



WHYPORTUGAL 2017

THE CASE FOR LIVING IN PORTUGAL



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OVERVIEW

Key figures

Official name: the Portuguese Republic

Capital: Lisbon

Main District Capitals: Oporto, Coimbra, Aveiro, Leiria, Faro

Area: 92,152 Km²

Population: 10,282,657

Working Population: 5,178.3

GDP: EUR 185,180 million

GDP per capita: EUR 17,900

Currency: EUR / Euro €



A unique country to live in

Portugal is a country located in the southwestern Europe, enjoying a prime location, good climate and an immense natural beauty from sandy beaches and cliffs along the Atlantic Coast to mountains in the country's interior.

Lisbon, Portugal's capital, has been ranked 43rd in the 2017 Quality of Living Index, the list compiled by Mercer Consulting which measures 39 factors deemed important to quality of living.

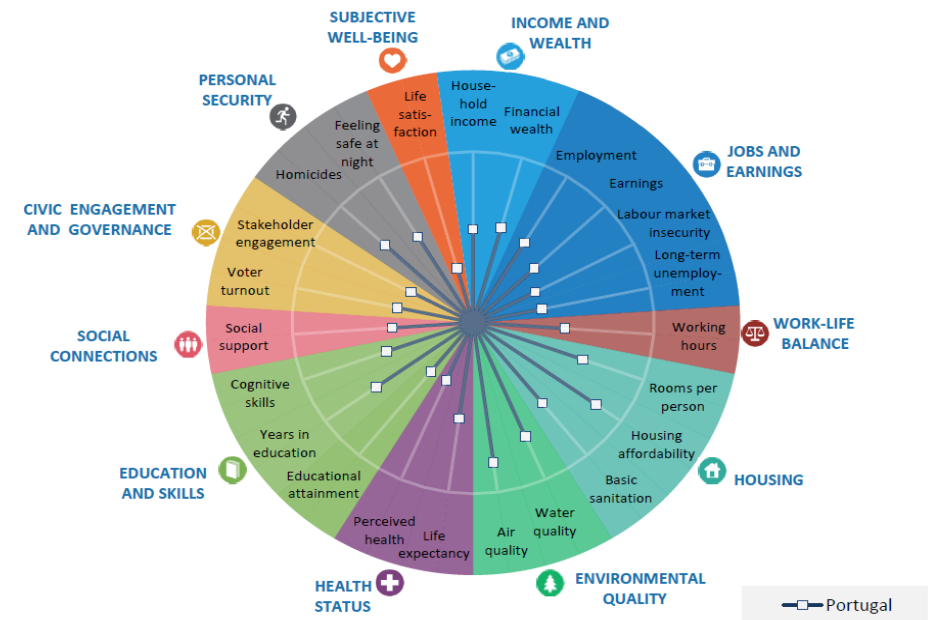
With a low cost of living and a good quality of life, Portugal proves to be perfectly recommended for families, modern investors, businesspeople and retired people.

Security levels in Portugal are high when compared with most countries in the World, including Western European countries.

Portugal ranked 3rd most peaceful country in the Global Peace Index.

The Global Peace Index, created by the Institute for Economics and Peace (IEP), measures "global peace" using three broad themes: the level of safety and security in society, the extent of domestic and international conflict and the degree of militarization.

Current Well-being in Portugal



Source: OECD Better Life Initiative

Political context

Recent history

In the nineteen seventies Portugal underwent a series of major political, social and economic changes. On 25 April 1974, a military coup overthrew the fascist dictatorship and colonial regime. Today, Portugal is a republic based on a parliamentary democracy with a semi-presidential regime.

Executive power

The Prime Minister is the head of the government, holds the executive power. The current Prime Minister is António Costa.

António Costa, the Socialist Party (PS) leader, was appointed prime minister in November 2015 and formed a minority government through a coalition with left parties, Left Bloc and hard-line Communist party.

Far-right populism, surging across Europe, is largely absent in Portugal, and the government has been stealing support from the two far-left parties who back the minority government in parliament.

The current President of Republic is Marcelo Rebelo de Sousa, elected in January 2016.

Legislative power

Portuguese legislative power is unicameral. The parliament, called the Assembly of the Republic, has 230 seats. Its members are elected by universal suffrage for a 4-year term and the executive branch of government is directly or indirectly dependent on the support of parliament often expressed by a vote of confidence.

The Portuguese parliament is comprised of the following parties:

Left wing parties:

- Socialist Party (PS);
- Left Bloc (BE);
- Portuguese Communist Party (PCP);
- Ecologist Party "The Greens";; and
- People Animals and Nature Party (PAN).

Right wing parties:

- Social Democratic Party (PSD); and
- Popular Party (CDS-PP)..

External relations

Portugal is committed to the European integration and transatlantic relations, being a founding member of NATO (North Atlantic Treaty Organization) since 1949 and a member of the European Union since 1986.

Portugal is also a member of the OECD (Organisation for Economic Co-operation and Development), EFTA (European Free Trade Association) and of the United Nations.

In regards to relations with Portuguese-speaking nations, it's worth mentioning Portugal co-founded CPLP, the Community of Portuguese Speaking Countries, in 1996. CPLP is an intergovernmental organization for cooperation among nations where Portuguese is the official language. Its current members are Portugal, Angola, Brazil, Cape Verde, Guinea-Bissau, Mozambique, São Tomé and Príncipe, Timor-Leste and Equatorial Guinea.

As mentioned, Portugal is a member of the European Union and forms part of the European Monetary System, using the European single currency, Euro.

Portugal has joined the Schengen Agreement, along with Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Hungary, Latvia, Lithuania, Italy, Luxembourg, Malta, The Netherlands, Norway, Poland, Slovakia, Slovenia, Spain, Sweden and Switzerland.

This means that a resident of Portugal or Portuguese visa holder is allowed to travel in all of these countries without any additional visas and no routine immigration checks when travelling to/from another Schengen country, allowing for faster and far more enjoyable trips.

Currency and language

Euro

The currency in Portugal is the Euro, which is the currency of 19 European countries. The Euro is the second most actively traded currency in the World after the United States dollar.

The currency symbol is "€". It circulates with seven banknotes and eight different coins: banknotes of 500, 200, 100, 50, 20, 10 and 5 euros, and coins of 2 and 1 euros and 50, 20, 10, 5, 2, and 1 cents.

Banks are the easiest places to exchange money, charging € 3 to € 5 commission.

Debit and major credit cards (especially Visa and MasterCard) are widely accepted.

Portugal was the pioneer in establishing a countrywide ATM network, which allows the withdrawal of cash, money transfers and other services across the country. Even in more remote areas it is likely that there will be a bank branch with an ATM machine.

The main banks in Portugal are Caixa Geral de Depósitos, Millenium BCP, Santander and Novo Banco.

Language

With its roots in the Latin language, Portuguese belongs to a group of languages called "Roman" or "Neo-Latin" that evolved from Latin. From Portugal, in the west coast of Europe, Portuguese spread to America, Africa and Oceania.

Portuguese is now spoke by about 230 million in Portugal, Brazil, Angola, Mozambique, Guinea, São Tomé e Príncipe and Timor., making it the sixth most spoken language in the World.

English is spoken widely in Lisbon, Porto, most of Algarve, and other main tourist destinations.

If you are visiting Portugal, learning just a few simple Portuguese words would surely facilitate your communication in more remote areas and with native Portuguese that are less fluent with English.

Although most Portuguese nationals do not speak Spanish, most people can understand Spanish. French is less spoken in Portugal than it used to be before it was replaced by English as the second language in schools. Still, French is still spoken by some people.



FIRST STEPS
IN PORTUGAL

Foreign nationals – entry and permanence

EU citizens

Citizens of the European Union (EU) countries, Iceland, Liechtenstein, Norway or Switzerland do not require a visa to enter Portugal for short periods of stay, it's sufficient to hold a valid identification document.

Citizens of other countries should carry a travel document, valid for at least 3 months and must not have been flagged in the Schengen Information System nor in the Portuguese authorities' information system for purposes of refusing entry in Portugal.

Citizens of EU countries, Iceland, Liechtenstein, Norway or Switzerland who plan to stay in Portugal for a period exceeding 3 months, should request a registration certificate (*certificado de registo*) from the municipal council (*Câmara Municipal*) of the area of residence.

Five consecutive years after holding the registration certificate, their holders may request a permanent residence certificate (*certificado de residência permanente*) from the Foreigners and Borders Service (*Serviço de Estrangeiros e Fronteiras*).

Residence permits

Citizens of non EU countries who wish to live in Portugal should request a residence visa (*visto de residência*) at the Portuguese embassy in their country of residence. A residence visa is a long-term visa which allows their holders to enter Portugal for a period of four months in order to apply for a permanent residence permit (*autorização de residência*) from the Foreigners and Borders Services. Residence visas are issued if certain purposes of stay are met, such as:

- i. Working as a self-employed person, as an employee or to invest in Portugal as private entrepreneurs;
- ii. Conducting research, teaching at a higher education institution or carrying out highly-skilled activity;
- iii. Studying, volunteering or doing an internship; and
- iv. For purposes of family reunification.

Golden visa

Nationals from outside the Schengen area can obtain a Residence Permit for Investment Activity (ARI), a visa-waiver regime which grants authorization for temporary residence for investment purposes, commonly referred to as golden visa.

Golden visas grant their holders the right to move freely within Portugal and the Schengen Area.

Holders of golden visas must undertake the obligation of investing in Portugal. The required investment can be, among others:

- i. Transfer capital in an amount equal to, or in excess of, €1.000.000;
- ii. Creation, at least, 10 job vacancies; or
- iii. Acquisition of real estate with a value equal or above €500.000.

This investment must be maintained for at least 5 years, starting from the date in which the visa was issued.

Investment may be made directly by the individual applying for the golden visa or indirectly by a company with head-offices in Portugal, which shares are held by the applicant or through a company with head-offices in a EU Member State with a permanent establishment in Portugal, which shares are held by the applicant.

When the investment is made by a company, compliance with investment thresholds will be assessed based on the amount of the shares the applicant holds in the company.

A golden visa is valid for 1 year and it may be renewed for subsequent 2 year-periods. To renew the Golden Visa, applicants must prove they resided in Portugal for at least 7 days, consecutive or otherwise, in the first year and 14 days in the following two year periods.

Golden visa applications

Requirements

To obtain a Golden Visa applicants must:

- i. Be physically present in Portugal for the required period;
- ii. Register with the Portuguese Social Security Authorities if the performed business activity in Portugal is subject to registration;
- iii. Not have been convicted of criminal offences, punishable by imprisonment of over 1 year or with the entry ban in Portugal;
- iv. Not have been flagged in the Schengen Information System and in the Portuguese authorities' information system for the purposes of refusing entry in Portugal;
- v. Hold a valid Schengen visa; and
- vi. Apply for the visa within 90 days of entry in the country.

Submission of documents

Applications for ARI may be submitted online (<http://ari.sef.pt>), at the offices of the relevant Portuguese authorities (Serviço de Estrangeiros e Fronteiras) or at Portuguese consulates or embassies abroad. Investment-related documents must be submitted personally.

Administrative costs of the residence permit are approximately €5,600.00. Provided that all requirements are met, the residence permit is granted within 60 days from submission of the relevant form and documents.

A “golden visa” holder may be eligible for the permanent right of residence, after 5 years or Portuguese nationality, after 6 years, if additional legal requirements are met.

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RENTING AND
BUYING A HOUSE

Portuguese property market

In 2017, the Portuguese housing market continues to show encouraging signs of growth, offering new and interesting investment opportunities.

The average bank appraisal on housing values of May 2017, made available by INE (*Instituto Português de Estatística*), the Portuguese statistical office, recorded an annual rate of change of 4.8%.

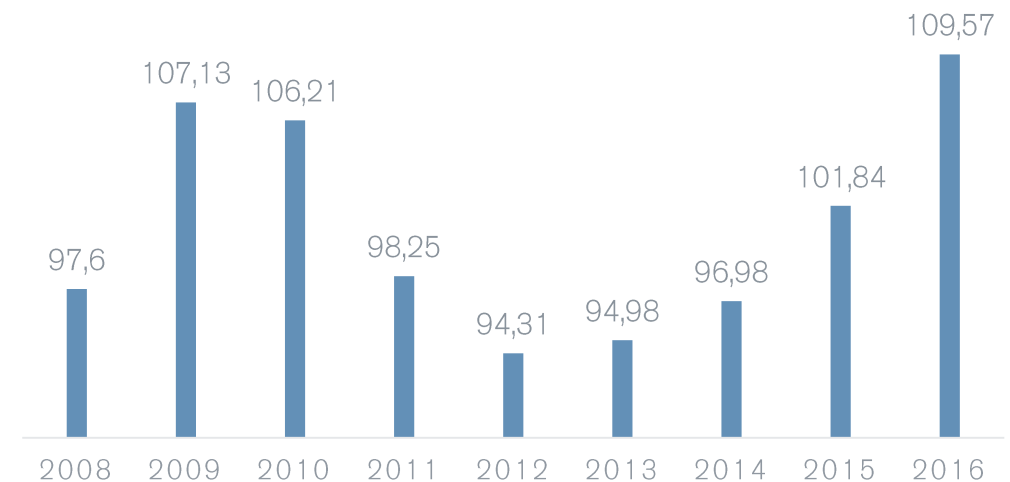
The average price of housing in Portugal last May was estimated to be €1111 per square metre.

The price per square meter in the metropolitan area of Lisbon was, in May of 2017, set even higher, at €1350.

Comparatively speaking, Lisbon housing prices are among Europe's lowest.

However, in prime location at Central Lisbon and Cascais prices may reach as much as €10,000 per square meter.

House Prices index



Buying a house

Promissory agreement of sale and purchase

The procedure of acquisition of property usually starts with the execution of a Promissory Agreement of Sale and Purchase.

This agreement is not mandatory despite being intended to ensure the conclusion of a Deed of Sale and Purchase. It's signed by the two parties and it involves a down payment to the promissory seller.

For the Promissory Agreement to have real effectiveness against third parties, it's necessary to proceed to the provisional registration of the acquisition in the Land Registry Office. The provisional registration is valid for six months, which may be renewed for an equal period and until one year after the date set by the parties for the execution of the Deed of Sale and Purchase.

The provisional registration has a cost of €250.

Deed of sale and purchase

A Deed of Sale and Purchase is the last step of the procedure of acquisition of property. It must be executed before a notary and is subject to an expense between €300 and €600.

In case a Promissory Agreement of Sale and Purchase with real effectiveness has been concluded, the provisional registration becomes definitive at the moment of submission for registration of the Deed of Sale and Purchase. The conversion of the registry entails a cost of €100.

If no real effectiveness was granted to the Promissory Agreement of Sale and Purchase, then the agreement is concluded at the Deed. In this case, the amount due is €175.

Alternatively, it is possible to carry out all these formalities through the service "Casa Pronta", in a help desk or through the site www.casapronta.pt.

Buying a house - Taxes

Buying a property in Portugal requires prior registration with the Tax Authorities to obtain a Portuguese taxpayer identification number.

The transaction is subject to a number of taxes and related costs.

The Municipal Tax on Property Transfer (*Imposto Municipal sobre as Transmissões Onerosas de Imóveis* – IMT) is levied on the transfer of ownership rights or parts thereof of real estate located in Portugal, regardless of how such transfer is carried out.

IMT is levied on the purchase price or the property's taxable value, computed on the higher value.

The IMT rates are:

- i. Up to 6.5%, in case of residential urban properties; and
- ii. 10% if the buyer is a resident in a tax haven.

Stamp duty's tax base is the same as IMT's.

As general rule, for the acquisition of ownership or other rights on real estate, the rate is 0.8%.

However, if the transfer of ownership rights on real estate bears no cost, the stamp duty rate will be 10%.

Municipal Property Tax (*Imposto Municipal sobre Imóveis* - IMI) is levied annually on the value of urban property located in Portugal.

The IMI rates are:

- i. Between 0.3% and 0.5% for urban properties; and
- ii. 7.5% for properties owned by residents in a tax haven.

Renting a house

The housing market

Portugal's housing prices continue to rise strongly, in the midst of improved economic conditions.

Rental properties are advertised in many websites specialised in real estate. In addition, ads can be found in local newspapers or magazines, some of them in English. Real estate agencies all over the country also offer short and long-term rentals.

It's worth mentioning that Local Lodging, advertised in platforms such as Airbnb, is a growing trend in Portugal. Currently there are 42,752 properties registered as such.

Portugal regulations (in particular the "New Urban Lease Act") are strongly pro-tenant.

Lease agreement

Whether long or short-term, a written lease agreement is required in order to rent a property in Portugal.

The parties may stipulate a fixed term for contracts, which will be automatically renewed if none of the parties oppose the renewal of the lease. In the absence of such of a fixed term provision, the lease agreement will be considered to have the duration of 5 years.

The amount of the rent can usually be freely agreed between the parties, with the exception of low cost housing. Rental costs depend on region and particular neighbourhood and may vary according to number of bedrooms, standards of a property, and the facilities provided.

IVM

HEALTHCARE

Public healthcare

In Portugal, access to public healthcare is free to all residents. In fact, the World Health Report by the World Health Organisation awarded the Portuguese health system number 12 in its ranking.

The health subsystems either operate their own clinics and hospitals or operate through agreements with the National Health System. The main health subsystem is ADSE (Health Assistance for Civil Servants) granted to civil servants, while other examples are the clinics and hospitals of the Trade Union of Northern, Southern and Islander Bank Workers (SAMS), or ADME for the military personnel.

In Portugal there are several private health establishments and health practitioners who operate on a freelance basis and provide additional sources of healthcare. One can access them directly or through the wide range of private health insurance.

EU nationals living in Portugal will be pleased to find that medical appointments with a general practitioner and basic vaccines are free. However, beneficiaries pay a fee (*taxa moderadora*) for each appointment or treatment provided through public healthcare. A regular appointment in a health centre, for example, costs €5, while an emergency appointment in a hospital costs €20.

Non-EU citizens may have to pay some additional fees for public healthcare in Portugal, the amount will depend on whether there is a reciprocal healthcare agreement between Portugal and the home country.

The Portuguese State pays part of the cost of most medicines, though some are totally reimbursed, particularly vital medication for treating serious illnesses. Patients are partially reimbursed when they purchase medicines with a medical prescription.

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EDUCATION

Education system

The education system includes public schools operated under the exclusive responsibility of the State, autonomous regions, municipalities or other public entities, and private schools, operated by private entities or individuals under license issued by State.

Schools and teaching facilities under the national education system are considered to be of public interest.

The Portuguese educational system have improved significantly in the last two decades. Also, the number of immigrants has increased considerably last decade, many of whom do not have Portuguese as mother tongue. Portuguese schools are prepared for education of children of all age from foreign countries. Recent reforms include new arrangements for the setting of learning goals, the reorganization of the school network, and the diversification of educational offerings. Therefore, one can choose from a range of Portuguese and international schools to enrol a child into the education system in Portugal.

Compulsory schooling was extended recently, and ceases as soon as the student obtains a diploma certifying the completion of high school i.e. 12th grade, or completes 18 years of age (regardless of having completed high school). The parent is obligated to enrol the child with a public or private school and the student is obligated to attend such schools or institutions.

The school system in Portugal is organised in three sequential levels: pre-primary education (ages 3 to 5), primary education (typical ages 6 to 14) and secondary education (typical ages 15 to 17).

Age	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Grade	Preschool			1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th
Level/ Cycle	Preschool			1st cycle			2nd cycle			3rd cycle			Secondary education		
	Primary education														

Education levels

Pre-primary, primary and secondary education

Pre-primary education covers children from 3 to 5 years. The State is responsible for ensuring a network of pre-primary facilities allowing the enrolment of all 5 year children and education for such children, free of charge.

Public primary school is universal, compulsory and free of charge in respect to enrolment, attendance and certification fees and costs.

Access to secondary education requires a prior completion of primary school. It takes 3 years and includes courses mainly professional courses.

Upon completion and approval, the students are granted a certificate for purposes of access to the university or employment, as the case may be.

Higher education

It includes universities and polytechnic schools. Access to higher education requires prior completion and approval in secondary school or equivalent.

Students over 23 years, who have not completed secondary school, may also have access to higher education provided they complete and approve specific entry tests.

According to the Times Higher Education World University Rankings of 2016-2017, there are 8 Portuguese Universities ranking in the Top Universities in the world.

Also, the Financial Times has ranked Nova School of Business and Economics as 14th in the Masters in Finance Ranking as well as Católica Lisbon School of Business and Economics as 43rd in the Executive Education Rankings.

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JUDICIAL SYSTEM

Judicial system

The Portuguese judicial system is divided in two jurisdictions, the civil jurisdiction and the administrative jurisdiction. In both, courts are organized into three tiers of judicial courts.

As for the civil jurisdiction, the Supreme Court of Justice (*Supremo Tribunal de Justiça*) is the higher court and has national jurisdiction. The Supreme Court of Justice is designed mainly to hear appeals from the lower courts.

The Courts of Appeal (*Tribunais da Relação*) are second instance courts and have district jurisdiction, they decide on appeals of the lower courts' decisions.

The lower courts (*Tribunais de primeira instância*) decide the majority of disputes. A decision may be appealed depending on the monetary value and issues involved.

Nevertheless, when personal rights (e.g. family cases) are under trial, the appeals are always allowed, regardless the monetary value at stake.

In the Portuguese judicial system, there are also Justices of Peace (*Julgados de Paz*), which mainly deal with dispute resolution in low-value cases, as their competence extends, especially, to civil patrimonial issues.

Besides the civil and the administrative jurisdiction, it should be noted that the higher judicial authority is the Constitutional Court (*Tribunal Constitucional*).

Constitutional Court is specially entrusted with assessing law's compliance with the Portuguese Constitution.

Court fees and legal costs

Court fees

Court fees must be paid for each judicial action brought to the court, their amount depends on the value of the claim at stake.

Court fees must be paid at the beginning of a judicial action. However, if the value of the claim surpasses €275.000,00 an additional payment may be required at the end.

Court fees are proportional to the value of the claim at stake without any limit, for example:

- i. Judicial action worth €1M estimated court fees: €10.506
- ii. Judicial action worth €10 M estimated court fees: €120.666
- iii. Judicial action worth €100 M estimated court fees: €1.222.266

Party costs

Legal party costs are the legal expenses incurred by the successful party which shall be borne by the other party if the successful party asks for it.

Legal party costs encompass: (i) the judicial fee paid by the successful party; (ii) + 50% of the fees paid by both parties, for example:

- i. Judicial action worth €1M estimated party costs: €7.701
- ii. Judicial action worth €10 M estimated party costs: €62.781
- iii. Judicial action worth €100 M estimated party costs: €563.581

Additionally, whoever brings the action to court and wins must pay the court the remaining amounts not encompassed by the legal party costs.



IWM

WORKING
IN PORTUGAL

Types of employment agreements

As a general rule, an employment agreement does not depend on a specific form. However, the following employment agreements must be in writing:

- i. Fixed-term contracts;
- ii. Part-time contracts;
- iii. Contracts for foreign workers (except where otherwise provided by law);
- iv. Secondment agreements;
- v. Temporary work agreements;
- vi. Teleworking employment agreements;
- vii. Very short-term contracts;
- viii. Intermittent employment contracts;
- ix. Multiple employer contracts; and
- x. Early retirement contracts.

The employer has the duty to inform the employee of the relevant aspects of the contract, including among others:

- i. The place of work;
- ii. The employee's job category or a brief description of its tasks;
- iii. In case of a fixed term agreement, its predictable duration;
- iv. The contract date and the date it comes into force;
- v. The prior notice period that will be served should the termination of the contract occur;
- vi. The applicable collective regulatory instrument, if applicable;
- vii. The labour accident insurance policy;
- viii. A reference to the labour compensation fund.

The employer must provide this information in writing, in one or more documents, within the sixty days of the contracts' entry into force.

Choice of law and employment protection

The Rome I Regulation on the law applicable to contractual obligations, in any situation involving a choice between the laws of different countries, to which Portugal is a signatory, entitles the parties to choose the law governing employment agreements.

In the absence of such a choice, the labour contract will be governed by:

- i. The law of the country in which the employee habitually carries out his work;
- ii. The law of the country in which the company that employed the worker has its place of business;
- iii. The law of the country with which the employment contract is most closely associated, if it appears from the circumstances as a whole, that the contract is more closely connected with another country.
- iv. The parties' choice must not deprive the employee of the protection guaranteed by the mandatory provisions of the law that would be applicable, in the absence of a choice made by the parties.

This requirement is specially important when employee rights afforded by the Portuguese Constitution are at stake.

Portuguese Courts consider as mandatory provisions, among others, the following matters:

- i. Contract termination, especially dismissal;
- ii. Maximum working time and minimum rest periods;
- iii. Paid holiday leave and public holidays;
- iv. Minimum wage and payment of overtime work;
- v. Health, safety and hygiene at work;
- vi. Maternity and paternity protection;
- vii. Protection of minors at work;
- viii. Equal treatment and non-discrimination.

If Portuguese law governs the contract, then collective agreements or labour contracts may modify non-mandatory legal provisions. However, a labour contract can only alter the legal and/or the collective agreement provisions if those changes are deemed more favourable to the employee.

Employees' salary

Employees are entitled to a minimum monthly salary, which is set each year by special legislation and is the same for all employees.

In 2017, the monthly minimum wage was set at €557,00. Minimum wages for different jobs and professions may also be agreed in collective agreements, provided always that they are higher than the minimum wages legally set.

Employees are also entitled to:

- i. A Christmas allowance equal to one month's salary, which should be paid by the 15th of December of each year;
- ii. A vacation allowance which includes the base salary and other payments given as consideration for the work carried out.

These allowances are proportional to the time of service rendered in the:

- i. Year of admission of the employee;
- ii. Year of termination of the labour contract; and
- iii. Event of suspension of the labour contract, unless if the suspension is due to the employer.

The employer cannot offset credits held over the employee against any wages due, or make any discounts or deductions from the salary, while the employment agreement is being executed.

However, this rule does not apply to certain cases, up to a certain limit:

- i. Deductions in favour of the State, Social Security or other entities, which are ordered by law, court decision or mediation settlement, provided that such decision or settlement has been notified to the employer;
- ii. Compensations determined by a court decision or a mediation settlement;
- iii. Monetary sanctions resulting from disciplinary procedures;
- iv. Amortisation of capital and payment of interests on loans granted by the employer to the employee;
- v. Prices of meals at the work place, use of telephones, supply of assets, petrol or materials, when requested by the employee, as well as other costs incurred by the employer on behalf of the employee and consented by the latter; and
- vi. Subsidies or payments in advance made on account of the wage.

Parental protection

When work duties entail clinical risks to the pregnant employee or to her unborn child, the employer will either:

- i. Provide her with alternative working conditions;
- ii. Place her in a location compatible with her pregnant condition; or
- iii. Excuse the employee for as long as necessary to avoid exposure to the risks.

Pregnant employees are exempt from performing night work, additional work or performing work in an hour bank or concentrated work schedule.

The employees are also entitled to a work leave to attend prenatal doctors' appointments and, after the birth, to breastfeed the baby.

Both parent employees are entitled to a parental leave of 120 or 150 consecutive days, which they may share after birth. In case of multiple births, the parental leave will be increased by thirty days for each child.

All female employees must take a six week leave immediately after childbirth and may take 30 days before birth, in which case the employer should be informed 10 days prior (or as soon as possible, in case of a medical emergency) and receive a doctor's statement with the expected due date.

The dismissal of an employee who is pregnant, has recently given birth or is breastfeeding requires the prior legal opinion of the Commission for Equality at Work and in Employment (*Comissão para a Igualdade no Trabalho e no Emprego*).

It is mandatory for the employee who becomes a father to take a paternity leave of 15 business days in the 30 days following childbirth, five of which should be consecutive and taken immediately after childbirth.

Employees may also become teleworkers if they have a child under the age of three, their activity and the company's means allow it.

Any violation of the provided legal parental protection is a very serious administrative offence and may entail the payment of fines.

Minimum holiday entitlement and public holidays

Every employee is entitled to twenty two working days of paid leave in each year.

This right is mandatory and cannot be replaced by any compensation, financial or other, even if the employee concerned agrees to waive his vacation rights. However, employees are allowed to waive the part of their vacation that exceeds twenty working days.

On the other hand, in the same working year the annual holiday period cannot exceed thirty business days, although a collective bargaining agreement may establish otherwise.

The right to holidays is acquired upon the execution of the employment agreement and it becomes due on the 1st of January of each year, except on the following situations:

- i. On the year of hiring and after six completed months of duration of the contract, the employee is entitled to two working days of vacations for each month of duration of the agreement, up to the maximum of twenty business days; or
- ii. If the end of the year is reached before the above mentioned period has lapsed or before vacation time has been taken, the employee is entitled to take such vacation time until 30 June of the following year.

Annual holidays are taken in the year that they became due. It is possible however, for the employee to take his holidays until 30 April of the following year, if the employer agrees or if he has a family member living abroad.

The holiday period is scheduled through an agreement between the employer and the employee. The Labour Code forces the employer to schedule the employee's vacation if such an agreement isn't reached.

The employee must take, at least, 10 consecutive business days of holidays, regardless of an agreement between the employer and the employee.

The employer's failure to comply with his obligation to schedule the employer's vacation is a serious administrative offence and may entail the payment of fines, the amount of which varies according to the employer's turnover.

In addition to vacations, employees are entitled to the day off whenever there is a public holiday.

Nowadays, the mandatory public holidays are: January 1, Easter, Good Friday, April 25, May 1, Corpus Christi, June 10, August 15, October 5, November 1, 1, 8 and 25 of December.

Termination of the employment agreement

The legal provisions concerning the termination of the labour contract are mandatory. As a result, collective agreements and labour contracts cannot set other dismissal procedure, although collective bargaining agreements may establish:

- i. The criteria for setting compensations (within the limits legally established); and
- ii. The time limits for the procedures and prior notice required.

Employment contracts may be terminated by:

- i. Expiration of the contract term;
- ii. Expiration due to supervening impossibility for the employer to receive the work or for the employer to perform his activity;
- iii. Employee's retirement;
- iv. Dismissal of the employee based on the evidence of the breach of the employee's obligations produced following a disciplinary procedure carried out by the employer;

- v. Written notice of the employee to the employer (within thirty or sixty days prior to the termination, if the contract was in force for less or more than two years, respectively), or immediately in case of breach of contract by the employer;
- vi. Written notice of any of the parties during the trial period;
- vii. Collective dismissal for financial, structural or technological grounds;
- viii. Extinction of the job position;
- ix. Dismissal for failure to adapt to a new position; or
- x. Mutual agreement.

Each way of terminating an employment agreement has a specific procedure. Failure to follow the respective procedure will result in the dismissal being deemed unlawful.

Certain grounds for dismissal will always result in an unlawful dismissal such as political, ideological, ethnic or religious, even if the motives given by the employer are different.

IMM

TAXATION

General taxes

Portugal's nominal tax rates are broadly in line with EU countries.

However, Portugal offers many incentives to foreigners, such as the Non-habitual Resident Tax Regime or free remittance of funds, increasing the attractiveness of Portugal, while giving evidence of the Portuguese commitment to attract the best international talent.

Concerning the income earned abroad, Portugal has signed more than 60 double tax avoidance treaties, including with Malta, Macao, United States of America, Poland, Russia and Hong Kong, just to name a few.

Additionally, Portugal has signed over 50 bilateral agreements for the promotion and reciprocal protection of investment. Also, it has more than 15 Tax information exchange agreements signed.

The tax system in Portugal is administered by the Directorate General for Taxation (DGCI), responsible for the management of taxes on income, on wealth, and general excise taxes in conformity with the tax policies determined by the Government.

The main taxes levied on individuals in Portugal are:

- i. The Personal Income Tax (IRS);
- ii. The Value Added Tax (IVA);
- iii. The Stamp Duty (IS);
- iv. The Municipal Tax on Real Estate Transfer (IMT); and
- v. The Municipal Tax on Real Property (IMI).

Personal income tax (IRS)

Personal Income Tax (IRS - *Imposto sobre o Rendimento das Pessoas Singulares*) is levied on the yearly amount of income received by a resident in Portugal, after deductions and allowances. It comprises salaries, capital gains and real estate income, including income obtained abroad.

It's possible to make a number of limited income deductions in Portugal, such as:

- i. A general deduction for each taxpayer and each of their dependents;
- ii. Health expenses;
- iii. Education and training expenses;
- iv. Elderly person's day/night care burdens;
- v. Burdens related to real estate and renewable energies;
- vi. Burdens related to life and health insurance policies;
- vii. International double taxation;
- viii. Some special tax exemptions and/or reductions; and
- ix. Some specific deductions depending on the kind of income obtained.

Capital gains derived from the transfer of real estate, shares, or other investments, are also considered as income. Therefore they are also taxed under the Personal Income Tax.

In case of non-residents, capital gains, in general, are subject to a flat tax rate of 28%, except some capital gains from disposal of shares which are exempt in certain cases.

Regarding the sale of real estate, income derived from the transfer of property is only taxed on half of their value and the applicable tax rate depends on the resident's aggregate income. However, if a person sells their permanent residence and reinvests the capital gain obtained in the acquisition of another permanent residence in Portugal within 36 months of the sale, the capital gain is not taxed. For this exemption to apply, some requirements must be fulfilled.

To register as a tax payer in Portugal it is necessary to fill out a registration form in local tax office. This registration should be done before any activity is carried out in Portugal.

Self-employed workers must declare the beginning of their activity to the Portuguese Tax Authorities.

A late return of the annual income tax is subject to a fine ranging from €150 to €3,750.

Taxes on transactions

Value Added Tax

Value Added Tax (VAT) is levied on any transfer of goods and rendering of services.

The general VAT rate applicable in mainland Portugal is 23%.

However, certain goods and services may be subject to an intermediate VAT rate of 13% and to a reduced VAT rate of 6%.

However, in the Azores and in Madeira one can count on lower taxation.

In the Azores the general VAT rate is 18%, the intermediate rate is 9% and the reduced rate is 4%.

In Madeira the VAT rates are 22%, 12% and 5%, respectively.

Stamp duty

Stamp duty (*Imposto do Selo* - IS) is levied on deeds, contracts, documents and papers related to the transfer of goods, including transactions carried out free of charge. The rate varies depending on the type of transaction. Stamp duty is levied on certain transactions that are exempted from VAT, including but not limited to:

- i. Loans (up to 0.6%);
- ii. Guarantees (up to 0.6%);
- iii. Insurances (up to 9%);
- iv. Transfer of businesses (5%); and
- v. Real estate transactions (0.8%).

Non-habitual residents tax regime

The non-habitual resident (NHR) tax regime offers non-residents the opportunity of becoming tax residents in Portugal and benefit from a more favourable tax regime over certain Portuguese and foreign source income without the need to make any investments.

The main advantages of the NHR tax regime are:

- i. Employment and self-employment income obtained in Portugal will be subject to a 20% flat rate, with an additional surcharge of 3.5%;
- ii. Pensions obtained outside of Portugal will be tax exempt (except for State pensions); and
- iii. Other foreign source income and earnings will be tax exempt, provided they may be taxed outside of Portugal under the applicable tax conventions or the OECD model or, in case of employment income, it is effectively taxed in the source country.

These advantages will extend for a period of 10 consecutive years as from and including the year of registration as a tax resident in Portugal.

To obtain the NHR status the following requirements must be met:

- i. Not having been a Portuguese tax resident in the 5 preceding years;
- ii. Registering as a tax resident and requesting the NHR status upon such registration or by the 31st of March of the following year; and
- iii. In case of employment income obtained in Portugal and self-employment income obtained both in or outside of Portugal, having a “high value-added” scientific, artistic or technical activity.

High value-added activities include, among others, architects, engineers, plastic artists, actors and musicians, auditors, doctors and dentists, teachers and psychologists, liberal professions, technicians and similar and investors, directors and managers.

Potential applicants should, prior to submitting any application, confirm the satisfaction of the relevant requirements with Portuguese legal and tax advisers.

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ABOUT US

About us

Macedo Vitorino & Associados was established in 1996, focusing its activity on advising domestic and foreign clients in specific activity sectors, including banking, telecommunications, energy and infrastructures.

Since the incorporation of the firm we have been involved in several high profile transactions in all of the firm's fields of practice, including banking and finance, capital markets, corporate and M&A, etc.. We have also acted on many complex disputes and corporate restructurings.

We are mentioned by The European Legal 500 in twelve of fifteen practice areas, including Banking and Finance, Capital Markets, Project Finance, Corporate and M&A, Tax, Telecoms and Litigation.

Our firm is also mentioned by IFLR 1000 in Project Finance, Corporate Finance and Mergers and Acquisitions and by Chambers and Partners in Banking and Finance, Corporate and M&A, TMT, Dispute Resolution and Restructuring and Insolvency.

Macedo Vitorino & Associados has strong relationships with many of the leading international firms in Europe, in the United States and in Brazil, which enable us to handle cross-border transactions effectively.

Macedo Vitorino & Associados has a truly international practice. We act in several domestic and cross-border transactions, including mergers and acquisitions, financings and foreign investments.

The multidisciplinary and integrated character of our corporate and commercial group allows us to efficiently solve the legal issues of our clients, in particular:

- Commercial contracts, distribution agreements and franchising
- Commercial litigation
- Competition and European law
- Copyright, intellectual property, IT, patents and trade marks
- Corporate and acquisition finance
- Employment
- Foreign investment
- Mergers, acquisitions and privatisations
- Tax

If you want to find out more about Macedo Vitorino & Associados please visit our website at www.macedovitorino.com



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