for in this Code or in a collective labour regulation instrument;
e) Change the employee to a lower category, except in the cases provided for in this Code;
f) Transfer the worker to another workplace, except in the cases provided for in this Code or in a collective labour regulation instrument, or even when there is agreement;
g) Assign a worker for the use of third parties, except in the cases provided for in this Code or in a collective labour regulation instrument;
h) Oblige the worker to acquire goods or services to himself or to the person indicated by him;
i) Explore, for profit, a canteen, cafeteria, department store or other establishment directly related to work, for the supply of goods or services to its employees;
j) Terminate the contract and readmit the worker, even with his agreement, for the purpose of prejudicing him in law or guarantee arising from seniority.
2 - Violation of the provisions of this article represents a very serious administrative offense.

Subsection II
Professional training

Article 130
Objectives of professional training

The objectives of professional training are:
a) To provide initial qualification to young people entering the job market without this qualification;
b) To ensure the continuous training of employees of the company;
c) To promote the qualification or retraining of employees at risk of unemployment;
d) To promote the professional rehabilitation of employees with disabilities, in particular those whose incapacity results from a work accident;
e) To promote the socio-professional integration of a worker belonging to a group with particular difficulties of insertion.

Article 131
Continuous training

1 - In the context of continuous training, the employer shall:
a) To promote the development and suitability of the employee's qualification, with a view to improving his employability and increasing the productivity and competitiveness of the undertaking;
b) To ensure that each worker has the individual right to training, through a minimum number of hours of training per year, through initiative of the worker;
c) To organise in-company training by structuring annual or multiannual training plans and, in respect thereof, ensure the right to information and consultation of employees and their representatives;
d) To recognise and value the qualification acquired by the worker.
2 - The worker shall be entitled to a minimum number of thirty-five hours of continuous training each year or, if he is employed on a fixed-term basis for a period of not less than three months, a minimum number of hours in proportion to the duration of the contract in that year .
3 - The training referred to in the previous number may be carried out by the employer, by a training entity certified for this purpose or by an educational establishment recognised by the competent ministry, and gives rise to the issuance of a certificate and registration in the Individual Certificate of Competence according to the legal regime of the National Qualifications System.
4 - For the purpose of complying with the provisions of paragraph 2, hours of work dismissal for class attendance and absences for the provision of evaluation tests under the working student regime, as well as absence within the scope of the process of recognition, validation and certification of competences.
5 - The employer must ensure at least 10% of the company's employees in each year continuous training.
6 - The employer may anticipate up to two years or, as long as the training plan so provides, defer for the same period, the effectiveness of the annual training referred to in paragraph 2, imputing the training performed to fulfill the obligation older.
7 - The period of anticipation referred to in the previous number is five years in the case of frequency of recognition process, validation and certification of competences, or training that grants double certification.
8 - Continuous training provided by the user or the transferee, in the case of temporary work or occasional assignment of a worker, exonerates the employer, and compensation may be paid by the employer in terms to be agreed upon.

9 - The law on continuous training may be adjusted by a collective contract which takes into account the characteristics of the sector of activity, the qualification of the employees and the size of the undertaking.
10 - Violation of the provisions of paragraphs 1, 2 or 5 represents a serious administrative offense.

Article 132
Hours credit and continuous training allowance

1 - The hours of training provided for in paragraph 2 of the preceding article, which are not guaranteed by the employer until the end of the two years after their expiration, are transformed into a credit of hours in equal number for training on the initiative of the worker.
2 - The credit of hours for training refers to the normal period of work, confers the right to retribution and counts as an effective working time.
3 - The employee can use the credit of hours for the frequency of training actions, by notifying the employer at least 10 days in advance.
4 - By means of collective labour regulation or individual agreement, a subsidy may be established to pay the cost of the training, up to the amount of the remuneration of the credit hours used.
5 - In case of accumulation of credits of hours, the formation realized is imputed to the credit expired more time.
6 - The credit of hours for training that is not used ceases three years after its formation.

Article 133
Content of continuous training

1 - The area of continuous training is determined by agreement or, failing this, by the employer, in which case must coincide or be related to the activity provided by the worker.
2 - The training area referred to in the previous article is chosen by the worker, having correspondence with the activity given or respecting information and communication technologies, safety and health at work or foreign language.
3 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Article 134
Effect of termination of employment contract on the right to training

Terminating the employment contract, the employee is entitled to receive the remuneration corresponding to the minimum annual number of hours of training that has not been provided to him, or to the credit of hours for training he holds at the date of termination.

Section VIII
Related clauses

Subsection I
Condition and term

Article 135
Suspensory condition or term

The employment contract may be affixed, in writing, condition or suspensive term, in the general terms.

Subsection II
Clauses of limitations on freedom of work

Article 136
Non-competition agreement

1 - A clause of labour contract or collective bargaining instrument that, in any way, is prejudicial to the exercise of the freedom to work after termination of the contract is null and void.
2 - The limitation of the activity of the worker during the maximum period of two years after the termination of the employment contract is lawful, under the following conditions:
a) It consists of a written agreement, in particular an employment contract or revocation of it;
b) It is an activity whose exercise may cause harm to the employer;
c) It gives to the employee, during the period of limitation of the activity, a compensation which can be reduced evenly when the employer has incurred substantial expenses with his professional training.
3 - In the event of unlawful dismissal or dismissal with just cause by the employee on the basis of an unlawful act of the employer, the compensation referred to in subparagraph c) of the preceding paragraph is raised up to the amount of the basic consideration at the date of termination of the subject to the limitation of the activity provided for in the non-competition clause.
4 - The amounts received by the employee in the exercise of another professional activity, initiated after the termination of the employment contract, up to the amount resulting from the application of paragraph 2 c), shall be deducted from the amount of compensation referred to in the preceding paragraph.
5 - In the case of a worker assigned to the activity of a nature which is of a special relationship of trust or who has access to particularly sensitive information on competition, the limitation referred to in paragraph 2 may last up to three years.

Article 137
Agreement of permanence

1 - The parties may agree that the employee undertakes not to terminate the employment contract for a period not exceeding three years as compensation to the employer for heavy expenses incurred with his professional training. 2 - The employee may release himself from compliance with the agreement provided for in the previous number by paying the amount corresponding to the expenses referred to in that paragraph.

Article 138
Limitation of freedom of work

The agreement between employers is void, in particular in a contract clause for the use of temporary employment, to prohibit the admission of a worker who provides or has rendered work for them, and also obliges, in case of admission, to pay compensation.

Section IX
Types of employment agreement

Subsection I
Fixed-term Contract

Article 139
Regime of the fixed-term

The system of fixed-term employment contracts contained in this subsection may be withdrawn by a collective labour regulation instrument, with the exception of paragraph 4 b) of the following article and paragraphs 1, 4 and 5 of article 148.

Article 140
Admissibility of a fixed-term employment contract

1 - The contract of fixed-term work can only be concluded to satisfy the temporary need of the company and for the period strictly necessary to satisfy this need.
2 - In particular, the temporary need of the company is considered:
a) Direct or indirect substitution of a worker who is absent or who is temporarily prevented from working for any reason;
b) Direct or indirect substitution of a worker in respect of whom an action for appraisal of the lawfulness of dismissal is pending in court;
c) Direct or indirect substitution of a worker on leave without remuneration;
d) Substitution of a full-time worker who is engaged in part-time work for a specified period;
e) Seasonal or other activity whose annual production cycle presents irregularities due to the structural nature of the corresponding market, including the supply of raw material;
f) Exceptional increase in the company's activity;
g) Execution of an occasional task or determined service, precisely defined and not lasting;
h) Execution of a definite and temporary work, project or other activity, including the execution, direction or supervision of civil construction, public works, assembly and industrial repairs, under works or direct administration, as well as the corresponding projects or complementary monitoring and control activity.
3 - Notwithstanding the provisions of paragraph 1, only an indefinite term contract may be concluded in a situation referred to in any of paragraphs a) to c) or e) to h) of the preceding paragraph.
4 - In addition to the situations provided for in paragraph 1, a fixed-term contract may be concluded for:
a) Launch of new activity of uncertain duration, as well as start of work of company or establishment belonging to a company with less than 750 employees;
b) Employment of employees in search of first employment, long-term unemployment or other employment in special employment policy legislation.
5 - It is up to the employer to prove the facts that justify the conclusion of a fixed-term contract.
6 - Violation of the provisions of any of paragraphs 1 to 4 represents a very serious administrative offense.

Article 141
Form and content of the fixed-term contract

1 - The fixed-term contract is subject to written form and must contain:
a) Identification, signatures and address or head office of the parties;
b) Activity of the employee and corresponding remuneration;
c) Place and normal working hours;

d) Date of commencement of work;
e) Indication of the stipulated term and the corresponding justification;
f) Dates of conclusion of the contract and, as of the expiration date, the corresponding termination.
2 - In the absence of the reference required by subparagraph d) of the preceding paragraph, the contract shall be deemed to have commenced on the date of its conclusion.
3 - For the purposes of subparagraph e) of paragraph 1, an indication of the motive justifying the term must be made expressly mentioning the facts that comprise it, and the relationship between the justification invoked and the stipulated term must be established.
4 - A violation of the provisions of subparagraph e) of paragraph 1 or paragraph 3 represents a serious administrative offense.

Article 142

Special cases of very short-term employment contracts

1 - The employment contract in agricultural seasonal activity or for a tourism event lasting no more than 15 days is not subject to written form, and the employer must communicate its conclusion to the competent social security department, using an electronic form containing the elements referred to in points a), b) and d) of paragraph 1 of the previous article, as well as the workplace.
2 - In the cases provided for in the preceding paragraph, the total duration of fixed-term employment contracts with the same employer may not exceed 70 working days in the calendar year.
3 - In case of breach of the provisions of any of the preceding paragraphs, the contract is considered to be concluded for a period of six months, counting within this period the duration of previous contracts concluded under the same precepts.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 143

Succession of a fixed-term contract

1 - The termination of a fixed-term contract, for reasons not attributable to the employee, prevents a new admission or assignment of a worker through a fixed-term employment contract or temporary work whose execution takes place in the same job or contract to provide services for the same purpose, concluded with the same employer or company which is in a control or group relationship, or maintain common organisational structures, before a period of time equivalent to one third of the duration of the contract , including renovations.
2 - The provisions of the previous paragraph shall not apply in the following cases:
a) New absence of the replaced worker, when the fixed-term contract has been concluded for its replacement;
b) Exceptional increase in the activity of the company after the termination of the contract;
c) Seasonal activity;
d) A worker previously employed under the regime applying to the hiring of a worker in search of a first job.
3 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Article 144

Information on a fixed-term contract

1 - The employer must notify the conclusion of a fixed-term contract, stating the reasons for it, as well as the termination of the contract to the employees' committee and the trade union in which the worker is affiliated, within five working days.
2 - The employer must communicate, under the terms provided in a decree of the minister responsible for labour area, to the department with inspection authority of the ministry responsible for labour area the elements referred to in the previous number.
3 - The employer must communicate, within five working days, to the entity with competence in the field of equal opportunities between men and women the reason for not renewing a fixed-term contract whenever a pregnant worker, infant.
4 - The employer must post information regarding the existence of permanent jobs available in the company or establishment.
5 - It is a minor administrative offence to violate the provisions of paragraphs 1, 2 and 4 and a serious administrative offence in violation of paragraph 3.

Amendments
Amended by Article 2 of the Law no. 120/2015 - Official Gazette no. 170/2015, Series I of 2015-09-01, in force from 2015-09-06

Article 145
Preference at admission

1 - Within 30 days after the termination of the contract, the employee has, under equal conditions, preference in the conclusion of an unlimited contract, whenever the employer carries out external recruitment for the performance of functions identical to those for which he was hired.
2 - Violation of the provisions of the preceding paragraph obliges the employer to compensate the employee in the amount corresponding to three months of basic remuneration.
3 - It is the duty of the employee to claim violation of the preference provided for in paragraph 1 and to the employer proof of compliance with the provisions of this provision.
4 - A violation of the provisions of paragraph 1 represents a serious administrative offense.

Article 146
Equal treatment under a fixed-term contract

1 - The fixed-term employee has the same rights and is bound by the same obligations as permanent employees in a comparable situation, unless objective reasons justify differential treatment.
2 - Fixed-term employees are considered, for the purpose of determining social obligations related to the number of employees, based on the average of those existing in the company at the end of each month of the previous calendar year.

Article 147
Contract of work without term

1 - The employment contract shall be deemed to be without term:
a) Where the stipulation of a term is intended to circumvent the provisions governing the contract without an end;
b) Held outside the cases provided for in paragraph 1, 3 or 4 of Article 140;

c) Where there is no written reduction, identification or signature of the parties, or at the same time as the dates of conclusion of the contract and of commencement of work, as well as the date on which the references to the term and the justification;
d) Concluded in violation of the provisions of paragraph 1 of article 143;
2 – It is converted into an employment contract without term:
a) Those whose renewal was made in violation of the provisions of Article 149;
b) Those in which the period of duration or the number of renewals referred to in the following article is exceeded;
c) The contract concluded in uncertain terms, when the worker remains in activity after the expiry date indicated in the employer's notice or, failing that, after 15 days after verification of the term.
3 - In the situation referred to in paragraph 1 or 2, the seniority of the worker shall be counted from the beginning of the work, except in the situation referred to in subparagraph d) of paragraph 1, which includes the time work in compliance with successive contracts.

Article 148

Fixed-term employment contract

1 - The fixed-term employment contract may be renewed up to three times and its duration shall not exceed:
a) 18 months, in the case of a person seeking a first job;
b) Two years, in the other cases provided for in paragraph 4 of article 140;
c) Three years in all other cases.
2 - A fixed-term employment contract may only be concluded for a term of less than six months in a situation provided for in subparagraphs a) to g) of paragraph 2 of article 140 and may not be less than the task or service to perform.
3 - In case of violation of the provisions of the first part of the previous number, the contract is considered to be concluded for a period of six months as long as it corresponds to the satisfaction of temporary needs of the company.
4 - The duration of the contract of indefinite term work cannot exceed six years.
5 - The term of the limit referred to in subparagraph c) of paragraph 1 shall include the duration of fixed-term or temporary employment contracts whose execution is carried out in the same work place, as well as a service contract for the same subject matter, between the employee and the same employer or companies which are in a control or group relationship or maintain common organisational structures.

Article 149

Renewal of a fixed-term employment contract

1 - The parties may agree that the fixed-term employment contract is not subject to renewal.
2 - In the absence of a stipulation referred to in the previous number and a declaration by any of the parties that terminates it, the contract will be renewed at the end of the term, for an equal period if another is not agreed by the parties.
3 - The renewal of the contract is subject to the verification of its admissibility, in the terms foreseen for its conclusion, as well as to the same formal requirements in the case of stipulating different period.
4 - It is considered as a single contract the one that is subject to renewal.

Subsection II
Part-time work

Article 150
The concept of part-time work

1 - Part-time work is considered to correspond to a normal weekly working period less than full-time work in a comparable situation.
2 - For the purposes of the previous paragraph, if the normal working period is not equal in each week, the corresponding average shall be considered in the applicable reference period.
3 - Part-time work may be provided only on a few days per week, per month or per year, and the number of working days shall be established by agreement.
4 - The situations of a part-time worker and a full-time worker shall be comparable when they are working in the same establishment or, in the absence of such a comparable worker, in another establishment of the same undertaking with the same activity and shall be considered. seniority and qualification.
5 - If there is no comparable worker under the terms of the previous number, it complies with the provisions of a collective labour regulation instrument or the law for a full-time worker with the same seniority and qualification.
6 - The instrument of collective labour regulation may establish the maximum percentage limit of the full time that determines the qualification of the part-time, or criteria of comparison in addition to those foreseen in the final part of paragraph 4.

Article 151
Freedom to enter into a contract for part-time work

The freedom to conclude a contract for part-time work cannot be excluded by a collective labour regulation instrument.

Article 152
Preference for admission to part-time work

1 - The instruments of collective labour regulation should establish, for part-time admission, preferences in favor of a person with family responsibilities, with reduced working capacity, with a disability or chronic illness, or with frequent educational establishments.
2 - Disregard of preference established in paragraph 1 represents a serious administrative offense.

Article 153
Form and content of part-time contract

1 - The part-time contract is subject to written form and must contain:
a) Identification, signatures and address or head office of the parties;
b) Indication of the normal daily and weekly work period, with reference to full-time work.
2 - In the absence of the indication referred to in subparagraph b) of the previous number, it is presumed that the contract is celebrated full time.
3 - When the written form has not been observed, the contract is considered full-time.

Article 154

Part-time working conditions

1 - A part-time worker shall be governed by the law provided for by law and by collective bargaining instrument which, by its nature, does not imply full-time employment.
2 - A part-time worker shall not be treated less favorably than the full-time worker in a comparable situation, unless a different treatment is justified by objective reasons, which may be defined by a collective labour regulation instrument.
3 - The part-time worker is entitled:
a) The basic remuneration and other benefits, whether paid or not, provided for by law or collective bargaining instrument or, if they are more favourable, those paid per full-time worker in a comparable situation, in proportion to their normal period weekly work;
b) The food allowance in the amount provided for in a collective labour regulation instrument or, if it is more favourable, in the company, except where the normal daily working time is less than five hours, in which case it is calculated in proportion of their normal weekly working period.
4 - Violation of the provisions of this article represents a serious administrative offense.

Article 155

Changing the duration of part-time work

1 - A part-time worker may work full-time, or the reverse, either permanently or for a fixed period, by written agreement with the employer.
2 - The employee may terminate the agreement referred to in the previous number by means of written communication sent to the employer until the seventh day after the conclusion.
3 - Except for the provisions of the previous number, the agreement for modification of the work period duly dated and whose signatures are the object of notarial recognition in person.
4 - When the passage of full-time work for part-time work according to paragraph 1 occurs for a specified period, after which the worker is entitled to resume full-time work.
5 - Violation of paragraph 4 represents a serious administrative offense.

Article 156

Duties of the employer in case of part-time work

1 - Whenever possible, the employer shall:
a) Consider the application for the removal of full-time part-time employees from the establishment;
b) Consider the request for a change of part-time worker for full-time work, or for an increase in his working time;
c) Facilitate access to part-time work at all levels of the undertaking, including management positions.

2 - The employer shall also:
a) Provide employees with timely information on the part-time and full-time jobs available in the establishment in order to facilitate the changes referred to in points a) and b) of the preceding paragraph;
b) Provide appropriate information on part-time work within the company to the collective representation structures of company employees.
3 - It is a minor administrative offense to violate the provisions of the preceding paragraph.

Subsection III
Intermittent work

Article 157
Admissibility of intermittent work

1 - In a company that carries out activity with discontinuity or variable intensity, the parties may agree that the work is interspersed with one or more periods of inactivity.
2 - Intermittent employment contracts cannot be concluded after termination or temporary work.

Article 158
Form and content of intermittent employment contract

1 - The intermittent employment contract is subject to written form and must contain:
a) Identification, signatures and address or head office of the parties;
b) An indication of the annual number of hours worked or of the annual number of full-time working days.
2 - When the written form has not been observed, or in the absence of the indication referred in b) of the previous number, the contract is celebrated without period of inactivity.
3 - The contract shall be deemed to be concluded by the annual number of hours resulting from the provisions of paragraph 2 of the following article, if the annual number of hours of work or the annual number of full-time working days is less than this limit.

Article 159
Period of work

1 - The parties shall determine the duration of the work in a consecutive or interpolated manner, as well as the beginning and end of each working period, or the employer's advance notice of the beginning of the work period.
2 - The work referred to in the preceding paragraph may not be less than six months full time per year, of which at least four months must be consecutive.
3 - The advance referred to in paragraph 1 shall not be less than 20 days.
4 - Violation of the provisions of the preceding paragraph represents a serious administrative offense.

Article 160
Rights of the worker

1 - During the period of inactivity, the employee is entitled to compensation in the amount established in a collective labour regulation instrument or, failing that, 20% of the basic remuneration payable by the employer with a periodicity equal to that of the remuneration.
2 - Holidays and Christmas allowances are calculated based on the average remuneration and compensation payments earned in the last 12 months or the duration of the contract if this is less.
3 - During the period of inactivity, the worker may carry out another activity.
4 - During the period of inactivity, the rights, duties and guarantees of the parties that do not presuppose the effective work are maintained.
5 - Violation of the provisions of paragraphs 1 or 2 represents a serious administrative offense.

Subsection IV
Service Commission

Article 161
Purpose of the service commission

It may be exercised, in a service commission, a management position or equivalent, a director or a management directly dependent on the administration or a director-general or equivalent, functions of personal secretariat of the holder of any of these positions, or, the nature of which also presupposes a special relationship of trust in relation to the holder of those positions and functions of leadership.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 162
Regime of employment contract in service commission

1 - An employee of the company or another person admitted for the purpose may hold a position or function in a service commission.
2 - In the case of admission of a worker to perform a position or duties in a commission of service, their permanence may be agreed after the end of the commission.
3 - The contract for the exercise of a position or duties in a service commission is subject to a written form and must contain:
a) Identification, signatures and address or head office of the parties;
b) Indication of the position or duties to be performed, with an explicit mention of the system of service commission;
c) In the case of an employee of the company, the activity he carries out, as well as, if different, what he will perform after the commission ceases;
d) In the case of a worker admitted on a secondment basis who is expected to remain in the company, the activity that he will perform after the commission ceases.
4 - A contract that does not have the written form or which lacks the mention referred to in subparagraph b) of the previous number is not considered as a commission of service.
5 - The time of service rendered under a service commission account for the employee's seniority as if it had been provided in the category of which he is the holder.
6 - The lack of the mention referred to in subparagraph b) of paragraph 3 is a serious administrative offence, unless the employer expressly and in writing acknowledges that the position or functions are exercised on a permanent basis, and represent a minor administrative offense of written reduction of the contract or violation of subparagraph c) of said number.

Article 163
Termination of service commission

1 - Either party may terminate the service commission by giving at least 30- or 60-days' prior notice, in writing, for a period of up to two years or longer.
2 - The absence of prior notice does not prevent the termination of the service commission, constituting the defaulting party in the obligation to compensate the counterparty under the terms of article 401.

Article 164

Effects of termination of service commission

1 - Terminating the service commission, the employee has the right:
a) If he remains at the service of the company, to carry out the activity performed before the commission of service, or the one corresponding to the category to which it was promoted or, also, the activity foreseen in the agreement referred to in subparagraph c) or d) of paragraph 3 of Article 162;
b) To terminate the employment contract within 30 days following the decision of the employer to terminate the service commission, entitled to compensation calculated according to article 366;
c) Having been admitted to work on a secondment and terminating on the initiative of the employer that does not corresponds to dismissal for a fact attributable to the employee, the compensation calculated according to article 366.
2 - The periods provided for in the previous article and the amount of compensation referred to in subparagraphs b) and c) of paragraph 1 may be increased by collective labour regulation or employment contract.
3 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01.
Amended by Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Subsection V
Telework

Article 165

The notion of telework

Telework is considered to be work performed with legal subordination, usually outside the company and through the use of information and communication technologies.

Article 166

Contract regime for subordinate provision of teleworking

1 - A worker of the company or another person admitted for the purpose may carry out the activity in a teleworking system, by virtue of the conclusion of a contract for a subordinated teleworking service.
2 - Once the conditions laid down in paragraph 1 of article 195 have been verified, the employee has the right to start working on a teleworking basis, when this is compatible with the activity performed.
3 - In addition to the situations referred to in the preceding paragraph, a worker with a child up to 3 years of age has the right to exercise the activity in a teleworking regime, when this is compatible with the activity performed and the employer has the resources and means to do so .
4 - The employer cannot oppose the employee's request under the terms of the previous numbers.
5 - The contract is subject to written form and must contain:
a) Identification, signatures and address or head office of the parties;
b) Indication of the activity to be provided by the employee, with an explicit mention of the Telework system, and corresponding remuneration;

c) Indication of the normal period of work;
d) if the period for teleworking is shorter than the expected duration of the employment contract, the activity to be pursued after the end of that period;
e) Ownership of the work tools as well as the person responsible for their installation and maintenance and payment of the corresponding consumption and use expenses;
f) Identification of the establishment or department of the company in whose dependence the worker is, as well as who he should contact in the scope of work.
6 - Teleworkers may work under the regime of other employees of the company, either permanently or for a fixed period, by means of a written agreement with the employer.
7 - The written form is required only to prove the stipulation of the Telework regime.
8 - Violation of the provisions of paragraph 3 represents a serious administrative offense and it is a minor administrative offense to violate the provisions of paragraph 4.

Amendments
Amended by Article 2 of the Law no. 120/2015 - Official Gazette no. 170/2015, Series I of 2015-09-01, in force from 2015-09-06

Article 167
Regime in the case of a worker previously linked to the employer

1 - In the case of a worker previously linked to the employer, the initial duration of the contract for subordinate teleworking service may not exceed three years, or the term established in a regulatory instrument of collective bargaining.
2 - Either party may terminate the contract referred to in the previous number during the first 30 days of its execution.
3 - Terminating the contract for a subordinate teleworking service, the employee retakes the work, under the terms agreed or provided for in a collective labour regulation instrument.
4 - Violation of the provisions of the preceding paragraph represents a serious administrative offense.

Article 168
Instruments of work in subordinate provision of telework

1 - In the absence of stipulation in the contract, it is presumed that the work tools related to information and communication technologies used by the employee belong to the employer, who must ensure the corresponding installation and maintenance and payment of the inherent expenses.
2 - The worker must observe the rules of use and operation of the instruments of work that are made available to him.
3 - Unless otherwise agreed, the worker may not give to the instruments of labour provided by the employer use other than that inherent in the performance of his work.

Article 169
Equal treatment of teleworkers

1 - Teleworkers have the same rights and duties of other employees, in particular as regards training and career promotion, limits of normal working hours and other working conditions, occupational safety and health and repair of damages arising from a work accident or occupational disease.

2 - In the context of professional training, the employer must provide the worker, if necessary, with adequate training on the use of information and communication technologies inherent in the exercise of his or her activity.
3 - The employer must avoid the isolation of the worker, especially through regular contacts with the company and other employees.

Article 170
Privacy of workers under telework

1 - The employer must respect the employee's privacy and the rest and rest periods of the employee's family, as well as provide him with good working conditions, both physically and psychologically.
2 - Whenever teleworking takes place at the employee's home, the visit to the workplace should only concern the control of the work activity and the instruments of work and can only be carried out between 9 and 19 hours, with the assistance of the worker or person designated by him.
3 - Violation of the provisions of this article represents a serious administrative offense.

Article 171
Participation and collective representation of telework employees

1 - The worker with a telework system integrates the number of employees of the company for all purposes related to structures of collective representation and can apply for these structures.
2 - The worker can use the information and communication technologies used to provide work to participate in a meeting promoted in the workplace by structure of collective representation of employees.
3 - Any structure of collective representation of employees may use the technologies referred to in the previous paragraph in order to communicate with the worker in a teleworking way, in particular by disseminating information referred to in paragraph 1 of Article 465.
4 - Violation of the provisions of paragraphs 2 or 3 represents a serious administrative offense.

Subsection VI
Temporary work

Division I
General provisions concerning temporary work

Article 172
Specific concepts of the temporary work regime

It is considered:
a) Temporary employment contract is a fixed-term employment contract concluded between a temporary employment agency and a worker, whereby the latter undertakes, by way of remuneration, to provide employment to users, while remaining bound to the temporary employment agency ;
b) Work contract for an indefinite period for temporary assignment of the employment contract for an indefinite period between a temporary employment agency and a worker, whereby the latter undertakes, on a fee basis, to provide temporary employment to users, if linked to the temporary employment agency;

c) Contract for the use of temporary work is the contract for the provision of termination services between a user and a temporary work agency, whereby the latter undertakes, by way of remuneration, to assign to the latter one or more temporary employees.

Article 173

Unlawful assignment of worker

1 - The employment contract, the temporary employment contract or the employment contract for an indefinite period for temporary assignment concluded by a temporary employment agency not holding a licence for the exercise of its activity shall be null and void.
2 - A contract concluded between temporary work agencies by which one transfers to the other an employee is null and void so that it is subsequently assigned to a third party.
3 - In the case provided for in paragraph 1, the work is considered to be provided to the temporary employment agency under an employment contract without term.
4 - In the case provided for in paragraph 2, it is considered that the work is provided to the company that hires the employee under an employment contract without term.
5 - If the employee is assigned to a user by a licenced temporary employment agency without having concluded a temporary employment contract or an indefinite employment contract for temporary assignment, the work shall be deemed to be provided to this company under term employment contract.
6 - In replacement of the provisions of paragraphs 3, 4 or 5, the employee may, within 30 days of the commencement of the activity, benefit from compensation according to article 396.
7 - The conclusion of a contract for the use of temporary work by a company not holding a licence represents a very serious administrative offense attributable to the temporary work agency and the user.

Article 174

Special cases of temporary agency or user responsibility

1 - The conclusion of a contract for the use of temporary work by a non-licenced temporary employment agency shall jointly and severally hold this and the user for the credits of the employee arising from the employment contract, of its violation or cessation, for the last three years, social partners.
2 - The temporary employment agency and the temporary employment user, as well as the corresponding managers, administrators or directors, as well as companies that work with the temporary employment agency or with the user are in a relation of reciprocal participation, domain or are liable for the claims of the employee and for the corresponding social charges, as well as for the payment of the corresponding fines.

Amendments
Amended by Article 2 of the Law no. 28/2016 - Official Gazette no. 161/2016, Series I of 2016-08-23, in force from 2016-09-22

Division II

Temporary employment use agreement

Article 175

Admissibility of contract for the use of temporary work

1 - The contract for the use of temporary work can only be concluded in the situations referred to in subparagraphs a) to g) of paragraph 2 of Article 140 and also in the following cases:

a) Job vacancy when a recruitment process takes place to complete it;
b) Intermittent need for labour, determined by fluctuation of activity during days or parts of the day, provided that the use does not exceed weekly half of the normal working time most of which is practiced by the user;
c) Intermittent need to provide direct family support, of a social nature, during days or parts of the day;
d) Realization of temporary project, namely installation or restructuring of company or establishment, assembly or industrial repair.
2 - For the purpose of the provisions of the previous paragraph, with regard to article 140, paragraph 2, subparagraph f), it is considered an exceptional increase in the activity of the company that lasts up to 12 months.
3 - The duration of the contract of use shall not exceed the period strictly necessary to satisfy the user's need referred to in paragraph 1.
4 - The use of a temporary worker in a workplace that is particularly dangerous for his or her safety or health is not allowed, unless it is his professional qualification.
5 - It is not allowed to conclude a contract for the use of temporary work to satisfy the needs that were ensured by a worker whose contract has ceased in the previous 12 months due to collective dismissal or dismissal due to termination of employment.
6 - It represents a very serious administrative offense attributable to the user to violate the provisions of paragraph 4.

Article 176

Justification of employment contract of temporary work

1 - It is up to the user to prove the facts that justify the conclusion of a contract for the use of temporary work.
2 - The contract of use concluded outside the situations referred to in paragraph 1 of the previous article is void.
3 - In the case foreseen in the previous number, it is considered that the work is provided by the worker to the user under an employment contract without term, and the provisions of paragraph 6 of article 173.

Article 177

Form and content of employment contract of temporary work

1 - The contract for the use of temporary work shall be in writing and shall be in two copies and shall contain:
a) Identification, signatures, address or seat of the parties, their corresponding taxpayer numbers and the general social security regime, as well as, for the temporary employment agency, the number and date of the licence of the corresponding licence;
b) Reason justifying the use of temporary work by the user;
c) A description of the job to be filled, the occupational risks involved and, where appropriate, the high risks or the particularly dangerous work position, the required professional qualification and the mode adopted by the user for the security services and occupational health and related contact;
d) Place and normal working hours;
e) Remuneration of the employee of the user who performs the same functions;
f) Payment due by the user to the temporary employment agency;
g) Beginning and duration, certain or uncertain, of the contract;
h) Date of conclusion of the contract.

2 - For the purposes of subparagraph b) of the preceding paragraph, the indication of the justification must be made by expressly mentioning the facts that comprise it, and the relationship between the justification invoked and the stipulated term must be established.
3 - The contract for the use of temporary work must have attached copy of the insurance policy for work accidents which encompasses the temporary worker and the activity to be carried out by him, without which the user is jointly and severally liable for compensation for damages arising from a work accident.
4 - (Repealed).
5 - The contract is void if it is not concluded in writing or omit the mention required by subparagraph b) of paragraph 1.
6 - In the case foreseen in the previous number, it is considered that the work is provided by the worker to the user under an employment contract without term, and the provisions of paragraph 6 of article 173.
7- A violation of the provisions of subparagraphs a), c) or f) of paragraph 1 is a slight offense attributable to the temporary work company and to the user.

Amendments
Amended by Article 9 of the Law no. 69/2013 - Official Gazette no. 167/2013, Series I of 2013-08-30, in force from 2013-10-01.
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01.
Amended by the Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Article 178
Term of employment contract of temporary work

1 - The contract for the use of temporary work is entered into for a fixed-term, certain or uncertain.
2 - The duration of the contract for the use of temporary work, including renewals, may not exceed the duration of the justification, nor the limit of two years, or six or 12 months in the event of a job vacancy, recruitment process for the completion or exceptional addition of the company's business.
3 - It is considered as a single contract that is subject to renewal.
4 - In the event that the temporary worker continues to serve the user after 10 days after the termination of the contract of use without the conclusion of a contract that bases it, it is considered that the work is now provided to the user based on an employments contract without term.

Article 179
Prohibition of successive contracts

1 - If the maximum duration of contract for the use of temporary work has been completed, a succession of temporary employees or permanent employees shall be prohibited in the same place before a period of time equal to one third of the duration of the contract, including renewals.
2 - The provisions of the previous paragraph shall not apply in the following cases:
a) Absence of the replaced worker, when the contract of use has been concluded for its replacement;
b) Exceptional increase in the need for labour in seasonal activity.
3 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Division III
Temporary employment contract

Article 180

Admissibility of temporary employment contract

1 - The temporary employment contract can only be concluded for a fixed-term, certain or uncertain, in the situations foreseen for the conclusion of contract of use.
2 - The term stipulated in violation of the previous number is null and void, considering the work performed in performance of the contract as provided to the temporary employment agency under an employment contract without a term, and the provisions of paragraph 6 of Article 173.
3 - If the nullity provided for in the preceding paragraph results in the nullity of the contract for the use of temporary work, as provided for in paragraph 2 of Article 176 or paragraph 5 of Article 177, it is considered that the work is provided to the user under an unpaid employment contract, and the provisions of paragraph 6 of article 173 are applicable.

Amendments

Amended by Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Article 181

Form and content of temporary employment contract

1 - The temporary employment contract shall be in writing, shall be in two copies and shall contain:
a) Identification, signatures, address or head office of the parties and number and date of the licence of the temporary employment agency;
b) Grounds justifying the conclusion of the contract, with a specific mention of the facts that comprise them;
c) Activity contracted;
d) Place and normal working hours;
e) Remuneration;
f) Date of beginning of work;
g) Term of contract;
h) Date of conclusion.
2 - In the absence of a written document or in case of omission or insufficient indication of the reason for the conclusion of the contract, it is considered that the work is provided to the temporary employment agency under the permanent employment contract, in paragraph 6 of Article 173.
3 - The contract that does not contain the mention of its term is considered to be concluded for a period of one month, and its renewal is not allowed.
4 - A copy of the contract stays with the worker.
5 - Violation of the provisions of subparagraph a) or any of subparagraphs c) to f) of paragraph 1 or paragraph 4 is a minor administrative offense attributable to the temporary agency.

Article 182

Duration of temporary employment contract

1 - The duration of the temporary employment contract may not exceed that of the employment contract.
2 - Temporary fixed-term employment contract is not subject to the limit of duration of paragraph 2 of article 148 and may be renewed for as long as the justification is maintained.

3 - The duration of the fixed-term temporary employment contract, including renewals, may not exceed two years, or six or 12 months when the contract is concluded, respectively, in the event of a job vacancy when there is a recruitment process for its completion or exceptional addition of the company's business.
4 - The temporary contract of temporary indefinite duration lasts for the time necessary to satisfy temporary need of the user and cannot exceed the duration limits referred to in the previous number.
5 - The provisions of paragraph 5 of article 148 shall apply to the calculation of the limits referred to in the preceding paragraphs.
6 - At the expiration of the temporary employment contract, the provisions of article 344 or 345, depending on whether the term is certain or uncertain, shall apply.

Division IV
Temporary assignment contract of indefinite duration

Article 183
Form and content of an indefinite employment contract for temporary assignment

1 - The contract of indefinite work for temporary assignment is subject to written form, it is celebrated in two copies and must contain:
a) Identification, signatures, address or head office of the parties and number and date of the licence of the temporary employment agency;
b) Express mention that the worker accepts that the temporary work company temporarily sells to users;
c) Contracted activity or general description of the duties to be performed and the appropriate professional qualification, as well as the geographical area in which the employee is assigned to perform duties;
d) Minimum remuneration during the assignments that occur, according to article 185.
2 - A copy of the contract is with the employee.
3 - In the absence of a written document or in case of omission or insufficiency of the particulars referred to in subparagraph b) or c) of paragraph 1, the work shall be deemed to be provided to the temporary employment agency under an employment contract without term, and the paragraph 6 of Article 173 shall apply.
4 - A violation of the provisions of subparagraph b) of paragraph 1 shall represent a serious administrative offense.

Article 184
Period without temporary assignment

1 - In the period in which he is not in a situation of transfer, the employee hired for an indefinite period may provide activity to the temporary employment agency.
2 - During the period referred to in the preceding paragraph, the employee is entitled:
a) If he does not work, the compensation provided for in a collective labour regulation instrument, or two thirds of the last remuneration or the minimum monthly salary guaranteed, whichever is the more favourable;
b) If the temporary employment agency carries on business, the remuneration corresponding to the activity performed, notwithstanding the amount referred to in the employment contract referred to in the previous article.
3 - A breach of the provisions of this article represents a serious administrative offense attributable to the temporary employment agency.

Division V
Regime for the provision of temporary work

Article 185
Working conditions of temporary worker

1 - Temporary employees may be assigned to more than one user, even if they do not hold an employment contract for an indefinite period, if the contrary is not established in the corresponding contract.
2 - During the transfer, the employee is subject to the rules applicable to the user as to the way, place, duration of work and suspension of employment contract, occupational safety and health and access to social equipment.
3 - The user must elaborate the work schedule of the worker and mark the period of vacations that are taken to his service.
4 - During the performance of the contract, the exercise of disciplinary power shall be carried out by the temporary employment agency.
5 - The employee is entitled to the minimum remuneration of collective bargaining instrument applicable to the temporary employment agency or to the user that corresponds to his or her duties, or the one practiced by him for equal work or of equal value, whichever is more favourable.
6 - The employee is entitled, in proportion to the duration of the corresponding contract, to holidays, holiday and Christmas allowances, as well as to other regular and periodic benefits to which the user's employees are entitled for equal work or of equal value.
7 - The holiday allowance and holiday and Christmas allowances for an indefinite period of temporary leave shall be calculated on the basis of the average remuneration earned in the last 12 months or the period of performance of the contract if this is less than , excluding the compensations referred to in Article 184 and the corresponding periods.
8 - A temporary worker assigned to a user abroad for less than eight months is entitled to a monthly allowance in the form of daily allowances up to a limit of 25% of the basic remuneration.
9 - The provisions of the preceding paragraph do not apply to a worker who has an indefinite employment contract for temporary assignment, to which the rules of payment of subsistence allowances provided for in the general law apply.
10 - Notwithstanding the provisions of the preceding paragraphs, after 60 days of work, the collective labour regulation applicable to employees of the user performing the same functions shall apply to the temporary worker.
11 - The user must inform the temporary worker of the available jobs in the company or establishment for functions like those performed by him, with a view to his application.
12 - A violation of the provisions of paragraph 3 and the exercise of disciplinary power by the user or the violation of the provisions of the preceding paragraph represents a serious administrative offence.

Article 186
Work safety and health at temporary work

1 - Temporary employees shall enjoy the same level of occupational safety and health protection as other employees of the user.
2 - Prior to the transfer of the temporary worker, the user must inform the temporary agency in writing about:

a) The results of the assessment of the risks to the safety and health of the temporary worker inherent in the position to which he is to be assigned and, in the case of high risks relating to a particularly hazardous workplace, the need for appropriate professional qualification and surveillance medical special;
b) Instructions on measures to be taken in the event of a serious and imminent danger;
c) Measures for first aid, firefighting and evacuation of employees in the event of an accident, as well as employees or services charged with carrying them out;
d) The way in which the occupational physician or the hygiene and safety technician of the temporary employment agency accesses the position to be filled.
3 - The temporary work company must inform the temporary worker of the information provided in the previous number, in writing and before its transfer to the user.
4 - Periodic and occasional admission health examinations are the responsibility of the temporary employment agency, and the corresponding medical officer is responsible for keeping the medical records.
5 - The temporary employment agency shall inform the user that the worker is considered fit as a result of the health examination, has the appropriate professional qualifications and has the information referred to in paragraph 2.
6 - The user must provide the temporary worker with adequate and adequate training for the job, considering his or her professional qualifications and experience.
7 - The worker exposed to high risks for a particularly dangerous workplace must have special medical supervision at the user's expense, whose work doctor must inform the doctor of the work of the temporary work company on possible contraindication.
8 - The user shall report the commencement of the activity of a temporary worker within five working days thereafter to occupational safety and health services, employees' representatives for occupational safety and health, employees with specific duties in this field, and employees' committee.
9 - A violation of the provisions of paragraph 7 represents a very serious administrative offense, a violation of the provisions of paragraphs 4, 5 or 6 represents a serious administrative offense and a violation of the provisions of paragraphs 3 or 8 represents a minor administrative offence.

Article 187

Professional training of temporary employees

1 - The temporary employment agency shall ensure the professional training of a temporary fixed-term employee where the duration of the contract, including renewals, or the sum of successive temporary employment contracts in a calendar year exceeds three months.
2 - The professional training provided for in the previous number must have a minimum duration of eight hours, or a longer duration according to article 131, paragraph 2.
3 - The temporary employment agency must assign at least 1% of its annual turnover to temporary employees in this activity.
4 - The temporary employment agency may not require the temporary worker to pay any amount, whatever the title may be, namely for guidance or professional training services.
5 - Violation of the provisions of this article represents a serious administrative offense.
6 - In case of violation of paragraph 4, an additional temporary suspension of the activity may be applied for up to two years, which is recorded in the national register of temporary employment agencies.

Article 188

Replacement of temporary worker

1 - Unless otherwise agreed, in the event of termination of the contract of temporary worker or absence thereof, the temporary employment agency shall assign another worker to the user within forty-eight hours.
2 - The user may refuse to provide the temporary worker within the first 15 or 30 days of his stay to his service, depending on whether the employment contract has a duration of less than six months, in which case the temporary employment agency must terms of the previous number.

Article 189
Employee background

1 - A temporary worker shall be considered, for the purposes of the temporary agency and user, for the purpose of applying the regime for structures of collective representation of employees, depending on whether they concern matters relating to the temporary agency or user , in particular the constitution of the same structures.
2 - Temporary employees are not included in the number of employees to determine obligations according to the number of employees, except for the organisation of occupational safety and health services and classification according to the type of company.
3 - The user must include the information regarding temporary worker in the social report and the annual report of the activity of the occupational health and safety services.
4 - The temporary employment agency shall include information on temporary staff on the establishment plan and on the annual reports on occupational training and occupational health and safety services.
5 - It is an offense to breach the provisions of paragraph 3.

Article 190
Benefits guaranteed by the guarantee for the exercise of temporary work

1 - The guarantee established by the temporary work company for the pursuit of the activity guarantees, under the terms of specific legislation, the payment of:
a) Temporary employee's credit for compensation, compensation or compensation owed by the employer for the termination of the employment contract and other cash benefits, in arrears for a period exceeding 15 days;
b) Contributions to social security, in arrears for a period exceeding 30 days.
2 - The credits referred to in subparagraph a) of the preceding paragraph do not include amounts due as compensation for termination of employment contract, calculated according to article 366, for new employment contracts.
3- The existence of credit of the employee in arrears can be verified by means of a definitive decision of application of fine for lack of the corresponding payment, or condemnatory decision that has become res judicata.

Amendments
Amended by Article 2 of the Law no. 69/2013 - Official Gazette no. 167/2013, Series I of 2013-08-30, in force from 2013-10-01.
Amended by Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Article 191
Enforcement of the bond

1 - The employee must claim the corresponding credits within 30 days of the termination of the employment contract, and communicate this to the public employment service, for the purpose of payment through the bond.
2 - The lack of punctual payment of credit of the worker that lasts for more than 15 days must be declared, at his request, by the employer, within five days or, in case of refusal, by the department with inspection authority of the ministry responsible for the labour area, within 10 days.
3 - The declaration referred to in the preceding paragraph must specify the nature, amount and period of the credit.
4 - The employee or the creditor of the other charges foreseen in the previous article may request the public employment service to pay the corresponding credit through the guarantee, within 30 days after the date of its expiration, presenting the statement referred to in paragraph 2.
5 - In the case of the presentation of the declaration issued by the department with inspection authority of the ministry responsible for labour matters, the public employment service notifies the temporary employment agency that the worker has requested the payment of credit on account of the collateral and that this shall be carried out if it does not prove payment within eight days.
6 - In the event that the guarantee is insufficient in relation to the credits for which payment is requested, it is made according to the following precedence criteria:
a) Employee compensation credits for the last 30 days of the activity, with the limit corresponding to the amount of three times the minimum monthly guaranteed remuneration;
b) Other payment credits in order of order;
c) Compensation and compensation for the termination of temporary employment contract;
d) Other charges with employees.
7 - With regard to employees with new employment contracts, compensation for termination of employment contracts provided for in subparagraph c) of the preceding paragraph is excluded from the criteria of precedence.

Amendments
Amended by Article 2 of the Law no. 69/2013 - Official Gazette no. 167/2013, Series I of 2013-08-30, in force from 2013-10-01

Article 192
Additional penalties in the context of temporary work

1 - In addition to the fine, a temporary employment agency that admits a worker in violation of the rules on minimum age or compulsory schooling may be punished with the accessory sanction of prohibiting the exercise of the activity until two years.
2 - The temporary employment agency can still be punished with the accessory sanction of prohibiting the exercise of the activity up to two years in case of recurrence in the practice of the following offenses:
a) Non-establishment of accident insurance for temporary employees;
b) Delay for more than 30 days in the payment of the remuneration due to temporary employees.
c) Non-adhesion to the labour compensation fund or equivalent mechanism, as well as non-fulfillment of the obligation to contribute to them and to the compensation fund for labour compensation provided for in specific legislation.
3 - The temporary employment agency, together with the fine applicable to the administrative offense due to the conclusion of a contract for the use of temporary work, does not hold a licence, is punishable by order of closure of the establishment where the activity is carried out, until regularisation of the situation.

4 - The ancillary sanction referred to in the preceding paragraphs shall be registered in the national register of temporary employment agencies, provided for in specific legislation.

Amendments
Amended by Article 2 of the Law no. 69/2013 - Official Gazette no. 167/2013, Series I of 2013-08-30, in force from 2013-10-01.
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01.
Amended by the Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Chapter II
Work Provision

Section I
Workplace

Article 193
Notion of workplace

1 - The employee must, in principle, carry out the activity in the contractually defined place, notwithstanding the provisions of the following article.
2 - The worker is subject to travels inherent to his duties or indispensable to his professional training.

Article 194
Transfer of workplace

1 - The employer may transfer the worker to another workplace, temporarily or permanently, in the following situations:
a) In the event of a change or extinction, in whole or in part, of the establishment where the latter provides services;
b) Where another reason in the interests of the undertaking so requires and the transfer does not cause serious injury to the employee.
2 - The parties may extend or restrict the provisions of the preceding paragraph, through an agreement that expires after two years if it has not been applied.
3 - The temporary transfer may not exceed six months, except for imperative requirements of the operation of the company.
4 - The employer shall defray the expenses of the worker as a result of the increase of the costs of travel and of the change of residence or, in case of temporary transfer, of accommodation.
5 - In the case of a definitive transfer, the employee may terminate the contract if he or she is seriously injured and entitled to the compensation provided for in article 366.
6 - The provisions in the previous numbers may be removed by collective labour regulation instrument.
7 - A violation of the provisions of paragraphs 1 or 4, in the case of a definitive transfer, represents a serious administrative offense and it is a minor administrative offense to violate the provisions of paragraph 3.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01.
Amended by Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Article 195

Transfer at the employee's request

1 - A worker who is a victim of domestic violence has the right to be transferred, temporarily or permanently, at his request, to another establishment of the company, subject to the following conditions:
a) Presentation of a criminal complaint;
b) Exit from the house of family residence at the time of the transfer.
2 - In the situation referred to in the preceding paragraph, the employer may postpone the transfer only on the basis of imperative requirements connected with the operation of the company or service, or until a compatible workstation is available.
3 - In the case foreseen in the previous number, the employee has the right to suspend the contract immediately until the transfer occurs.
4 - The confidentiality of the situation that motivates the contractual changes of the previous number is guaranteed, if requested by the interested party.
5 - Violation of the provisions of paragraph 2 represents a serious administrative offense.

Article 196

Procedure in case of transfer of workplace

1 - The employer must communicate the transfer to the employee, in writing, eight or 30 days in advance, depending on whether it is temporary or permanent.
2 - The communication shall state the reasons and indicate the expected duration of the transfer, mentioning, where appropriate, the agreement referred to in paragraph 2 of Article 194.

Section II

Duration and organisation of working time

Subsection I

General concepts and principles on the duration and Organisation of working time

Article 197

Working time

1 - Working time is any period during which the worker carries on the activity or remains attached to the performance of the benefit, as well as the interruptions and intervals provided for in the following paragraph.
2 - The following are considered to be included in working time:
a) The interruption of work as such considered in an instrument of collective regulation of work, internal regulation of company or resulting from the use of the company;
b) The occasional interruption of the daily work period inherent to the satisfaction of the employee's unavoidable personal needs or resulting from the consent of the employer;
c) The interruption of work for technical reasons, namely cleaning, maintenance or tuning of equipment, change of production schedule, loading or unloading of goods, lack of raw material or energy, or climacteric factor affecting the company's activity, or for economic reasons, such as the breaking of orders;
d) The meal interval in which the worker has to remain in or near the usual workspace, in order to be able to be called to perform normal work in case of need;
e) The interruption or pause in the work period imposed by norms of safety and health at work.

3 - A violation of the provisions of the preceding paragraph represents a serious administrative offense.

Article 198
Normal working hours

The working time that the worker undertakes to provide, measured in number of hours per day and per week, is called the normal working period.

Article 199
Rest period

A period of rest is understood to be not working time.

Article 200
Work schedule

1 - Working hours shall be understood as the determination of the start and end times of the normal daily working period and the rest interval, as well as the weekly rest period.
2 - The working time delimits the normal daily and weekly work period.
3 - The beginning and end of the normal daily working period may occur on consecutive days.

Article 201
Period of operation

1 - The period of operation shall be understood as the daily period of time during which the establishment may carry on its activity.
2 - The period of operation of a retail establishment is called the opening period.
3 - The period of operation of an industrial establishment is called the working period.
4 - The regime of the operating periods consists of specific legislation.

Article 202
Registration of working times

1 - The employer shall keep records of working time, including employees who are exempt from working hours, in an accessible place and in a way that allows them to be consulted immediately.
2 - The register shall indicate the hours of commencement and termination of working time, as well as interruptions or intervals which are not understood in the register, in order to determine the number of hours worked per worker per day and per week as well as those provided in the situation referred to in subparagraph b) of paragraph 1 of Article 257.
3 - The employer shall ensure that the worker who provides work outside the company registers immediately upon his return to the company , or send the same duly endorsed, so that the company has the duly endorsed register within 15 days of the delivery.
4 - The employer shall keep the record of working time, as well as the declaration referred to in Article 257 and the agreement referred to in subparagraph f) of paragraph 3 of Article 226 for five years.
5 - Violation of the provisions of this article represents a serious administrative offense.

Subsection II
Limitations on working hours

Article 203
Maximum limits for normal working hours

1 - The normal working period may not exceed eight hours per day and forty hours per week.
2 - The normal daily working time of a worker who works exclusively on weekly rest days of the majority of the employees of the company or establishment may be increased up to four hours a day, notwithstanding the provisions of a collective labour regulation instrument.
3 - There is a tolerance of fifteen minutes for transactions, operations or other tasks begun and not finished at the time established for the end of the normal daily working period, such tolerance being exceptional and the increase of work to be paid after four hours or of the calendar year.
4 - The maximum limits of the normal period of work can be reduced by instrument of collective regulation of work and cannot result in a reduction in the remuneration of employees.
5 - Violation of the provisions of this article represents a serious administrative offense.

Article 204
Adaptability by collective regulation

1 - By collective labour regulation instrument, the normal working period can be defined in average terms, in which case the daily limit established in paragraph 1 of the previous article can be increased up to four hours and the weekly working sixty hours, not counting the additional work done by reason of force majeure.
2 - The normal working period defined in the terms set forth in the previous number cannot exceed fifty hours in average in a period of two months.
3 - Violation of the provisions of this article represents a serious administrative offense.

Article 205
Individual adaptability

1 - The employer and the worker may, by agreement, define the normal working period in average terms.
2 - The agreement may provide for an increase in the normal working hours per day up to two hours and that the weekly work may be up to 50 hours, only if the Additional work done by reason of force majeure is not counted.
3 - In a week whose duration is less than forty hours, the reduction may be up to two hours a day or, if agreed, in days or half days, notwithstanding the right to a meal allowance.
4 - The agreement may be concluded on the basis of a written proposal from the employer, assuming acceptance by an employee who does not oppose it, in writing, within 14 days of becoming aware of it, including the periods to which referred to in paragraph 2 of Article 217.
5 - The legal regime provided for in the preceding paragraphs shall be maintained until the end of the reference period in force on the date of the entry into force of a collective labour regulation instrument that deals with this matter.
6 - Violation of the provisions of this article represents a serious administrative offense.

Article 206
Group adaptability

1 - The instrument of collective labour regulation establishing the system of adaptability provided for in Article 204 may provide that:
a) The employer may apply the scheme to all employees of a team, section or economic unit if at least 60% of the workers in that structure are covered by it, by joining a trade union association holding the Convention and by choosing that Convention as applicable;
b) The provisions of the previous paragraph apply as long as the employees of the team, section or economic unit concerned covered by the regime according to the final part of the previous paragraph are equal to or greater than the percentage indicated therein.
2 - If the proposal referred to in paragraph 4 of the preceding article is accepted by at least 75% of the employees of the team, section or economic unit to which it is directed, the employer may apply the same regime to all employees of this structure.
3 - If there is a change due to the entry or exit of employees in the composition of the team, section or economic unit, the provisions of the preceding paragraph apply as long as this change does not result in a percentage lower than indicated therein.
4 - The application of the adaptability regime established under paragraphs 1 or 2 shall not apply in the following situations:
a) A worker covered by a collective contract which disposes of it in a manner contrary to that regime or, in respect of the regime referred to in paragraph 1, a worker represented by a trade union association who has objected to an order extending the collective contract in question; or
b) Worker with a child under 3 years of age who does not express a written agreement.
5 - The practice of working hours in violation of the provisions of this article represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 120/2015 - Official Gazette no. 170/2015, Series I of 2015-09-01, in force from 2015-09-06

Article 207
Reference period

1 - Under the system of adaptability, the average working time is determined by reference to a period established in a collective labour regulation instrument that does not exceed 12 months or, failing that, a period of four months.
2 - In the situation referred to in the last part of the previous paragraph, the reference period may be increased to six months when it is in question:
a) Family worker of the employer;
b) A worker holding a management or administrative position or having autonomous decision-making power;
c) Activity characterized by implying a separation between the workplace and the residence of the worker or between several places of work of the worker;
d) Security and surveillance activity of persons or property on a permanent basis, namely guard, porter or security company worker or surveillance;
e) An activity characterised by the need to ensure continuity of service or production, including:
i) Reception, treatment or care provided by a hospital or similar establishment, including the activity of a physician in training, or by a residential institution or prison;
ii) Port or airport;

iii) Press, radio, television, film production, post office, telecommunications, ambulance service, firefighters or civil protection;
iv) Production, transmission or distribution of gas, water, electricity, waste collection or incineration plants;
v) Industry whose working process cannot be interrupted for technical reasons;
vi) Research and development;
vii) Agriculture;
viii) Transportation of passengers in a regular urban transport service;
f) Foreseeable increase in activity, in particular in agriculture, tourism and postal services;
g) Railway employees who work intermittently on-board trains or for the purpose of ensuring the continuity and regularity of rail traffic;
h) Fortuitous event or force majeure event;
i) Accident or risk of imminent accident.
3 - Notwithstanding the provisions of a collective labour regulation instrument, the reference period may only be changed during its course when objective circumstances justify it and the total hours of work provided do not exceed those that would have been performed had it not been in force the adaptability regime, applying the provisions of paragraph 3 of Article 205 with the necessary adaptations.
4 - Violation of the provisions of the preceding paragraph represents a serious administrative offense.

Article 208
Bank of hours by collective regulation

1 - By means of a collective labour regulation instrument, a system of hours bank may be established, in which the Organisation of working time obeys the provisions of the following paragraphs.
2 - The normal period of work may be increased up to four hours per day and may reach sixty hours per week, with a limit of two hundred hours per year.
3 - The annual limit referred to in the preceding paragraph may be withdrawn by collective labour regulation if the use of the regime is aimed at avoiding a reduction in the number of employees and may only be applied for up to 12 months.
4 - The instrument of collective labour regulation should regulate:
a) The compensation of the work done in addition, which can be done by means of at least one of the following modalities:
i) Sn equivalent reduction in working time;
ii) Increase in the period of leave;
iii) Cash payment;
b) The advance with which the employer must communicate to the worker the need to provide work;
c) The period in which the reduction of working time to compensate for overtime work must take place, at the initiative of the worker or, failing that, of the employer, as well as the reduction.
5 - The practice of working hours in violation of the provisions of this article represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 208-A
Individual hours bank

1 - The hours bank regime may be established by agreement between the employer and the worker, in which case the normal working hours may be increased up to two hours a day and 50 hours a week, with a limit of 150 hours per year, and the same agreement shall regulate the aspects referred to in paragraph 4 of the previous article.
2 - The agreement that establishes the system of hours bank can be concluded by writing in writing to the employer, assuming the acceptance by the worker under the terms of nº 4 of article 205.
3 - The practice of working hours in violation of the provisions of this article represents a serious administrative offence.

Amendments
Addendum to Article 3 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 208-B
Group hours bank

1 - The instrument of collective bargaining that establishes the system of hours bank provided for in article 208 may stipulate that the employer may apply it to all employees of a team, section or economic unit when the conditions referred to in paragraph 1 of Article 206.
2 - If the proposal referred to in paragraph 2 of the previous article is accepted by at least 75% of the employees of the team, section or economic unit to which it is addressed, the employer may apply the same hours to all employees of this structure, and the provisions of paragraph 3 of article 206 shall apply.
3 - Exemption is the application of the system of hours bank established under the terms of the previous numbers in the following situations:
a) A worker covered by a collective contract who opposes such a regime or, in respect of the regime referred to in paragraph 1, a worker represented by a trade union association who has objected to the extension order of the collective contract in question; or
b) A worker with a child under 3 years of age who does not express a written agreement.
4 - Severe contra-ordination represents the practice of working hours in violation of the provisions of this article.

Amendments
Amended by Article 2 of the Law no. 120/2015 - Official Gazette no. 170/2015, Series I of 2015-09-01, in force from 2015-09-06.
Amended by Article 3 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 209
Concentrated schedule

1 - The normal daily working period may increase up to four hours a day:
a) by agreement between an employer and a worker or by a collective regulation instrument, to concentrate the normal weekly working period up to a maximum of four working days;
b) by a collective regulation instrument to establish a working schedule containing a maximum of three consecutive days of work, followed by at least two days' rest, the average working week being period of 45 days.
2 - The system of adaptability cannot be applied simultaneously to employees who are subject to a system of concentrated working hours.
3 - The instrument of collective labour regulation that establishes the concentrated hours regulates the remuneration and other conditions of its application.

Article 210

Exceptions to the maximum limits of the normal working

1 - The limits of the normal period of work set forth in article 203 can only be exceeded in the cases expressly provided for in this Code, or when a collective bargaining instrument permits it in the following situations:
a) In relation to a worker of a non-profit-making entity or closely connected with the public interest, provided that the normal working hours are not subject to such limits;
b) In relation to a worker whose work is markedly intermittent or simple.
2 - Whenever the entity referred to in subparagraph a) of the preceding paragraph continues industrial activity, the normal working period shall not exceed forty hours per week, in the average of the applicable reference period.

Article 211

Maximum weekly working time limit

1 - Notwithstanding Articles 203 to 210, the average weekly working time, including additional work, may not exceed forty-eight hours, during a reference period established in a collective labour regulation instrument that does not exceed 12 months or, failing that, in a reference period of four months or six months in the cases referred to in paragraph 2 of Article 207.
2 - In calculating the average referred to in the preceding paragraph, the leave days are subtracted from the reference period in which they are taken.
3 - Days of sick leave, as well as days of parental leave, initial or complementary, and leave to assist a child with a disability or chronic illness shall be considered based on the corresponding normal working hours.
4 - The provisions of the previous numbers shall not apply to a worker who holds a management or administrative position or who has autonomous decision-making power, which is exempt from working hours, pursuant to paragraph 1 a) or b) of Article 219

Subsection III
Work schedule

Article 212

Elaboration of working hours

1 - It is for the employer to determine the working hours of the employee, within the limits of the law, namely the applicable period of operation regime.
2 - In the elaboration of working hours, the employer must:
a) Take priority consideration of the requirements of protection of the health and safety of the worker;
b) To facilitate to the worker the conciliation of the professional activity with the familiar life;
c) To facilitate to the worker the attendance of school course, as well as technical or professional training.
3 - The employees' commission or, failing that, the trade union commissions, the trade union commissions or the trade union delegates must be consulted in advance on the definition and organisation of working hours.
4 - Violation of the provisions of paragraphs 2 or 3 represents a serious administrative offense.

Article 213

Rest interval

1 - The daily work period shall be interrupted by a rest interval of not less than one hour nor more than two hours, so that the worker does not provide more than five hours of consecutive work or six hours of consecutive work if that period exceeds 10 hours.
2 - By means of a collective labour regulation instrument, work may be allowed up to six consecutive hours and the rest interval may be shortened, excluded or lasting longer than that provided for in the preceding paragraph, as well as the existence of other rest intervals.
3 - It is incumbent upon the service with inspection authority of the ministry responsible for the labour area, upon request of the employer, accompanied by a written declaration of agreement of the worker concerned and information to the company's employees' committee and the representative union of the worker concerned, authorize the reduction or exclusion of rest intervals, where this is favourable to the employee's interests or justified by the particular working conditions of certain activities.
4 - The application referred to in the previous number that is not decided within a period of 30 days shall be considered tacitly granted.
5 - The change of rest interval provided for in the previous numbers that entails more than six hours of consecutive work is not allowed, except for activities of operational personnel of surveillance, transportation and treatment of electronic security systems and industries in which the process of not be interrupted for technical reasons as well as for employees in management and administrative positions and other persons with autonomous decision-making powers who are exempt from working hours.
6 - Violation of the provisions of paragraphs 1 and 5 represents serious administrative offence.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 214
Daily rest

1 - The worker shall be entitled to a rest period of at least eleven consecutive hours between two consecutive daily periods of work.
2 - The provisions of the previous number shall not apply:
a) A worker holding a management or administrative position or having autonomous decision-making power, which is exempt from working hours;
b) Where additional work is required on grounds of force majeure or because it is essential to repair or prevent serious injury to the undertaking or its viability due to an accident or the risk of an imminent accident;
c) When the normal period of work is divided during the day on the basis of characteristic of the activity, in particular in cleaning services;
d) In an activity characterised by the need to ensure continuity of service or production, in particular that referred to in subparagraphs d) and e) of paragraph 2 of Article 207, with the exception of subparagraph e) viii); and in case of a foreseeable increase in activity in tourism, provided that a collective labour regulation instrument assures the worker an equivalent period of compensatory rest and regulates the period in which it is to be enjoyed.
3 - In case provided for in subparagraph a) or b) of the previous number, between two consecutive daily periods of work shall be observed a period of rest that allows the recovery of the worker.
4 - A violation of the provisions of paragraphs 1 or 3 shall represent a serious administrative offense.

Article 215

Map of working hours

1 - The employer draws up the work schedule considering the legal provisions and the applicable collective labour regulation instrument, which must include:
a) The name or business name of the employer;
b) Activity exercised;
c) The location and workplace of the employees to whom the timetable applies;
d) Start and end of the period of operation and, if any, day of closure or suspension of operation of the company or establishment;
e) Start and end times of normal work periods, with periods of rest;
f) Week of mandatory rest and weekly rest, if any;
g) Applicable collective labour regulation instrument, if any;
h) Regime resulting from an agreement that establishes adaptable working hours, if any.
2 - Where the information referred to in the preceding paragraph is not common to all employees, the work schedule shall contain the identification of employees whose system is different from that established for the rest, notwithstanding paragraph 4.
3 - Whenever working hours include shifts, the map should also indicate the number of shifts and those in which there are minor shifts, as well as the rotation scale, if any.
4 - The composition of the shifts, according to the corresponding scale, if it exists, is recorded in the book or in computerized form and is an integral part of the work schedule.
5 - Violation of the provisions of this article represents a serious administrative offense.

Article 216

Affixation of the working time map

1 - The employer displays the map of working hours in the workplace to which he refers, in a prominent place.
2 - When several companies, establishments or services simultaneously carry out activities in the same workplace, the owner of the premises must consent to the display of the different working time maps.
3 - (Repealed).
4 - The conditions for publicizing the working hours of a worker assigned to the operation of a motor vehicle are set out in an order of ministers responsible for the labour area and the transport sector.
5 - It is an offense to breach the provisions of paragraphs 1 and 2.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 217

Changing working hours

1 - To the modification of working hours, the provisions on its elaboration, with the specificities in the following numbers, shall apply.
2 - The change of working hours shall be preceded by consultation of the employees concerned and the employees' committee or, failing that, of the trade union or inter-union commission or trade union delegates, and, even if the adaptability regime is in force, be affixed in the company seven days before the start of its application, or three days in the case of micro companies.

3 - Except as provided in the previous number, a change in working hours not exceeding one week, provided that it is recorded in the proper book, mentioning that the structure of collective representation of employees referred to in number employer does not use this regime more than three times a year.
4 - The time individually agreed cannot be unilaterally changed.
5 - The change that implies an increase of expenses for the worker confers the right to economic compensation.
6 - Violation of the provisions of this article represents a serious administrative offense.

Subsection IV
Exemption from working hours

Article 218
Conditions for exemption from working hours

1 - By written agreement, a worker who is in one of the following situations may be exempted from working hours:
a) Exercise of position of administration or direction, or functions of confidence, supervision or support to the holder of these positions;
b) Carrying out preparatory or Additional work which, by its nature, can only be carried out outside the limits of working hours;
c) Telework and other cases of regular exercise of activity outside the establishment, without immediate control by a hierarchical superior.
2 - The instrument of collective labour regulation may provide for other situations of admissibility of exemption from working hours.
3 - (Revoked).
4 - (Revoked).

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 219
Modalities and effects of exemption from working hours

1 - The parties may agree on one of the following exemptions from working hours:
a) Non-compliance with the normal working hours;
b) Possibility of a certain increase in the normal working hours, per day or per week;
c) Observance of the agreed normal working period.
2 - In the absence of stipulation of the parties, the provisions of subparagraph a) of the previous paragraph shall apply.
3 - The exemption does not prejudice the right to a weekly, compulsory or complementary rest day, to a holiday or daily rest.
4 - Violation of the provisions of the preceding paragraph represents a serious administrative offense.

Subsection V
Shift work

Article 220
Notion of shift work

Shift work shall mean any organisation of teamwork in which the employees occupy the same jobs successively, at a certain rate, including the rotating, continuous or discontinuous, being able to perform the work at different times over a given period of days or weeks.

Article 221
Organisation of shifts

1 - Shifts of different staff should be organised whenever the operating period exceeds the maximum limits of the normal working period.
2 - Shifts shall, as far as possible, be organised according to the interests and preferences expressed by the employees.
3 - The working hours of each shift shall not exceed the maximum limits of normal working hours.
4 - The worker can only change shifts after the weekly rest day.
5 - Shifts in the continuous working regime and those of employees who provide services that cannot be interrupted, in particular in the situations referred to in article 207, paragraph 2, points d) and e), shall be organised according to employees in each shift shall enjoy at least one day of rest in each seven-day period, notwithstanding the excess rest period to which they are entitled.
6 - The employer must have separate registration of the employees included in each shift.
7 - Violation of the provisions of paragraphs 3, 4, 5 or 6 represents a serious administrative offense.

Article 222
Work safety and health protection

1 - The employer shall organise occupational safety and health activities in such a way that shift employees shall enjoy a level of safety and health protection appropriate to the nature of their work.
2 - The employer shall ensure that the means of protection and prevention in respect of the safety and health of shift employees are equivalent to those applicable to other employees and are available at any time.
3 - Violation of the provisions of this article represents a serious administrative offense.

Subsection VI
Night work

Article 223
Notion of night work

1 - Night work shall be deemed to be provided for a period of at least seven hours and a maximum of 11 hours, comprising the interval between 0 and 5 hours.
2 - The night work period can be determined by a collective labour regulation instrument, in compliance with the provisions of the previous number, considering as such, in the absence of that determination, the one between the hours of one day and seven hours the next day.

Article 224
Duration of night work

1 - Night employees shall be those who provide at least three hours of normal night work each day or who perform during part of the night part of their annual working time corresponding to three hours per day or another defined by an instrument of collective labour regulation.
2 - The normal working period of a night worker, when there is an adaptability regime, shall not exceed eight hours a day, on average weekly, notwithstanding the provisions of a collective labour regulation instrument.
3 - For the calculation of the average referred to in the previous number, the days of weekly or mandatory rest are not counted and the public holidays.
4 - The night worker shall not work more than eight hours in a period of twenty-four hours in which he performs night work in any of the following activities involving special risks or significant physical or mental stress:
a) Monotonous, repetitive, cadenced or isolated;
b) In construction, demolition, excavation, land movement, or tunneling, railroad or highway intervention without interruption of traffic, or with a risk of fall from height or burial;
c) The extractive industry;
d) The manufacture, transport or use of explosives and pyrotechnics;
e) Involving contact with medium or high voltage electric current;
f) The production or transport of compressed, liquefied or dissolved gases or with significant use thereof;
g) That, depending on the evaluation of the risks to be carried out by the employer, they assume particular painfulness, danger, insalubrity or toxicity.
5 - The provisions of the previous numbers shall not apply to a worker who is in charge of administration or management or who has autonomous decision-making power that is exempt from working hours.
6 - The provisions of paragraph 4 shall also not apply:
a) Where the provision of additional work is necessary on grounds of force majeure or to prevent or remedy serious injury to the undertaking or its viability due to an accident or the risk of an imminent accident;
b) The activity characterised by the need to ensure continuity of service or production, in particular that referred to in subparagraphs d) to f) of paragraph 2 of article 207, provided that by collective contract the worker is granted equivalent period of compensatory rest.
7 - Violation of the provisions of paragraphs 2 or 4 represents a serious administrative offense.

Article 225
Protection of night employees

1 - The employer shall provide free and confidential health examinations to the night worker for the purpose of assessing his state of health prior to his placement and thereafter at regular intervals and at least annually.
2 - The employer shall assess the risks inherent in the employee's activity, considering in particular his or her physical and mental condition, before starting the activity and thereafter every six months, as well as before changing working conditions.
3 - The employer must keep the record of the evaluation made according to the previous number.
4 - The provisions of article 222 apply to night employees.
5 - Whenever possible, the employer must ensure that the worker suffering from a health problem related to the provision of night work is assigned to day work that he is able to perform.
6 - The employer must consult the employees' representatives for occupational safety and health or, in the absence thereof, the worker himself, on the assignment to night work, the organisation of the worker that best suits the worker, and safety and health.
7 - Violation of the provisions of this article represents a serious administrative offense.

Subsection VII
Additional work

Article 226
Notion of additional work

1 - Additional work is considered work outside of working hours.
2 - If the agreement on exemption from working hours has limited its provision to a certain period of work, daily or weekly, additional work is considered to be in excess of that period.
3 - The notion of additional work is not understood:
a) The one provided per worker exempt from working hours in normal working day, notwithstanding the provisions of the previous number;
b) Compensation for the suspension of activity, regardless of cause, lasting not more than forty-eight hours, followed or interpolated by a day of rest or holiday, by agreement between the employer and the worker;
c) The fifteen-minute tolerance provided for in paragraph 3 of Article 203;
d) Professional training undertaken outside working hours not exceeding two hours per day;
e) The work provided under the conditions set forth in subparagraph b) of paragraph 1 of article 257;
f) The work provided to compensate periods of absence to work, carried out at the initiative of the worker, provided that both have the agreement of the employer.
g) The work done to compensate closure for holidays provided for in subparagraph b) of paragraph 2 of article 242, by decision of the employer.
4 - In the situation referred to in subparagraph f) of paragraph 3, the work done for compensation may not exceed the daily limits of paragraph 1 of article 228.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 227
Conditions for the provision of additional work

1 - Additional work may only be provided when the company has to cope with any temporary and temporary increase in work and the admission of a worker is not justified.
2 - Additional work may also be carried out in the event of force majeure or where it is indispensable to prevent or remedy serious damage to the undertaking or its viability.
3 - The employee is obliged to carry out the Additional work, except when, for good reasons, he expressly requests its dispensation.
4 - Violation of the provisions of paragraphs 1 or 2 represents a very serious administrative offense.

Article 228
Limits on the duration of Additional work

1 - The additional work provided for in paragraph 1 of the previous article is subject, per worker, to the following limits:
a) In the case of a microenterprise or small business, one hundred and seventy-five hours per year;
b) In the case of medium or large companies, one hundred and fifty hours per year;

c) in the case of a part-time worker, 80 hours per year or the number of hours corresponding to the ratio between his normal period of work and that of full-time worker in a comparable situation, whichever is higher;
d) In normal working day, two hours;
e) On a weekly, compulsory or supplementary day of rest or holiday, a number of hours equal to the normal daily working time;
f) At half a day of rest, a number of hours equal to a normal daily working period.
2 - The limit referred to in subparagraph a) or b) of the previous paragraph may be increased up to two hundred hours per year, by collective labour regulation instrument.
3 - The limit referred to in subparagraph c) of paragraph 1 may be increased, by written agreement between the worker and the employer, up to one hundred and thirty hours per year or, by collective labour regulation instrument, up to two hundred hours per year.
4 - The additional work provided for in paragraph 2 of the previous article is only subject to the limit of the weekly working period in paragraph 1 of article 211.
5 - Violation of the provisions of paragraph 1 represents a very serious administrative offense and violation of the provisions of paragraph 2 represents a serious administrative offense.

Article 229

Additional work compensatory rest

1 - (Revoked).
2 - (Revoked).
3 - The worker who provides Additional work impeding the enjoyment of daily rest is entitled to remunerated compensatory rest equivalent to the hours of rest lacking, to enjoy in one of the following three working days.
4 - The worker who provides work on a compulsory weekly rest day is entitled to a paid compensatory rest day, to be enjoyed within one of the following three working days.
5 - The compensatory rest is marked by agreement between worker and employer or, failing that, by the employer. 6 - (Repealed).
7 - Violation of the provisions of paragraphs 3 and 4 represents a very serious administrative offence.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 230

Special additional work arrangements

1 - The provision of additional work, on a compulsory weekly rest day, not exceeding two hours due to unforeseen absence of a worker who was to take up the position on the next shift, entitles him to compensatory rest according to previous article.
2 - (Revoked).
3 - (Revoked).
4 - The limits of duration and the compensatory rest of additional work provided to ensure shifts of service of pharmacies for sale to the public are contained in specific legislation.
5 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 231
Additional work record

1 - The employer must have an additional work record in which, before the beginning of the work of Additional work and soon after its completion, the hours in which each of the situations occurs are recorded.
2 - The employee must apply for the registration referred to in the previous number, if not done by him, immediately after the provision of additional work.
3 - A worker who carries out Additional work outside the company must register immediately after his return to the company or by sending him duly endorsed, and in any case the company must have the required record within 15 days of provision.
4 - The registration must include the express indication of the basis of the Additional work and the compensatory rest periods enjoyed by the worker, as well as other elements indicated in the corresponding model, approved by ordinance of the minister responsible for labour area.
5 - Violation of the provisions of the preceding paragraphs gives the employee, for each day he has worked outside of working hours, the right to compensation corresponding to two hours of additional work.
6 - The Additional work record shall be made in adequate documentary format, in particular printed forms adapted to the company's attendance control system, allowing immediate consultation and printing, and shall be kept up to date without unfixed alterations or erasures.
7 - The employer must communicate, under the terms provided in a decree of the minister responsible for labour area, to the service with inspection authority of the ministry responsible for labour area the nominal ratio of the employees who provided additional work during the previous calendar year, with a breakdown of the number of hours provided under paragraph 1 or 2 of Article 227, endorsed by the employees' commission or, failing that, in the case of an affiliated worker, by the corresponding union.
8. The employer shall maintain for a period of five years a nominal list of employees who have carried out additional work, with a breakdown of the number of hours provided under paragraph 1 or 2 of Article 228 and an indication of the days of the corresponding compensatory rest periods.
9 - Violation of the provisions of paragraphs 1, 2, 4 or 7 represents a serious administrative offense and it is a minor administrative offense to violate the provisions of paragraph 8.

Subsection VIII
Weekly rest

Article 232
Weekly rest

1 - The worker is entitled to at least one day of rest per week.
2 - The mandatory weekly rest day may cease to be Sunday, in addition to other cases provided for in special legislation, when the worker provides:
a) In a company or business sector which is exempt from closing or suspending operations on a full day per week, or which is obliged to close or suspend operations on a day other than Sunday;
b) In a company or sector of undertakings whose operation cannot be interrupted;
c) In activity that must take place on day of rest of the remaining employees;
d) Under surveillance or cleaning activities;
e) In exhibition or fair.
3 - By means of collective labour regulation or employment contract, a weekly rest period, continuous or discontinuous, may be established in all or some weeks of the year.

4 - The employer should, whenever possible, provide weekly rest on the same day to employees of the same household who request it.
5 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Article 233
Cumulation of weekly rest and daily rest

1 - The compulsory weekly rest and a period of eleven hours corresponding to the daily rest established in article 214 must be taken in continuity.
2 - The period of eleven hours referred to in the preceding paragraph shall be deemed to have been fulfilled, in whole or in part, by the additional weekly rest taken in continuity with the compulsory weekly rest.
3 - The provisions of paragraph 1 shall not apply:
a) A worker holding a management or administrative position or having autonomous decision-making power that is exempt from working hours;
b) When the normal working period is split over the course of the day on the basis of activity characteristics, in particular cleaning services;
c) In the situation referred to in subparagraphs d), e), h) or i) of paragraph 2 of Article 207, with the exception of subparagraph e) (viii);
d) In a situation of foreseeable increase of activity in the tourism.
4 - A violation of the provisions of paragraph 1 represents a serious administrative offense.

Subsection IX
Holidays

Article 234
Required holidays

1 - The following are compulsory holidays: 1 January, Holy Friday, Easter Sunday, 25 April, 1 May, Corpus Christi, 10 June, 15 August, 5 October, 1 November, 1, 8 and 25 December.
2 – The Holy Friday holiday can be observed on another day with local significance in the Easter period.
3 - Under specific legislation, certain mandatory holidays may be observed on the Monday of the following week.

Amendments
Amended by Article 2 of the Law no. 8/2016 - Official Gazette no. 64/2016, Series I of 2016-04-01, in force from 2016-04-02
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01, produces effect from 2013-01-01

Article 235
Optional holidays

1 - In addition to the mandatory holidays, can be observed as a holiday, by means of collective labour regulation or employment contract, on Tuesday Carnival and the municipal holiday of the locality.
2 - In substitution of any holiday referred to in the preceding number, another day may be observed in which the employer and worker agree.

Article 236
Holidays regime

1 - On days considered as a mandatory holiday, all activities that are not permitted on Sundays must be closed or suspended.
2 - The instrument of collective labour regulation or the employment contract cannot establish holidays different from those indicated in the previous articles.

Subsection X
Holidays

Article 237
Holidays entitlement

1 - The employee is entitled, in each calendar year, to a period of paid holidays, which expires on 1 January.
2 - The right to leave, as a rule, refers to work performed in the previous calendar year, but is not conditional on attendance or effectiveness of service.
3 - The right of holidays is inalienable, and its enjoyment cannot be replaced, even with the agreement of the worker, by any compensation, economic or otherwise, notwithstanding the provisions of paragraph 5 of the following article.
4 - The right of holidays must be exercised in order to provide the worker with physical and psychological recovery, conditions of personal availability, integration in family life and social and cultural participation.

Article 238
Duration of the holiday period

1 - The annual holidays period has a minimum duration of 22 working days.
2 - For holidays, the weekdays from Monday to Friday, except public holidays, are working days.
3 - If the employees' rest days coincide with working days, Saturdays and Sundays other than public holidays are considered for the purposes of calculating holidays days, instead of Saturdays and Sundays.
4 - (Repealed).
5 - The employee may waive days of leave that exceed 20 working days, or the corresponding proportion in the case of vacations in the year of admission, without reduction of the remuneration and the allowance related to the holidays period due, which accrue to the remuneration of the work performed on those days.
6 - Violation of the provisions of paragraphs 1 and 5 represents serious administrative offence.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 239
Special cases of holiday duration

1 - In the year of admission, the worker shall be entitled to two working days of leave for each month of the duration of the contract, up to 20 days, the enjoyment of which may take place after six full months of performance of the contract.

2 - In the case of the calendar year ending before the expiration of the period referred to in the preceding paragraph, the vacations shall be taken until 30 June of the following year.
3 - The application of the provisions of the previous numbers cannot result in the enjoyment, in the same calendar year, of more than 30 working days of holidays, notwithstanding the provisions of a collective labour regulation instrument.
4 - In case the duration of the employment contract is less than six months, the employee is entitled to two business days of leave for each full month of the duration of the contract, counting to this effect every day followed or interpolated to provide of work.
5 - The holidays referred to in the preceding number shall be taken immediately before the termination of the contract, unless otherwise agreed by the parties.
6 - In the year of the termination of a prolonged disability initiated in a previous year, the worker shall be entitled to leave under the terms of paragraphs 1 and 2.
7 - Violation of the provisions of paragraphs 1, 4, 5 or 6 represents a serious administrative offense.

Article 240
Year of holidays

1 - Holidays are taken in the calendar year in which they expire, notwithstanding the provisions of the following paragraphs.
2 - Holidays may be taken up to 30 April of the following calendar year, in addition to or without holidays expired at the beginning of the holiday, by agreement between an employer and an employee or whenever the latter intends to enjoy them with a family member residing abroad.
3 - The enjoyment of half of the holidays period due in the previous year may be cumulated with the one due in the year in question, by agreement between employer and employee.
4 - Violation of the provisions of this article represents a serious administrative offense.

Article 241
Holiday time setting

1 - The holiday period is marked by agreement between employer and worker.
2 - In the absence of an agreement, the employer shall mark the leave, which cannot begin on the employee's weekly rest day, hearing the employees' committee or, failing that, the inter-union commission or the trade union commission representative of the worker interested.
3 - In small, medium or large companies, the employer may only mark the holiday period between 1 May and 31 October, unless the instrument of collective labour regulation or the opinion of the employees' representatives admits a different time.
4 - In the absence of an agreement, an employer engaged in tourism-related activity is obliged to mark 25% of the leave to which employees are entitled, or a higher percentage resulting from a collective labour regulation instrument, between 1 May and 31 October, which is enjoyed consecutively.
5 - In case of termination of the employment contract subject to prior notice, the employer may determine that the enjoyment of leave takes place immediately prior to termination.
6 - When booking holidays, the most desired periods should be apportioned, whenever possible, alternately benefiting employees according to the periods taken in the previous two years.
7 - Spouses, as well as persons living together or in the common economy under the terms provided for in specific legislation, who work in the same undertaking or establishment, shall enjoy the right to enjoy vacations in the same period, unless there is serious prejudice to the company.

8 - The enjoyment of the holiday period may be interpolated, by agreement between employer and employee, provided that they are enjoyed for at least 10 consecutive working days.
9 - The employer shall draw up a holiday map, indicating the start and end of each employee's holidays periods, by 15 April of each year and shall keep it posted at the workplace between that date and 31 October.
10 - Violation of the provisions of paragraphs 2, 3 or 4 represents a serious administrative offense and it is a minor administrative offense to violate the provisions of any of the other paragraphs of this article.

Article 242
Holiday closure

1 - Whenever it is compatible with the nature of the activity, the employer may terminate the undertaking or establishment in whole or in part for the employees' holidays:
a) Up to fifteen consecutive days between 1 May and 31 October;
b) For a period of more than fifteen consecutive days or outside the period stipulated in the previous paragraph, when this is fixed in a collective regulation instrument or with a favourable opinion of the employees' committee;
c) For a period exceeding 15 consecutive days, from 1 May to 31 October, when the nature of the activity so requires.
2 - The employer may terminate the business or establishment, totally or partially, for holidays of the employees:
a) During five consecutive business days during the Christmas school holiday season;
b) A day that is between a holiday that occurs on Tuesday or Thursday and a weekly rest day, notwithstanding the option provided for in subparagraph g) of paragraph 3 of article 226.
3 - By 15 December of the previous year, the employer must inform the covered employees of the closure to be carried out in the following year under subparagraph b) of the previous number.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01, produces effect from 2013-01-01

Article 243
Alteration of the holiday period by reason of the company

1 - The employer may change the period of holidays already marked or interrupt those already initiated by imperative requirements of the operation of the company, and the worker is entitled to compensation for the damages suffered by failing to enjoy the holidays during the marked period.
2 - The interruption of vacations shall allow enjoyment followed by half of the period to which the worker is entitled.
3 - In case of termination of the employment contract subject to prior notice, the employer may change the marking of leave, pursuant to the provisions of paragraph 5 of article 241.
4 - A breach of the provisions of paragraphs 1 or 2 shall represent an offense.

Article 244
Alteration of the holidays period by reason of the worker

1 - The enjoyment of holidays does not commence or is suspended when the worker is temporarily prevented by illness or other fact that is not attributable to him, provided that the employer is informed thereof.
2 - In the case referred to in the preceding paragraph, the leave shall take place after the end of the impediment to the extent of the remainder of the established period, and the period corresponding to the days not taken shall be marked by agreement or, failing this, by the employer, without subject to paragraph 3 of Article 241.
3 - In the event of the total or partial impossibility of taking leave on the ground that the worker is prevented from working, he shall be entitled to the remuneration corresponding to the period of leave not taken or to his enjoyment until 30 April of the following year and, to the corresponding subsidy.
4 - The illness of the worker during the holidays period shall be subject to the provisions of paragraphs 2 and 3 of article 254.
5 - The provisions of paragraph 1 shall not apply if the worker opposes the verification of the disease situation according to article 254.
6 - Violation of the provisions of paragraphs 1, 2 or 3 represents a serious administrative offense.

Article 245

Effects of termination of employment contract on holidays entitlement

1 - Terminating the employment contract, the employee is entitled to receive the holiday pay and the corresponding allowance:
a) Corresponding to holidays due and not taken;
b) Proportional to the length of service provided in the year of termination.
2 - In the case referred to in subparagraph a) of the preceding paragraph, the holidays period shall be considered for seniority purposes.
3 - In the event of termination of contract in the calendar year following the date of admission or whose duration does not exceed 12 months, the total amount of the holiday or of the corresponding remuneration to which the worker is entitled may not exceed that proportional to the annual leave period considering the duration of the contract.
4 - Termination of the contract after prolonged incapacitation of the worker, he is entitled to the remuneration and holidays allowance corresponding to the length of service rendered in the year of commencement of the suspension.
5 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Article 246

Breach of holiday entitlement

1 - If the employer is not guilty of the holidays under the terms provided in the previous articles, the employee is entitled to compensation in the amount of three times the remuneration corresponding to the period that is missing, which must be taken before April 30 of the following calendar year.
2 - Violation of the provisions of the preceding paragraph represents a serious administrative offense.

Article 247

Exercise of another activity during vacations

1 - The employee may not carry out any other remunerated activity during holidays, except when he or she has already exercised it cumulatively or the employer authorises it.

2 - In case of breach of the provisions of the previous number, notwithstanding the possible disciplinary liability of the employee, the employer is entitled to recover the remuneration corresponding to the leave and the corresponding allowance, half of which revert to the department responsible for the financial management of the budget social security.
3 - For the purposes of the previous paragraph, the employer may make deductions from the remuneration, up to a limit of one sixth, in respect of each of the subsequent maturity periods.

Subsection XI
Absences

Article 248
Notion of absence

1 - The absence of a worker from the place where he was to work during the normal daily working period is considered absent.
2 - In case of absence of the worker for periods shorter than the normal daily working period, the corresponding times are added to determine the lack.
3 - If the duration of the normal daily working period is not uniform, the average duration for the purposes of the previous paragraph shall be considered.

Article 249
Types of absence

1 - The absence may be justified or unjustified.
2 - Justified absences are considered:
a) Those given, for 15 consecutive days, at the time of marriage;
b) A motivated by the death of a spouse, relative or similar, under the terms of article 251;
c) Motivated by the provision of evidence in an educational establishment, according to article 91;
d) Motivated by the impossibility of providing work due to a fact not attributable to the worker, namely compliance with medical prescription following the use of medically assisted procreation technique, illness, accident or compliance with legal obligation;
e) Motivated by the provision of urgent and essential assistance to a child, grandchild or member of the employee's household, according to articles 49, 50 or 252, respectively;
f) Motivated by the transfer to educational institution of responsible for the education of minor by reason of the educational situation of this minor, by the strictly necessary time, until four hours by quarter, by each one;
g) A worker elected for a structure of collective representation of employees, according to article 409;
h) A candidate for public office, according to the corresponding electoral law;
i) The one authorised or approved by the employer;
j) That by law is considered as such.
3 - Any absence not considered in the previous number is considered unjustified.

Article 250
Imperative of the absence regime

Provisions relating to reasons justifying absences and their duration cannot be excluded by a collective labour regulation instrument, except in relation to the situation provided for in subparagraph g) of paragraph 2 of the previous article and provided that in a more favourable worker, or by employment contract.

Article 251

Absence due to the death of a spouse or relatives

1 - The worker may justifiably miss:

a) Up to five consecutive days, due to the death of a spouse not separated from persons and property or relative in the first degree in the straight line;
b) Up to two consecutive days, due to the death of another relative in the straight line or in the second degree of the collateral line.
2 - The provisions of subparagraph a) of the preceding paragraph shall apply in the event of the death of a person living in union or common economy with the worker, under the terms provided for in specific legislation.
3 - Violation of the provisions of this article represents a serious administrative offense.

Article 252

Absence for household member assistance

1 - The worker has the right to be absent from work up to 15 days a year in order to provide urgent and indispensable assistance, in case of illness or accident, to the spouse or person living in union or common economy with the worker, relative or ascending straight line or in the 2nd degree of the collateral line.
2 - The period of absence provided for in the preceding paragraph adds 15 days per year, in the case of providing urgent care and essential to a person with a disability or chronic illness, who is spouse or lives in union with the worker.
3 - In the case of assistance to a relative or a relative in the ascending straight line, membership of the same household is not required.
4 - To justify the absence, the employer may require the worker:
a) Proof of the urgency and indispensable nature of the assistance;
b) Declaration that the other members of the household, if they are working, did not lack for the same reason or are unable to provide the assistance;
c) In the case of the previous number, a declaration that other family members, if they are working, did not lack for the same reason or are unable to provide the assistance.

Article 253

Absence communication

1 - The absence, when foreseeable, is communicated to the employer, accompanied by the indication of the justification, at least five days in advance.
2 - If the advance provided for in the previous number cannot be respected, in particular because the absence is unforeseeable with five days in advance, communication to the employer is made as soon as possible.
3 - The absence of a candidate for public office during the legal period of the electoral campaign shall be communicated to the employer at least forty-eight hours in advance.

4 - The communication shall be repeated in the event of absence immediately following that provided for in a communication referred to in one of the preceding paragraphs, even if the absence determines the suspension of the employment contract due to prolonged disability.
5 - Failure to comply with the provisions of this article determines that the absence is unjustified.

Article 254
Proof of reason for absence

1 - The employer may, within 15 days of the notification of absence, require the worker to provide evidence of his or her reasons for doing so within a reasonable time.
2 - Proof of the employee's illness situation is made by declaration of a hospital, health centre or medical certificate.
3 - The illness situation referred to in the previous number may be checked by a doctor, according to specific legislation.
4 - The presentation to the employer of a medical statement with fraudulent intention represents a false declaration for the purpose of just cause of dismissal.
5 - Failure to comply with the obligation provided for in paragraphs 1 or 2, or uncontested objection to the verification of the disease referred to in paragraph 3, determines that the absence is considered unjustified.

Article 255
Effects of justified absence

1 - The justified absence does not affect any right of the employee, except as provided in the following number.
2 - Notwithstanding other legal provisions, the following justified absences determine the loss of remuneration:
a) On grounds of sickness, provided that the worker benefits from a social security regime for the protection of the sickness;
b) Due to a work accident, provided that the employee is entitled to any allowance or insurance;
c) Those provided for in Article 252;
d) Those provided for in subparagraph j) of paragraph 2 of article 249 when they exceed 30 days a year;
e) Those authorised or approved by the employer.
3 - The absence provided for in Article 252 shall be considered as actual work.

Article 256
Effects of unjustified absence

1 - The unjustified absence represents a violation of the duty to assiduity and determines loss of the remuneration corresponding to the period of absence, which is not counted in the seniority of the worker.
2 - The unjustified absence of one or more normal daily working hours, immediately preceding or following a day or a half of rest or a public holiday, shall represent a serious infringement.
3 - In the situation referred to in the preceding paragraph, the period of absence to be considered for the purposes of the loss of remuneration provided for in paragraph 1 shall include days or half-days of rest or holidays immediately preceding or following the day of absence.
4 - In the case of presentation of an employee with unjustified delay:
a) In excess of sixty minutes and to commence daily work, the employer may not accept work during the normal period of work;

b) If the employer exceeds thirty minutes, the employer may not accept the work during that part of the normal working period.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 257
Replacement of loss of remuneration due to absence

1 - The loss of remuneration due to absences may be replaced:
a) For waiver of holidays days in equal number, to the extent permitted by paragraph 5 of article 238, upon express declaration of the worker communicated to the employer;
b) For work in excess of the normal period, within the limits set forth in article 204 when the collective labour regulation instrument allows it.
2 - The provisions of the previous number do not imply a reduction of the holidays allowance corresponding to the holidays period due.

Chapter III
Remuneration and other capital benefits

Section I
General Remuneration Provisions

Article 258
General Principles on retribution

1 - It is considered remuneration the benefit to which, according to the contract, the rules that govern it or the uses, the worker is entitled in exchange for his work.
2 - The remuneration comprises the basic remuneration and other regular and periodic benefits made, directly or indirectly, in cash or in kind.
3 - It is presumed to represent remuneration any benefit of the employer to the worker.
4 - The corresponding guarantee regime provided for in this Code shall apply to the installment qualified as compensation.

Article 259
Remuneration in kind

1 - Non-pecuniary compensation shall be intended to meet the personal needs of the worker or his or her family and may not be assigned a higher value than the current one in the region.
2 - The value of non-pecuniary remuneration benefits may not exceed that of the party in cash, except as provided in a collective labour regulation instrument.

Article 260
Services included or excluded from consideration

1 - Do not consider retribution:

a) Sums received in respect of daily subsistence allowances, travel allowances, transport costs, installation allowances and other equivalent charges due to the worker for travel, new premises or expenses incurred on his employer's service, except where such travel or such expenses, in excess of their normal amounts, have been provided for in the contract or must be considered as uses as an integral part of the employee's remuneration;
b) The bonus or extraordinary benefits granted by the employer as a reward or reward for the good results obtained by the company;
c) Benefits derived from facts related to the professional performance or merit, as well as the attendance of the employee, whose payment, in the corresponding reference periods, is not guaranteed in advance;
d) The profit sharing of the company, provided that the employee is assured by the contract a certain remuneration, variable or mixed, appropriate to his work.
2 - The provisions of subparagraph a) of the previous paragraph shall apply, mutatis mutandis, to the credit for deficiencies and to the meal allowance.
3 - The provisions of paragraph 1 b) and c) shall not apply to:
a) Bonuses due under the contract or the rules which govern it, even if their award is conditional upon the good services of the worker, or to those which, by their importance and regular and permanent nature, be considered as an integral element of the remuneration of the latter;
b) Benefits relating to the results obtained by the undertaking when, both in its title and in its regular and permanent allocation, they are stable, irrespective of the variability of their amount.

Article 261
Modalities of remuneration

1 - The retribution can be certain, variable or mixed, being this one established by a certain part and another variable.
2 - The remuneration calculated according to working time is certain.
3 - In order to determine the value of the variable remuneration, when the corresponding criterion does not apply, the average of the amounts of the benefits corresponding to the last 12 months or the time of performance of the contract that has lasted the least time is considered.
4 - If the process established in the previous number is not practicable, the calculation of the variable remuneration is made according to the provisions of collective labour regulation or, failing that, according to the discretion of the judge.

Article 262
Calculation of supplementary or ancillary benefit

1 - Where a legal, contractual or contractual provision does not provide otherwise, the basis for calculating the supplementary or ancillary benefit consists of the basic and daily remuneration.
2 - For the purpose of the previous paragraph, the following definitions shall apply:
a) Basic remuneration, the benefit corresponding to the activity of the worker in the normal period of work;
b) Diuturnity, the benefit of a salary nature to which the employee is entitled based on seniority.

Article 263
Christmas allowance

1 - The employee is entitled to a Christmas allowance equal to one month's salary, which must be paid by December 15 of each year.
2 - The value of the Christmas allowance is proportional to the length of service provided in the calendar year, in the following situations:
a) In the year of admission of the worker;
b) In the year of termination of the employment contract;
c) In case of suspension of employment contract due to the worker.
3 - Violation of the provisions of this article represents a very serious administrative offense.

Amendments
Suspended by Article 6 of the Law no. 11/2013 - Official Gazette no. 19/2013, Series I of 2013-01-28, in force from 2013-01-29, produces effect from 2013-01-01, suspended from 2013-01-01

Article 264
Holidays allowance and remunerations

1 - The remuneration of the holidays period corresponds to that which the employee would receive if he was in effective service.
2 - In addition to the remuneration mentioned in the preceding paragraph, the employee is entitled to holiday allowance, comprising the basic remuneration and other remuneration benefits that are compensated by the specific way of performing the work, corresponding to the minimum duration of leave.
3 - Unless otherwise agreed in writing, the holiday allowance must be paid before the start of the holiday period and proportionately in case of interpolated holidays enjoyment.
4 - Violation of the provisions of this article represents a very serious administrative offense.

Amendments
Suspended by Article 6 of the Law no. 11/2013 - Official Gazette no. 19/2013, Series I of 2013-01-28, in force from 2013-01-29, produces effect from 2013-01-01, suspended from 2013-01-01
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 265
Exemption from working hours

1 - A worker exempt from working hours has the right to specific remuneration, established by collective bargaining agreement or, in the absence thereof, not less than:
a) An additional hour of work per day;
b) Two additional hours of work per week, in the case of a time exemption regime with respect to normal working hours.
2 - A worker who holds a management or administrative position may waive the remuneration referred to in the preceding paragraph.
3 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Article 266
Night work pay

1 - Night work is paid with an increase of 25% in relation to the payment of equivalent work during the day.

2 - The increase foreseen in the previous number may be replaced, by means of a collective labour regulation instrument, by:
a) An equivalent reduction in the normal working hours;
b) Fixed increase of the basic remuneration, provided that it does not involve less favourable treatment for the worker.
3 - The provisions of paragraph 1 shall not apply, unless provided for in a collective labour regulation instrument:
a) In activity carried out exclusively or predominantly during the nighttime, in particular entertainment or public entertainment;
b) In an activity which, by its nature or by virtue of the law, must be available to the public during the nighttime, such as a touristic undertaking, restaurant or drink establishment, or pharmacy, in the opening period;
c) When the remuneration is established since the work must be performed at night.

4 - Violation of paragraph 1 represents a very serious administrative offense.

Article 267
Remuneration for the exercise of related or functionally linked functions

1 - A worker who performs the functions referred to in no. 2 of Article 118, even if ancillary, is entitled to the highest remuneration corresponding to them, as long as this exercise continues.
2 - Violation of the provisions of the preceding paragraph represents a serious administrative offense.

Article 268
Payment of additional work

1 - The additional work is paid by the amount of the hourly remuneration with the following additions:
a) 25% for the first hour or fraction thereof and 37.5% per hour or subsequent fraction, on a business day;
b) 50% for each hour or fraction, on weekly rest day, mandatory or complementary, or on holiday.
2 - The payment of additional work whose performance has been previously and expressly determined or carried out in such a way as not to foresee the opposition of the employer, is payable.
3 - The provisions in the previous numbers may be removed by collective labour regulation instrument.
4 - A violation of the provisions of paragraph 1 represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 269
Holiday-related benefits

1 - The employee is entitled to the remuneration corresponding to a holiday, without the employer being able to compensate with additional work.
2 - A worker who provides normal work on a corporate holiday not obliged to suspend operation on that day is entitled to compensatory rest lasting half the number of hours provided or a 50% increase in the corresponding remuneration, being the choice of the employer .

Amendments

Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Section II
Determination of the value of the retribution

Article 270
Criteria for determination of remuneration

In determining the value of the remuneration, the quantity, nature and quality of work must be considered, observing the principle that, for equal work or of equal value, equal pay.

Article 271
Calculation of the hourly rate

1 - The value of the hourly compensation is calculated according to the following formula: (Rm x 12) :(52 xn)
2 - For the purpose of the previous number, Rm is the value of the monthly remuneration in the normal weekly working period, defined in average terms in case of adaptability.

Article 272
Judicial determination of the value of the retribution

1 - It is for the court, considering the practice of the company and the uses of the sector or places, to determine the value of the remuneration when the parties have not done so, and it does not result from an instrument of collective labour regulation applicable.
2 - It is also for the court to resolve doubts raised as to the qualification as remuneration for the benefit paid by the employer.

Section III
Minimum monthly guaranteed payment

Article 273
Determination of the guaranteed minimum monthly remuneration

1 - Employees are guaranteed a minimum monthly remuneration, regardless of the modality practiced, the value of which is determined annually by specific legislation, after hearing the Standing Committee on Social Concertation.
2 - In determining the minimum guaranteed monthly remuneration, the employees' needs, the increase in the cost of living and the evolution of productivity, among other factors, are considered, in view of their adequacy to the criteria of income and price policy.
3 - Violation of the provisions of paragraph 1 represents a very serious administrative offense.
4 - The decision imposing the fine must contain the order of payment of the amount of the remuneration owed to the employee, to be made within the deadline established for payment of the fine.

Article 274
Benefits included in the guaranteed minimum monthly remuneration

1 - The amount of the minimum guaranteed monthly remuneration includes:
a) The value of the benefit in kind, namely food or accommodation, due to the worker in return for his normal work;
b) Commission on sales or production premium;
c) Bonus that represents remuneration, pursuant to subparagraph a) of paragraph 3 of article 260.
2 - The value of the benefit in kind shall be calculated according to current prices in the region and may not exceed the following amounts or percentages of the value of the minimum guaranteed monthly salary, total or that determined by application of the reduction percentage referred to in article Following:
a) 35% for complete feeding;
b) 15% for food consisting of one main meal;
c) 12% for the employee's accommodation;
d) 27,36 (euro) per division for the housing of the worker and his/her household;
e) 50% for all benefits in kind.
3 - The amount mentioned in subparagraph d) of the previous number is updated by application of the coefficient of updating of housing rent, whenever the value of the minimum monthly guaranteed payment is increased.
4 - The amount of the guaranteed minimum monthly salary does not include allowance, bonus, bonus or other accidental assignment or for a period exceeding one month.

Article 275

Reduction of the guaranteed monthly minimum wage related to the employee

1 - The guaranteed minimum monthly salary is reduced as follows:
a) Practitioner, apprentice, trainee or intern in certified training situation, 20%;
b) Worker with reduced working capacity, the reduction corresponding to the difference between the full working capacity and the effective capacity coefficient for the contracted activity if the difference is greater than 10% with a limit of 50%.
2 - The reduction referred to in subparagraph a) of the preceding paragraph shall not apply for a period exceeding one year, including the time of training in the service of another employer, provided that it is documented and aimed at the same qualification.
3 - The period established in the previous number is reduced to six months in the case of a worker with a technical-vocational course or course obtained in the professional training system qualifying for the corresponding profession.
4 - Certification of the effective capacity coefficient shall be made, at the request of the worker, the candidate for employment or the employer, the public employment service or the health services.

Section IV
Compliance with obligation to pay

Article 276

Form of compliance

1 - The remuneration shall be paid in cash or, if agreed, in non-pecuniary benefits, according to article 259.
2 - The pecuniary part of the remuneration may be paid by cheque, money order or deposit to the employee's order, and the employer must bear the expenses incurred with the conversion of the credit claim in cash or the withdrawal, of retribution.

3 - Until the payment of the remuneration, the employer must deliver to the worker a document that includes the identification of the worker, the full name, the number of registration with the social security institution and the professional category of the worker, the basic remuneration and other benefits, as well as the period to which they relate, the discounts or deductions and the net amount receivable.
4 - A very serious infraction is the breach of the provisions of paragraph 1, violation of the provisions of paragraph 2 and breach of the provisions of paragraph 3.

Article 277
Place of fulfillment

1 - The remuneration shall be paid in the workplace or in another place that is agreed, notwithstanding the provisions of paragraph 2 of the previous article.
2 - If the remuneration is to be paid in a place other than the workplace, the time that the worker spends to receive the retribution is considered time of work.

Article 278
Compliance time

1 - The remuneration credit is due for certain and equal periods, which, unless otherwise stipulated or used, are the week, the fortnight and the calendar month.
2 - The remuneration shall be paid on a working day, during the working period or immediately thereafter.
3 - In the case of variable remuneration with a calculation period exceeding 15 days, the employee may demand payment in fortnightly installments.
4 - The amount of the remuneration must be available to the employee on the due date or on the previous working day.
5 - The employer is established in default if the employee, for a fact that is not attributable to him, cannot have the amount of the remuneration on the due date.
6 - Violation of paragraph 4 represents a serious administrative offense.

Article 279
Compensations and discounts

1 - Pending an employment contract, the employer cannot compensate the remuneration owed with credit that has on the worker, nor make a discount or deduction in the amount of that one.

2 - The provisions of the previous paragraph do not apply:
a) At the discount to the State, social security or other entity, ordered by law, final court decision or conciliation, when the employer has been notified of the decision or order;
b) The compensation owed by the employee to the employer, settled by a final judicial decision or conciliation order;
c) The pecuniary sanction referred to in subparagraph s) of paragraph 1 of Article 328;
d) The amortisation of capital or payment of loan interest granted by the employer to the employee;
e) At the price of meals at the workplace, telephone use, supply of foodstuffs, fuels or materials, when requested by the worker, or other expense incurred by the employer on behalf of the employee with the agreement of the latter;
f) The payment or advance due to the consideration.

3 - The discounts referred to in the previous paragraph, with the exception of those mentioned in subparagraph a), may not, as a whole, exceed one sixth of the remuneration.
4 - The prices of meals or other goods supplied to the worker by a consumer cooperative, by agreement between the latter and the worker, are not subject to the limit mentioned in the previous number.
5 - Violation of the provisions of paragraph 1 represents a very serious administrative offense.

Article 280
Remuneration credit assignment

The employee can only assign credit to remuneration, whether free or onerous, to the extent that it is attachable.

Chapter IV
Prevention and repair of occupational accidents and diseases

Article 281
General provisions on safety and health at work

1 - The worker has the right to provide work in safety and health conditions.
2 - The employer shall ensure that employees are provided with safety and health conditions in all aspects related to work by applying the necessary measures considering general principles of prevention.
3 - In the application of preventive measures, the employer shall mobilise the necessary means, in particular in the fields of technical prevention, training, information and consultation of employees and adequate services, internal or external to the company.
4 - Employers engaged in activities at the same workplace shall cooperate in the protection of the safety and health of their employees, considering the nature of their activities.
5 - The law regulates the modes of organisation and operation of occupational safety and health services, which the employer must ensure.
6 - Work which is considered by regulation in special legislation and which may involve risks to the genetic heritage of the worker or his/her descendants is prohibited or conditioned.
7 - Employees must comply with occupational safety and health requirements established by law or collective bargaining instruments or determined by the employer.

Article 282
Information, consultation and training of employees

1 - The employer shall inform employees of the aspects relevant to the protection of their safety and health and that of third parties.
2 - The employer shall consult the employees' representatives, or the employees themselves, in a timely manner on the preparation and implementation of the prevention measures.
3 - The employer must ensure adequate training, enabling employees to prevent the risks associated with the employees' representatives to perform their duties competently.
4 - In each company, employees are represented in the promotion of occupational safety and health by representatives elected for this purpose or, failing that, by the employees' commission.

Article 283

Accidents at work and occupational diseases

1 - The worker and his family members are entitled to compensation for damages arising from a work accident or an occupational disease.
2 - Occupational diseases are included in the list organized and published in the Official Gazette.
3 - Bodily injury, functional disturbance or illness not included in the list referred to in the previous number are compensable provided it proves to be a necessary and direct consequence of the activity carried out and does not represent normal wear and tear on the body.
4 - The law establishes situations that exclude the obligation to repair or that aggravate the responsibility.
5 - The employer is obliged to transfer responsibility for the repair provided for in this chapter to entities legally authorised to carry out this insurance.
6 - The guarantee of the payment of the benefits that are due to occupational accidents that cannot be paid by the responsible entity, especially for reasons of economic incapacity, is assumed by the Work Accidents Fund, according to the law.
7 - The responsibility for repairing damages arising from occupational diseases is assumed by social security, according to the law.
8 - The employer shall be responsible for compensation for damages arising from occupational diseases resulting from harassment.
9 - The responsibility for the payment of compensation for damages arising from occupational disease provided for in the previous number is social security, under the terms legally established, which is subrogated to the rights of the worker, in proportion to the payments made, plus interest for late maturity .
10 - The employer shall ensure that the worker affected by injury resulting from a work accident or an occupational disease reduces his ability to work or gain employment in compatible functions.

Amendments
Amended by Article 2 of the Law no. 73/2017 - Official Gazette no. 157/2017, Series I of 2017-08-16, in force from 2017-10-01

Article 284

Regulation of prevention and repair

The provisions of this chapter shall be governed by specific legislation.

Chapter V
Contractual vicissitudes

Section I
Transmission of business or establishment

Article 285

Transmission effects of company or establishment

1 - In the event of the transfer of the ownership of an undertaking, or establishment or part of an undertaking or establishment constituting an economic unit, to the acquirer, the employer's position in the employment contracts of the corresponding employees shall be transmitted, as well as the responsibility for the payment of a fine imposed by the practice of administrative offense.

2 - The provisions of the preceding paragraph shall also apply to the transfer, assignment or reversion of the holding of a company, establishment or economic unit, and shall be jointly and severally liable, in the case of a transfer or reversion, whoever has previously exercised the holding.
3 - With the transfer referred to in paragraphs 1 or 2, employees transferred to the purchaser shall retain all contractual and acquired rights, including remuneration, seniority, professional category and functional content and social benefits acquired.
4 - The provisions of the preceding paragraphs shall not apply in the case of a worker who, prior to the transfer, transfers the transferor to another establishment or economic unit, according to the provisions of article 194, and keeps it at his service, except for with regard to the liability of the purchaser for the payment of a fine imposed by the practice of administrative misconduct.
5 - It is considered an economic unit the set of organised means that represents a productive unit endowed with technical-organisational autonomy and that maintains its own identity, with the objective of carrying out an economic activity, main or accessory.
6 - The transferor shall be liable jointly and severally for the employee's claims arising out of the employment contract, for its violation or termination, as well as for the corresponding social charges, due up to the date of the transfer, transfer or reversion, during the two years following it.
7 - Transmission may take place only after seven working days following the expiry of the deadline for the appointment of the representative commission referred to in paragraph 6 of the following article if it has not been established, or after the agreement or the end of the consultation referred to in paragraph 4 of that Article.
8 - The notifier must inform the department with the inspective competence of the Ministry responsible for the labour area:
a) The content of the contract between the transferor and the purchaser, notwithstanding Articles 412 and 413, with the necessary adaptations;
b) If there is a transfer of an economic unit, of all the elements that represent it, according to paragraph 5.
9 - The provisions of the preceding paragraph shall apply in the case of medium or large companies and, at the request of the department with inspection authority of the ministry responsible for the labour area, in the case of micro or small companies.
10 - It represents a very serious administrative offence:
a) the conduct of the employer on the basis of an alleged transfer of his position in employment contracts on the grounds of transfer of ownership of an undertaking or establishment or part of an undertaking or establishment constituting an economic unit or in transfer, transfer or reversal of the where it has not taken place;
b) the conduct of the transferor or the acquirer who does not acknowledge that there has been a transfer of his position in the employment contracts of his employees where there is a transfer of ownership of an undertaking or establishment or part of an undertaking or establishment which represents an economic unit, or the transfer, assignment or reversal of his holding.
11 - The conviction for the conduct of misconduct referred to in subparagraph a) or b) of the preceding paragraph must state, respectively, that the employer's position in the employees' employment contracts was not transmitted, or that it was transmitted.
12 - Violation of the provisions of paragraphs 7, 8 or 9 represents a serious administrative offence.

Amendments
Amended by Article 2 of the Law no. 14/2018 - Official Gazette no. 55/2018, Series I of 2018-03-19, in force from 2018-03-20

Article 286

Information and consultation of employees and employees' representatives

1 - The transferor and the transferee shall inform the representatives of their employees or, if they do not exist, the employees themselves, the date and reasons for the transfer, the legal, economic and social consequences for the employees and the measures planned in relation thereto, as well as on the content of the contract between transferor and acquirer, notwithstanding Articles 412 and 413, with the necessary adaptations if the information is provided to employees.
2 - The transferor shall also, if it does not result from the provisions of the preceding paragraph, provide the employees covered by the transfer with the information referred to in the preceding paragraph, notwithstanding Articles 412 and 413, with the necessary adaptations .
3 - The information referred to in the previous numbers must be provided in writing, before transmission, in a timely manner, at least 10 working days before the consultation referred to in the following paragraph.
4 - The transferor and the transferee shall consult the representatives of their employees before transmission with a view to reaching an agreement on the measures they intend to apply to employees following the transfer notwithstanding the legal and conventional provisions applicable to such measures.
5 - At the request of either party, the competent department of the ministry responsible for labour matters shall participate in the negotiation referred to in the preceding paragraph, with a view to promoting the regularity of its substantive and procedural instruction, conciliation of the interests of the parties, and such as respect for employees' rights, and the provisions of Article 362 shall apply.
6 - In the absence of representatives of the employees covered by the transfer, the latter may designate, among them, within five working days of receipt of the information referred to in paragraphs 1 or 2, a representative commission with a maximum of three or five members depending on the transmission covers up to five or more employees.
7 - For the purposes of the preceding paragraphs, employees' committees, trade union associations, trade union commissions, trade union commissions, trade union delegates in their corresponding companies or the representative commission, shall be considered as representing the order of precedence.
8 - The notifier must immediately inform the employees covered by the transmission of the contents of the agreement or of the end of the consultation referred to in paragraph 4, if there has been no intervention by the representative committee.
9 - Violation of the provisions of paragraphs 1, 2, 3, 4 or 8 represents serious administrative offence.

Amendments
Amended by Article 2 of the Law no. 14/2018 - Official Gazette no. 55/2018, Series I of 2018-03-19, in force from 2018-03-20

Article 286-A

Right of opposition of the worker

1 - A worker may exercise the right of opposition to the transfer of the position of the employer in his employment contract in the case of transfer, transfer or reversal of a company or establishment, or part of a company or establishment that represents an economic unit, in paragraph 1 or 2, where it is likely to cause serious damage to it, in particular as a result of a manifest lack of solvency or a difficult financial situation for the purchaser, or even if his work organisation policy does not give him confidence.
2 - The opposition of the employee provided for in the preceding paragraph prevents the transfer of the position of the employer in his employment contract, according to paragraph 1 or 2 of article 285, with the link to the transferor remaining.

3 - The worker exercising the right of opposition must inform his employer in writing within five working days of the expiry of the period for the appointment of the representative commission, if the latter has not been established, or after the agreement or the term of the consultation referred to in paragraph 4 of article 286, mentioning their identification, the activity contracted and the basis of the opposition, according to paragraph 1.
4 – Violation of the provisions of paragraph 2 represents a serious administrative offence.

Amendments
Amended by Article 3 of the Law no. 14/2018 - Official Gazette no. 55/2018, Series I of 2018-03-19, in force from 2018-03-20

Article 287
Representation of employees after transmission

1 - If the undertaking or establishment maintains its autonomy after the transfer, the status and function of the employees' representatives affected by it shall not change, provided that the necessary requirements for the establishment of the collective representation structure in question are maintained.
2 - If the company, establishment or economic unit transmitted is incorporated in the undertaking of the acquirer and there is no corresponding structure of collective representation of employees provided for by law, the one existing in the merged entity remains in operation for a period of two months from transmission or until a new structure elected in the meantime begins its functions or, for another two months, if the election is annulled.
3 - In case of incorporation of an establishment or part of a company or establishment provided for in the previous number:
a) the subcommittee shall exercise its own rights as a employees' commission during the period in which it continues to serve on behalf of the employees of the establishment transferred;
b) The representatives of employees for occupational safety and health assigned to the incorporated entity exercise the rights inherent to this structure, according to the previous paragraph.
4 - Members of the collective representation structure of employees whose term of office ceases, pursuant to paragraph 2, shall continue to enjoy the protection provided for in paragraph 3 to 6 of Article 410 or collective bargaining instrument, until the end of their term of office.

Section II
Occasional employee's assignment

Article 288
Notion of an occasional employee's assignment

The occasional assignment consists in the temporary provision of a worker by the employer to provide work to another entity, whose power of management is subject, maintaining the initial contractual link.

Article 289
Admissibility of occasional assignment

1 - The occasional assignment of employees is lawful when all of the following conditions are met:
a) The worker is bound to the transferor employer by an employment contract without term;

b) The assignment occurs between affiliated companies, in relation to corporate ownership of reciprocal interests, ownership or group, or between employers having common organisational structures;
c) The employee agrees with the transfer;
d) The duration of the transfer does not exceed one year, renewable for equal periods up to a maximum of five years.
2 - The conditions of the occasional assignment of a worker may be regulated by a collective labour regulation instrument, with the exception of that referred to in subparagraph c) of the preceding paragraph.
3 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Article 290

Temporary worker assignment agreement

1 - The occasional assignment of a worker depends on an agreement between the assignor and the transferee, subject to a written form, which must contain:
a) Identification, signatures and address or head office of the parties;
b) Identification of the assigned employee;
c) Indication of the activity to be provided by the worker;
d) Indication of the start date and the duration of the transfer;
e) Declaration of agreement of the worker.
2 - In the event of termination of the occasional assignment agreement, termination of the transferee or termination of the activity for which it was assigned, the employee shall return to the service of the transferor, retaining the rights which he had before the transfer, the duration of which shall count for the purposes of antique.
3 - A violation of the provisions of subparagraph e) of paragraph 1 or of paragraph 2 represents a serious administrative offense and any breach of any of the other provisions of paragraph 1 is a minor administrative offense.

Article 291

Regime of work assignment of assigned worker

1 - During the occasional assignment, the worker is subject to the working regime applicable to the transferee with respect to the mode, place, length of work, suspension of employment contract, occupational safety and health and access to social facilities.
2 - The transferee shall inform the transferor and the assigned worker of the risks to the health and safety inherent in the workplace to which he is assigned.
3 - The assignment of a worker assigned to a workplace which is particularly dangerous for his safety or health is not permitted, unless he corresponds to his specific professional qualification.
4 - The transferee must elaborate the work schedule of the assigned worker and mark the period of holidays that is taken to his service.
5 - The assigned worker has the right:
a) The minimum remuneration which, by means of collective labour regulations applicable to the transferor or the transferee, corresponds to his or her duties, or to the remuneration earned by him or her, for the same functions at the time of transfer, whichever is the higher;
b) Holidays, holiday and Christmas allowances and other regular and periodic benefits to which the transferee's employees are entitled for the same work in proportion to the length of the transfer.

6 - The assignment of a worker to one or more entities must comply with the terms of the employment contract.
7 - Violation of the provisions of paragraphs 2, 3, 4 or 5 represents a serious administrative offense.

Article 292
Consequence of an unlawful use of the transfer or irregularity of the agreement

1 - The occasional transfer of a worker outside the conditions in which he is admissible, or the lack of agreement under article 290, paragraph 1, confers on the assigned worker the right to choose to remain at the service of the transferee under contract working relationship.
2 - The right provided for in the previous number may be exercised until the end of the transfer, by notifying the transferor and the transferee by registered letter with acknowledgment of receipt.

Article 293
Worker framework ceded

1 - The assigned worker shall not be considered for the purposes of determining the obligations of the transferee which take into account the number of employees employed, except for the organisation of occupational safety and health services.
2 - The transferee shall notify the employees' committee of the commencement of the use of a worker on an occasional basis, within five working days.
3 - It is a minor administrative offense to violate the provisions of the preceding paragraph.

Section III
Reduction of activity and suspension of employment contract

Subsection I
General provisions on reduction and suspension

Article 294
Determining factors of reduction or suspension

1 - The temporary reduction of normal working hours or the suspension of an employment contract may be based on the temporary or partial or total partial impossibility of providing work by fact relative to the worker or to the employer.
2 - They also allow the reduction of the normal period of work or the suspension of the employment contract, namely:
a) The need to ensure the viability of the company and the maintenance of jobs, in a situation of business crisis;
b) The agreement between the worker and the employer, in particular the pre-retirement agreement.
3 - Suspension of employment contract may also occur on the initiative of a worker, based on a lack of timely payment of the compensation.

Article 295
Effects of reduction or suspension

1 - During the reduction or suspension, the rights, duties and guarantees of the parties that do not presuppose the effective work are maintained.
2 - The time of reduction or suspension is counted for the purposes of seniority.
3 - The reduction or suspension shall have no effect during the expiration of time, nor shall it prevent either party from terminating the contract in general terms.
4 - After the period of reduction or suspension, the rights, duties and guarantees of the parties resulting from the actual work are reestablished.
5 - A serious administrative offense is the impediment on the part of the employer that the worker resumes normal activity after the end of the period of reduction or suspension.

Subsection II
Suspension of employment contract due to fact concerning employee

Article 296
Determining factor of the suspension concerning worker

1 - It determines the suspension of the employment contract the temporary impediment for a fact relating to the employee that is not attributable to him and lasts for more than a month, namely illness, accident or fact resulting from the application of the law of military service.
2 - The employee can immediately suspend the employment contract:
a) In the situation referred to in paragraph 1 of article 195, where there is no other establishment of the undertaking to which it may request transfer;
b) In the cases provided for in paragraph 2 of article 195, until the transfer occurs.
3 - The employment contract shall be suspended before the deadline referred to in paragraph 1, when it is foreseeable that the impediment will last longer than that period.
4 - The employment contract suspended expires when it is certain that the impediment becomes definitive.
5 - The temporary impediment due to a fact attributable to the employee determines the suspension of the employment contract in the cases provided by law.

Article 297
Return of the worker

On the day immediately following the cessation of the impediment, the worker must appear to the employer to resume the activity.

Subsection III
Temporary reduction of the normal period of work or suspension of the employment contract in respect of the employer

Division I
Business crisis situation

Article 298
Reduction or suspension in a business crisis situation

1 - The employer may temporarily reduce normal working hours or suspend employment contracts for market, structural or technological reasons, catastrophes or other occurrences which have seriously affected the normal activity of the undertaking, provided that such action is indispensable to ensure the viability of the company and the maintenance of the jobs.
2 - The reduction referred to in the preceding paragraph may include:
a) one or more normal working hours, daily or weekly, and may relate to different groups of employees, rotating;
b) Decrease in the number of hours corresponding to the normal working period, daily or weekly.
3 - The reduction or suspension regime shall apply to cases where such a measure is determined in the context of a declaration of undertaking in a difficult economic situation or, with the necessary adaptations, in the process of recovery of an undertaking.
4 - The company that uses the reduction or suspension regime must have its tax situation regularized before the tax administration and social security, according to the applicable legislation, unless it is in one of the situations provided for in the preceding paragraph.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 298-A
Reduction or suspension impairment

The employer may only resort to the application of the reduction or suspension measures after a period equivalent to half of the period previously used and may be reduced by agreement between the employer and the employees concerned or their representative structures.

Amendments
Addendum to Article 3 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 299
Communications in case of reduction or suspension

1 - The employer shall inform the employees' commission or, failing this, the inter-union commission or trade union commissions of the company representing the employees to be covered, the intention to reduce or suspend the work, and inform them simultaneously about:
a) The economic, financial or technical basis of the measure;
b) Establishment plan, broken down by sections;
c) Criteria for the selection of the employees to be covered;
d) The number and professional categories of the employees to be covered;
e) Period of application of the measure;
f) Areas of training to be attended by employees during the period of reduction or suspension, where appropriate.
2 - The employer provides, for consultation, the documents in which it supports the allegation of business crisis situation, namely of an accounting and financial nature.
3 - In the absence of the entities referred to in paragraph 1, the employer shall notify each worker in writing of the intention to reduce or suspend work, which may, within five days of receipt of the communication,

appoint among them a representative commission with a maximum of three or five elements, depending on whether the measure covers up to 20 or more employees.
4 - In the case provided for in the preceding paragraph, the employer shall make the information referred to in paragraph 1 available to the employees at the same time and send it to the designated representative committee.
5 - Violation of the provisions of this article represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 300
Information and negotiation in case of reduction or suspension

1 - In the five days following the event referred to in paragraphs 1 or 4 of the preceding article, the employer shall promote an information and negotiation phase with the representative structure of the employees, with a view to agreeing on the modality, scope and duration of the measures to adopt.
2 - The minutes of the negotiation meetings shall contain the agreed subject matter, as well as the divergent positions of the parties, with the opinions, suggestions and proposals of each one.
3 - If the agreement is concluded or, failing that, after five days have elapsed concerning the dispatch of the information referred to in paragraphs 1 or 4 of the previous article or, failing that, of the communication referred to in paragraph 3 of that article, the employer shall notify each worker in writing of the measure he/she decided to apply, expressly mentioning the grounds and the dates of commencement and expiry of the measure.
4 - On the date of the communications referred to in the preceding paragraph, the employer shall refer to the representative structure of the employees and to the competent department of the Ministry responsible for social security the minutes referred to in paragraph 2, as well as a list showing the employees' names, address, dates of birth and admission to the company, status in relation to social security, profession, category and remuneration, and also the individual measure adopted, indicating start dates and term of application.
5 - In the absence of minutes of the negotiation, the employer shall send to the entities referred to in the previous number a document justifying and describing the agreement, or the reasons that prevented it and the parties' final positions.
6 - The procedure provided for in paragraphs 4 and 5 shall be regulated by an order of the members of the Government responsible for labour and social security matters.
7 - Violation of the provisions of paragraphs 1 to 5 represents a minor administrative offence.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 301
Duration of reduction or suspension measurement

1 - The reduction or suspension shall be of a predetermined duration, not exceeding six months or, in the event of a disaster or other occurrence which has seriously affected the normal activity of the undertaking, one year.
2 - The reduction or suspension may begin after five days from the date of communication referred to in paragraph 3 of the previous article, or immediately in case of an agreement between the employer and the representative structure of the employees, the representative committee referred to in paragraph 3 of Article

299 or the majority of the employees covered or, in the event of immediate impediment to the normal work performed by the employees concerned, is known or is communicated to them.
3 - Any period referred to in paragraph 1 may be extended for a maximum period of six months, provided that the employer communicates that intention and the estimated duration, in writing and in a reasoned manner, of the representative structure of the employees or the representative commission referred to in paragraph 3 of Article 299.
4 - In the absence of a representative structure of the employees or of the representative committee referred to in paragraph 3 of article 299, the communication provided for in the previous number shall be made to each worker covered by the extension.
5 - It is a slight misconduct to violate the provisions of this article.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 302
Professional training during reduction or suspension

1 - Professional training to be attended by employees during the period of reduction or suspension must be oriented towards the viability of the company and the maintenance of the jobs, or the development of the professional qualification of the employees that increases their employability.
2 - The employer prepares the training plan, preceded by consultation of the employees covered and opinion of the representative structure of the employees.
3 - The response of the employees and the opinion referred to in the previous number shall be issued within a period indicated by the employer, not less than five days.
4 - It is a minor administrative offence to breach the provisions of paragraphs 2 and 3.

Article 303
Duties of the employer in the period of reduction or suspension

1 - During the period of reduction or suspension, the employer shall:
a) Make punctual payment of the compensation, as well as the increase that takes place in case of professional training;
b) Pay social security contributions on a timely basis on the remuneration earned by the employees;
c) does not distribute profits in any form, including by way of withdrawal on account;
d) Do not increase the remuneration or other benefits attributed to a member of social bodies, as long as the social security participates in the compensation compensated to the employees;
e) Do not proceed with the admission or renewal of employment contract to fill a job that can be performed by a worker in a situation of reduction or suspension.
2 - During the period of reduction or suspension, and within 30 or 60 days after the application of the measures, depending on whether the duration of the application does not exceed or exceeds six months, the employer cannot terminate the employment contract of a worker covered by those measures, except if it is a termination of the service commission, termination of a fixed-term contract or dismissal for a reason attributable to the employee.
3 - In case of breach of the provisions of the previous number, the employer shall reimburse the received contributions provided for in paragraphs 4 and 5 of article 305, in relation to the employee whose contract has ceased.

4 - Violation of the provisions of this article represents serious administrative offence.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 304
Duties of the worker in the period of reduction or suspension

1 - During the period of reduction or suspension, the worker shall:
a) Pay social security contributions based on the remuneration earned and compensation;
b) If he engages in paid activity outside the company, he shall notify the employer within five days of the commencement thereof, for the eventual reduction of remuneration compensation;
c) attending professional training actions provided for in the plan referred to in Article 302.
2 - A worker who does not unjustifiably fulfill the duty referred to in subparagraph b) or c) of the preceding paragraph shall lose the right to compensation and, in case of subparagraph b), shall return what he has received in this capacity, constituting disciplinary offense.

Article 305
Rights of the worker in the period of reduction or suspension

1 - During the period of reduction or suspension, the worker is entitled:
a) to receive on a monthly basis a minimum amount equal to two thirds of his normal gross remuneration or the value of the minimum monthly guaranteed salary corresponding to his normal working hours, whichever is the higher;
b) To maintain the social benefits or benefits of social security to which he is entitled and to which the corresponding basis of calculation is not altered by the effect of the reduction or suspension;
c) To engage in another paid activity.
2 - During the reduction period, the employee's remuneration shall be calculated in proportion to the working hours.
3 - During the period of reduction or suspension, the employee shall be entitled to remuneration compensation to the extent necessary to provide the monthly amount referred to in paragraph 1 a), together with the work remuneration provided in the undertaking or outside it , up to three times the guaranteed monthly minimum remuneration, notwithstanding paragraph 5.
4 - Compensation is paid at 30% of the amount by the employer and at 70% by the competent public service in the area of social security.
5 - When, during the period of reduction or suspension, employees attend professional training courses suitable for the development of professional qualification that increases their employability or the viability of the company and the maintenance of the jobs according to an approved training plan by the competent public service in the field of employment and professional training, the latter shall pay the amount corresponding to 30% of the index of social support allocated equally to the employer and the worker, plus, in respect of the employer, the remuneration provided for in n. 3 and 4.
6 - The competent public services in the areas of social security and employment and professional training must deliver the part that is the responsibility of the employer, so that the employer can punctually pay the worker the remuneration compensation, as well as any increase that may occur.
7 - The social security sickness allowance shall not be granted in respect of the period of sickness that occurs during the suspension of the contract, while retaining the employee’s right to compensation.

8. In the event of a one-off payment of the amount provided for in paragraph 1 a) during the reduction period, the worker has the right to suspend the contract according to Article 325.
9 - A violation of the provisions of paragraph 1 b) shall represent serious administrative offence.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 306
Effects of reduction or suspension on holidays, and holidays or Christmas allowance

1 - The time of reduction or suspension shall not affect the salary and duration of the holiday period.
2 - The reduction or suspension shall be notwithstanding the marking and enjoyment of holidays, in general terms, whereby the worker is entitled to payment by the employer of the holiday allowance due under normal working conditions.
3 - The employee is entitled to full Christmas allowance, which is paid by the social security in an amount corresponding to half of the remuneration compensation and by the employer in the remainder.
4 - Violation of the provisions of paragraphs 1, 2 or 3, in respect of the employer, represents a serious administrative offense.

Article 307
Follow-up of the measure

1 - The employer shall report quarterly to the representative structures of the employees or the representative committee referred to in paragraph 3 of Article 299 or, failing that, the employees covered by the evolution of the reasons justifying recourse to the reduction or suspension of the job.
2 - During the reduction or suspension, the service with the inspection authority of the Ministry responsible for the labour area, on its own initiative or at the request of any interested party, shall terminate the application of the regime for all or some employees, in the following cases:
a) failure to verify or terminate the existence of the plea relied on;
b) Lack of communication or refusal to participate in the information and negotiation procedure by the employer;
c) Failure to fulfill any of the duties referred to in paragraph 1 and 2 of Article 303.
3 - The decision terminating the application of the measure shall indicate the employees to whom it applies and shall take effect as soon as the employer is notified.
4 - A serious administrative offence represents breach of the provisions of paragraph 1.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 308
Rights of employees' representatives during the reduction or suspension

1 - The measure of reduction or suspension relating to a worker who is a trade union delegate or member of the collective representation structure of employees shall not affect the right to perform the corresponding functions in the undertaking. 2 - Violation of the provisions of the preceding paragraph represents a serious administrative offense.

Division II
Temporary closure and reduction of activity

Article 309
Remuneration during closure or decrease in activity

1 - In case of temporary closure or temporary reduction of activity of a company or establishment that does not respect the situation of business crisis, the employee is entitled to:
a) Being due to unforeseeable circumstances or force majeure, 75% of the remuneration;
b) If it is due to the fact attributable to the employer or because of his/her interest, the entire remuneration.
2 - The amount of the remuneration shall be deducted from what the worker receives in the period in question for another activity to be exercised as a result of the closure or reduction of activity. 3 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Article 310
Termination or closing of activity

The employer must inform employees whose activity is suspended from the termination of the closure or from the reduction of activity, and they must return to work.

Article 311
Procedure in case of temporary closure due to an act attributable to the employer

1 - Temporary closure of a business or establishment for reasons attributable to the employer, without the employer having initiated a procedure for collective redundancy, dismissal due to termination of employment, temporary reduction of normal working hours or suspension of employment contract. work in a situation of business crisis, or that does not consist in closing for holidays, is governed by the provisions in the following numbers.
2 - For the purpose of the previous number, it is considered that there is a temporary closure of a company or establishment due to a fact imputable to the employer whenever, by its decision, the activity ceases to be exercised, or there is a prohibition of access to workplaces or labour supply, working conditions and instruments, that determines or can determine the stoppage of a company or establishment.
3 - The employer informs the employees and the employees' commission or, failing that, the inter-union commission or union commissions of the company, on grounds, foreseeable duration and consequences of closure, in advance of not less than 15 days or, , as soon as possible.
4 - The employees' committee can issue an opinion on the closure within 10 days.
5 - The non-willful violation of paragraph 3 represents a very serious administrative offense.

Article 312
Security deposit in case of temporary closure due to the employer

1 - In the situation provided for in the previous article, the employer shall provide a guarantee guaranteeing the payment of arrears, if any, of salaries related to the period of closure and compensation for dismissal, in respect of the employees covered.
2 - The employer is exempted from providing security relating to compensation for collective redundancies in the event of an express declaration in this sense, in writing, of two-thirds of the employees covered.

3 - The guarantee must be used after 15 days after the nonpayment of any guaranteed benefit or, in case of late payment, after its constitution.
4 - The security shall be proportionately increased in the case of an increase in salaries, the duration of the closure or its extension to another establishment of the undertaking.
5 - The guarantee regime for the pursuit of the activity of temporary employment agency is applicable with regard to the following aspects:
a) Entity in favor of which it is established;
b) Form by which it is rendered;
c) Proof of non-payment of guaranteed benefits;
d) Cessation and return.
6 - The non-intentional violation of the provisions of paragraphs 1 or 4 represents a very serious administrative offense.

Article 313
Acts prohibited in case of temporary closure

1 - In the event of temporary closure of a company or establishment referred to in paragraph 1 of article 311, the employer may not:
a) Distribute profits or dividends, pay for supplies and corresponding interest or amortize quotas in any form;
b) To remunerate members of the social bodies by any means, in percentage higher than the one paid to the corresponding employees;
c) Buy or sell shares or own quotas to members of corporate bodies;
d) make payments to creditors who do not hold a guarantee or privilege in preference to the claims of employees, unless such payments are intended to enable the business of the undertaking;
e) Make payments to employees that do not correspond to the apportionment of the amount available, in proportion to the corresponding remunerations;
f) Make donations, regardless of the title;
g) To waive rights with equity value;
h) To enter into loan agreements as lender;
i) To carry out cash withdrawals for purposes other than the business of the company.
2 - The prohibition referred to in points d) to g) of the preceding paragraph shall cease in the event of an express declaration in that sense, in writing, of two thirds of the employees covered.

Article 314
Cancellation of an act of disposal

1 - The act of disposing of the assets of the undertaking for free, carried out during the temporary closure covered by paragraph 1 of Article 311, shall be null and void at the initiative of any interested party or collective employee structure.
2 - The provisions of the preceding paragraph apply to an act of disposal of assets of the company for consideration, practiced during the same period, if it results in a reduction of the equity guarantee of credits of employees.

Article 315
Extension of the regime to final closure

The arrangements provided for in Articles 311 to 314 shall apply mutatis mutandis to the definitive closure of an undertaking or establishment which takes place without the commencement of the procedure for collective redundancies or without complying with the provisions of paragraph 4 of article 346.

Article 316

Criminal liability in the event of closure of business or establishment

1 - An employer who temporarily or definitively terminates a business or establishment, in the case provided for in article 311 or in the preceding article, without having complied with the provisions of articles 311 and 312, shall be punished with imprisonment up to 2 years or fine up to 240 days.
2 - The violation of the provisions of article 313 shall be punished with imprisonment up to 3 years, notwithstanding a more severe penalty applicable to the case.

Subsection IV
Unpaid leave

Article 317

Concession and effects of unpaid leave

1 - The employer may grant the worker, at the latter's request, a licence without remuneration.
2 - The employee is entitled to leave without remuneration of more than 60 days for attendance of a training course given under the responsibility of an educational institution or professional training, or under a specific programme approved by a competent authority and executed under its control pedagogical, or to attend a course attended at an educational institution.
3 - In the situation stipulated in the preceding paragraph, the employer may refuse to grant a licence:
a) where, during the previous 24 months, adequate professional training or leave for the same purpose has been provided to the worker;
b) In the case of a worker with a seniority of less than three years;
c) When the employee has not requested the licence at least 90 days before the date of start;
d) in the case of micro companies or small companies, and where appropriate, it is not possible to substitute the worker adequately;
e) in the case of a worker who is included in the level of managerial qualification, management, staff or qualified personnel, where it is not possible to replace them during the period of the licence, without seriously jeopardizing the operation of the undertaking.
4 - The licence determines the suspension of the employment contract, with the effects foreseen in article 295.
5 - Violation of the provisions of paragraph 2 is a serious administrative offence.

Subsection V
Pre-retirement

Article 318

Concept of pre-retirement

Pre-retirement is considered to be the situation of reduction or suspension of work, consisting of an agreement between an employer and a worker 55 years of age or over, during which he is entitled to receive from the employer a monthly cash benefit, known as pre-retirement.

Article 319
Pre-retirement agreement

The pre-retirement agreement is subject to written form and must contain:
a) Identification, signatures and address or head office of the parties;
b) Date of beginning of pre-retirement;
c) Amount of the pre-retirement benefit;
d) Organisation of working time, in case of reduction of the work performance.

Article 320
Provision of pre-retirement

1 - The initial amount of the pre-retirement benefit may not be higher than the employee's remuneration at the date of the agreement, or less than 25% of the latter or the remuneration of work, if the pre-retirement consists in the reduction of work.
2 - Unless otherwise stipulated, the pre-retirement benefit shall be updated annually in a percentage equal to the increase in the salary that the worker would receive if he or she were in full service or, if there was no such increase, the inflation rate.
3 - The pre-retirement benefit is guaranteed by employees' claims arising from an employments contract.

Article 321
Rights of pre-retirement worker

1 - A worker who is in a pre-retirement situation may engage in other gainful employment.
2 - The pre-retirement agreement may assign to the worker other rights not resulting from the law.
3 - In case of default of payment of the pre-retirement benefit or, regardless of fault, if the delay lasts for more than 30 days, the worker has the right to resume the full exercise of functions, notwithstanding seniority, or to terminate the contract, entitled to compensation according to paragraphs 2 and 3 of the following article.

Article 322
Termination of pre-retirement

1 - Pre-retirement ceases:
a) With the retirement of the worker, due to old age or disability;
b) Upon the return of the employee to the full exercise of functions, by agreement with the employer or under the terms of number 3 of the previous article;
c) With the termination of the employment contract.
2 - In the situation set forth in subparagraph c) of the previous paragraph, if the termination of employment contract gives the employee the right to compensation or compensation if he is in full exercise of duties, he is entitled to compensation in the amount of pre- retirement until the legal retirement age for old age.
3 - The compensation referred to in the previous number is based on the amount of the pre-retirement benefit at the date of termination of the employment contract.

Chapter VI
Breach of contract

Section I
General provisions

Article 323
General effects of breach of employment contract

1 - A party who is guilty of failing to perform its duties is liable for the damage caused to the counterparty.
2 - The employer who fails to fulfill the pecuniary benefits is obliged to pay the corresponding interest for late payment at the statutory rate, or the higher rate established in an instrument of collective labour regulation or agreement of the parties.
3 - The lack of timely payment of the remuneration gives the employee the power to suspend or terminate the contract, under the terms of this Code.

Article 324
Effects to the employer of timely non-payment of compensation

1 - To the employer in case of lack of punctual payment of remuneration, the provisions of article 313 will apply.
2 - The act of disposal of the assets of the company practiced in case of failure to pay punctual payments, or in the previous six months, can be annulled according to article 314.
3 - A violation of paragraph 1 shall be punished with imprisonment up to 3 years, notwithstanding a more severe penalty applicable to the case.

Section II
Suspension of employment contract for punctual failure to pay

Article 325
Requirements for suspension of employment contract

1 - In the event of a punctual payment of the remuneration for a period of 15 days over the due date, the employee may suspend the employment contract by means of written communication to the employer and to the department with inspection authority of the ministry responsible for the labour area, at least eight days prior to the start date of the suspension.
2 - The employee may suspend the employment contract before the 15-day period referred to in the previous paragraph, when the employer declares in writing that he/she will not pay the outstanding remuneration until the expiration of that period.
3 - Failure to pay punctually the remuneration for a period of 15 days shall be declared, at the request of the employee, by the employer or, in case of refusal, by the service referred to in paragraph 1, within five or 10 days, respectively.
4 - The statement referred to in paragraphs 2 or 3 shall specify the amount of the arrears and the period to which they relate.
5 - It is an offense to breach the provisions of paragraph 3.

Article 326
Provision of work during suspension

The employee may engage in another remunerated activity during the suspension of the employment contract, with respect to the duty of loyalty to the original employer.

Article 327

Termination of suspension of employment contract

The suspension of the employment contract ceases:
a) Upon notification by the employee, pursuant to no 1 of Article 325, that he/she terminates the suspension from a certain date;
b) With full payment of the arrears and default interest;
c) By agreement between employee and employer to settle the outstanding remuneration and default interest.

Section III
Disciplinary power

Article 328

Disciplinary sanctions

1 - In the exercise of disciplinary power, the employer may apply the following sanctions:
a) Reprimand;
b) Recorded rebuke;
c) Penalty payment;
d) Loss of holidays days;
e) Suspension of work with loss of remuneration and seniority;
f) Dismissal without compensation or compensation.
2 - The instrument of collective labour regulation may provide for other disciplinary sanctions, as long as they do not affect the rights and guarantees of the worker.
3 - The application of sanctions must comply with the following limits:
a) The financial penalties imposed on a worker for offenses committed on the same day may not exceed one third of the daily remuneration and, in each calendar year, the remuneration corresponding to 30 days;
b) The loss of days of leave cannot jeopardize the enjoyment of 20 working days;
c) The suspension of work may not exceed 30 days for each offense and, in each calendar year, the total of 90 days.
4 - Where justified by the special working conditions, the limits established in subparagraphs a) and c) of the preceding paragraph may be raised up to double by collective bargaining instrument.
5 - The sanction may be exacerbated by its disclosure within the company.
6 - Violation of the provisions of paragraphs 3 or 4 represents a serious administrative offense.

Article 329

Disciplinary procedure and prescription

1 - The right to exercise disciplinary power shall expiration one year after the commission of the offense, or within the limitation period of the criminal law if it is also a criminal offense.
2 - The disciplinary procedure must begin within 60 days after the employer or the hierarchical superior with disciplinary jurisdiction became aware of the offense.

3 - The disciplinary procedure shall expire one year after the date on which it is established when, within that period, the worker is not notified of the final decision.
4 - Disciplinary power may be exercised directly by the employer, or by the employee's hierarchical superior, under the terms established by the employer.
5 - Once the disciplinary procedure has begun, the employer may suspend the worker if the employee's presence is inconvenient, while maintaining the payment of the compensation.
6 - The disciplinary sanction cannot be applied without prior hearing of the worker.

7 - Notwithstanding the corresponding right of judicial action, the employee may claim for the hierarchy superior to the one who applied the sanction, or to resort to the process of resolution of litigation when foreseen in an instrument of collective regulation of work or in the law.
8 - Violation of paragraph 6 represents a serious administrative offense.

Article 330

Criterion of decision and application of disciplinary sanction

1 - The disciplinary sanction must be proportional to the gravity of the offense and to the culpability of the offender and may not apply more than one for the same offense.
2 - The sanction must be applied within three months of the decision, under penalty of forfeiture.
3 - The employer shall deliver to the department responsible for the financial management of the social security budget the amount of the financial penalty applied.
4 - Violation of the provisions of paragraphs 2 or 3 represents a serious administrative offense.

Article 331

Abusive sanctions

1 - The disciplinary sanction is considered abusive due to the fact that the employee:
a) have legitimately claimed against working conditions;
b) Refuses to comply with an order to which he does not have to comply, pursuant to subparagraph e) of paragraph 1 and paragraph 2 of article 128;
c) To exercise or to apply for the exercise of functions in a structure of collective representation of the employees;
d) In general, exercise, have exercised, intend to exercise or invoke their rights or guarantees.
2 - The dismissal or other sanction applied allegedly to punish an offense shall be presumed abusive when:
a) Up to six months after any of the events mentioned in the previous number;
b) up to one year after the termination or other form of exercise of rights relating to equality, non-discrimination and harassment.
3 - The employer who imposes an abusive sanction must compensate the employee in the general terms, with the changes listed in the following paragraphs.
4 - In case of dismissal, the employee has the right to choose between reintegration and compensation calculated according to paragraph 3 of article 392.
5 - In the event of a pecuniary sanction or suspension of work, compensation shall not be less than 10 times the amount of compensation or lost remuneration.
6 - The employer who applies an abusive sanction in the case provided for in subparagraph c) of paragraph 1 must compensate the employee in the following terms:
a) The minimums referred to in the previous paragraph are increased to double;

b) In the case of dismissal, the compensation must not be less than the amount of the basic salary and the salary for 12 months.
7 - It represents a serious administrative offense to impose an abusive sanction.

Amendments
Amended by Article 2 of the Law no. 73/2017 - Official Gazette no. 157/2017, Series I of 2017-08-16, in force from 2017-10-01

Article 332
Registration of disciplinary sanctions

1 - The employer shall keep an up-to-date register of disciplinary sanctions, in a form that will easily permit verification of compliance with the applicable provisions, in particular by the competent authorities requesting their consultation.
2 - It is a minor administrative offense to violate the provisions of the preceding paragraph.

Section IV
Guarantees of worker credits

Article 333
Credit privileges

1 - Employee credits arising from a labour contract, or from its violation or termination, enjoy the following privileges:
a) Privilege of general furniture;
b) Special real estate privilege on immovable property of the employer in which the worker provides his activity.
2 - The graduation of credits is made in the following order:
a) The credit with general furniture privilege is graduated before credit referred to in number 1 of article 747 of the Civil Code;
b) The credit with special real estate privilege is graduated before credit referred to in article 748 of the Civil Code and credit related to social security contribution.

Article 334
Joint and several liability of society in relation to reciprocal, domain or group participation

A credit arising from a labour contract, or from its violation or termination, which has expired for more than three months, shall be jointly and severally liable to the employer and the company which is in a relationship of reciprocal, domain or group participation, under the terms set forth in articles 481 of the Companies Code.

Article 335
Liability of partner, manager, administrator or director

1 - A member who, alone or together with others to whom he is bound by social security agreements, is in one of the situations provided for in article 83 of the Commercial Companies Code, responds according to the previous article, provided that the assumptions of Articles 78, 79 and 83 of that law and by the manner established therein.

2 - The manager, administrator or director shall respond according to the terms of the previous article, provided that the assumptions of articles 78 and 79 of the Companies Code and the manner established therein are met.

Article 336
Wage Guarantee Fund

The payment of employees' claims arising out of an employment contract, or of their violation or termination, that cannot be paid by the employer due to insolvency or difficult economic situation, is guaranteed by the Wage Guarantee Fund, under the terms provided for in specific legislation .

Section V
Prescription and proof

Article 337
Prescription and proof of credit

1 - The credit of an employer or of a worker arising from an employment contract, of its violation or termination shall expire one year after the day following that in which the employment contract terminated.
2 - The claim corresponding to compensation for breach of holidays entitlement, compensation for improper sanction or payment of additional work, expired more than five years, can only be proven by a suitable document.

Chapter VII
Termination of employment contract

Section I
General provisions on termination of employment contract

Article 338
Prohibition of dismissal without just cause

Unfair dismissal is prohibited or for political or ideological reasons.

Article 339
Imperative of the system of termination of employment contract

1 - The regime established in this chapter cannot be dismissed by a collective labour regulation instrument or by employment contract, except as provided in the following numbers or in another legal provision.
2 - The criteria for the definition of damages and the procedural and notice periods established in this chapter may be regulated by a collective labour regulation instrument.
3 - Compensation amounts may, within the limits of this Code, be regulated by a collective labour regulation instrument.

Article 340

Terms of termination of employment contract

In addition to other legal procedures, the employment contract may be terminated by:
a) Expiry;
b) Revocation;
c) Dismissal for a fact attributable to the employee;
d) Collective dismissal;
e) Dismissal for termination of employment;
f) Dismissal due to unsuitability;
g) Resolution by the employee;
h) Termination by the employee.

Article 341

Documents to be delivered to the worker

1 - Terminating the employment contract, the employer must deliver to the worker:
a) A work certificate, indicating the dates of admission and cessation, as well as the position or positions held;
b) Other documents intended for official purposes, namely those provided for in social security legislation, which must be issued upon request.
2 - The work certificate may only contain other references at the request of the worker.
3 - It is a minor administrative offense to breach the provisions of this article.

Article 342

Return of work tools

Upon termination of the employment contract, the employee shall immediately return to the employer the instruments of labour and any other objects belonging to him, otherwise he will incur civil liability for the damages caused.

Section II

Termination of employment contract

Article 343

Causes of expiration of employment contract

The employment contract expires in general terms, namely:
a) Verifying its end;
b) Due to the absolute and definitive impossibility of the worker providing his or her work or the employer's to receive;
c) With the retirement of the worker, due to old age or disability.

Article 344

Expiry of a fixed-term employment contract

1 - The fixed-term employment contract expires at the end of the stipulated period, or its renewal, if the employer or the worker notifies the other party of the intention to terminate it in writing, respectively, 15 or 8 days before the time limit expires.
2 - In the event of the expiration of a fixed-term employment contract resulting from a declaration by the employer under the terms of the preceding paragraph, the employee is entitled to compensation corresponding to 18 days of basic salary and salary for each full year of seniority, calculated according to Article 366
3 - (Revoked).
4 - (Revoked).
5 - Violation of the provisions of paragraph 2 represents serious administrative offence.

Amendments
Amended by Article 2 of the Law no. 69/2013 - Official Gazette no. 167/2013, Series I of 2013-08-30, in force from 2013-10-01.
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01.
Amended by the Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Article 345
Expiry of indefinite term employment contract

1 - The contract of uncertain term work expires when, provided the term occurs, the employer notifies the termination of the same to the worker, at least seven, 30 or 60 days in advance as the contract lasted up to six months, from six months to two years or for a longer period.
2 - In the case of a situation provided for in subparagraph e) or h) of number 2 of article 140 that gives rise to the hiring of several employees, the communication referred to in the previous number shall be made, in turn, to as a consequence of the normal reduction of the activity, task or work for which they were hired.
3 - In the absence of the communication referred to in paragraph 1, the employer shall pay the employee the amount of the remuneration corresponding to the period of notice in default.
4 - In case of expiration of an uncertain term contract, the employee is entitled to compensation corresponding to the sum of the following amounts:
a) 18 days of basic remuneration and daily subscriptions for each full year of seniority, for the first three years of the contract;
b) The 12 days of basic remuneration and diuturnalities for each full year of seniority, in subsequent years.
5 - The compensation provided for in the previous paragraph shall be calculated according to article 366.
6 - Violation of the provisions of paragraph 4 represents serious administrative offence.

Amendments
Amended by Article 2 of the Law no. 69/2013 - Official Gazette no. 167/2013, Series I of 2013-08-30, in force from 2013-10-01
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01
Amended by the Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Article 346
Death of an employer, termination of a legal entity or closure of a company

1 - The death of an individual employer terminates the employment contract at the date of closure of the company, unless the successor of the deceased continues the activity for which the employee is contracted or if the transfer of the company or establishment is verified.

2 - The extinction of a corporate employer, when it is not verified the transfer of the company or establishment, determines the expiration of the employment contract.
3 - The total and definitive closure of the company determines the expiration of the employment contract, following the procedure set forth in articles 360 et seq., with the necessary adaptations
4 - The provisions of the preceding paragraph do not apply to micro companies, from which the worker must be informed in advance of the provisions of paragraphs 1 and 2 of article 363.
5 - If the contract expires in case of one of the preceding paragraphs, the employee is entitled to compensation calculated according to article 366, which is responsible for the assets of the company.
6 - (Repealed).
7 - Violation of the provisions of paragraph 5 represents a serious administrative offence.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01
Amended by Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Article 347

Insolvency and Company Recovery

1 - The judicial declaration of insolvency of the employer does not terminate the employment contract, and the insolvency administrator must continue to satisfy fully the obligations towards the employees until the establishment is definitively closed.
2 - Before the definitive closure of the establishment, the insolvency administrator may terminate the employment contract of a worker whose collaboration is not indispensable to the operation of the company.
3 - The termination of employment contracts resulting from the closure of the establishment or carried out pursuant to paragraph 2 shall be preceded by a procedure set forth in articles 360 et seq., With the necessary adaptations.
4 - The provisions of the preceding paragraph do not apply to microenterprises.
5 - In the situation referred to in paragraph 2, the employee is entitled to the compensation provided for in article 366.
6 - The provisions of paragraph 3 shall apply in the event of insolvency proceedings that may determine the closure of the establishment.
7 - Violation of the provisions of paragraph 5 represents a serious administrative offence.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01
Amended by Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Article 348

Conversion into fixed-term contract after retirement for old age or age of 70 years

1 - The employment contract of a worker who remains in service shall be deemed to have expired after 30 days on the knowledge of both parties of his pension due to old age.
2 - In the case foreseen in the previous number, the contract will be subject to the regime defined in this Code for the fixed-term contract, with the necessary adaptations and the following specificities:
a) The reduction of the contract in writing is waived;
b) The contract is valid for a period of six months, renewing for equal and successive periods, without being subject to ceilings;

c) The expiration of the contract is subject to prior notice of 60 or 15 days, depending on whether the initiative belongs to the employer or to the worker;
d) The expiration does not determine the payment of any compensation to the employee.
3 - The provisions of the previous numbers apply to an employment contract of a worker who reaches the age of 70 years without reform.

Section III
Related searches

Article 349
Termination of employment contract by agreement

1 - The employer and the worker may terminate the employment contract by agreement.
2 - The agreement of revocation must appear in document signed by both parties, each one with a copy.
3 - The document shall state expressly the date of conclusion of the agreement and of the beginning of production of the corresponding effects, as well as the legal term for the exercise of the right to terminate the agreement of revocation.
4 - The parties may at the same time agree on other effects, within the limits of the law.
5 - If, in the agreement or jointly with the latter, the parties establish an overall pecuniary compensation for the employee, it shall be presumed that it includes credits due on or after the termination of the contract.
6 - It is a minor administrative offense to breach the provisions of paragraphs 2 or 3.

Amendments
Amended by Article 2 of the Law no. 73/2017 - Official Gazette no. 157/2017, Series I of 2017-08-16, in force from 2017-10-01

Article 350
Termination of the contract by repeal

1 - The employee may terminate the agreement to repeal the employment contract by written communication addressed to the employer, no later than the seventh day following the date of its conclusion.
2 - The employee, if cannot ensure the receipt of the communication within the period provided for in the previous number, must send it by registered letter with acknowledgment of receipt, on the business day following the deadline.
3 - The termination provided for in paragraph 1 shall be effective only if, at the same time as the communication, the employee delivers or otherwise puts at the disposal of the employer the full amount of the monetary compensation paid pursuant to the agreement, or termination of the employment contract.
4 - Excepted from the provisions of the previous numbers, the revocation agreement duly dated and whose signatures are notarised in person, according to the law.

Section IV
Dismissal at the initiative of the employer

Subsection I
Modalities of dismissal

Division I
Dismissal for fact attributable to the employee

Article 351
Notion of just cause of dismissal

1 - It is just cause of dismissal of the culpable behavior of the worker who, by its seriousness and consequences, makes immediate and practically impossible the subsistence of the employment relationship.
2 - In particular, the following causes of dismissal are a fair cause of dismissal:
a) Illegitimate disobedience to orders given by hierarchically superior officials;
b) Violation of rights and guarantees of employees of the company;
c) Repeated provoking of conflicts with employees of the company;
d) Repeated disinterest for the fulfillment, with due diligence, of obligations inherent to the exercise of the position or position to which he is assigned;
e) Injury of serious interests of the company;
f) False statements regarding the justification of absences;
g) Unjustified absences from work that directly cause serious losses or risks to the company, or whose number reaches, in each calendar year, five consecutive or 10 interpolated, regardless of injury or risk;
h) Lack of compliance with safety and health rules at work;
i) Practice, in the scope of the company, of physical violence, injuries or other offenses punishable by law on company, member of social bodies or individual employer not belonging to them, their delegates or representatives;
j) Kidnapping or in general crime against the freedom of the people mentioned in the previous paragraph;
l) Non-compliance or opposition to compliance with a judicial or administrative decision;
m) Abnormal productivity reductions.
3 - When assessing just cause, the degree of damage to the interests of the employer, the nature of the relations between the parties or between the employee and his/her partners and other circumstances if relevant.

Article 352
Previous inquiry

If the preliminary investigation procedure is necessary to substantiate the blame note, its initiation interrupts the counting of the deadlines set out in paragraph1 or 2 of article 329, provided that it occurs within 30 days of suspected irregular behavior, the procedure is conducted diligently and the notice of guilt is notified within 30 days of completion.

Article 353
Guilty note

1 - In the event of any behavior that may represent a just cause for dismissal, the employer shall inform the employee who has committed the intention to dismiss him or her in writing, together with a detailed description of the are charged.
2 - On the same date, the employer shall send copies of the communication and the note of fault to the employees' committee and, if the worker is a trade union representative, to the corresponding trade union association.

3 - The notification of the guilty note to the worker interrupts the counting of the deadlines established in article 329, paragraphs 1 or 2.
4 - The dismissal of a worker in breach of the provisions of paragraphs 1 or 2 represents a serious or very serious administrative offense in the case of a trade union representative.

Article 354
Preventive worker suspension

1 - With the notice of fault, the employer may preventively suspend the employee whose presence in the company is inconvenient, while maintaining the payment of the compensation.
2 - The suspension referred to in the previous number may be determined within 30 days prior to notification, provided that the employer justifies in writing that, in the light of indications of facts attributable to the employee, his presence in the company is inconvenient, in particular for the investigation of such facts, and that it has not yet been possible to prepare the note of fault.

Article 355
Guilt note response

1 - The employee has 10 working days to consult the process and respond to the note of guilt, deducting in writing the elements that he considers relevant to clarify the facts and their participation in them, being able to attach documents and request the evidentiary measures that they show relevant to the clarification of the truth. 2 - The dismissal of a worker in breach of the provisions of the preceding paragraph represents a serious or very serious administrative offense in the case of a union representative.

Article 356
Instruction

1 - The employer, by himself or through an instructor he has appointed, must carry out the evidentiary measures required in response to the note of guilty, unless he considers them to be patently delaying or impertinent, and in this case must substantiate it in writing.
2 - (Revoked).
3 - The employer is not obliged to proceed to the hearing of more than three witnesses for each fact described in the note of guilty, nor more than 10 in total.
4 - The worker must assure the presence of the witnesses he indicates.
5 - Upon completion of the probationary proceedings, the employer shall submit a copy of the file to the employees' committee and, if the worker is a union representative, to the corresponding trade union association, who may, within five working days, reasoned opinion.
6 - For the purpose of the previous number, the employee may inform the employer, within three working days of receipt of the note of guilty, that the opinion on the case is issued by a certain trade union association, in which case no to the employees' committee.
7 - The dismissal of a worker in breach of the provisions of paragraphs 1, 5 and 6 represents serious or very serious administrative offence in the case of a trade union representative.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 357

Decision of dismissal for fact imputable to the employee

1 - Once the opinions referred to in paragraph 5 of the preceding article have been received or after the deadline has expired, the employer has 30 days to render the dismissal decision, under penalty of expiration of the right to apply the sanction.
2 - When there is no employees' commission and the worker is not a union representative, the period referred to in the previous number is counted from the date of completion of the last investigation.
3 - (Repealed).
4 - In the decision, the circumstances of the case, in particular those referred to in paragraph 3 of article 351, the adequacy of the dismissal to the employee's guilt and the opinions of the employees' representatives are considered, and no facts not included in the note guilty or the employee's response, unless they reduce liability.
5 - The decision must be justified and must be written.
6 - The decision shall be communicated, by copy or transcription, to the worker, the employees' commission, or the corresponding trade union association, if the union representative or in the situation referred to in paragraph 6 of the previous article.
7 - The decision determines the termination of the contract as soon as it arrives at the power of the worker or is known of it or, moreover, when only because of the worker was not received by him in due time.
8 - The dismissal of a worker in breach of the provisions of paragraphs 1, 2 and 5 to 7 represents a serious or very serious administrative offence in the case of a trade union representative.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 358

Procedure in case of micro company

1 - In the procedure for dismissal in micro companies, if the worker is not a member of a employees' committee or a trade union representative, the formalities provided for in paragraph 2 of article 353, paragraph 5 of article 356 and in paragraphs 1, 2 and 6 of the previous article, and the provisions of the following paragraphs shall apply.
2 - In weighing and justifying the decision, the provisions of paragraph 4 of the previous article shall apply, except for the reference to opinions of employees' representatives.
3 - The employer can make the decision within the following deadlines:
a) If the worker does not respond to the note of guilty, 30 days after the deadline for reply to the same;
b) 30 days after the completion of the last step;
c) (Revoked).
4 - If the employer does not pronounce the decision until the expiration of the period referred to in any of the paragraphs of the previous number, the right to apply the sanction expires.

5 - The decision is communicated, by copy or transcription, to the worker.
6 - Violation of the provisions of paragraphs 3 or 5 represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Division II
Collective dismissal

Article 359
Concept of collective dismissal

1 - Collective dismissal is defined as the termination of employment contracts promoted by the employer and operated simultaneously or successively over a period of three months, comprising at least two or five employees, depending on whether they are microenterprises or small companies respectively, on the one hand, or medium-sized or large-scale undertakings, on the other, where that occurrence is based on the closure of one or more sections or equivalent structure or reduction in the number of employees determined for market, structural or technological reasons.
2 - For the purposes of the previous paragraph, the following shall be considered in particular:
a) market reasons - a reduction in the activity of the undertaking caused by a foreseeable decrease in the demand for goods or services or a supervening, practicable or legal impossibility of placing those goods or services on the market;
b) Structural reasons - economic and financial imbalance, change of activity, restructuring of the productive organisation or substitution of dominant products;
c) Technological reasons - changes in manufacturing techniques or processes, automation of production, control or load handling instruments, as well as computerisation of services or automation of means of communication.

Article 360
Communications in case of collective redundancies

1 - An employer wishing to make a collective redundancy shall communicate this intention in writing to the employees' committee or, failing that, to the inter-union commission or trade union committees of the undertaking representing the employees to be covered.
2 - The communication referred to in the previous number shall include:
a) The grounds for collective dismissal;
b) The establishment plan, broken down by organisational sectors of the undertaking;
c) The criteria for selection of employees to be dismissed;
d) The number of employees to be dismissed and the occupational categories covered;
e) The period of time during which dismissal is to be carried out;
f) The method of calculation of compensation to be generally granted to employees to dismiss, where appropriate, notwithstanding the compensation established in article 366 or collective bargaining instrument.
3 - In the absence of the entities referred to in paragraph 1, the employer shall communicate the intention to dismiss each of the employees who may be covered in writing, who may designate, among them, within five days a representative commission of up to three or five members depending on the dismissal covers up to five or more employees.
4 - In the case foreseen in the previous number, the employer sends to the commission in the mentioned one the elements of information discriminated in number 2.
5 - On the date of the communication provided for in paragraph 1 or the previous number, the employer sends a copy of the communication to the ministry responsible for the labour area with responsibility for monitoring and promoting collective bargaining.

6 - Dismissal made in breach of the provisions of paragraphs 1 to 4 represents a serious administrative offense and it is a minor administrative offense against that done in violation of paragraph 5.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01
Amended by Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Article 361
Information and negotiation in case of collective dismissal

1 - Within five days of the date of the act provided for in paragraphs 1 or 4 of the preceding article, the employer shall promote an information and negotiation phase with the representative structure of employees, with a view to reaching agreement on the size and effects of the measures to be applied, as well as other measures to reduce the number of employees to be dismissed, in particular:
a) Suspension of employment contracts;
b) Reduction of normal periods of work;
c) Conversion or professional reclassification;
d) Early retirement or early retirement.
2 - The application of the measure provided for in subparagraph a) or b) of the previous number to employees covered by collective redundancy procedure is not subject to the provisions of articles 299 and 300.
3 - The application of the measure provided for in subparagraph c) or d) of paragraph 1 depends on the agreement of the employee.
4 - The employer and the representative structure of the employees may each be assisted by an expert in the negotiation meetings.
5 - Minutes of the negotiation meetings, containing the agreed matter, as well as the divergent positions of the parties and the opinions, suggestions and proposals of each one must be elaborated.
6 - Dismissal made in violation of the provisions of paragraphs 1 or 3 represents a serious administrative offense.

Article 362
Intervention by the ministry responsible for labour

1 - The competent department of the ministry responsible for labour matters participates in the negotiation provided for in the previous article, with a view to promoting the regularity of its substantive and procedural instruction and conciliation of the interests of the parties.
2 - The service referred to in the preceding paragraph, if there is an irregularity of the substantive and procedural instruction, must warn the employer and, if it persists, it must include that mention of the minutes of the negotiation meetings.
3 - At the request of either party or at the initiative of the department referred to in the preceding paragraph, the regional employment services, professional training and social security shall indicate the measures to be applied in their corresponding areas, according to the legal framework of solutions adopted.
4 - It is a minor administrative offense to prevent the participation of the competent department in the negotiation referred to in paragraph 1.

Article 363
Decision of collective dismissal

1 - If the agreement or, failing that, after 15 days have elapsed since the act referred to in paragraph 1 or 4 of article 360 or, in the absence of representatives of the employees, the communication referred to in paragraph 3 of the same article, the employer shall inform each worker covered by the decision to dismiss, with an express reference to the reason for and date of termination of the contract and indication of the amount, form, time and place of payment of the compensation, overdue credits and liabilities by reason of the termination of the employment contract, in writing and at least prior to the date of termination, of:
a) 15 days, in the case of a worker with a seniority of less than one year;
b) 30 days, in the case of a worker with seniority equal to or greater than one year and less than five years;
c) 60 days, in the case of a worker with a seniority equal to or greater than five years and less than 10 years;
d) 75 days in the case of a worker with a seniority of 10 years or more.
2 - In the event that the dismissal covers both spouses or persons living in a union, the communication provided for in the preceding paragraph shall be made at the earliest possible time in the immediately preceding step of what would be applicable if only one of them were part of the dismissal.
3 - The employer shall, on the date on which the communication is sent to the employees:
a) The minutes of the negotiating meetings or, failing that, information on the reasons for such failure, the reasons which have impeded the agreement and the final positions of the parties, and the name of each worker, address, dates of birth and admission to the company, status in relation to social security, profession, category, remuneration, the measure decided, and the date set for its application;
b) To the representative structure of the employees, copy of the relation referred to in the previous subparagraph.
4 - If the minimum notice period is not observed, the contract ends after the notice period has elapsed since the notification of dismissal, and the employer must pay the corresponding remuneration for this period.
5 - Payment of compensation, overdue credits and claims due to the termination of the employment contract shall be made until the expiration of the notice period, except in the situation provided for in article 347 or regulated by special legislation on the recovery of restructuring of economic sectors.
6 - Dismissal made in violation of the provisions of paragraphs 1, 2 or 5 represents a serious administrative offense and it is a minor administrative offense to violate the provisions of paragraph 3.

Article 364

Credit hours during advance notice

1 - During the period of notice, the employee is entitled to a credit of hours corresponding to two days of work per week, notwithstanding the remuneration.
2 - The credit of hours can be divided by some or all the days of the week, by initiative of the worker.
3 - The employee must communicate to the employer the use of the credit of hours, three days in advance, unless there is an acceptable reason.
4 - It is a minor administrative offense to violate the provisions of this article.

Article 365

Termination of the contract by the employee during the prior notice

During the notice period, the employee can terminate the employment contract, by making a declaration at least three business days in advance, maintaining the right to compensation.

Article 366

Compensation for collective dismissal

1 - In case of collective dismissal, the employee is entitled to compensation corresponding to 12 days of basic remuneration and diuturnities for each full year of seniority.
2 - The compensation provided for in the previous paragraph shall be determined as follows:
a) The amount of the basic monthly remuneration and the employee's deductibility to be considered for the purposes of calculating the compensation cannot exceed 20 times the minimum monthly guaranteed remuneration;
b) The total amount of the compensation may not exceed 12 times the monthly basic salary and daily allowances of the employee or, when the limit provided for in the previous paragraph is applicable, 240 times the minimum monthly guaranteed salary;
c) The daily value of basic and diurnal remuneration is the result of the division by 30 of the base monthly remuneration and diuturnities;
d) In the case of a fraction of a year, the amount of the compensation shall be calculated proportionally.
3 - The employer is responsible for the payment of all compensation, notwithstanding the right to reimbursement, by the employer, to the labour compensation fund or equivalent mechanism and the right of the employee to activate the labour compensation guarantee fund, as provided for in specific legislation.
4 - The employee is presumed to accept dismissal when he receives from the employer all the compensation provided for in this article.
5 - The presumption referred to in the preceding paragraph may be rebutted provided that, at the same time, the employee delivers or puts in any way all the compensation paid by the employer to the latter.
6 - In the case of a fixed-term employment contract and a temporary employment contract, the employee is entitled to the compensation provided for in paragraph 2 of article 344 and paragraph 4 of article 345, as the case may be, according to paragraphs 2 to 5 of this Article.
7 - Violation of the provisions of paragraphs 1, 2, 3 and 6 represents serious administrative offence.

Amendments
Amended by Article 2 of the Law no. 69/2013 - Official Gazette no. 167/2013, Series I of 2013-08-30, in force from 2013-10-01
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 366-A

Compensation for new employment contracts

1 - In case of collective dismissal regarding new employment contracts, the employee is entitled to compensation corresponding to 20 days of basic remuneration and daily leave for each full year of seniority.
2 - The compensation provided for in the previous paragraph shall be determined as follows:
a) The amount of the basic monthly remuneration and the employee's deductibility to be considered for the purposes of calculating the compensation cannot exceed 20 times the minimum monthly guaranteed remuneration;
b) The total amount of the compensation may not exceed 12 times the basic monthly salary and the employee’s daily allowances or, when the limit provided for in the previous paragraph is applicable, 240 times the value of the minimum guaranteed monthly salary;
c) The daily value of basic and diurnal remuneration is the result of the division by 30 of the base monthly remuneration and diuturnities;
d) In the case of a fraction of a year, the amount of the compensation shall be calculated proportionately.

3 - The compensation is paid by the employer, except for the part that falls to the labour compensation fund under the terms of its own legislation.
4 - If the compensation fund does not pay the full amount of the compensation to which it is obligated, the employer shall be liable for the corresponding payment and shall be subrogated to the employee's rights in relation to that in an equivalent amount.
5 - The worker is presumed to accept the dismissal when he receives the compensation provided for in this article.
6 - The presumption referred to in the preceding paragraph may be repealed provided that, at the same time, the employee delivers or in any way puts at the disposal of the employer and the employees' compensation fund all the pecuniary compensation received.
7 - Violation of the provisions of paragraphs 1 to 4 represents a serious administrative offense.

Amendments
Repealed by Article 9 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01
Amended by Article 2 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Division III
Dismissal for termination of employment

Article 367
Concept of dismissal due to extinction of work

1 - The termination of employment is considered a termination of employment contract promoted by the employer and based on that termination, when this is due to market, structural or technological reasons, related to the company.
2 - Market, structural or technological reasons shall be understood as those referred to in paragraph 2 of Article 359.

Article 368
Dismissal requirements for workstation termination

1 - The dismissal by extinction of workstation can only take place provided that the following requirements are met:
a) The reasons given are not due to the fault of the employer or the employee;
b) It is practically impossible the subsistence of the employment relationship;
c) there are no fixed-term employment contracts in the undertaking for tasks corresponding to those of the terminated post;
d) The collective dismissal does not apply.
2 - In the case of a section or equivalent structure having a plurality of workstations of identical functional content, in order to determine the workstation to be terminated, the decision of the employer shall observe, by reference to the corresponding holders, the following order of relevant and non-discriminatory criteria :

a) Worse performance evaluation, with parameters previously known by the worker;
b) Lower academic and professional qualifications;
c) Increased onerousness by the maintenance of the labour bond of the worker to the company;
d) Less experience in the function;

e) Lower seniority in the company.
3 - A worker who has been transferred to a post that has been extinguished in the three months prior to the start of the dismissal procedure has the right to be reassigned to the previous job if he/she still exists, with the same basic remuneration.
4 - For the purpose of subparagraph b) of paragraph 1, after termination of employment, it is considered that subsistence of the employment relationship is practically impossible when the employer does not have another compatible with the professional category of the worker.
5 - The dismissal by extinguishment of the job can only take place provided, until the expiration of the notice period, the compensation due is made available to the worker, as well as the credits due and payable due to the termination of the contract of work.
6 - Dismissal represents a serious administrative offense in violation of the provisions of subparagraphs c) and d) of paragraph 1 and 2 or 3.

Notes
1 - Decision of the Constitutional Court no. 602/2013 - Official Gazette no. 206/2013, Series I of 2013-10-24
Declared to be unconstitutional, with general obligatory force, paragraph 2 and paragraph 4 of article 368 of the Labour Code.

Amendments
Amended by Article 2 of the Law no. 27/2014 - Official Gazette no. 88/2014, Series I of 2014-05-08, in force from 2014-06-01
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 369
Communications in the event of termination of employment

1 - In the event of dismissal due to termination of employment, the employer shall inform the employees' committee in writing or, failing this, the inter-union commission or trade union commission, the worker involved and, if he is a trade union representative, the corresponding trade union association:
a) The need to extinguish the job, indicating the reasons and the section or equivalent unit to which it refers;
b) The need to dismiss the employee assigned to the job to be extinguished and his professional category.
c) The criteria for selection of employees to dismiss.
2 - The dismissal made in violation of the provisions of the preceding paragraph represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 370
Consultations in the event of termination of employment

1 - In the 10 days following the notification provided for in the preceding article, the representative structure of the employees, the worker involved and, if the latter is a trade union representative, the corresponding trade union association may transmit to the employer their reasoned opinion, in particular on the grounds invoked, the requirements laid down in paragraph 1 of Article 368 or the criteria referred to in paragraph 1 of Article 368, as well as the alternatives to mitigate the effects of dismissal.
2 - Any worker involved or entity referred to in the preceding number may, within three working days of the employer's notice, request the service with the Ministry of Labour's inspection authority to verify the

requirements set forth in subparagraph c) and d) of paragraph 1 and paragraph 2 of Article 368, while informing the employer thereof.

3 - The service referred to in the previous number shall prepare and send to the applicant and the employer a report on the matter subject to verification, within seven days after receipt of the request.

Amendments

Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 371

Termination decision for termination of employment

1 - Five days after the expiration of the period referred to in paragraph 1 of the preceding article, or, as the case may be, after receipt of the report referred to in paragraph 3 of that article or of the expiration of the term the employer may proceed to the dismissal.

2 - The dismissal decision shall be made in writing, stating:

a) Reason for termination of the job;

b) Confirmation of the requirements of paragraph 1 of article 368;

c) Proof of the application of the criteria for determining the workstation to be terminated, if there has been opposition to it;

d) Amount, form, time and place of payment of the compensation and overdue credits and those due to the termination of the employment contract;

e) Date of termination of the contract.

3 - The employer shall communicate the decision, by copy or transcription, to the employee, to the entities referred to in article 369, paragraph 1, as well as to the service with inspection authority of the ministry responsible for the labour area, with respect to the date of termination, of:

a) 15 days, in the case of a worker with a seniority of less than one year;

b) 30 days, in the case of a worker with seniority equal to or greater than one year and less than five years;

c) 60 days, in the case of a worker with a seniority equal to or greater than five years and less than 10 years;

d) 75 days in the case of a worker with a seniority of 10 years or more.

4 - Payment of compensation, overdue loans and claims due to the termination of the employment contract must be made before the expiry of the notice period.

5 - Severe contra-ordination represents the dismissal carried out in violation of the provisions of paragraphs 1 and 2, as well as the lack of communication to the worker referred to in paragraph 3;

6 - The lack of communication to the entities and to the service referred to in paragraph 3 is minor.

Amendments

Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 372

Employee's rights in case of dismissal due to termination of employment

The dismissed worker shall be subject to the provisions of paragraph 4 and the first part of paragraph 5 of article 363 and articles 364 to 366.

Amendments

Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Amended by Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Division IV
Dismissal due to unsuitability

Article 373
Concept of dismissal due to unsuitability

Dismissal for unsuitability is considered to be the termination of an employment contract promoted by the employer and based on the employee's unsuitability of the job.

Article 374
Situations of unsuitability

1 - Unsuitability occurs in any of the situations provided for in the following paragraphs, when, being determined by the way the employee performs his duties, it makes it practically impossible to maintain the employment relationship:
a) Continuous reduction of productivity or quality;
b) repeated failures in the means allocated to the job;
c) Risks to the safety and health of the worker, other employees or third parties.
2 - There is still unsuitability of a worker affected by technical or managerial complexity when the objectives previously agreed upon are not met in writing, as a consequence of his/her way of exercising his/her functions and it is practically impossible to keep the employment relationship.
3 - The provisions of the preceding paragraphs shall not affect the protection afforded to employees with reduced working capacity, disability or chronic illness.
4 - The situation of unsuitability referred to in the preceding paragraphs must not result from a lack of safety and health conditions at work attributable to the employer.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 375
Disqualification requirements for unsuitability

1 - Dismissal for unsuitability in the situation referred to in paragraph 1 of the previous article can only take place provided that, cumulatively, the following requirements are met:
a) changes have been made at the workplace resulting from changes in the manufacturing or marketing processes, new technologies or equipment based on different or more complex technology, within the six months preceding the commencement of the procedure;
b) Professional training appropriate to the modifications of the workstation has been given, by competent authority or certified training entity;
c) the worker has been given, after training, an adaptation period of at least 30 days at or outside the workplace where the performance of duties at that post is liable to cause harm or risk to safety and security; health of employees, other employees or third parties;
d) there is no other workplace available and compatible with the professional category of the worker;
e) (Revoked).
2 - Dismissal for unsuitability in the situation referred to in paragraph 1 of the previous article, if there have been no changes in the job, can take place provided that, cumulatively, the following requirements are met:

a) Substantial modification of the performance by the employee, resulting in particular in the continuous reduction of productivity or quality, repeated failures in the means of work or risks to the safety and health of the worker, other employees or third parties , determined by the manner in which the duties are performed and that, in the light of the circumstances, it is reasonable to foresee them to be definitive;
b) The employer informs the employee, together with a copy of the relevant documents, of the assessment of the activity previously provided, with a detailed description of the facts, demonstrating a substantial modification of the benefit, and that less than five working days;
c) After the employee's response or after the deadline has elapsed, the employer informs him, in writing, of proper orders and instructions regarding the execution of the work, with a view to correcting it, bearing in mind the facts invoked by him;
d) The provisions of paragraphs b) and c) of the previous paragraph have been applied, with due adaptations.
3 - Dismissal for unsuitability in the situation referred to in paragraph 2 of the previous article may take place:
a) where new manufacturing processes, new technologies or equipment based on different or more complex technology have been introduced, which entails modification of the functions relating to the workstation;
b) If there has been no change in the workplace, provided that the provisions of subparagraph b) of the previous number are complied with, with due adaptations.
4 - The employer must send to the employees' committee and, in case the worker is a trade union representative, to the union association, a copy of the communication and the documents referred to in paragraph b) of paragraph 2.
5 - The training referred to in paragraphs 1 and 2 shall count towards the fulfillment of the training obligation borne by the employer.
6 - A worker who, in the three months prior to the commencement of the dismissal procedure, has been transferred to a job in which he or she is not working, has the right to be reassigned to the previous job if the same basic remuneration.
7 - The dismissal can only take place provided that the compensation due, the credits due and payable due to the termination of the employment contract are made available to the worker, until the expiration of the notice period.
8 - Violation of the provisions of this article represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 27/2014 - Official Gazette no. 88/2014, Series I of 2014-05-08, in force from 2014-06-01
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 376

Communications in case of dismissal due to unsuitability

1 - In the case of dismissal due to unsuitability, the employer shall notify the worker in writing and, if the latter is a trade union representative, to the corresponding trade union association:
a) The intention to proceed to the dismissal, indicating the justifications;
b) Modifications introduced in the workplace or, if these have not existed, the elements referred to in sub-paragraphs b) and c) of paragraph 2 of the previous article;
c) the results of the professional training and the period of adaptation referred to in points b) and c) of paragraph 1 and subparagraph d) of paragraph 2 of the preceding article.
2 - If the employee is not a trade union representative, after three working days after receipt of the communication referred to in the preceding paragraph, the employer shall make the same communication to

the trade union that the employee has indicated for the purpose or, failing that, to the employees' committee or, failing that, to the inter-union commission or trade union commission.
3 - Dismissal made in violation of the provisions of this article represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 377
Consultations in case of dismissal due to unsuitability

1 - In the 10 days following the communication provided for in the previous article, the employee may attach the documents and request the necessary evidentiary measures, in which case the provisions of paragraph 3 and 4 of Article 356 shall be applied.
2 - If evidence has been requested, the employer must inform the worker, the representative structure of the employees and, if the union representative, the corresponding trade union association, of the result of the same.
3 - Following the communications provided for in the previous article, the employee and the representative structure of the employees may, within 10 working days, communicate to the employer their reasoned opinion, in particular on the reasons justifying the dismissal.
4 – Violation of the provisions of paragraph 2 represents a serious administrative offence.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 378
Decision on redundancy due to unsuitability

1 - Upon receipt of the opinions referred to in the previous article or the expiration of the period to that effect, the employer shall have 30 days to dismiss, under penalty of expiration of the right, by means of a reasoned and written decision stating:
a) Reason for termination of employment contract;
b) Confirmation of the requirements set forth in article 375;
c) Amount, form, time and place of payment of the compensation and overdue credits and those due to the termination of the employment contract;
d) Date of termination of the contract.
2 - The employer shall communicate the decision, by copy or transcription, to the employee, to the entities referred to in paragraphs 1 and 2 of article 376, as well as to the service with inspective competence of the ministry responsible for the labour area, in advance the date of cessation of:
a) 15 days, in the case of a worker with a seniority of less than one year;
b) 30 days, in the case of a worker with seniority equal to or greater than one year and less than five years;
c) 60 days, in the case of a worker with a seniority equal to or greater than five years and less than 10 years;
d) 75 days in the case of a worker with a seniority of 10 years or more.
3 - The dismissal carried out in violation of the provisions of paragraph 1 or of the prior notice referred to in paragraph 2 represents a serious administrative offense and it is a minor administrative offense to violate the provisions of paragraph 2, in lack of communication to the entities and service referred to therein.

Amendments

Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 379

Employee's rights in case of dismissal due to unsuitability

1 - The employee dismissed for unsuitability shall apply the provisions of paragraph 4 and the first part of paragraph 5 of article 363 and articles 364 to 366.
2 - In the event of dismissal due to unsuitability in the situations referred to in paragraph 2 and b) of paragraph 3 of article 375, termination of the employment contract by the worker may take place after the b) thereof.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01
Amended by Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Article 380

Maintaining the level of employment

1 - In the 90 days following dismissal due to unsuitability, the maintenance of the level of employment in the company must be ensured by means of admission or transfer of employees during the procedure for dismissal for a fact that is not attributable to them.
2 - In case of non-compliance with the provisions of the preceding number, the department with inspection authority of the ministry responsible for the labour area notifies the employer to ensure the maintenance of the level of employment, within a period not exceeding 30 days.
3 - Dismissal made in violation of the provisions of paragraphs 1 or 2 represents a serious administrative offense, and violation of paragraph 2 is punishable by double the fine.

Subsection II
Unlawfulness of dismissal

Article 381

General grounds for unlawful dismissal

Notwithstanding the provisions of the following articles or specific legislation, dismissal at the initiative of the employer is unlawful:
a) If it is due to political, ideological, ethnic or religious reasons, albeit with invocation of different motive;
b) If the reason justifying the dismissal is declared unfounded;
c) If it is not preceded by the corresponding procedure;
d) in the case of pregnant employees, employees who have recently given birth or are breastfeeding, or employees during initial parental leave, in any of its forms, unless the prior opinion of the competent authority in the area of equal opportunities for men and women is requested.

Article 382

Illegality of dismissal due to fact attributable to the employee

1 - The dismissal for a fact attributable to the employee is still illegal if the time limits established in paragraphs 1 or 2 of article 329 have elapsed, or if the corresponding procedure is invalid.

2 - The procedure is invalid if:
a) Failure of the note of fault, or if it is not written or does not contain the detailed description of the facts imputed to the worker;
b) Failure to communicate the intention of dismissal together with the note of fault;
c) The employee's right to consult the file or to respond to the note of fault or the deadline for replying to the note of fault has not been respected;
d) Communication to the employee of the dismissal decision and its grounds is not made in writing or is not prepared according to paragraph 4 of article 357 or paragraph 2 of article 358.

Article 383

Unlawfulness of collective dismissal

Collective redundancy is still unlawful if the employer:
a) Has not made the communication provided for in paragraph 1 or 4 of Article 360 or promoted the negotiation referred to in paragraph 1 of Article 361;
b) Failure to observe the deadline for dismissal referred to in article 363, paragraph 1;
c) has not made available to the dismissed worker, until the expiry of the notice period, the compensation due to him referred to in article 366 and the credits due or due to the termination of the employment contract, notwithstanding the final part of paragraph 1 of Article 363.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01.
Amended by Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Article 384

Unlawful dismissal for termination of employment

The dismissal for termination of employment is still unlawful if the employer:
a) Does not comply with the requirements of paragraph 1 of article 368;
b) Not comply with the provisions of paragraph 2 of article 368;
c) Has not made the communications provided for in article 369;
d) he has not made available to the dismissed worker, by the end of the notice period, the compensation due referred to in article 366, by a reference to article 372, and the credits due or payable in termination of the employment contract.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01
Amended by Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Article 385

Unlawful dismissal for unsuitability

Dismissal for unsuitability is still unlawful if the employer:
a) Does not comply with the provisions of paragraphs 3 and 4 of article 374 or paragraphs 1 to 3 of article 375;
b) Has not made the communications provided for in article 376;

c) Has not made available to the worker dismissed, until the expiry of the notice period, the compensation due to him referred to in article 366 by reference to paragraph 1 of article 379 and overdue credits or due as a result of termination of employment contract.

Amendments
Amended by the Declaration of Rectification no. 38/2012 - Official Gazette no. 141/2012, Series I of 2012-07-23, in force from 2012-08-01
Amended by Article 2 of Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01
Amended by Article 1 of the Law no. 53/2011 - Official Gazette no. 198/2011, Series I of 2011-10-14, in force from 2011-11-01

Article 386
Suspension of dismissal

The worker may request the preventive suspension of dismissal within a period of five working days from the date of receipt of the notice of dismissal, by means of a precautionary measure regulated in the Labour Procedure Code.

Article 387
Judicial review of dismissal

1 - The regularity and lawfulness of dismissal can only be assessed by a court.
2 - The employee can oppose dismissal, by submitting an application in an appropriate form, to the competent court, within 60 days from the receipt of the communication of dismissal or the date of termination of the contract, except in the case provided for in the following article.
3 - In an action for judicial review of dismissal, the employer may only plead facts and grounds contained in a decision to dismiss the employee.
4 - In cases of judicial assessment of dismissal for a fact imputable to the employee, notwithstanding the assessment of formal defects, the court must always rule on the verification and merits of the grounds for dismissal.

Article 388
Judicial assessment of collective dismissal

1 - The unlawfulness of collective dismissal can only be declared by a court of law.
2 - The action to challenge collective dismissal must be brought within six months of the date of termination of the contract.
3 - The provisions of paragraph 3 of the previous article shall apply to the action to challenge collective dismissal.

Article 389
Effects of unlawful dismissal

1 - If the dismissal is declared unlawful, the employer shall be condemned:
a) To compensate the worker for all damages caused, patrimonial and non-patrimonial;
b) on reinstatement of the worker at the same place of business, notwithstanding his category and seniority, except in the cases provided for in Articles 391 and 392

2 - In the case of a mere irregularity based on a deficiency in the procedure for failure to take the probative measures referred to in paragraph 1 and 3 of Article 356, if the justifying grounds for dismissal are upheld, the employee shall only be entitled to compensation corresponding to half of the amount that would result from the application of paragraph 1 of article 391.
3 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 390
Compensation in case of unlawful dismissal

1 - Notwithstanding the indemnification provided for in subparagraph a) of paragraph 1 of the previous article, the employee is entitled to receive the remunerations that he does not receive from dismissal until the final decision of the court declaring the unlawful dismissal .
2 - The remunerations referred to in the preceding paragraph are deducted:
a) The amounts that the employee would receive upon termination of the contract and which he would not receive if it were not for dismissal;
b) The remuneration relating to the period elapsing from the dismissal up to 30 days before the commencement of the action, if it is not offered within 30 days after the dismissal;
c) Unemployment benefit granted to the worker in the period referred to in paragraph 1, and the employer must pay this amount to the social security.

Article 391
Compensation in lieu of reintegration at the request of the employee

1 - In lieu of reintegration, the employee may choose compensation up to the end of the discussion at a final trial, and the court shall determine the amount of compensation between 15 and 45 days of basic salary and daily salary for each full year or fraction of seniority, considering the value of the compensation and the degree of unlawfulness resulting from the ordination established in article 381.
2 - For the purposes of the previous number, the court must consider the time elapsed from the dismissal until the final decision of the judicial decision.
3 - The compensation provided for in paragraph 1 may not be less than three months of basic and daily remuneration.

Article 392
Compensation in lieu of reinstatement at the request of the employer

1 - In the case of a micro company or a worker holding a management or administrative position, the employer may apply to the court to exclude the reintegration, on the basis of facts and circumstances that make the return of the employee seriously detrimental and disruptive to the operation of the company.
2 - The provisions of the preceding paragraph shall not apply whenever the illegality of the dismissal is based on a political, ideological, ethnic or religious motive, albeit with an invocation of a different motive, or when the grounds for opposition to reinstatement are wrongly created by the employer.
3 - In case the court excludes the reintegration, the employee is entitled to compensation, determined by the court between 30 and 60 days of basic and daily salary for each full year or fraction of seniority, under the

terms established in paragraphs 1 and 2 of article above, and may not be less than the amount corresponding to six months of basic salary and salary.

Subsection III
Dismissal on the initiative of the employer in case of a fixed-term contract

Article 393
Special rules relating to a fixed-term contract

1 - The general rules of termination of the contract apply to a fixed-term contract, with the changes listed in the following paragraph.
2 - If the dismissal is declared unlawful, the employer shall be condemned:
a) In the payment of compensation for pecuniary and non-pecuniary damages, which shall not be less than the remunerations that the employee has missed since the dismissal until the term certain or uncertain of the contract or until the final decision of the judicial decision, if that term occur later;
b) If the term occurs after the final decision of the judicial decision, on the reintegration of the worker, notwithstanding its category and seniority.
3 - A violation of the provisions of the preceding paragraph represents a serious administrative offense.

Section V
Termination of employment contract at the employee's initiative

Subsection I
Termination of employment contract by the employee

Article 394
Just cause of resolution

1 - In case of just cause, the worker can immediately terminate the contract.
2 - The worker is the only cause of termination of the contract, namely, the following behaviors of the employer:
a) The fault of punctual payment of the remuneration is lacking;
b) Infringement of legal or conventional guarantees of the worker;
c) Application of abusive sanction;
d) Lack of safety and health conditions at work;
e) Injustice of serious interests of the worker;
f) Offense to the physical or moral integrity, freedom, honor or dignity of the worker, punishable by law, including the practice of harassment terminated to the service with inspective competence in the labour area, practiced by the employer or his representative.
3 - The worker shall only be justified in terminating the contract:
a) Necessity of fulfillment of legal obligation incompatible with the continuation of the contract;
b) Substantial and lasting change of working conditions in the legal exercise of powers of the employer;
c) Failure not guilty of punctual payment of the retribution.
d) Transfer to the acquirer of the position of the employer in their employment contract, as a consequence of the transfer of the company, pursuant to paragraph 1 or 2 of Article 285, on the basis of paragraph 1 of Article 286.

4 - A just cause shall be assessed according to paragraph 3 of Article 351, with the necessary adaptations.
5 - Failure to make timely payment of the remuneration for a period of 60 days, or when the employer, at the request of the employee, declares in writing the forecast of non-payment of the missing remuneration, until the expiration of that period .

Amendments
Amended by Article 2 of the Law no. 14/2018 - Official Gazette no. 55/2018, Series I of 2018-03-19, in force from 2018-03-20
Amended by Article 2 of the Law no. 73/2017 - Official Gazette no. 157/2017, Series I of 2017-08-16, in force from 2017-10-01

Article 395
Procedure for termination of contract by the employee

1 - The employee must communicate the resolution of the contract to the employer, in writing, with a brief indication of the facts that justify it, within 30 days of the knowledge of the facts.
2 - In the case referred to in paragraph 5 of the previous article, the deadline for resolution is counted from the end of the period of 60 days or the declaration of the employer.
3 - If the basis of the resolution is that referred to in subparagraph a) of paragraph 3 of the previous article, the communication should be made as soon as possible.
4 - The employer may require that the signature of the worker included in the declaration of resolution be notarised in person, and in this case, shall mediate a period not exceeding 60 days between the date of recognition and the termination of the contract.

Article 396
Compensation or compensation due to the employee

1 - In case of termination of the contract based on fact provided for in paragraph 2 of article 394, the employee is entitled to compensation, to determine between 15 and 45 days of basic remuneration and diuturnities for each full year of seniority, considering the value of the compensation and the degree of unlawfulness of the employer's behavior, and may not be less than three months of basic remuneration and diuturnities.
2 - In the case of a fraction of a year of seniority, the amount of compensation shall be calculated proportionally.
3 - The amount of the compensation may be higher than that which would result from the application of paragraph 1 whenever the worker suffers property and non-property damage of a higher amount.
4 - In the case of a fixed-term contract, the compensation may not be less than the value of the arrears.
5 - In case of termination of the contract with the basis set forth in subparagraph d) of paragraph 3 of article 394, the employee is entitled to compensation calculated according to article 366.

Amendments
Amended by Article 2 of the Law no. 14/2018 - Official Gazette no. 55/2018, Series I of 2018-03-19, in force from 2018-03-20

Article 397
Repeal of the resolution

1 - The employee can repeal the termination of the contract, if his signature in the latter is not subject to notarial recognition in person, until the seventh day after the date on which he comes to the power of the employer, by means of a written communication addressed to him.
2 - The provisions of paragraph 2 or 3 of Article 350 shall apply to revocation.

Article 398
Related searches

1 - The unlawfulness of the termination of the contract can be declared by a court of law in action brought by the employer.
2 - The action must be brought within one year from the date of the resolution.
3 - In an action in which the unlawfulness of the resolution is assessed, they are only available to justify the facts contained in the communication referred to in paragraph 1 of article 395.
4 - In case the resolution has been challenged on the grounds of unlawfulness of the procedure set forth in paragraph 1 of article 395, the employee may correct the defect until the deadline has expired but may only use this option once.

Article 399
Liability of the worker in case of unlawful resolution

If the just cause of termination of the contract is not proven, the employer is entitled to compensation for the damages caused, not lower than the amount calculated according to article 401.

Subsection II
Termination of employment contract by the employee

Article 400
Termination with prior notice

1 - The employee may terminate the contract regardless of just cause, by notifying the employer in writing, at least 30 or 60 days in advance, depending on whether he or she is, respectively, two years or more than two years old.
2 - The instrument of collective labour regulation and the employment contract may increase the period of notice of up to six months in respect of a worker who holds a position of administration or management, or who has a representation or responsibility role.
3 - In the case of a fixed-term contract, the termination may be made at least 30 or 15 days in advance, depending on whether the contract lasts for at least six months or less.
4 - In the case of an indefinite term contract, for the purpose of the notice period referred to in the previous number, it meets the duration of the contract already elapsed.
5 - The provision in paragraph 4 of article 395 is applicable to the termination.

Article 401
Termination without prior notice

The employee who does not comply, in whole or in part, with the notice period established in the previous article must pay the employer a compensation equal to the basic remuneration and diuturnities corresponding to the period in fault, notwithstanding compensation for damages caused by failure to comply with the deadline prior notice or obligation assumed in the agreement of permanence.

Article 402

Repeal of the complaint

1 - The employee can repeal the termination of the contract, if his/her signature in the latter does not have notarial recognition in person, no later than the seventh day after the date on which the same comes to the power of the employer, by means of a written communication addressed to him.
2 - The provisions of paragraph 2 or 3 of Article 350 shall apply to revocation.

Article 403
Abandonment of work

1 - The absence of the worker from the service is considered as abandonment of work accompanied by facts that indicate the intention not to resume it.
2 - The abandonment of work is presumed in the absence of a worker of the service for at least 10 consecutive working days, without the employer being informed of the reason for the absence.
3 - The abandonment of the work is valid as a termination of the contract and can only be invoked by the employer after notifying the employee of the facts constituting the abandonment or presumption thereof, by registered letter with acknowledgment of receipt to the last known address of the latter.
4 - The presumption established in paragraph 2 may be rebutted by the employee on proof of the occurrence of force majeure preventing the employer from communicating the cause of the absence.
5 - In case of abandonment of work, the employee must compensate the employer according to article 401.

Title III
Collective law

Subtitle I
Subjects

Chapter I
Structures of employees' collective representation

Section I
General provisions on structures for the collective representation of employees

Article 404
Structures of employees' collective representation

For the collective defense and pursuit of their rights and interests, employees may represent:
a) Union associations;
b) Commissions of employees and subcommittees of employees;
c) Employees' representatives for safety and health at work;
d) Other structures provided for in specific legislation, namely European Works Councils.

Article 405
Autonomy and independence

1 - The structures of collective representation of employees are independent of the State, political parties, religious institutions or associations of another nature, and any interference of these in their organisation and management, as well as their reciprocal financing, are prohibited.
2 - Notwithstanding the forms of support provided for in this Code, employers may not, individually or through their associations, promote the formation, maintenance or financing of the operation of collective structures of employees by any means or by any means , intervene in their organisation and management, as well as prevent or hinder the exercise of their rights.
3 - The State may support the structures of collective representation of employees according to the law.
4 - The State cannot discriminate the structures of collective representation of the employees with respect to any other entities.
5 - Violation of the provisions of paragraphs 1 or 2 represents a serious administrative offense.

Article 406
Prohibition of discriminatory acts

1 - The agreement or other act aimed to:
a) Make the employment of a worker subject to the condition that he joins or does not join a trade union association or withdraws from that union in which he is registered;
b) Dismiss, transfer or, in any way, harm a worker due to the exercise of the rights related to participation in structures of collective representation or to their membership or non-union membership.
2 - Violation of the provisions of the preceding paragraph represents a serious administrative offense.

Article 407
Crime for violation of trade union autonomy or independence, or by discriminatory act

1 - An entity that violates the provisions of paragraphs 1 or 2 of article 405 or in the previous article shall be punished with a fine of up to 120 days.
2 - The administrator, director, manager or other worker who occupies the position of leadership who is responsible for the act referred to in the previous number shall be punished with a prison sentence of up to one year.
3 - The trade union official or delegate who is condemned under the terms of the preceding paragraph shall lose the specific rights assigned by this Code.

Article 408
Hourly credit for employees' representatives

1 - The employees elected to the structures of collective representation of the employees benefit from credit of hours, in the terms foreseen in this Code or in specific legislation.
2 - The credit for hours is referred to the normal period of work and counts as actual time of service, including for remuneration purposes.
3 - Whenever he intends to use the credit for hours, the employee must inform the employer, in writing, at least two days in advance, unless there is an acceptable reason.
4 - There can be no cumulation of the credit of hours by the fact that the employee belongs to more than one structure of collective representation of the employees.
5 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Article 409

Lack of employee representatives

1 - The absence of a worker due to the performance of functions in a collective representation structure of the employees of which he is a member, which exceeds the credit of hours, is considered justified and counts as actual time of service, except for remuneration.
2 - The absence of a trade union delegate motivated by the practice of necessary and undelayable acts in the exercise of the corresponding functions is considered justified, in the terms of the previous number.
3 - The employee or the collective representation structure in which he is integrated shall communicate to the employer in writing the dates and number of days in which he needs to be absent for the performance of his duties, one day in advance or, in the event of unpredictability, within 48 hours after the first day of absence.
4 - Failure to comply with the provisions of the preceding paragraph renders the fault unjustified.
5 - Violation of the provisions of paragraph 1 represents a serious administrative offense.

Article 410

Protection in case of disciplinary procedure or dismissal

1 - The preventive suspension of a member of a collective representation structure shall not prevent him from having access to places and carrying out activities that are understood in the exercise of his functions.
2 - Pending the judicial process for the determination of disciplinary, civil or criminal liability based on abusive exercise of rights as a member of the structure of collective representation of employees, the provisions of the previous paragraph shall apply to the worker concerned.
3 - The dismissal of a worker who is a candidate for membership in any of the corporate bodies of a trade union association or who has or has been in the same corporate bodies for less than three years is presumed to have been made without just cause.
4 - The injunction to suspend the dismissal of employees who are members of a structure of employees' collective representation shall not be enacted unless the court finds that there represents a serious probability of verifying the just cause invoked.
5 - The appraisal of the lawfulness of dismissal of employees referred to in the previous number is urgent.
6 - In case of unlawful dismissal due to a fact attributable to a member of a collective representation structure, he/she has the right to choose between reintegration and compensation calculated according to paragraph 3 of article 392 or a collective regulation instrument not less than the basic salary and six-month salaries.

Article 411

Protection in case of transfer

1 - A worker who is a member of the collective bargaining structure of employees cannot be transferred from the workplace without his agreement, except when this results in extinction or total or partial change of the establishment where he provides services.
2 - The employer must communicate the transfer of the worker referred to in the previous number to the structure to which it belongs, in advance equal to the communication made to the worker.
3 - Violation of the provisions of this article represents a serious administrative offense.

Article 412

Confidential information

1 - The member of the structure of collective representation of employees cannot disclose to employees or third party's information that has received, in the context of the right of information or consultation, with an express mention of their corresponding confidentiality.
2 - The duty of confidentiality shall be maintained after the resignation of the member of the collective representation structure of the employees.
3 - The employer shall not be obliged to provide information or to carry out inquiries the nature of which is liable to seriously undermine or seriously affect the operation of the undertaking or establishment.

Article 413
Justification and judicial control of confidentiality of information

1 - The classification of information as confidential, the non-provision of information or the failure to carry out consultation shall be justified in writing, based on objective criteria based on management requirements.

2 - The classification as confidential of the information provided, the refusal to provide information or not to carry out consultation may be contested by the collective representation structure of the employees concerned, according to the Labour Code.

Article 414
Exercise of rights

1 - A member of the collective bargaining structure of employees may not, by exercising his rights or performing his duties, impair the normal operation of the company.
2 - The abusive exercise of rights by a member of the structure of collective representation of employees is liable to disciplinary, civil or criminal liability, in general terms.

Section II
Commissions of employees

Subsection I
General provisions on employees' commissions

Article 415
General provisions for committees, subcommittees and coordinating committees

1 - Employees have the right to create, in each company, a employees' commission to defend their interests and exercise the rights provided for in the Constitution and in the law.
2 - Subcommittees of employees may be created in geographically dispersed establishments of the company.
3 - Any employee of the company, regardless of age or function, has the right to participate in the constitution of the structures provided for in the previous numbers and in the approval of the corresponding statutes, as well as the right to elect and be elected.
4 - Coordinating committees may be created to better intervene in the economic restructuring, in order to articulate the activities of the commissions of employees established in the companies in a domain or group relationship, as well as for the exercise of other rights provided by law and in this Code.

Article 416

Personality and ability to commission employees

1 - The employees' commission acquires juridical personality by the registration of its statutes by the competent department of the ministry responsible for the labour area.
2 - The capacity of the employees' commission covers all rights and obligations necessary or convenient for the pursuit of its purposes.

Article 417

Number of members of the employees' commission, coordinating committee or subcommittee

1 - The number of employees' commission members may not exceed the following:
a) in an undertaking with fewer than 50 employees, two;
b) In a company with 50 or more employees and less than 200, three;
c) In a company with 201 to 500 employees, three to five;
d) In a company with 501 to 1000 employees, five to seven;
e) In a company with more than 1000 employees, seven to eleven.
2 - The number of members of subcommittees of employees cannot exceed the following:
a) In an establishment with 50 to 200 employees, three;
b) In an establishment with more than 200 employees, five.
3 - In an establishment with less than 50 employees, the function of the subcommittee shall be of only one member.
4 - The number of members of the coordinating committee may not exceed the number of committees of employees coordinated by it, nor a maximum of 11 members.

Article 418

Term of office

The term of office of members of the employees' commission, coordinating committee or subcommittee of employees may not exceed four years, and successive terms are allowed.

Article 419

Meeting of employees at the workplace convened by a employees' committee

1 - The employees' committee may convene general meetings of employees to be held at the workplace:
a) Outside the working hours of the majority of employees, notwithstanding the normal operation of shifts or additional work;
b) During working hours of the majority of employees up to a maximum period of fifteen hours per year, which counts as actual working time, provided that the operation of services of an urgent and essential nature is ensured.
2 - An employer who prohibits a employees' meeting in the workplace commits a very serious administrative offense.

Article 420

Procedure for meeting employees in the workplace

1 - The employees 'committee shall inform the employer, at least forty-eight hours in advance, of the date, time, foreseeable number of participants and the place in which it intends that the employees' meeting be held and affix the corresponding notice.
2 - In the case of a meeting to be held during working hours, the employees' commission must submit a proposal to ensure the operation of services of an urgent and essential nature.
3 - Upon receipt of the communication referred to in paragraph 1 and, as the case may be, the proposal referred to in the preceding paragraph, the employer shall make available to the promoter, at his request, a place within the company or its considering the elements of the communication and the proposal, as well as the need to comply with the final part of subparagraph a) or b) of paragraph 1 of the previous article.
4 - Violation of the provisions of the preceding paragraph represents a very serious administrative offense.

Article 421
Support to the employees' commission and dissemination of information

1 - The employer shall make available to the commission or subcommittee of employees' adequate facilities, as well as the material and technical means necessary for the performance of their duties.
2 - The provisions of article 465, with the necessary adaptations, shall apply to the committee and sub commission of employees.
3 - Violation of the provisions of this article represents a serious administrative offense.

Article 422
Committee member hours credit

1 - For the exercise of his functions, the member of the following structures is entitled to the following monthly credit of hours:
a) Subcommittee of employees, eight hours;
b) Commission of employees, twenty-five hours;
c) Coordinating committee, twenty hours.
2 - In microenterprise, the credits of hours referred to in the previous number are reduced to half.
3 - In a company with more than 1000 employees, the employees' committee may unanimously decide to redistribute to its members an amount corresponding to the sum of the hour credits of all of them, with the individual limit of forty hours per month.
4 - A worker who is a member of more than one of the structures referred to in paragraph 1 may not accumulate the corresponding hours credits.
5 - In a company of the State company sector with more than 1000 employees, the employees' committee may unanimously decide that one of the members has credit for hours corresponding to half of its normal period of work, and in which case.
6 - Violation of the provisions of paragraphs 1, 2, 3 or 5 represents a serious administrative offense.

Subsection II
Information and consultation

Article 423
Rights of the commission and subcommittee of employees

1 - The employees' commission shall be entitled in particular to:

a) To receive the information necessary for the exercise of its activity;
b) Exercise control over the management of the undertaking;
c) Participate, among others, in the process of restructuring the company, in drawing up plans and reports on professional training and in procedures related to changing working conditions;
d) Participate in the elaboration of labour legislation, directly or through the corresponding coordinating committees;
e) Manage or participate in the management of the company's social works;
f) Promote the election of employees' representatives to the corporate bodies of public business entities;
g) Meet, at least once a month, with the management body of the company to assess issues related to the exercise of their rights.
2 - It is incumbent upon the subcommittee of employees, according to the general orientation established by the commission:
a) Exercise, through delegation by the employees' committee, the rights provided for in a), b), c) and e) of the previous number;
b) Inform the employees' committee on matters of interest to the latter's activity;
c) Make the connection between the employees of the corresponding establishment and the employees' committee;
d) Meet with the management body of the establishment, pursuant to subparagraph g) of the previous number.
3 - The managing body of the undertaking or establishment, as the case may be, shall draw up the minutes of the meeting referred to in subparagraph g) of paragraph 1 or subparagraph d) of paragraph 2, which must be signed by all participants.
4 - A violation of the provisions of the subparagraphs e) or g) of paragraph 1, subparagraph d) of paragraph 2 or the previous number shall represent a serious administrative offense.

Article 424

Content of the right to information

1 - The employees' committee has the right to information on:
a) General plans of activity and budget;
b) Organisation of production and its implications for the degree of use of employees and equipment;
c) Supply situation;
d) Forecasting, volume and sales administration;
e) Personnel management and establishment of its basic criteria, amount of salary mass and its distribution by professional groups, social benefits, productivity and absenteeism;
f) Accounting situation, including the balance sheet, income statement and balance sheets;
g) Financing modalities;
h) Tax and parafiscal charges;
i) Project to change the object, the share capital or the conversion of the company's activity.
2 - Violation of the provisions of the preceding paragraph represents a serious administrative offense.

Article 425

Obligation to consult the employees' committee

The employer must request the opinion of the employees' committee before carrying out the following acts, notwithstanding others provided by law:

a) Modification of the criteria of professional classification and promotions of the employees;
b) Change of place of business of the company or establishment;
c) Any measure which results in, or is likely to result in, a substantial reduction in the number of employees, aggravation of working conditions or changes in the Organisation of work;
d) Dissolution or request of declaration of insolvency of the company.

Subsection III
Control of company management

Article 426
Purpose and content of management control

1 - Management control aims to promote the responsible commitment of employees in the business of the company. 2 - In the exercise of management control, the works council may:
a) Consider and issue an opinion on the company's budget and its amendments, as well as monitor its execution;
b) Promote the adequate use of technical, human and financial resources;
c) Promote, together with management and employees, measures which contribute to the improvement of the undertaking's activities, in particular in the field of equipment and administrative simplification;
d) Submit suggestions, recommendations or criticisms to the undertaking concerning the initial qualification and on-going training of employees, the improvement of working conditions, in particular safety and health at work;
e) Defend the legitimate interests of the employees from the management and supervisory bodies of the company and the competent authorities.
3 - Management control does not cover:
a) The Bank of Portugal;
b) Portuguese Mint and Official Printing Office;
c) Military manufacturing establishments and military or other research activities relevant to national defense;
d) Activities involving powers of organs of sovereignty, of regional assemblies or regional governments.
4 - It represents a serious administrative offense to prevent the employer from exercising the rights provided for in paragraph 2.

Article 427
Exercise of the right to information and consultation

1 - The works council or the subcommittee shall request in writing, respectively, the management body of the undertaking or establishment, the information elements relating to matters covered by the right to information.
2 - The information shall be provided in writing, within eight days, or 15 days if its complexity so warrants.
3 - The provisions of the preceding paragraphs shall not affect the right of the committee or the subcommittee of employees to receive information at a meeting referred to in subparagraph g) of paragraph 1 or subparagraph d) of paragraph 2 of article 423.
4 - In the case of consultation, the employer shall request in writing the opinion of the employees' committee, which shall be issued within 10 days of receipt of the request, or within a longer period granted in view of the length or complexity of the matter.

5 - In the event that the employees' committee asks for pertinent information on the matter of the consultation, the period referred to in the preceding number is counted from the provision of the information, in writing or in a meeting in which this occurs.
6 - The obligation to consult shall be deemed to have been fulfilled once the period referred to in paragraph 4 has elapsed without the opinion being delivered.
7 - In the case of a decision by the employer in the exercise of managerial and organisational powers deriving from the employment contract, the information and consultation procedure must be conducted by both parties in order to achieve, where possible, consensus.
8 - Violation of the provisions of paragraph 2 or the first part of paragraph 4 represents a serious administrative offense.

Article 428
Representatives of employees in corporate public bodies

1 - The employees 'committee of a corporate public entity shall promote the election of employees' representatives to its governing bodies, applying the provisions of this Code regarding voting documents, sections of voting, voting and results.
2 - The employees' committee shall communicate to the Ministry responsible for the sector of activity of the public business entity the result of the election referred to in the preceding paragraph.
3 - The governing body concerned, and the number of employees' representatives shall be regulated in the statutes of the corporate public entity.

Subsection IV
Participation in the process of restructuring the company

Article 429
Exercise of the right to participate in restructuring

1 - The right to participate in company restructuring processes shall be exercised by the employees' commission or by the coordinating committee in the event of the restructuring of the majority of the companies whose commissions it coordinates.
2 - As part of the participation in the restructuring of the company, the employees' commission or the coordinating committee is entitled to:
a) Prior information and consultation on the formulation of restructuring plans or projects;
b) Information on the final formulation of the restructuring instruments and to give their opinion before they are approved;
c) Meet with the bodies in charge of preparatory work for restructuring;
d) Present suggestions, complaints or criticisms to the competent organs of the company.
3 - It represents a serious administrative offense to prevent the employer from exercising the rights provided for in the previous number.

Subsection V
Constitution, statutes and election

Article 430
Constitution and approval of the statutes of employees' commission

1 - The constitution and approval of the statutes of employees' commission are deliberated simultaneously by the employees of the company, with different votes, depending on the validity of the constitution of the validity of the approval of the statutes.
2 - The decision to represent the employees' commission must be taken by a simple majority of the voters, being enough for the approval of the statutes the deliberation by relative majority.
3 - Voting shall be summoned at least 15 days in advance by at least 100 or 20% of the company's employees, with full publicity and express mention of date, time, place and order of work. the employer.
4 - Voting regulations must be drawn up by the employees who call and publicize it simultaneously with the call.
5 - Draft statutes submitted to voting are proposed by at least 100 or 20% of the company's employees and must be advertised at least 10 days in advance.
6 - The provisions of the previous numbers are applicable to the amendment of statutes, with the necessary adaptations.

Article 431

Voting of the constitution and approval of the statutes of employees' commission

1 - The identity of the employees of the company at the date of the calling of the vote must be included in the electoral roll consisting of a list drawn up by the employer, broken down, where appropriate, by establishment.
2 - The employer shall deliver the electoral roll to the employees who convened the meeting, within forty-eight hours after receipt of a copy of the notice, which shall be immediately posted on the company's premises.
3 - Voting shall take place according to the following rules:
a) In each establishment with a minimum of 10 employees there must be at least one polling station;
b) Each polling station cannot have more than 500 voters;
c) The bureau of the voting section directs the corresponding vote and is composed of a president and two vowels who, for this purpose, are exempt from their work.
4 - Each group of employees proposing a draft statute may designate one representative at each table to accompany the vote.
5 - Polling places are placed in the workplace in order to allow all employees to vote, notwithstanding the normal functioning of the company or establishment.
6 - Voting shall commence at least thirty minutes before the beginning and end at least sixty minutes after the end of the period of operation of the company or establishment, and employees may have the time necessary to vote during their working hours. job.
7 - Voting shall, as far as possible, take place simultaneously in all polling stations.
8 - Violation of the provisions of paragraphs 1 or 2, subparagraph a) of paragraph 3, paragraph 5 or the first part of paragraph 6 represents a very serious administrative offense and represents a minor offence the violation of the provisions of the final part of subparagraph c) of paragraph 3 or the final part of paragraph 6.

Article 432

Procedure for clearance of results

1 - The opening of the ballot boxes for the corresponding clearance must be simultaneous in all sections of the ballot, although the voting has taken place at different times.
2 - The members of the polling station record the way in which the minutes were recorded, which, after being read and approved, initialed and signed the final.

3 - The identity of the voters must be registered in a document of their own, with opening and closing terms, signed and initialed by the members of the board, which forms an integral part of the minutes.
4 - The voting procedure of the constitution of the employees' commission and approval of the statutes shall be determined by the electoral commission, which shall draw up its minutes according to paragraph 2.
5 - The electoral commission referred to in the previous number shall consist of a representative of the proponents of draft statutes and an equal number of representatives of the employees who convened the constituent assembly.
6 - The electoral commission shall, within a period of 15 days from the date of establishment, communicate the result of the vote to the employer and shall include it and a copy of the minutes thereof at the place or places where the vote took place.
7 - The employer's opposition to the display of the result of the vote, pursuant to the previous paragraph, represents a serious administrative offense.

Article 433

General rules for the election of commission and subcommittees of employees

1 - The members of the commission and the subcommittees of employees are elected from the lists presented by the employees of the company or establishment, by direct and secret vote, according to the principle of proportional representation.
2 - The election shall be summoned in advance of 15 days, or a longer term established in the bylaws, by the electoral commission established according to the bylaws or, failing that, by at least 100 or 20% of the company's publicity and an express mention of date, time, place and agenda, and a copy of the notice must be sent simultaneously to the employer.
3 - Only lists subscribed by at least 100 or 20% of the employees of the company or, in the case of lists of subcommittees of employees, 10% of the employees of the establishment, and no employee can subscribe or be part of more than one competing list to the same structure.
4 - The election of the members of the commission and of the subcommittees of employees shall take place simultaneously, and the provisions of articles 431 and 432, with the necessary adaptations, shall apply.
5 - In the absence of the electoral commission elected according to the statutes, it shall consist of a representative of each of the competing lists and an equal number of representatives of the employees who called the election.

Article 434

Content of the statutes of the employees' commission

1 - The statutes of the employees' commission shall provide:
a) The composition, election, term of office and rules of procedure of the electoral commission which presides over the election, from which it has the right to form a delegate appointed by each competing list, and which shall ensure equality of opportunity and impartiality in treatment of lists;
b) The number, term of office and rules for the election of the members of the employees' commission and the manner in which vacancies are filled;
c) The functioning of the commission;
d) The form of attachment of the commission;
e) The method of financing the activities of the committee, which cannot under any circumstances be provided by an entity which is alien to all the undertaking's employees;

f) The articulation of the commission, if appropriate, with subcommittees of employees or coordinating committee;
g) The destination of the corresponding assets in case of extinction of the commission, which cannot be distributed by the employees of the company.
2 - The term of office of the members of the commission may not last more than four years, and re-election may be held for successive terms, unless otherwise provided in the articles of association.
3 - The statutes may provide for the existence of subcommittees of employees in geographically dispersed establishments.

Article 435
Statutes of the coordinating committee

The articles of association of the coordinating committee shall be subject to the provisions of paragraphs 1 and 2 of the preceding article, with the necessary adaptations, including the location of the head office.

Article 436
Accession and revocation of membership to the coordinating committee

The provisions of paragraph 1 of article 433 shall apply to the adhesion or revocation of adhesion of employees' commission to a coordinating committee.

Article 437
Election of coordinating committee

1 - The members of the committees of adherent employees elect, from among themselves, the members of the coordinating committee, by direct and secret vote and according to the principle of proportional representation.
2 - The election shall be summoned in advance of 15 days, or longer term established in the bylaws, by at least two committees of adherent employees.
3 - The election shall be made by lists subscribed by at least 20% of the members of the committees of adherent employees, submitted up to five days before the vote.
4 - Minutes of the electoral act must be drawn up, signed by all those present, to which the voter registration document is attached.

Article 438
Records and publications relating to committees and subcommittees

1 - The electoral commission shall request the competent department of the Ministry responsible for labour matters to register the constitution of the employees' commission and the statutes or its amendments, together with the approved statutes or amendments and certified copies of the minutes of the global tabulation and the of the polling stations, together with the register of voters.
2 - The electoral commission shall, within a period of 10 days from the date of discharge, also require the competent department of the Ministry responsible for labour matters to register the election of the members of the employees' commission and the subcommittees, together with certified copies of the lists competitors, as well as the minutes of the global tabulation and polling stations, together with voter registration documents.

3 - The commissions of employees who participated in the constitution of the coordinating committee require the competent department of the ministry responsible for the labour area, in case of election within 10 days, the registration:
a) The constitution of the coordinating committee and the statutes or their amendments, together with the approved statutes or amendments, as well as certified copies of the minutes of the meeting at which the commission and the voter registration document were established;
b) Electing the members of the coordinating committee, gathering certified copies of the competing lists, as well as the minutes of the meeting and the registration document of the voters.
4 - The communications addressed to the service referred to in the previous numbers must correctly indicate the address of the structure in question, an indication that must be kept up to date.
5 - The statutes of commissions of employees or coordinating commission are delivered in electronic document, according to the ministerial order of the minister responsible for labour area.
6 - Within 30 days after receipt of the documents referred to in the previous numbers, the competent department of the ministry responsible for labour area:
a) It registers the formation of the employees' commission or the coordinating committee, as well as the statutes or their alterations;
b) It registers the election of the members of the commission and subcommittees of employees or of the coordinating commission;
c) Publish in the Labour and Employment Bulletin the statutes of the employees' commission or the coordinating committee, or the corresponding changes;
d) Publishes in the Labour and Employment Bulletin the composition of the employees 'commission, the employees' subcommittees or the coordinating committee.
7 - The employees' commission, the subcommittee or the coordinating committee may only start their activities after the publication of the statutes and their composition, according to the previous paragraph.

Article 439
Control of the legality of the constitution and the statutes of the committees

1 - Within eight days of the publication of the statutes of the employees' commission or of the coordinating committee, or their amendments, the competent department of the ministry responsible for labour matters shall refer the magistrate of the public prosecutor's office in the area of the company's head office, coordinating committee, a reasoned assessment of the legality of the constitution of the commission and of the statutes, or of its amendments, as well as a certified copy of the documents referred to respectively in paragraph 1 or subparagraph a) of paragraph 3 of the previous article.
2 - The provisions of article 447 shall apply, with due adaptations.

Section III
Union associations and employers' associations

Subsection I
Preliminary provisions

Article 440
Right of association

1 - Employees have the right to form unions at all levels to defend and promote their socio-professional interests.
2 - Employers have the right to form associations of employers at all levels to defend and promote their business interests.
3 - Trade union associations include trade unions, federations, unions and confederations.
4 - Employers' associations include associations, federations, unions and confederations.
5 - The statutes of federations, unions and confederations may admit direct representation of employees not represented by trade unions or employers not represented by employers' associations.

Article 441
Subsidiary system

1 - Trade union associations and employers' associations are subject to the general regime of the right of association in everything that does not conflict with this Code or the specific nature of their autonomy.
2 - The rules of the general system of the right of association which may impose restrictions on their freedom of Organisation shall not apply to trade unions and employers' associations.

Article 442
Concepts under the right of association

1 - In the sphere of trade unions, the following definitions shall apply:
a) Union, the permanent association of employees to defend and promote their socio-professional interests;
b) Federation, the association of trade unions of employees of the same profession or of the same sector of activity;
c) Union, the association of regional-based trade unions;
d) Confederation, the national association of trade unions, federations and unions;
e) trade union section means all employees of a company or establishment affiliated to the same trade union;
f) Trade union delegate, the worker elected to carry out trade union activity in the company or establishment;
g) Trade union commission means the organisation of trade union delegates of the same trade union in the company or establishment;
h) Inter-trade union committee means the organisation at a company level of trade union delegates of trade unions represented in a confederation comprising at least five trade union delegates or of all trade union committees existing therein.
2 - In the context of employers' associations, the following definitions shall apply:
a) Association of employers means the permanent association of persons, whether natural or legal persons, under private law, who are members of a company, and who habitually have their own employees;
b) Federation, the association of associations of employers of the same sector of activity;
c) Union, the association of regional associations of employers;
d) Confederation, the national association of employers' associations, federations and unions.

Article 443
Rights of associations

1 - Trade union associations and employers' associations shall have the right, inter alia, to:
a) Conclude collective contracts of work;
b) Provide economic and social services to its members;

c) Participate in the elaboration of labour legislation;
d) Initiate and intervene in legal proceedings and administrative proceedings regarding the interests of its members, according to the law;
e) Establish relations or to join, at national or international level, in organisations, respectively, of employees or of employers.
2 - Trade union associations also have the right to participate in company restructuring processes, especially in relation to training actions or when changes in working conditions occur.
3 - Employers' associations may not engage in the production or marketing of goods or services or otherwise intervene in the market, notwithstanding subparagraph b) of paragraph 1.

Article 444
Freedom of registration

1 - In the exercise of freedom of association, the worker has the right, without discrimination, to join a union that, in the area of his activity, represents the corresponding category.
2 - The worker who leaves his/her activity may continue to work as an associate, but not to exercise another one not represented by the same union or do not lose the status of subordinate worker.
3 - The employer has the right, without discrimination, to join an association of employers who, in the area of his activity, can represent him.
4 - An employer who does not employ employees may join an association of employers but may not intervene in decisions relating to employment relationships.
5 - The worker may not be simultaneously affiliated, by virtue of the same profession or activity, in different unions.
6 - The employee or the employer can parade at any time, by written communication with at least 30 days in advance.

Subsection II
Constitution and organisation of associations

Article 445
Principles of democratic self-regulation, organisation and management

Trade union associations and employers' associations are governed by statutes and regulations approved by them, freely and democratically elect the heads of social bodies and democratically organise their management and activity.

Article 446
Autonomy and independence of associations

1 - The exercise of a position of management of a trade union association or association of employers is incompatible with the exercise of any management position in a political party, religious institution or other association in which there is a conflict of interests.
2 - The provisions of paragraphs 1, 3 or 4 of article 405, with the necessary adaptations, shall apply to employers' associations.

Article 447

Constitution, registration and acquisition of personality

1 - The trade union association or association of employers shall represent and approve the corresponding statutes by means of a resolution of the constituent assembly, which may be an assembly of representatives of associates, and acquire juridical personality by registering them by the competent department of the ministry responsible for the area labour market.
2 - The application for registration of a trade union association or association of employers, signed by the chairman of the board of the constituent assembly, must be accompanied by the approved statutes and a certificate or certified copy of the minutes of the meeting, with attached attendance and attendance sheets corresponding terms of opening and closing.
3 - The statutes of union association or association of employers are delivered in electronic document, according to the ministerial order of the minister responsible for labour area.
4 - The competent department of the ministry responsible for the labour area registers the statutes, after which:
a) Publish the articles of association in the Labour and Employment Bulletin, within 30 days of receipt;
b) Send to the magistrate of the Public Prosecution in the competent court a certified copy or certified copy of the minutes of the constituent assembly, the articles of association and the application for registration, accompanied by a reasoned assessment of the legality of the constitution of the association and the statutes, within eight days after publication , notwithstanding the provisions of the following paragraph.
5 - If the statutes contain provisions contrary to the law, the competent department, within the period provided for in subparagraph b) of the previous number, notifies the association so that it changes them, within 180 days.
6 - If there is no change within the deadline referred to in the preceding paragraph, the competent department proceeds according to subparagraph b) of paragraph 4.
7 - The trade union association or employers' association may only commence their activities after publication of the statutes in the Labour and Employment Bulletin, or 30 days after registration.
8 - If the constitution or the initial statutes of the association are inconsistent with the mandatory law, the magistrate of the competent court shall, within 15 days of receipt of the documents referred to in paragraph 4 b), promote the judicial declaration of termination of the association or, in the case of a statutory nullity, if the matter is governed by mandatory law or if the regulation of the matter is not essential to the functioning of the association.
9 - In the situation referred to in the preceding paragraph, the competent department of the Ministry responsible for labour matters, in the event of termination of the association, shall follow the procedure set forth in paragraph 3 of article 456 or, in case of invalidity of statutes , promotes the immediate publication of notice in the Bulletin of Labour and Employment.

Article 448

Acquisition and loss of quality of association of employers

The association of employers established under the general regime of the right of association may acquire the status of an association of employers by the process defined in the previous article, provided that it satisfies the requirements of this Code, and may lose that quality at the will of the associates or decision judicial decision taken pursuant to paragraph 8 of that article.

Article 449

Change of statutes

1 - The amendment of statutes shall be subject to registration and to the provisions of paragraphs 2 to 6 of article 447, with the necessary adaptations.
2 - If the amendments to the articles of association of the association are inconsistent with mandatory law, the magistrate of the Public Prosecution in the competent court promotes, within a period of 15 days from receipt of these changes, a judicial declaration of nullity of the same, remaining in force the statutes existing at the date of the application for registration.
3 - In the situation referred to in the preceding paragraph, the paragraph 9 of Article 447 shall apply.
4 - The changes referred to in paragraph 1 shall only be effective against third parties after publication in the Labour and Employment Bulletin or, failing that, 30 days after registration.

Article 450

Content of the articles of association

1 - With the limits of the following articles, the statutes of union association or association of employers must regulate:
a) The name, place of establishment, subjective, objective and geographical scope, purpose and duration where the association is not established for an indefinite period;
b) The corresponding bodies, including a general assembly or an assembly of representatives of members, a collegiate governing body and a supervisory board, as well as the number of members and their operation;
c) The extinction and consequent liquidation of the association, as well as the destination of the corresponding assets.
2 - The articles of association must also regulate the exercise of the right of trend.
3 - The name must identify the subjective, objective and geographical scope of the association and cannot be confused with that of another existing association.
4 - If the statutes provide for the existence of an assembly of representatives of associates, the latter shall exercise the rights provided for in the law for the general meeting, and the statutes shall indicate, if there is more than one assembly of representatives of associates, the one exercising the rights.
5 - In case of judicial or voluntary extinction of union association or association of employers, the corresponding assets cannot be distributed by the members, except when they are associations.

Article 451

Principles of democratic organisation and management

1 - In compliance with the principles of democratic organisation and management, trade union associations and employers' associations shall be governed in particular by the following rules:
a) Any associate in the enjoyment of his or her rights has the right to participate in the activity of the association, including that of electing and be elected to the corporate bodies and be appointed to any associative position, subject to age and registration requirements;
b) Equal opportunities and impartiality are ensured in the treatment of lists competing for elections to social bodies;
c) The term of office of the members of the board of directors may not last more than four years, reelection being permitted for successive terms, unless otherwise provided in the articles of association;

2 - Employers' association statutes may award more than one vote to certain members, based on objective criteria, namely according to the size of the company, up to a limit of 10 times the number of votes of the associate with the lowest number of votes .
3 - The articles of association may allow the participation of members in more than one body, unless one of these bodies is the fiscal council, the number of which may not exceed one third of the total members.

Article 452
Disciplinary regime

1 - The disciplinary regime applicable to members must ensure the right of defence of the associate and provide for the procedure to be written and that the sanction for expulsion is applied only in case of violation of fundamental duties.
2 - The disciplinary regime of the employers' association may not contain rules that interfere with the economic activity of the members.

Article 453
Impregnability of goods

1 - Movable and immovable property of a trade union association or association of employers whose use is strictly indispensable to its operation shall be unenforceable.
2 - The provisions of the previous number do not apply to immovable property when the following conditions are met:
a) The acquisition, construction, reconstruction, modification or improvement of this property is made through recourse to financing by third parties, with a real guarantee previously registered;
b) Financing by third parties and the conditions of acquisition are subject to a decision by the competent statutory body.

Article 454
Publicity of the members of the board

1 - The chairman of the general meeting must send the identity of the members of the union association or employers' association, as well as a copy of the minutes of the meeting that elected them, to the competent department of the ministry responsible for labour matters within 30 days after the election, for immediate publication in the Bulletin of Labour and Employment.
2 - The identity of the members of the management must be delivered in electronic document, according to the ministerial order of the minister responsible for the labour area.

Article 455
Registration annotations

The union association or association of employers must indicate the updating of the address of the registered office, when it does not consist of a change of the statutes, to the competent department of the ministry responsible for the labour area, which registers it in the corresponding register.

Article 456
Extinction of associations and cancellation of registration

1 - Where the trade union or employers' association has not requested publication of the identity of the members of the management according to paragraph 1 of Article 454 within a period of six years from the previous publication, the service shall notify the magistrate of the Public Prosecution to the competent court, which shall, within 15 days of receipt of the communication, issue a judicial declaration of termination of the association.
2 - The judicial or voluntary extinction of union association or association of employers must be communicated to the competent department of the ministry responsible for the labour area:
a) By the court, by means of a copy of the decision that determines the extinction, a final decision;
b) By the chairman of the board of the general meeting, by means of a certificate or certified copy of the minutes of the meeting that decides to terminate, with attendance sheets and corresponding terms of opening and closing.
3 - The service referred to in the preceding number shall cancel the registration of the statutes of the association in question and shall promote the immediate publication of notice in the Bulletin of Labour and Employment.
4 - The service referred to in the previous numbers shall be sent to the magistrate of the Public Prosecution in the competent court or certified copy of the minutes of the meeting that decides the termination, together with a reasoned assessment of the legality of the decision, within eight days of the publication of the notice.
5 - If the deliberation of termination of the association is disagreed with the law or the statutes, the magistrate of the Public Prosecutor promotes, within a period of 15 days from receipt, the judicial declaration of nullity of the deliberation.
6 - The court communicates the judicial declaration of nullity of the determination of extinction of the association, which has become final with the service mentioned in the previous numbers, which repeals the cancellation and promotes the immediate publication of notice in the Bulletin of Labour and Employment.
7 - The extinction of the association or the cancellation revocation takes effect from the publication of the corresponding notice.

Subsection III
Trade union membership

Article 457
Trade union protection and protection of employees

1 - The worker cannot be forced to pay quotas for a trade union association in which he is not registered.
2 - The collection and delivery of trade union dues by the employer may not imply for the employee any discrimination or payment of expenses not provided for by law or in any way limiting his or her freedom of work.
3 - The employer may process computerized personal data of employees concerning trade union membership, provided that, under the law, they are exclusively used for collection and delivery of union dues. 4 - The trade union association may not refuse the transfer of an essential document to the professional activity of the worker falling within its competence due to non-payment of quotas.

Article 458
Collection of trade union dues

1 - The employer shall collect and deliver trade union dues when the collective bargaining instrument applicable so provides and the employee authorizes it or at the express option of the employee addressed to the employer.
2 - The employee must formulate in writing and sign the declaration of authorisation or option referred to in the previous number and indicate the value of the union quota or the percentage determined by the remuneration to be deducted and the trade union association to which it must be delivered.
3 - The collection and delivery of trade union quota implies that the employer deducts from the employee's remuneration the value of the quota and the amount given to the corresponding trade union association, until the 15th of the following month.
4 - The responsibility for the expenses necessary to the delivery of the trade union quota may be defined by collective labour regulation or agreement between employer and union or worker.
5 - The worker may terminate the collection and delivery of trade union quota by the employer by means of a written and signed declaration directing him to this effect.
6 - The employee must send copies of the declarations foreseen in the previous numbers to the corresponding union association.
7 - The declaration of the employee's Authorisation or option to collect the trade union quota and the declaration on the termination of this procedure shall take effect from the month following the month in which it was delivered to the employer.
8 - The employer's refusal or non-payment by the employer of the union deduction from the remuneration of the worker who has authorised or decided it.

Article 459
Crime of retention of union quota

The employer who withholds and does not deliver to the trade union association the union quota charged shall be punished with the penalty provided for the crime of breach of trust.

Subsection IV
Trade union activity in the company

Article 460
Right to union activity in the company

Employees and trade unions have the right to engage in trade union activity within the company, in particular through trade union delegates, trade union commissions and inter-union commissions.

Article 461
Meeting of employees in the workplace

1 - Employees can meet in the workplace, by a call for a third or 50 employees of the corresponding establishment, or by the union or inter-union commission:
a) Outside the working hours of most employees, notwithstanding the normal operation of shifts or additional work;
b) during working hours of most employees up to a maximum period of fifteen hours per year, which counts as actual working time, provided that the operation of services of an urgent and essential nature is ensured.

2 - The provisions of article 420, with the necessary adaptations, shall apply to the meeting referred to in the preceding paragraph.
3 - The members of the management of trade union associations representing employees who do not work in the company may attend the meeting by notifying the promoters to the employer at least six hours in advance.
4 - The employer who prohibits employees 'meeting in the workplace or the access of a member of a union association to company premises where a employees' meeting takes place commits a very serious administrative offense.

Article 462

Election, dismissal or termination of trade union delegate

1 - The union delegate is elected and dismissed according to the statutes of the corresponding union, by direct and secret vote.
2 - The term of office of the trade union delegate may not last more than four years.
3 - Union commissions may be established in the company or establishment and inter-union commissions in the company, according to subparagraph g) and h) of paragraph1 of Article 442.
4 - The management of the union shall notify the employer in writing of the identity of each trade union delegate, as well as of those forming part of a trade union or inter-union commission and shall promote the display of the communication in places reserved for trade union information.
5 - The provisions of the previous number shall apply in case of dismissal or termination of union delegate's duties.

Article 463

Number of union delegates

1 - The maximum number of trade union delegates who benefit from the protection regime provided for in this Code is determined as follows:
a) In a company with less than 50 unionised employees, one;
b) In a company with 50 to 99 unionised employees, two;
c) In a company with 100 to 199 unionised employees, three;
d) In a company with 200 to 499 unionised employees, six;
e) In an undertaking with 500 or more unionised employees, the number resulting from the following formula: 6 + [(n - 500): 200]
2 - For the purpose of subparagraph e) of the previous number, n is the number of unionised employees.
3 - The result determined according to subparagraph e) of the preceding paragraph shall be rounded up to the next higher unit.

Article 464

Right to premises

1 - The employer shall make available to the trade union delegates who request it a place suitable for the exercise of their functions, within or near the company, made available permanently in a company or establishment with 150 or more employees.
2 - Violation of the provisions of the preceding paragraph represents a serious administrative offense.

Article 465

Display and distribution of trade union information

1 - The union delegate shall have the right to publish, on the premises of the company and in an appropriate place made available by the employer, notices, notices, information or other texts concerning the trade union life and the socio-professional interests of the employees, and distribute them , notwithstanding the normal operation of the company.
2 - Violation of the provisions of the preceding paragraph represents a serious administrative offense.

Article 466

Information and consultation of union delegate

1 - The trade union delegate has the right to information and consultation on the following matters, in addition to others mentioned in the law or in a collective contract:
a) Recent developments and likely future developments in the business of the undertaking or establishment and its economic situation;
b) The situation, structure and probable evolution of employment in the undertaking or establishment and possible preventive measures, in particular where a reduction in the number of employees is envisaged;
c) A decision likely to trigger a substantial change in the organisation of work or employment contracts.
2 - The provisions of paragraphs 1, 2, 4, 5, 6 and 7 of article 427 shall apply to the information and consultation of trade union delegates.
3 - The provisions of this article shall not apply to micro companies or small companies.

Article 467

Trade union delegate hours credit

1 - The trade union delegate is entitled, for the performance of his duties, to a credit of five hours per month, or eight hours per month if he is part of an inter-union commission.
2 - Violation of the provisions of the preceding paragraph represents a serious administrative offense.

Subsection V

Member of the management of trade union association

Article 468

Credit of hours and absences of management member

1 - In order to carry out his duties, the member of the management of a trade union association shall be entitled to the corresponding to four days of work per month and justified absences, according to the following numbers.
2 - Notwithstanding the provisions of a collective labour regulation instrument, in each company, the maximum number of members of the management of a trade union association entitled to credit hours and absences justified without limitation of number shall be determined as follows:
a) In a company with less than 50 unionised employees, one;
b) In a company with 50 to 99 unionised employees, two;
c) In a company with 100 to 199 unionised employees, three;
d) In a company with 200 to 499 unionised employees, four;

e) In a company with 500 to 999 unionised employees, six;
f) In a company with 1,000 to 1999 unionised employees, seven;
g) In a company with 2000 to 4999 unionised employees, eight;
h) In a company with 5000 to 9999 unionised employees, 10;
i) In an undertaking with 10 000 or more unionised employees, 12.
3 - In the case of a member of a federation, union or confederation directorate, the application of the formula referred to in the previous number shall consider the number of employees affiliated to the associations forming part of that structure.
4 - A worker who is a member of the management of more than one trade union association shall not be entitled to the accumulation of hours credits.
5 - Management members who exceed the maximum number calculated under the terms of the previous numbers are entitled to justified absences up to the limit of 33 per year.
6 - The management of the trade union shall notify the employer, by 15 January of each year and within 15 days of any change in its composition, of the identity of the members to whom paragraph 2 applies.
7 - The management of the trade union may assign time credits to another member of the union, provided that it does not exceed the aggregate amount allocated under paragraphs 1 and 2 and inform the employer of the alteration of the distribution of the credit with at least 15 days.
8 - When the justified absences are effectively or predictably extended beyond one month, the system of suspension of the employment contract for a fact relating to the employee shall apply, notwithstanding the provisions of a collective bargaining instrument applicable, which provides for functions full-time union or other specific situations, with regard to the right to employees' remuneration.
9 - Violation of the provisions of paragraph 1 represents a very serious administrative offense.

Chapter II
Participation in the elaboration of labour legislation

Article 469
Notion of labour legislation

1 - Labour legislation is understood to govern the rights and obligations of employees and employers as such, and their organisations.
2 - Labour laws shall be considered to be the diplomas that regulate, in particular, the following subjects:
a) Work contract;
b) Collective labour law;
c) Occupational health and safety;
d) Accidents at work and occupational diseases;
e) Professional training;
f) Work process.
3 - Labour legislation is also considered to approve the ratification of International Labour Organisation conventions.

Article 470
Precedence of discussion

Any draft or proposed law, draft decree-law or draft or proposed regional decree on labour law can only be discussed and voted by the National Assembly, by the Government of the Republic, by the Legislative

Assemblies of the autonomous regions and by the Regional Governments after the commissions of employees or the corresponding coordinating committees, the trade union associations and the associations of employers have been able to pronounce on him.

Article 471

Participation of the Permanent Social Dialogue Commission

The Standing Committee on Social Dialogue may decide on any draft or proposed labour legislation and may be convened by a decision of the Chairperson upon the request of any of its members.

Article 472

Publication of projects and proposals

1 - For the purposes of Article 470, projects and proposals shall be published separately from the following official publications:
a) Parliament Gazette, in the case of legislation to be approved by the National Assembly;
b) Bulletin of Labour and Employment, in the case of legislation to be approved by the Government of the Republic;
c) Diaries of the Regional Assemblies, in the case of legislation to be approved by the Legislative Assemblies of the autonomous regions;
d) Official Gazette, in the case of legislation to be approved by Regional Government.
2 - The separations mentioned in the previous number must, necessarily:
a) The full text of the proposals or projects, together with their numbers;
b) The summary designation of the subject matter of the proposal or project;
c) The period for public review.
3 - The National Assembly, the Government of the Republic, the Legislative Assembly of an autonomous region or the Regional Government shall announce, through the media, the publication of the report and the designation of the matters that are in the public appreciation stage.

Article 473

Period of public appreciation

1 - The period of public appreciation cannot be less than 30 days.
2 - The time limit may be reduced to 20 days, exceptionally and for reasons of urgency duly justified in the act that determines the publication.

Article 474

Opinions and hearings of representative organisations

1 - During the period of public examination, the entities referred to in Article 470 may decide on the project or proposal and request an oral hearing to the National Assembly, the Government of the Republic, the Legislative Assembly of an autonomous region or the Regional Government , according to the regulations specific to each of these bodies.
2 - The opinion of the entity pronouncing shall contain:
a) Identification of the project or proposal;

b) Identification of the employees 'commission, coordinating committee, trade union association or employers' association that makes a statement;
c) Subjective, objective and geographical scope or, in the case of a employees' committee or a coordinating committee, the sector of activity and the geographical area of the company or companies;
d) Number of employees or employers represented;
e) Date, signature of who legally represents the entity or of all its members and stamp of it.

Article 475
Result of public appreciation

1 - The positions of the entities that give their opinions or hearings are considered by the legislator as elements of work.
2 - The result of the public assessment consists of:
a) Preamble of decree-law or regional decree;
b) Report attached to the opinion of a specialized committee of the National Assembly or of the Legislative Assembly of an autonomous region.

Subtitle II
Instruments of collective labour regulation

Chapter I
General provisions relating to instruments of collective labour regulation

Section I
General provisions on instruments of collective labour regulation

Article 476
Principle of the most favourable treatment

The provisions of a collective labour regulation instrument can only be excluded by employment contract when it establishes conditions more favourable to the worker.

Article 477
Form of collective labour regulation instrument

The instrument of collective labour regulation takes the written form, under penalty of nullity.

Article 478
Limits of the content of collective labour regulation instrument

1 - The instrument of collective labour regulation cannot:
a) Contrary to mandatory legal regulation;
b) Regulate economic activities, including periods of operation, taxation, price formation and the exercise of the activity of temporary employment agencies, including the employment contract;
c) Give retroactive effect to any clause that is not of a pecuniary nature.

2 - The instrument of collective labour regulation may establish complementary contractual regime that assigns complementary benefits of the subsystem social security in the part not covered by this, according to the law.

Article 479

Assessment on equality and non-discrimination

1 - Within 30 days of the publication of an instrument of collective bargaining or arbitration decision in a compulsory or necessary arbitration process, the competent department of the Ministry responsible for labour matters, after hearing the interested parties, shall proceed to the substantiated assessment of legality of its provisions on equality and non-discrimination.
2 - In case of discriminatory dispositions, the competent department of the Ministry responsible for labour matters notifies the parties in the instruments of collective bargaining that contain those provisions to make the corresponding changes within 60 days.
3 - After the period provided for in the preceding paragraph has not been changed, the competent department of the Ministry responsible for labour matters shall submit its opinion to the magistrate of the Public Prosecution before the competent court, accompanied by the relevant documents, namely copies of the minutes the deliberations and the statements of the interested parties.
4 - The positions of the entities that give opinions or hearings are considered by the legislator as working elements:
a) All trade union associations and associations of employers or undertakings concluding the collective contract;
b) The greater number of entities mentioned;
c) Any of the entities mentioned.
5 - If it finds that there is an unlawful provision in the matter in question, the magistrate of the Public Prosecutor shall, within a period of 15 days, file a declaration of invalidity of these provisions.
6 - The judicial decision that declares the nullity of provision is sent by the court to the competent department of the ministry responsible for labour, for publication in the Bulletin of Labour and Employment.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 480

Advertising of applicable collective labour regulation instrument

1 - The employer must indicate in an appropriate place of the company the indication of collective labour regulations applicable.
2 - It is a minor administrative offense to violate the provisions of the preceding paragraph.

Section II

Competition of instruments of collective labour regulation

Article 481

Preference of collective bargaining instrument of vertical negotiation

The instrument of collective bargaining in a sector of activity removes the application of a similar instrument whose scope is defined by profession or occupation in relation to that sector of activity.

Article 482

Competition between collective bargaining instruments

1 - Whenever there is competition between instruments of collective bargaining, the following preference criteria shall be observed:
a) the agreement of an undertaking shall preclude the application of the collective contract or collective contract;
b) The collective contract removes the application of the collective contract.
2 - In other cases, the employees of the undertaking in respect of whom the competition takes place shall choose the applicable instrument by a majority within 30 days of the entry into force of the most recent instrument of publication, communicating the choice to the interested employer and to the service with inspection authority of the ministry responsible for the labour area.
3 - In the absence of choice by employees, the following shall apply:
a) The most recent publication instrument;
b) The competing instruments being published on the same date, which regulates the main activity of the company.
4 - The resolution provided for in paragraph 2 shall be irrevocable until the instrument adopted has expired.
5 - The preference criteria provided for in paragraph 1 may be removed by a collective bargaining agreement instrument, namely, by means of an articulation clause of:
a) Collective agreements of different levels, namely interconfederal, sectoral or enterprise;
b) Collective agreement that establishes that certain matters, such as geographical and functional mobility, the organisation of working time and remuneration, are regulated by collective contract.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 483

Competition between non-negotiating collective labour instruments

1 - Whenever there is competition between non-negotiating instruments of collective bargaining, the following preference criteria shall be observed:
a) The compulsory arbitration decision deters the application of another instrument;
b) The extension order removes the application of the ordinance of working conditions.
2 - In the event of competition between extension orders, the provisions of paragraphs 2 to 4 of the previous article, with respect to the collective contracts to be extended, shall apply.

Article 484

Competition between collective bargaining and non-bargaining instruments

The entry into force of an instrument of collective bargaining regulates the application, within its scope, of a previous collective bargaining instrument for non-bargaining work.

Chapter II
Collective agreement

Section I
Collective agreement

Article 485
Promotion of collective bargaining

The State should promote collective bargaining so that collective bargaining agreements apply to the largest number of employees and employers.

Article 486
Business proposal

1 - The negotiation process begins with the presentation to the other party of a proposal for the conclusion or revision of a collective contract.
2 - The proposal must be written, duly substantiated and contain the following elements:
a) Designation of the entities that subscribe it in its own name or in representation of others;
b) Indication of the agreement to be revised, if any, and its date of publication.
c) Indication of collective bargaining agreement instrument and its publication date, if applicable, for the purposes of paragraph 5 of article 482.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 487
Reply to proposal

1 - The entity to which the proposal is addressed must respond, in writing and in a reasoned manner, within 30 days of its receipt, unless there is an agreed term, or a longer period indicated by the tenderer.
2 - In the event of a proposal to revise a collective contract, the receiving entity may refuse to negotiate before the expiration of six months of the agreement and shall inform the tenderer within 10 working days.
3 - The response must express a position on all the clauses of the proposal, accepting, refusing or counter proposing it.
4 - In the event of failure to reply or counterproposal, within the period referred to in paragraph 1 and according to paragraph 3, the tenderer may request conciliation.
5 - Violation of the provisions of paragraphs 1 or 3 represents a serious administrative offense.

Article 488
Business Priority

1 - The Parties shall, where possible, give priority to the negotiation of remuneration and the duration and organisation of working time, with a view to adjusting the overall increase in costs resulting therefrom, as well as to occupational safety and health.

2 - The infeasibility of an initial agreement on the matters referred to in the preceding paragraph does not justify the rupture of negotiation.

Article 489
Good faith in negotiation

1 - The parties shall respect in the process of collective bargaining the principle of good faith, in particular by responding as soon as possible to proposals and counterproposals, observing the negotiating protocol, if any, and being represented at meetings and contacts aimed at prevention or conflict resolution.
2 - Representatives of trade union and employers' associations shall, in due course, make the necessary consultations with the employees and employers concerned, but shall not, however, invoke such necessity in order to obtain the suspension or interruption of any acts.
3 - Each party shall furnish to the other party the information or information requested by it, insofar as this does not prejudice the defense of its interests.
4 - The supply of reports and accounts of undertakings already published and the number of employees, by professional category, which fall within the scope of the agreement to be covered by the agreement, may not be refused in the course of negotiation of a collective contract and of an undertaking. to celebrate.
5 - A trade union association, an association of employers or an employer who does not take part in a meeting convened according to paragraph 1, commits a serious offence.

Article 490
Administration support

1 - In preparing the negotiation proposal and its response, as well as during negotiations, the competent services of the ministries responsible for the area of labour and the area of activity provide the parties with the necessary information at their disposal and which they request.
2 - The parties must send the proposals and answers, with the corresponding reasoning, to the ministry responsible for the labour area within 15 days of their presentation.

Section II
Celebration and content

Article 491
Representatives of celebrating entities

1 - The collective contract is signed by the representatives of the celebrating entities.
2 - For the purposes of the previous paragraph, the following representatives shall be considered:
a) The members of the management of a trade union association or association of employers, with powers to contract;
b) Managers, administrators or directors with powers to contract;
c) In the case of a company of the State corporate sector, the members of the board of management or equivalent body, with powers to contract;
d) Persons holding a written mandate with powers to contract, conferred by a trade union or an association of employers, according to their corresponding statutes, or by employer.

3 - Notwithstanding the possibility of delegating to other trade union associations, the trade union association may confer on the collective representation structure of the employees in the undertaking, in respect of its members, to contract with at least 150 employees.
4 - The revocation of the mandate is effective only after communication to the other party, in writing and until the signing of the collective contract.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 492
Collective agreement content

1 - The collective contract shall indicate:
a) Designation of the entities involved;
b) Name and quality of the representatives of the entities involved;
c) The scope of the sector of activity, professional and geographical scope, except in the case of a revision which does not change the scope of the revised agreement;
d) Date of conclusion;
e) Revised Convention and its publication date, if applicable;
f) Expressed values of basic remuneration for all professions and professional categories, if they have been agreed;
g) An estimate of the numbers of employers and employees covered by the Convention.
h) An instrument of collective bargaining and its date of publication, for the purposes of paragraph 5 of article 482.
2 - The collective contract shall regulate:
a) Relations between the convening entities, in particular as regards verification of compliance with the Convention and means of settling collective disputes arising from their application or review;
b) Professional training, considering the needs of the worker and the employer;
c) The working conditions relating to safety and health;
d) Measures to ensure the effective application of the principle of equality and non-discrimination;
e) Other rights and duties of employees and employers, including basic pay for all occupations and professional categories;
f) Procedures for resolving disputes arising from employment contracts, namely through conciliation, mediation or arbitration;
g) The definition of services necessary for the safety and maintenance of equipment and facilities, which are indispensable minimum services to meet the needs of unpredictable social needs, if the activities of the employers concerned meet the social needs that are necessary, and the necessary means to ensure them in a situation of strike;
h) The effects of the Convention in the event of expiry, in respect of employees covered by it, until the entry into force of another collective labour regulation instrument.
3 - The collective contract shall provide for the establishment and operation of a joint committee with competence to interpret and integrate its clauses.
4 - The collective contract may stipulate that, for the purpose of the choice provided for in Article 497, the employee pays an amount established by the collective contract to the trade unions concerned, as a contribution to the negotiation costs.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 493
Joint Committee

1 - The joint committee referred to in paragraph 3 of the preceding article shall be formed by an equal number of representatives of the celebrating entities.
2 - The Joint Committee may decide only when half of the representatives of each party are present.
3 - The decision taken by unanimity shall be deposited and published in the same terms of the collective contract and considered for all purposes as integrating the agreement to which it respects.
4 - The decision taken unanimously, once published, is applicable within the scope of the order of extension of the agreement.

Section III
Collective agreement deposit

Article 494
Procedure for filing a collective contract

1 - The collective contract is delivered, for deposit, to the competent department of the ministry responsible for labour area.
2 - The third consecutive partial revision of a convention shall be accompanied by a consolidated text signed in the same terms, which, in case of divergence, shall prevail over the texts to which it refers.
3 - The agreement and the consolidated text are delivered in an electronic document, according to the ministerial order in charge of the labour area.
4 - The deposit depends on the agreement meeting the following requirements:
a) To be celebrated by those who have the capacity to do so;
b) To be accompanied by evidence of the representation of the contracting entities, in the case referred to in subparagraph d) of paragraph 2 of Article 491, issued by any person who may bind trade union associations and employers 'associations or employers' Organisations;
c) Comply with the provisions of paragraph 1 of article 492;
d) To be accompanied by a consolidated text, if applicable;
e) Comply with paragraph 3 and the consolidated text where appropriate.
5 - The deposit application shall be decided within 15 days of receipt of the agreement by the competent department.
6 - The reasoned refusal of the deposit shall be notified immediately to the parties and the collective contract; the consolidated text and the evidence of representation shall be returned.
7 - A convention whose deposit application is not decided within the period referred to in paragraph 5 shall be deemed to have been deposited.

Article 495
Amendment of agreement before deposit decision

1 - Until such time as the deposit application is decided, the parties may by agreement make any formal or substantive amendment to the agreement delivered for that purpose.

2 - The amendment referred to in paragraph 1 interrupts the period of deposit referred to in paragraph 5 of the previous article.

Section IV
Personal scope of collective contract

Article 496
Principle of membership

1 - The collective contract obliges the employer that subscribes or affiliated to an association of employers' celebrant, as well as the employees at his service who are members of a trade union association.
2 - A convention concluded by a union, federation or confederation shall require employers and employees affiliated respectively to associations of employers or trade unions represented by that organisation when it concludes in its own name, according to its statutes, or according to the mandates referred to in paragraph 2 of Article 491.
3 - The agreement covers employees and employers affiliated to associations which are parties to the negotiations at the beginning of the negotiation process, as well as those who join them during the term of the agreement.
4 - If the employee, the employer or the association in which one of them is registered becomes a celebrant, the agreement shall continue to apply until the end of the period of validity contained therein or, year or, in any case, until the entry into force of the agreement revising it.

Article 497
Choice of applicable convention

1 - In the case of one or more collective contracts or arbitration awards in a company, an employee who is not a member of any trade union association may choose which of those instruments is applicable to him.

2 - The application of the agreement pursuant to paragraph 1 shall continue until the end of its validity, notwithstanding the provisions of the following paragraph.
3 - In case the collective contract does not have a valid term, the employees are covered during the minimum term of one year.
4 - The employee can repeal the choice, in which case the provisions of paragraph 4 of the previous article are applicable.

Article 498
Application of a convention in the event of a business or establishment

1 - In the event of the transfer, by any title, of the ownership of a company or establishment or of a part of a company or establishment that represents an economic unit, the collective labour regulation instrument binding the transferor shall apply to the purchaser until the end of for a period of validity or at least 12 months from the date of transmission, unless in the meantime another instrument of collective bargaining is applied to the acquirer.
2 - After the expiration of the period referred to in the preceding paragraph, if no collective bargaining instrument is applied to the purchaser, the effects already produced in the labour contract shall be maintained

by the instrument of collective labour regulation that binds the transferor in relation to the matters referred to in paragraph 8 of Article 501.
3 - The provisions of the previous numbers shall apply to the transfer, assignment or reversion of the holding of a company, establishment or economic unit.
4 - A serious administrative offence represents breach of the provisions of paragraph 2.

Amendments
Amended by Article 2 of the Law no. 14/2018 - Official Gazette no. 55/2018, Series I of 2018-03-19, in force from 2018-03-20

Section V
Temporary scope of collective contract

Article 499
Term and renewal of collective contract

1 - The collective contract is in force for the term or periods that appear in it and is renewed under the terms set forth therein.
2 - It is considered that the agreement, if it does not have a valid term, shall be valid for a period of one year and be renewed successively for an equal period.

Article 500
Termination of collective contract

1 - Either party may denounce the collective contract, by written communication addressed to the other party, accompanied by a global negotiating proposal.
2 - A mere proposal to revise a convention is not considered a complaint and does not determine the application of the oversight and expiry regime.

Article 501
Survival and expiration of collective contract

1 - The agreement clause that makes termination of the substitution by another collective bargaining instrument expires after three years after the verification of one of the following facts:
a) The latest full publication of the Convention;
b) Termination of the agreement;
c) Presentation of a proposal for revising the agreement that includes the revision of said clause.
2 - After the expiry of the clause referred to in the previous number, or in case of a convention that does not regulate its renewal, the provisions of the following paragraphs shall apply.
3 - If there is a termination, the agreement remains under oversight during the period of negotiation, including conciliation, mediation or voluntary arbitration, or at least 12 months.
4 - Whenever there is an interruption of the negotiation, including conciliation, mediation or voluntary arbitration, for a period exceeding 30 days, the period of oversight is suspended.
5 - For the purposes of paragraphs 3 and 4 the period of negotiation, with suspension, may not exceed the period of 18 months.

6 - After the period referred to in paragraphs 3 and 5, as the case may be, the agreement shall remain in force for 45 days after either party notifies the ministry responsible for labour and the other party that the negotiation process has ended without after which it shall expire.
7 - In the absence of prior agreement on the effects of the agreement in case of expiration, the minister responsible for labour matters notifies the parties, within the period referred to in the previous number, so that they may agree to these effects within a period of 15 days .
8 - After the expiration and until the entry into force of another arbitration agreement or decision, the effects agreed by the parties or, failing this, those already produced by the agreement in contracts of employment as regards the remuneration of the employee, category and their definition, length of working time and social protection regimes whose benefits are substitutive of those guaranteed by the general social security regime or with protocol of substitution of the National Health Service.
9 - In addition to the effects mentioned in the preceding paragraph, the employee benefits from other rights and guarantees arising from labour legislation.
10 - The parties may agree, during the period of oversight, to extend the validity of the agreement for a specified period, with the agreement subject to deposit and publication.
11 - The agreement on the effects of the Convention in the event of expiry is subject to deposit and publication.

Amendments
Amended by Article 2 of the Law no. 55/2014 - Official Gazette no. 162/2014, Series I of 2014-08-25, in force from 2014-09-01

Article 502
Termination and suspension of the validity of a collective contract

1 - The collective contract may cease:
a) By revocation by agreement of the parties;
b) By expiration, under the terms of the previous article.
2 - The collective contract or part of it may be temporarily suspended in its application in a business crisis, due to market, structural or technological reasons, catastrophes or other occurrences that have seriously affected the normal activity of the company, provided that such action is indispensable to ensure the viability of the company and the maintenance of the jobs, by written agreement between the employers' associations and the trade union associations granting, notwithstanding the possibility of delegation.
3 - The agreement provided for in the preceding paragraph must expressly mention the statement of reasons and determine the period of application of the suspension and the effects arising from it.
4 - The rules concerning the deposit and publication of a collective contract shall apply to the suspension and revocation.
5 - Suspension and revocation shall prejudice the rights deriving from the agreement, except where expressly reserved by the parties.
6 - The competent department of the Ministry responsible for labour matters shall publish in the Bulletin of Labour and Employment a notice on the date of suspension and termination of a collective contract, according to the terms of the previous article.

Amendments
Amended by Article 2 of the Law no. 55/2014 - Official Gazette no. 162/2014, Series I of 2014-08-25, in force from 2014-09-01

Article 503
Succession of collective contracts

1 - The subsequent collective contract totally repeals the previous agreement, except in matters expressly reserved by the parties.
2 - The mere succession to collective contracts cannot be invoked to reduce the overall level of protection of employees.
3 - The rights deriving from a convention can only be reduced by a new convention whose text expressly states that it is generally more favourable.
4 - In the case provided for in the previous paragraph, the new Convention prejudices the rights deriving from a previous agreement, unless expressly reserved by the parties to the new agreement.

Chapter III
Membership Agreement

Article 504
Adhesion to collective contract or arbitration award

1 - The trade union association, the employers' association or the employer may adhere to the collective contract or arbitration decision in force.
2 - Accession shall be effected by agreement between the entity concerned and that which would oppose it in the negotiation of the agreement if it had participated in it.
3 - The adhesion cannot result in a modification of the content of the agreement or the arbitration decision, although it is intended to apply only within the scope of the adherent entity.
4 - The adhesion agreement shall apply the rules regarding the deposit and publication of a collective contract.

Chapter IV
Arbitration

Section I
Common Arbitration Provisions

Article 505
Common provisions on arbitration of collective labour disputes

1 - The rules on mandatory content and deposit of collective contract shall apply to the arbitration decision, with the necessary adaptations.
2 - The arbitrators shall send the text of the arbitration decision to the parties and to the competent department of the ministry responsible for labour matters for the purpose of filing and publication, within five days of the decision.
3 - The arbitration award produces the effects of the collective contract.
4 - The general regime of voluntary arbitration is subsidiary.

Section II
Voluntary arbitration

Article 506
Admissibility of voluntary arbitration

At all times, the parties may agree to submit to arbitration the labour issues resulting from, inter alia, the interpretation, integration, conclusion or revision of a collective contract.

Article 507
Operation of voluntary arbitration

1 - Voluntary arbitration shall be governed by the agreement of the parties or, failing that, by the provisions of the following paragraphs.
2 - The arbitration is carried out by three arbitrators, being two appointed, one for each part, and the third chosen by those.
3 - The parties shall inform the competent department of the ministry responsible for the labour area of the beginning and end of the procedure.
4 - The arbitrators may be assisted by experts and have the right to obtain from the parties, from the ministry responsible for the area and the ministry responsible for the area of activity the available information they need.
5 - It represents a very serious administrative offense to not appoint an arbitrator under the terms of paragraph 2 and it is a minor administrative offense to violate the provisions of paragraph 3.

Section III
Compulsory Arbitration

Article 508
Admissibility of compulsory arbitration

1 - The conflict resulting from the conclusion of a collective contract may be settled by compulsory arbitration:
a) In the case of a first convention, at the request of either party, provided there have been prolonged and unsuccessful negotiations, conciliation or frustrated mediation, and it has not been possible to resolve the conflict through voluntary arbitration, due to bad faith in negotiations of the other party, after hearing the Standing Committee on Social Dialogue;
b) If there is a recommendation to this effect of the Standing Committee on Social Dialogue, with a favourable vote of most of the members representing the employees and employers;
c) At the initiative of the minister responsible for labour matters, after consultation with the Standing Committee on Social Dialogue, where essential services are concerned to protect the life, health and safety of persons.
2 - The provisions in paragraphs b) and c) of the previous number are applicable in case of revision of collective contract.

Article 509
Determination of compulsory arbitration

1 - Compulsory arbitration may be determined by a reasoned order from the minister responsible for the labour area, considering:
a) The number of employees and employers affected by the conflict;
b) The relevance of the social protection of the employees covered;
c) The social and economic effects of the conflict;

d) The parties' position on the subject matter of the arbitration.
2 - The minister responsible for labour matters must first hear the parties or, in the case of subparagraph a) of paragraph 1 of the previous article, the requested counterparty, as well as the regulatory and supervisory body of the sector of activity concerned.
3 - The hearing of the regulatory and supervisory body shall be carried out by the Standing Committee for Social Dialogue prior to the recommendation provided for in subparagraph b) of paragraph 1 of the preceding article, in case of conflict between parties represented by employees 'and employers' associations with a seat in the Commission, if they so request.
4 - The order determining the compulsory arbitration shall be notified immediately to the parties and to the Secretary-General of the Economic and Social Council.
5 - The Code of Administrative Procedure is subsidiarily applicable.

Section IV
Arbitration required

Article 510
Admissibility of arbitration required

If, after the expiry of one or more collective contracts applicable to an undertaking, group of undertakings or sector of activity, no new agreement is concluded within the following 12 months and there is no other agreement applicable to at least 50% of the employees of the same undertaking , group of companies or sector of activity, a necessary arbitration may be determined.

Article 511
Determination of arbitration required

1 - The necessary arbitration shall be determined by a reasoned order of the minister responsible for the labour area, upon request of any of the parties within the 12 months following the expiration of the period referred to in the previous article.
2 - For the purpose of verifying the requirement that no other agreement applies to at least 50% of the employees of the same company, group of companies or sector of activity, the minister responsible for the labour area promotes the immediate publication in the Labour and Employment, of notice mentioning the application referred to in the previous number so that the interested parties can deduct reasoned opposition, in writing, within 15 days.
3 - The decision on the application referred to in paragraph 1 shall be rendered within 60 days of receipt of the request.
4 - The dispatch referred to in paragraph 1 shall be subject to paragraphs 4 and 5 of article 509.
5 - The object of the arbitration shall be defined by the parties or, if they do not do so, by the arbitrators, considering the circumstances and the positions assumed by the parties on the same.

Section V
Provisions common to compulsory arbitration and arbitration required

Article 512
Competence of the Economic and Social Council

1 - It is incumbent upon the President of the Economic and Social Council to participate in the constitution of the lists of arbitrators under the terms of specific law.
2 - It is incumbent upon the Economic and Social Council to proceed, if necessary, to the draw of arbitrators for the purpose of compulsory arbitration or arbitration required.
3 - The Economic and Social Council shall ensure:
a) The payment of fees, travel expenses and the stay of arbitrators and experts;
b) The technical and administrative support necessary for the functioning of the arbitral court.

Article 513
Regulation of compulsory arbitration and arbitration required

The regime of compulsory arbitration and necessary arbitration, in what is not regulated in the preceding sections, is a specific law.

Chapter V
Extension Order

Article 514
Extension of a collective contract or arbitration award

1 - The collective contract or arbitration award in force may be applied, in whole or in part, by an extension order to employers and to employees integrated within the scope of the sector of activity and professional defined in that instrument.
2 - Extension is possible by weighing the social and economic circumstances justifying it, in particular the economic and social identity or similarity of the situations in the scope of the extension and the instrument to which it refers.

Article 515
Subsidiarity

The extension order can only be issued in the absence of a collective bargaining instrument.

Article 516
Jurisdiction and procedure for issuing an extension order

1 - It is incumbent upon the minister responsible for the labour area to issue an extension order, unless there is opposition to this for economic reasons, in which case the competence is joint with that of the minister responsible for the sector of activity.
2 - The minister responsible for labour matters has the publication of the draft extension directive in the Bulletin of Labour and Employment.
3 - Any natural or legal person who may, even if indirectly, be affected by the extension may file reasoned opposition in writing within 15 days of the publication of the project.
4 - The Code of Administrative Procedure is subsidiarily applicable.

Chapter VI
Working conditions ordinance

Article 517

Admissibility of an order of working conditions

1 - When social and economic circumstances justify it, if there is no trade union or employer association and no extension of the ordinance, an order of working conditions may be issued.
2 - The working conditions rule can only be issued in the absence of an instrument of collective bargaining.

Article 518

Competence and procedure for issuing a working conditions rule

1 - The Minister responsible for the labour area and the minister responsible for the sector of activity are responsible for issuing a working conditions rule.
2 - The preparatory studies of the conditions of work are carried out by a technical commission consisting of an order of the minister responsible for the labour area.
3 - The technical committee shall be composed of members designated by the ministers responsible for issuing the ordinance and shall include, whenever possible, advisors appointed by the representatives of the employees and employers concerned, in a number determined by the constituent order.
4 - The technical commission shall prepare the preparatory studies within 60 days of the order that represents it.
5 - The minister responsible for the labour area may, in exceptional situations, extend the deadline set forth in the previous number.
6 - The provisions in paragraphs 2 to 4 of article 516 are applicable to the drafting of the working conditions rule.

Chapter VII
Publication, entry into force and application

Article 519

Publication and entry into force of collective labour regulation instrument

1 - The instrument of collective labour regulation is published in the Bulletin of Labour and Employment and enters into force, after publication, according to the law.
2 - The provisions of the previous number shall not prejudice the publication of an extension order and a working conditions order in the Official Gazette, on which the corresponding entry into force depends.
3 - The instrument of collective labour regulation that is the subject of three consecutive partial revisions is fully republished.

Article 520

Application of collective labour regulation instrument

1 - Recipients of instruments of collective bargaining must work in good faith to comply with them.
2 - In the application of a collective contract or an adhesion agreement, the circumstances in which the parties based the decision to contract are satisfied.
3 - Anyone failing to comply with an obligation arising from a collective labour regulation instrument shall be liable for the damage caused, in general terms.

Article 521
Violation of provision of collective labour regulation instrument

1 - The violation of the provision of collective bargaining instrument for a generality of employees represents a serious administrative offense.
2 - The violation of the provision of a collective labour regulation instrument represents, for each worker in respect of whom the offense is committed, a minor administrative offense.
3 - The provisions of paragraph 1 shall not apply if, on the basis of paragraph 2, fines are applied to the employer where the sum of the minimum values is equal to or greater than the minimum amount of the fine applicable according to paragraph 1.

Subtitle III
Collective labour disputes

Chapter I
Resolution of collective labour disputes

Section I
Principle of good faith

Article 522
Good faith

Pending a collective labour dispute, the parties shall act in good faith.

Section II
Conciliation

Article 523
Admissibility and conciliation procedure

1 - Collective labour disputes, in particular as a result of the conclusion or revision of a collective contract, may be settled by conciliation.
2 - In the absence of conventional regulations, conciliation shall be governed by the provisions of the following paragraph and the following article.
3 - Conciliation may take place at any time:
a) By agreement of the parties;
b) On the initiative of one of the parties, in the event of failure to respond to the proposal to conclude or revise a collective contract, or by giving eight days' notice in writing to the other party.

Article 524
Conciliation procedure

1 - The conciliation, if requested, is carried out by the competent department of the Ministry responsible for labour matters, advised, whenever necessary, by the competent department of the ministry responsible for the sector of activity.
2 - The request for conciliation must indicate the situation that underlies it and the object of the same, adding proof of prior notice in the case of being subscribed by one of the parties.
3 - Within 10 days of submission of the application, the competent department shall verify the regularity of the petition and summon the parties to the beginning of the conciliation and, in case of revision of a collective agreement, invite the trade union association or employers participating in the conciliation process to conciliation. negotiation and not involved in the application.
4 - The trade union or employers' association referred to in the second part of the previous number shall respond to the invitation within five days.
5 - The summoned parties must attend a conciliation meeting.
6 - The conciliation begins with the definition of the matters on which it will affect.
7 - In case the conciliation is carried out by another entity, the parties must inform the competent department of the ministry responsible for the labour area of the corresponding beginning and end.
8 - The trade union association, the employers' association or the employer that does not make itself represented in a meeting for which it has been summoned shall commit a serious infraction.

Article 525
Transformation of conciliation into mediation

The conciliation can be transformed into mediation, in the terms of the following articles.

Section III
Mediation

Article 526
Admissibility and mediation regime

1 - Collective labour disputes, in particular as a result of the conclusion or revision of a collective contract, may be settled through mediation.
2 - In the absence of conventional regulations, mediation shall be governed by the provisions of the following paragraph and the following articles.
3 - Mediation can take place:
a) By agreement of the parties, at any time, in particular during conciliation;
b) On the initiative of one of the parties, one month after the beginning of conciliation, by means of written communication to the other party.

Article 527
Mediation procedure

1 - Mediation, if requested, shall be carried out by a mediator appointed by the competent department of the ministry responsible for the labour area, assisted, where necessary, by the competent department of the ministry responsible for the sector of activity.
2 - The request for mediation must indicate the situation that underlies it and the object of it, together with proof of communication to the other party if it is signed by one of the parties.

3 - Within 10 days of submission of the application, the competent department shall verify the regularity of the application and appoint the mediator, informing the parties thereof.
4 - If the mediator is requested by one of the parties, the mediator requests the other to decide on the subject of the same and, in case of divergence, decides considering the feasibility of the mediation.
5 - In order to prepare the proposal, the mediator may request from the parties and any department of the State the data and information available to them that the latter deems necessary.
6 - The parties must attend meetings convened by the mediator.
7 - The mediator shall submit the proposal to the parties within 30 days of its appointment and, within the period referred to in the following paragraph, may contact either party separately if it deems it appropriate to obtain the agreement.
8 - Acceptance of the proposal by either party shall be communicated to the mediator within 10 days of receipt.
9 - Once the replies have been received or the period established in the preceding paragraph has elapsed, the mediator shall simultaneously notify each of the parties of the acceptance or rejection of the proposal within two days.
10 - The mediator shall keep confidential the information received in the course of the procedure which is not known from the other party.
11 - The union association, the employers' association or the employer that does not make itself represented in a meeting called by the mediator commit a serious infraction.

Article 528
Mediation by another entity

1 - The parties may request the minister responsible for labour matters, by means of a joint application, to have recourse to a person appearing on the list of presiding arbitrators to perform the functions of mediator.
2 - If the minister agrees and the chosen personality accepts to be a mediator, the corresponding charges are borne by the ministry responsible for the labour area.
3 - In case the mediation is not carried out by the competent department of the ministry responsible for the labour area, it must be informed by the parties of the corresponding beginning and end.

Section IV
Arbitration

Article 529
Arbitration

Collective labour disputes which do not result from the conclusion or revision of a collective contract may be settled by arbitration according to Articles 506 and 507.

Chapter II
Strike and lock-out ban

Section I
Strike

Article 530
Right to strike

1 - The strike represents, under the terms of the Constitution, a employees' right.
2 - It is up to the employees to define the scope of interests to defend through the strike.
3 - The right to strike is inalienable.

Article 531
Competence to declare strike

1 - The use of the strike is decided by trade union associations.
2 - Notwithstanding the provisions of the preceding paragraph, the assembly of employees of the company may decide to use the strike provided that the majority of the employees are not represented by trade union associations, the assembly is convened for this purpose by 20% or 200 employees, majority of employees participate in the vote and the resolution is approved by secret ballot by the majority of voters.

Article 532
Representation of employees on strike

1 - Striking employees are represented by the trade union association or associations that decided to resort to the strike or, in the case referred to in paragraph 2 of the previous article, by a strike committee, elected by the same assembly.
2 - The entities referred to in the preceding paragraph may delegate their powers of representation.

Article 533
Strike picketing

The trade union association or strike committee may organise pickets to carry out activities to persuade, by peaceful means, the employees to join the strike, notwithstanding respect for the freedom of work of non-members.

Article 534
Notice of strike

1 - The entity that decides to resort to the strike must send a notice to the employer, or to the employers' association, and to the ministry responsible for the labour area, at least five working days in advance or, in the situation referred to in paragraph 1 of article 537, 10 working days.
2 - Strike notice must be given by appropriate means, in particular in writing or through the media.
3 - The notice must contain a proposal for the definition of services necessary for the safety and maintenance of equipment and facilities and, if the strike is carried out in a company or establishment that is intended to meet unforeseeable social needs, a minimum service proposal.
4 - If the services referred to in the previous number are defined in a collective labour regulation instrument, the latter may determine that prior notice does not need to contain a proposal on the same services, provided that the corresponding instrument is duly identified.

Article 535
Prohibition of replacement of strikers

1 - The employer may not, during the strike, replace strikers with persons who, at the date of the prior notice, did not work in the corresponding establishment or service and may not, from that date, admit employees for that purpose.
2 - The task of a striking worker shall not be carried out by a contractor for this purpose, except in the event of failure to perform the minimum services necessary to meet the social needs that may be required or to ensure the safety and maintenance of equipment and installations. to the strictest extent necessary to provide such services.
3 - Violation of the provisions of the preceding paragraphs represents a very serious administrative offense.

Article 536
Effects of the strike

1 - The strike suspends the contract of work of adherent worker, including the right to the retribution and the duties of subordination and attendance.
2 - During the strike, in addition to the rights, duties and guarantees of the parties that do not presuppose the effective provision of work, the rights provided by social security legislation and benefits due to a work accident or occupational disease.
3 - The period of suspension shall be for the purposes of seniority and shall not affect the effects arising from it.

Article 537
Obligation to provide services during the strike

1 - In a company or establishment intended to meet unforeseeable social needs, the trade union association that declares the strike, or the strike committee in the case referred to in paragraph 2 of article 531, and the adhering employees shall ensure, during the same, the provision of the minimum services indispensable to the satisfaction of those needs.
2 - It is considered, in particular, a company or establishment that is intended to meet unforeseeable social needs which is integrated in one of the following sectors:
a) Post and telecommunications;
b) Medical, hospital and medical services;
c) Public health, including the performance of funerals;
d) energy and mining services, including fuel supplies;
e) Water supply;
f) Firefighters;
g) Public-service services that ensure the satisfaction of essential needs whose performance is the State's responsibility;
h) Transport, including ports, airports, railways and trucking stations, relating to deteriorating passengers, animals and foodstuffs and goods essential to the national economy, including loading and unloading;
i) Transport and security of monetary values.
3 - The trade union association that declares the strike, or the strike committee in the case referred to in paragraph 2 of article 531, and the adherent employees must provide, during the strike, the necessary services for the safety and maintenance of equipment and installations.
4 - The employees assigned to the provision of the services referred to in the preceding paragraphs shall remain, to the strict minimum necessary for such service, under the authority and direction of the employer, and shall in particular be entitled to remuneration.

Article 538

Definition of services to be provided during the strike

1 - The services provided for in paragraphs 1 and 3 of the preceding article and the means necessary to ensure them shall be defined by collective labour regulation instrument or by agreement between the employees' representatives and the employers covered by the prior notice or the corresponding notice association of employers.
2 - In the absence of provision in a collective labour regulation instrument or agreement on the definition of the minimum services provided for in paragraph 1 of the previous article, the competent department of the Ministry responsible for labour matters, advised whenever necessary by the competent responsible for the sector of activity, shall call upon the entities referred to in the preceding paragraph to negotiate an agreement on minimum services and the means necessary to ensure them.
3 - In the negotiation of minimum strike-related services substantially identical to at least two previous strikes for which the definition of minimum services by arbitration has the same content, the service referred to in the previous paragraph proposes to the parties to accept that definition, , in case of rejection, it is included in the minutes of the negotiation.
4 - In the case referred to in the preceding paragraphs, in the absence of agreement within three days after the strike notice, the minimum services and the means necessary to ensure them are defined:
a) By a duly substantiated order of the minister responsible for the labour area and the minister responsible for the sector of activity;
b) In the case of a company of the State business sector, by arbitral court, established under the terms of a specific law on compulsory arbitration.
5 - The definition of minimum services must respect the principles of necessity, adequacy and proportionality.
6 - The order and decision of the arbitral court provided for in the preceding paragraph shall take effect immediately after its notification to the entities referred to in paragraph 1 and shall be posted at the premises of the company, establishment or service, at information points of the employees.
7 - The representatives of striking employees shall designate the employees who are assigned to the provision of the minimum defined services and inform the employer thereof within twenty-four hours before the start of the strike period or, if they do not do so, the employer such designation.

Amendments
Amended by Article 35 of the Law no. 105/2009 - Official Gazette no. 178/2009, Series I of 2009-09-14, in force from 2009-09-15, produces effects from 2009-02-17

Article 539

Strike term

The strike shall be terminated by agreement between the parties, by decision of the entity that declared it or at the end of the period for which it was declared.

Article 540

Prohibition of coercion, prejudice or discrimination against employees

1 - The act that implies coercion, prejudice or discrimination of worker by reason of adhesion or not to strike is null and void.

2 - A very serious administrative offense is the act of the employer that implies coercion of the worker not to join the strike, or that harms or discriminates by whether or not to join the strike.

Article 541

Effects of a strike declared or carried out contrary to the law

1 - The absence of worker by reason of adhesion to the strike declared or executed in a way contrary to the law is considered an unjustified fault.
2 - The provisions of the preceding paragraph shall not prejudice the application of the general principles of civil liability.
3 - In case of breach of the obligation to provide minimum services, the Government may determine the requisition or mobilization, under the terms provided in specific legislation.

Article 542

Regulation of collective bargaining

1 - In addition to the matters referred to in subparagraph) of paragraph 2 of article 492, the collective contract may regulate dispute settlement procedures capable of determining the use of the strike, as well as restrict the use of strikes by during the term of that association, with the purpose of modifying its content.
2 - The limitation provided for in the second part of the previous paragraph is without prejudice, in particular, to a strike declaration based on:
a) In the abnormal alteration of circumstances in which the parties based the decision to contract;
b) Non-compliance with the collective contract.
3 - The worker cannot be held responsible for joining the strike declared in breach of limitation in paragraph 1.

Article 543

Criminal responsibility in relation to strike

Violation of the provisions of paragraph 1 or 2 of article 535 or paragraph 1 of article 540 shall be punished with a fine of up to 120 days.

Section II
Lock-out

Article 544

Concept and prohibition of lock-out

1 - A lock-out shall mean any total or partial shutdown of the company or the prohibition of access to workplaces for some or all of the employees, and refusal to provide work, conditions and instruments of work that determines or can to determine the cessation of all or some sectors of the company, provided that, in any case, aims at achieving purposes beyond the normal activity of the company, by a unilateral decision of the employer.
2 - Lock-out is prohibited.
3 - Violation of the provisions of the preceding paragraph represents a very serious administrative offense.

Article 545
Criminal liability for lock-out

Violation of the provisions of paragraph 2 of article 544 shall be punishable by up to 2 years imprisonment or a fine of up to 240 days.

Book II
Criminal and administrative offenses

Chapter I
Criminal responsibility

Article 546
Liability of legal persons and persons treated as such

The legal entities and similar entities are responsible, in general terms, for the crimes foreseen in this Code.

Article 547
Qualified disobedience

The offense of qualified disobedience is an employer who:
a) Do not present to the service with inspection authority of the ministry responsible for the labour area document or other registration for this request that interests to the clarification of any labour situation;
b) Hide, destroy or damage document or other registration that has been requested by the service referred to in the previous paragraph.

Chapter II
Counter-order liability

Article 548
Notion of labour misconduct

A typical administrative offense is a typical, unlawful and objectionable act constituting a breach of a rule that enshrines rights or imposes duties on any subject in the scope of employment relationship and is punishable by a fine.

Article 549
Regime of administrative offences

The administrative offenses are regulated by the provisions of this Code and, in the alternative, by the general regime of administrative offences.

Article 550
Punishment of negligence

Negligence in administrative offenses is always punishable.

Article 551

Subject responsible for administrative misconduct

1 - The employer is responsible for administrative offenses, even if practiced by their employees in the performance of their duties, notwithstanding the responsibility of other subjects.
2 - When a type of administrative offense has the agent, the employer also includes the legal person, the association without legal personality or the special commission.
3 - If the offender is a legal or similar person, the corresponding administrators, managers or directors shall be responsible for paying the fine, jointly and severally with that person.
4 - The contractor and the owner of the work, company or agricultural holding, as well as the corresponding managers, managers or directors, as well as companies that are in a relation of reciprocal participation with the contractor, owner of the work, domain or group, shall be jointly and severally liable for compliance with the legal provisions and for any breaches committed by the subcontractor performing all or part of the contract at the premises of the subcontractor or under its responsibility and for payment of the corresponding fines.

Amendments
Amended by Article 2 of the Law no. 28/2016 - Official Gazette no. 161/2016, Series I of 2016-08-23, in force from 2016-09-22

Article 552

Presentation of documents

1 - Individuals, legal entities and similar entities notified by the department with an inspection authority of the Ministry responsible for the labour area for the presentation, presentation or delivery of documents or other records or copies thereof must present them within the time and place identified for that purpose .
2 - It is a minor administrative offense to violate the provisions of the preceding paragraph.

Article 553

Severity levels of administrative offenses

In order to determine the applicable fine and considering the relevance of the interests violated, the administrative offenses are classified as minor, serious and very serious.

Article 554

Amount of fines

1 - Each fine shall be a variable fine depending on the company's turnover and the degree of guilt of the offender, except for the provisions of the following article.
2 - The minimum and maximum limits of the fines corresponding to a minor administrative offense are as follows:
a) If carried out by an undertaking with a turnover of less than EUR 10 000 000, from 2 UC to 5 UC in case of negligence and from 6 UC to 9 UC in case of intent;
b) If carried out by a company with a turnover of EUR 10 000 000 or more, from 6 UC to 9 UC in case of negligence and from 10 UC to 15 UC in case of intent.
3 - The minimum and maximum limits of the fines corresponding to serious administrative offenses are as follows:

a) If carried out by a company with a turnover of less than EUR 500 000, from 6 to 12 UC in case of negligence and from 13 to 26 UC in case of fraud;
b) If carried out by a company with a turnover of EUR 500,000 or less than EUR 2 500 000, from 7 UC to 14 UC in case of negligence and from 15 UC to 40 UC in case of fraud;
c) If it is carried out by an undertaking with a turnover of EUR 2 500 000 or more and less than EUR 5 000 000, of 10 UC to UC 20 in case of negligence and 21 UC to 45 UC in case of intent;
d) If carried out by an undertaking with a turnover of EUR 5 000 000 or more and less than EUR 10 000 000, from 12 UC to 25 UC in case of negligence and from 26 UC to 50 UC in case of intent;
e) If carried out by a company with a turnover of EUR 10 000 000 or more, from 15 UC to 40 UC in case of negligence and from 55 UC to 95 UC in case of intent.
4 - The minimum and maximum limits of the fines corresponding to very serious administrative offenses are as follows:
a) If carried out by a company with a turnover of less than EUR 500 000, from 20 UC to 40 UC in case of negligence and from 45 UC to 95 UC in case of intent;
b) If it is carried out by a company with a turnover of EUR 500 000 or less than EUR 2 500 000, from 32 UC to 80 UC in the case of negligence and from 85 UC to 190 UC in case of intent;
c) If carried out by an undertaking with a turnover of EUR 2 500 000 or more and less than EUR 5 000 000, from 42 UC to 120 UC in case of negligence and 120 UC to 280 UC in case of intent;
d) If carried out by an undertaking with a turnover of EUR 5 000 000 or more and less than EUR 10 000 000, of 55 UC to 140 UC in case of negligence and 145 UC to 400 UC in case of intent;
e) If carried out by a company with a turnover of EUR 10 000 000 or more, from 90 UC to 300 UC in case of negligence and 300 UC to 600 UC in case of intent.
5 - Turnover refers to the calendar year preceding the year in which the offense was committed.
6 - If the company has no activity in the calendar year prior to the commission of the infringement, the turnover of the most recent year shall be considered.
7 - In the year of commencement of business, it applies the limits for companies with a turnover of less than EUR 500 000.
8 - If the employer does not indicate the turnover, it applies the limits for companies with a turnover equal to or greater than EUR 10 000 000.
9 - The acronym UC corresponds to the unit of procedural account.

Article 555
Other fine values

1 - For each seriousness of offense, in cases where the staff member has no employees or, as a natural person, does not carry out an activity for profit, it corresponds to the number of fines provided for in the following paragraphs.
2 - The minor administrative offense corresponds to a fine of 1 UC to 2 UC in case of negligence or 2 UC to 3.5 UC in case of fraud.
3 - The serious infraction corresponds fine of 3 UC to 7 UC in case of negligence or 7 UC to 14 UC in case of fraud.
4 - The very serious administrative offense corresponds to a fine of 10 UC to 25 UC in case of negligence or 25 UC to 50 UC in case of intent.

Article 556
Special criteria for the measurement of the fine

1 - The maximum amounts of fines applicable to very serious administrative offenses under paragraph 4 of Article 554 are doubled in violation of rules on child labour, occupational safety and health, structural rights collective representation of employees and the right to strike.
2 - In the case of a plurality of agents responsible for the same offense, the fine corresponding to the company with the highest turnover shall apply.

Article 557
Intent

Failure to comply with recommended warning measures shall be weighed by the competent administrative authority or by the court in case of judicial challenge, in particular for the purpose of ascertaining the existence of willful misconduct.

Article 558
Plurality of offences

1 - When the violation of the law affects a plurality of employees individually, the number of infractions corresponds to the number of employees concretely affected, according to the following numbers.
2 - The violation of the law is considered to affect a plurality of employees when in the course of their activity they have been exposed to a specific situation of danger or suffered damage resulting from the wrongful conduct of the offender.
3 - The plurality of offenses shall give rise to proceedings and infringements shall be punishable by a single fine not exceeding twice the maximum fine applicable in particular.
4 - If the offender has obtained an economic benefit from the offense, it must be considered in determining the fine according to Article 18 of the general administrative offense regime, as amended by Decree - Law no. 244/95, of 14 September.

Article 559
Determination of the fine

1 - In determining the fine, in addition to the provisions of the general regime of administrative offenses, the measure of non-compliance with the recommendations contained in the order of warning, coercion, falsification, simulation or other fraudulent means used by the agent is also available.
2 - In the event of breaches of safety and health standards at work, the general principles of prevention to which protection measures must comply, as well as the permanence or transitoriness of the offense, the number of potentially affected workers and the measures and instructions taken by the employer to prevent the risks.
3 - Termination of the employment contract, in case the accused complies with the provisions of article 245 and proceed with voluntary payment of the fine for violation of paragraph 1 or 5 of article 238, paragraph 1 , 4 or 5 of article 239 or in paragraph 1, 2 or 3 of article 244, it is liquidated by the amount corresponding to the slight infraction.

Article 560
Exemption from fine

The fine imposed for the misconduct referred to in paragraph 4 of article 353, paragraph 2 of article 355, paragraph 7 of article 356, paragraph 8 of article 357 , paragraph 6 of article 358, paragraph 6 of article 360, paragraph 6 of article 361, paragraph 6 of article 363, paragraph 6 of article 368 paragraph 2 of article 369, paragraph 5 of article 371, paragraph 8 of article 375, paragraph 3 of article 376, paragraph 3 of article 378 and paragraph 3 of article 380, in so far as it relates to a breach of paragraph 1 of article 378, shall not apply where the employer assures the worker of the rights referred to in article 389.

Amendments
Amended by Article 2 of the Law no. 23/2012 - Official Gazette no. 121/2012, Series I of 2012-06-25, in force from 2012-08-01

Article 561
Recidivism

1 - A person who commits a serious administrative offense committed with intent or a very serious administrative offense after being convicted of another serious administrative offense committed with a very serious administrative offense or offense, if between the two offences a period of time not exceeding that of the first period has expired.
2 - In the event of a repeated infringement, the minimum and maximum limits of the fine shall be increased by one-third of the corresponding value, which shall not be less than the amount of the fine imposed by the previous administrative offense, provided that the minimum and maximum limits do not exceed of it.

Article 562
Related sanctions

1 - In the case of a very serious administrative offense or a repeat offense of serious administrative offence, committed with gross negligence or gross negligence, the agent shall be charged with ancillary sanction of publicity.
2 - In the event of a repeat offense under the previous paragraph, considering the harmful effects for the employee or the economic benefit withdrawn by the employer with the non-compliance, the following additional penalties may also be applied:
a) Prohibition of the exercise of activity in the establishment, factory or yard where the infringement occurs, for a period of up to two years;
b) Deprivation of the right to participate in public tenders or competitions for a period of up to two years.
3 - Publication of the condemnatory decision consists in the inclusion in a public register, made available on the website of the department with inspection authority of the Ministry responsible for the labour area, an extract with the characterisation of the offense, violation violated, the sector of activity, the place where the offense was committed and the penalty imposed.
4 - The publicity referred to in the preceding paragraph shall be promoted by the competent court, in respect of administrative offenses subject to a judicial decision, or by the office referred to in the same number, in all other cases.

Article 563
Waiver and elimination of advertising

1 - The accessory penalty of publicity may be waived, considering the circumstances of the offense, if the agent has immediately paid the fine to which he was sentenced and if he has not committed any serious or very serious administrative offense in the previous five years.
2 - After one year from the publication of the condemnatory decision without the agent having been sentenced again for serious or very serious administrative offense, it is deleted from the register mentioned in the previous article.
3 - The provisions of paragraph 1 shall not apply in the event of misconduct referred to in paragraph 5 of article 29.

Amendments
Amended by the Declaration of Rectification no. 28/2017 - Official Gazette no. 190/2017, Series I of 2017-10-02, in force from 2017-10-01
Amended by Article 2 of Law no. 73/2017 - Official Gazette no. 157/2017, Series I of 2017-08-16, in force from 2017-10-01

Article 564
Compliance with omitted duty

1 - Whenever the administrative offense consists in the omission of a duty, the payment of the fine does not exempt the violator from compliance if this is still possible.
2 - The decision imposing the fine shall contain, where appropriate, the order for payment of amounts owed to the worker, to be effected within the period established for the payment of the fine.
3 - In the event of non-payment, the decision referred to in the preceding number shall serve as a basis for the execution carried out pursuant to article 89 of the general administrative offense regime, as amended by Decree-Law no. 244/95, of 14 September, applying the rules of the common enforcement procedure for payment of a certain amount.

Article 565
Individual registration

1 - The service with inspective competence of the ministry responsible for labour matters organises an individual register of the subjects responsible for national administrative offenses, which includes the offences committed, the dates on which they were committed, fines and ancillary sanctions as well as the dates on which the convictions have become unappealable.
2 - The courts and departments of the regional administrations of the Azores and Madeira with powers to impose fines shall refer to the service referred to in the preceding paragraph the elements indicated therein.

Article 566
Destination of fines

1 - In the case of an investigation that is committed to the department with inspection authority of the ministry responsible for the labour area, half of the proceeds of the imposed fine will be returned to the latter, by way of compensation for operating costs and procedural expenses, with the remainder having the following destination:
a) Work Accidents Fund, in the case of a fine imposed on occupational safety and health;
b) 35% for the department responsible for the financial management of the social security budget and 15% for the State Budget in respect of another fine.

2 - The service referred to in the previous number transfers quarterly to the entities referred to in the previous number the amounts to which they are entitled.