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WHYPORTUGAL 2023

LIVING IN PORTUGAL

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Official name: Portuguese Republic

Capital: Lisbon

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

Area: 92,152 Km²

Population: 10,343,066

Working Population: 5,222,6

GDP: EUR 230,526,000

GDP per capita: EUR 20,698,1

Currency: EUR / Euro €



AN UNIQUE PLACE TO LIVE

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 inland.

With a lower cost of living than most of Western Europe and a good quality of life, Portugal proves to be well suited for families, modern investors, businesspeople and retirees.

Portugal's ranked 4th in the 2022 Insider survey, as a country where expats can enjoy quality of life in a sunny and mild weather country, packed with history and culture.

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

Portugal ranked 5th 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.



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, is a republic based on a parliamentary democracy with a semi-presidential regime.

EXECUTIVE POWER

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

António Costa, the Socialist Party (PS) leader, has been the prime minister since November 2015.

Far-right populism, surging across Europe, is largely absent in Portugal. The government has the support of the two far-left parties in the Parliament.

The current President of the Republic is Marcelo Rebelo de Sousa, elected in January 2021.

LEGISLATIVE POWER

Portuguese legislative power is concentrated in a parliament called the Assembly of the Republic (*Assembleia da República*).

The Parliament has 230 seats. Its members are elected by universal vote for a 4-year term.

The executive branch of government is dependent on the support of parliament often expressed by a vote of confidence.

The Portuguese parliament is comprised of the following parties:

- The left-wing parties include the Socialist Party (PS), now in government, the Left Bloc (BE); the Portuguese Communist Party (PCP) in coalition with the Green Party, People Animals and Nature Party (PAN) and Livre.
- The main centre right party is the Social Democratic Party (PSD). Other right-wing parties include the Liberal Initiative and Chega, literally “Enough”, which seats further in the far right.

EXTERNAL RELATIONS

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

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

Portugal has been part of the European Monetary System and the European single currency, the “Euro”, since its creation in 2000.

Portugal joined the Schengen Agreement, which is a European internal security and border control system that allows travelling across its members without any additional visas and no routine immigration checks when travelling to and from another Schengen country, allowing for faster and easier trips.

Other members of the Schengen Agreement include Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Hungary, Latvia, Lithuania, Italy, Luxembourg, Liechtenstein, Malta,

The Netherlands, Norway, Poland, Slovakia, Slovenia, Spain, Sweden and Switzerland.

Portugal keeps close relationships with the remaining Portuguese-speaking countries and is a founding member of the Community of Portuguese-Speaking Countries (CPLP, *Comunidade dos Países de Língua Portuguesa*), created in 1996.

CPLP is an intergovernmental organization for cooperation among nations where Portuguese is the official language. CPLP's current members include Portugal, Angola, Brazil, Cape Verde, Guinea-Bissau, Mozambique, São Tomé and Príncipe, Timor-Leste and Equatorial Guinea.

Portugal has diplomatic relationships with many countries around the world and historic relations with the United Kingdom, which goes back to 1373 with the establishment of the Anglo-Portuguese alliance, a treaty still in force, China, where the Portuguese arrived in 1513 and were allowed to establish a settlement where is now the city of Macau in 1554 (China regained control of Macau in 1999), and Japan, where Portuguese were the first westerners to arrive in 1543.

CURRENCY AND LANGUAGE

EURO

The currency in Portugal is the Euro, which is the currency of 20 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 five euros, and coins of two and one euros and 50, 20, 10, five, two, and one cent. Banks are the most accessible places to exchange currencies. Generally, bank exchange commissions are between €3 to €5.

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

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

The leading banks in Portugal are Caixa Geral de Depósitos, Millennium BCP, BPI, 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. Since the fifteenth century Portuguese spread to America, Africa, India and Oceania.

Portuguese is now spoken by about 261 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, Oporto, 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 not fluent in 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 spoken by some people.

FOREIGN NATIONALS' ENTRY AND PERMANENCE

EU CITIZENS

Citizens of the European Union (EU) countries, Iceland, Liechtenstein, Norway, Switzerland or Andorra do not require a visa to enter Portugal for short periods of stay, it's sufficient to hold a valid identification document. British citizens can travel to Portugal for holidays or short trips up to three months without needing a visa, holding only a valid passport which should be valid for the whole time one is 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 allowing holders to enter Portugal for four months to apply for a permanent residence permit (*autorização de residência*) from the Foreigners and Borders Services. Residence visas are issued if specific purposes of stay are met, such as:

- Working as a self-employed person, as an employee, or investing in Portugal as a private entrepreneur;
- Conducting research, teaching at a higher education institution or carrying out the highly-skilled activity;
- Studying, volunteering or doing an internship; and
- For purposes of family reunification.

GOLDEN VISA

Nationals of countries outside the Schengen area can obtain a Residence Permit for Investment Activity (ARI). This visa-waiver regime grants authorisation for temporary residence for investment purposes, commonly called “golden visa”.

Golden visas grant 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:

- Transfer capital in an amount equal to, or over, €1.500.000 in the acquisition of real estate in certain regions;
- Creation, at least ten job vacancies; or
- Acquisition of real estate with a value equal to or above €500.000.

This investment must be maintained for at least five years, starting when 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, in which shares are held by the applicant or through a company with head offices in an EU Member State with a permanent establishment in Portugal, which shares are held by the applicant.

When a company invests, compliance with investment thresholds will be assessed based on the number of shares the applicant holds in the company.

A golden visa is valid for two years and may be renewed for subsequent two year-periods.

However, according to the latest news, the granting of new gold visas is expected to end in 2023.

In case of visas already granted only on real estate investment, the renewal is accepted only for the owner's permanent residence or that of his descendants or if it is placed permanently on the rental market.

“START-UP” VISA PROGRAM

Following the golden visa impulse, the Institute of Support to Small and Medium Enterprises and Innovation (*IAPMEI – Agência para a Competitividade e Inovação*) developed the “Start-Up Visa” program to promote the creation of business and innovative projects.

The program is intended for entrepreneurs who wish to develop their entrepreneurial or innovative projects in Portugal, even if they haven't already set up a company or if they have business projects in their countries of origin and that wish to carry on their activity in Portugal. Candidates must fulfil the following requirements:

- Not to have a permanent residence in a country of the Schengen Area
- To have fulfilled their obligations before the Portuguese Tax Administration and Social Security (if applicable);
- Not to have a criminal record;
- To be of age;
- To possess the financial resources equivalent to 12 times the Social Support Indexation (IAS).

For the presentation of the application, the candidate must complete an online form with his identification and the other entrepreneurs involved and also the description of the project, accompanied by the following documents:

- Letter of motivation;
- Copy of the passport;
- Criminal record from their origin country;
- Statement from the bank that proves the existence of own financial means of subsistence and the possibility of transferring these funds to a bank operating in Portugal; and
- Curriculum vitae;

Applicants should submit their application to one or more incubators on the certified incubators list. In the second phase, the entrepreneur must complete the application information and submit it to IAPMEI through an online platform. Eligible entrepreneurs under the program will conclude an incubation contract with the certified incubator.

PORTUGUESE PROPERTY MARKET

The crisis caused by Covid-19 impacted the closing of transactions, but Portuguese housing prices continue to increase.

According to INE (*Instituto Português de Estatística*), the Portuguese statistical office, in the 3rd quarter of 2022, the House Price Index increased by 13.5%.

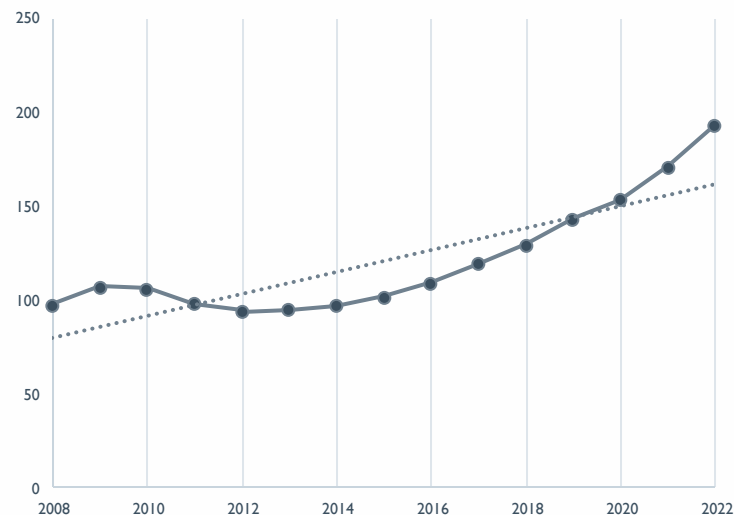
The average housing price in Portugal in 2022 was estimated to be €1,492 per square metre.

The price per square meter in the metropolitan area of Oporto was, in December of 2022, at €1,660, while prices in the Lisbon area were set even higher, at €2,156.

Lisbon housing prices continue to be among Western Europe's lowest.

However, the average price of Lisbon's prime residential market is €10,000 per square meter. This shows that prime residential properties in Lisbon prices are still below other European capitals, making it one of the best destinations in the world to invest in.

House Prices Index



BUYING A HOUSE

PROMISSORY AGREEMENT OF SALE AND PURCHASE

The property acquisition procedure 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.

When the parties sign the promissory agreement, it is customary for the promissory purchaser to pay a down payment to the promissory seller.

For the Promissory Agreement to be effective against third parties, it is necessary to make a 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. The deed must be executed before a notary and is subject to an expense between €255 and €700.

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”, at a help desk or through the site www.casapronta.pt.

TAXATION OF PROPERTY

PROPERTY TRANSFER TAX

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 the 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:

- Up to 7.5%, in case of residential urban properties; and
- 10% if the buyer is a resident in a tax haven.

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

As a 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%.

POLL TAX

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

The IMI rates are:

- Between 0.3% and 0.45% for urban properties; and
- 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 during improved economic conditions.

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

It's worth mentioning that Local Lodging, advertising on platforms such as Airbnb, is a growing trend in Portugal.

However, the Government submitted a bill to the Parliament introducing a prohibition of new local lodging licenses, except for rural lodgings in the country's interior cities, where they can have a positive impact on the local economy.

The new measures are not yet in effect. The proposed bill will be under public consultation before its approval, with or without changes, by the Parliament. Because of its controversy, it is not certain that the bill will pass unchanged and that it will be promulgated by the President.

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 opposes the renewal of the lease. In the absence of a fixed-term provision, the lease agreement will be considered to have a duration of five years.

The amount of the rent can usually be freely agreed upon between the parties, with the exception of low-cost housing.

Rental costs depend on region and particular neighbourhood and may vary according to the number of bedrooms, standards of a property, and the facilities provided.

PUBLIC HEALTHCARE

In Portugal, access to public healthcare is free to all residents. The World Health Report by the World Health Organisation ranked the Portuguese healthcare system in 12th place.

The health subsystems either operate their own clinics and hospitals or operate through agreements with the National Health System.

The main public 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 ADM 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 a wide range of private health insurance providers.

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.

For example, a regular appointment in a health centre costs €5, while an emergency appointment in 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.

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 a license issued by the State.

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

The Portuguese educational system has improved significantly in the last two decades

Because the number of immigrants has been increasing considerably in recent years, many of whom do not have Portuguese as their mother tongue, most schools have professionals that speak more than one language. Many Portuguese schools are prepared to educate foreign children of all ages in more than one language.

Recent reforms include new arrangements for the setting of learning goals, the reorganisation 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).

Parents must enrol their child in a public or private school, and the student must 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).

EDUCATION LEVELS

PRE-PRIMARY, PRIMARY AND SECONDARY EDUCATION

Pre-primary education covers children from three to five 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 for enrolment, attendance and certification fees and costs.

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

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

HIGHER EDUCATION

Higher education 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 2022, there are 16 Portuguese Universities ranked in the Top Universities in the world.

Also, for the first time, Portugal has five management and business schools in the European ranking of the Financial Times, the Financial Times has ranked Nova School of Business and Economics as 14th in the Masters in Management Ranking where Católica Lisbon School of Business and Economics also appears in the 25th position in the Masters in Management Ranking.

JUDICIAL SYSTEM

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

As for 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, appeals are always allowed, regardless of the monetary value at stake.

The Portuguese judicial system also has Justices of Peace (*Julgados de Paz*), which mainly deal with dispute resolution in low-value cases.

Justices of Peace rule on small-value civil monetary disputes, such as the breach of consumer contracts.

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

Constitutional Court is specially entrusted with assessing the 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. The amount of the court fees depends on the value of the claim at stake.

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

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

- Judicial action worth €1M estimated court fees: €10,506
- Judicial action worth €10 M estimated court fees: €120,666
- Judicial action worth €100 M estimated court fees: €1,222,266

PARTY COSTS

Legal party costs are the expenses incurred by the successful party, which the other party bears if the successful party asks for it.

Legal party costs include:

- the judicial fee paid by the successful party;
- + 50% of the fees paid by both parties.

For example:

- Judicial action worth €1M estimated party costs: €7,701
- Judicial action worth €10 M estimated party costs: €62,781
- 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.

EMPLOYMENT CONTRACTS

As a rule, employment contracts do not need to be in writing. However, the law requires a written document for some types of contracts, including, but not limited to, term contracts, part-time contracts, contracts with foreign employees, and secondment contracts.

Regardless of the type of contract, the employer must inform the employee in writing about the contract conditions, including workplace, job position, contract term and relevant grounds, employee's pay, collective bargaining instrument (if any), employer's accident insurance policy and employee's compensation fund, within 60 days from the effective date of the contract.

Salary. Employees are entitled to a minimum monthly salary set out by the Government. In addition, employees are entitled to an extra salary on Christmas and by mid-year.

Working hours. The maximum regular working period is forty hours per week, eight hours per day. Employees are entitled to a minimum rest period of eleven consecutive hours between two successive daily work periods and one day of rest per week. An additional half or full day of rest (in all or certain weeks of the year) may also be given other than the rest day required by law.

Holidays. Employees are entitled to twenty-two working days of paid holiday per year and national public holidays.

Under collective bargaining agreements, employers may be obliged to grant two optional public holidays: Carnival/Shrove Tuesday and the local municipal holiday.

Health and safety. The employer must ensure employees' health and safety conditions at work and comply with general principles and duties to prevent work accidents and professional illnesses.

Employers are obliged to ensure: (i) technical work accident preventive measures; (ii) employee training, information and consultation on workplace safety; (iii) internal or external health and safety services. The employer must also contract insurance to cover work accident risks for each employee.

Social Security. The Social Security contribution is a tax levied on labour income, charged to employers and employees at 23.75% and 11%, respectively.

CHOICE OF LAW AND MANDATORY PORTUGUESE LAW RULES

Generally, the employer and the employee may choose the applicable law, subject to the conditions set in the Rome I Regulation, which establishes rules for determining the law applicable to international employment contracts that give the parties the freedom to choose the applicable law and establishes some safeguards for the employee as the weaker party to the contract.

In the absence of an explicit choice of law, the employment contract will be governed by the following:

- The law of the country in which the employee habitually carries out his/her work in the performance of the contract;
- Failing that, by the law of the country from which the employee habitually carries out his/her work in the performance of the contract;
- Failing that, by the law of the country where the place of business the employee was engaged is located.

However, the choice of law must not deprive employees of the protection afforded by mandatory legal provisions that would apply under the law that would have been applicable in the absence of choice.

Portuguese courts have understood as mandatory provisions, among others, the following matters:

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

RESTRICTIVE COVENANTS

As a rule, restrictive covenants during employment or after its severance are void. However, it is possible to include non-compete and non-termination covenants in certain conditions.

EXCLUSIVITY AND NON-COMPETE COVENANTS

Exclusivity clauses (during employment) and non-compete agreements (after termination) are allowed if the following requirements are met:

- The non-compete covenant is agreed in writing (for instance, under the employment contract);
- The performance of a competing activity by the employee is likely to cause harm to the employer;
- Compensation amount is agreed and payable to the employee; and
- The non-competition covenant may not exceed two years after the termination of the contract or, in some exceptional cases, up to three years if the activity performed entails a special relationship of trust or access to sensitive information.

NON-TERMINATION COVENANT

In order to compensate the employer for high expenses incurred with the employee's professional training, employees may also agree non-termination covenants, whereby the employee undertakes not to terminate the contract during a period of no more than three years. The employee may in any case anticipate the end of this period by reimbursing the employer for the relevant expenses incurred.

To enforce restrictive covenants after termination of the employment contract, the agreement must state either the compensation amount payable to the employee or its calculation criteria.

This compensation could be paid in instalments during the term of the agreement or all at once. The parties may also agree on contractual penalties applicable in case of breach of restrictive covenants.

GARDEN LEAVE

In the context of pending disciplinary proceedings, garden leaves are permitted under law, particularly after the accusation note has been served to the employee.

DURATION OF EMPLOYMENT CONTRACTS

OPEN-ENDED AND TERM CONTRACTS

Portuguese law recognises term and open-ended contracts. Fixed-term contracts are in force for a pre-established period set according to the employer's temporary needs, which must be specified in the contract, and expire at the end of the agreed term unless they are renewed; fixed-term contracts cannot be renewed for more than three times and have a maximum duration of two years.

Term employment contracts must contain a detailed description of the relevant grounds and a clear connection between the relevant grounds and the term. Otherwise, the employer may be subject to fines, and the term contract could be legally converted into an open-ended employment contract.

Unfixed-term contracts do not have a specified end date and are terminated with the completion of the employer's project or when the reason for which the employee was hired ceases to exist. Unfixed-term contracts have a maximum duration of four years.

When the parties do not agree on a term (fixed or unfixed) for the contract, the employment contract is deemed permanent, which means that the employer may only terminate the contract in the circumstances specified in the law, that is, in case just cause.

PROBATION PERIOD

The probation period is the period during which either party may unilaterally terminate the contract without prior notice and without cause, during which no compensation is required.

For open-ended contracts, the maximum probationary period is:

- 240 days for employees with management or senior positions;
- 180 days for employees with job positions of technical complexity, high degree of responsibility or which require special qualifications, employees who perform duties of confidence, and first-time employees or are long-term unemployed; and
- 90 days for other employees.

TERMINATION OF EMPLOYMENT CONTRACTS

Term employment contracts expire at the end of their initial or renewal term, provided that serves a termination notice to the employee as follows:

- In fixed-term contracts, 15 days prior to the term of the contract; and
- In unfixed-term contracts, 7, 30 or 60 days prior to the relevant date if the employment contract has lasted for less than 6 months, from 6 months to 2 years, or more than 2 years, respectively.

A collective dismissal is possible if the employer intends to dismiss a minimum of 2 employees (in companies with less than 50 employees) or 5 (in companies with 50 or more employees) within a 3-month period. Collective dismissal must have one of the following grounds: (i) market reasons, (ii) organization-related and economic reasons and/or (iii) technological reasons.

When the number of employees to be dismissed does not fall under the collective dismissal thresholds, the employer may opt to make one or more employees redundant on the same grounds as collective dismissal.

Employers may terminate individual contracts for:

- Employee's ineptitude when the employee demonstrates ineptitude or inability to perform the assigned tasks, provided that such ineptitude occurs in the course of the performance of the functions.
- Employee's breach of his/her employment duties.

Termination for breach must be carried out following a disciplinary procedure against the defaulting employee.

Failure to comply termination rules and the formal procedures required by law, makes the termination unlawful and entitle the employee to (i) compensation for damages; (ii) receive the salaries (including holiday and Christmas bonuses) since the dismissal date until the date of court's ruling and (iii) to be reinstated or receive the compensation set by the court.

The employee and the employer are free to agree to terminate the employment contract. The termination agreement must be made in writing and may be revoked by the employee within seven days from the effective date, except if the agreement is executed before a public notary.

SEVERANCE COMPENSATION

Employees subject to collective dismissal, redundancy or employee ineptitude are entitled to severance compensation.

OPEN-ENDED CONTRACTS

For open-ended contracts entered into before 1 November 2011, the severance compensation will be calculated as follows:

- Until 31 October 2012: one monthly base salary and seniority per each year of employment;
- Between 1 November 2012 and 30 September 2013: 20 days of monthly base salary and seniority per each year of employment; the amount of the monthly base salary and seniority may not be higher than 20 times the minimum monthly salary;
- Between 1 October 2013 and 30 April 2023: 18 days of monthly base salary and seniority per each year of employment in the first 3 years of the contract, and 12 days of monthly base salary and seniority per each year of employment in the following years.

- After 1 May 2023: 14 days of monthly base salary and seniority per each year of employment.

TERM CONTRACTS

For term contracts, the severance compensation will be as follows:

- For contracts entered between 1 October 2013 and 30 April 2023: 18 days of monthly base salary and seniority per each year of employment in the first 3 years of the contract, and 12 days of monthly base salary and seniority per each year of employment in the following years; and
- For contracts entered after 1 May 2023: 24 days of monthly base salary and seniority per year of employment.

The minimum compensation is three monthly base salaries and seniority, and employees are entitled to all other existing labour credits.

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 attracting the best international talent.

Concerning the income earned abroad, Portugal has signed more than 60 double tax avoidance treaties, including with Malta, Macao, the United States of America, Poland, Russia and Hong Kong, 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), which is responsible for the management of taxes on income, wealth, and general excise taxes in conformity with the tax policies determined by the Government.

The main taxes levied on individuals in Portugal are:

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

PERSONAL INCOME TAX (IRS)

Personal Income Tax (*Imposto sobre o Rendimento das Pessoas Singulares - IRS*) 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 is possible to make some limited income deductions in Portugal, such as:

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

Capital gains derived from the transfer of property, shares, or other investments are also taxed as income.

Capital gains obtained by non-residents are subject to a flat tax rate of 28%, except capital gains from the disposal of shares.

Income derived from the property transfer is only taxed on half of its value, and the applicable tax rate depends on the resident's aggregate income. However, suppose a person sells their permanent residence and reinvests the capital gain obtained in acquiring another permanent residence in Portugal within 36 months of the sale. In that case, subject to specific requirements, the capital gain is not taxed.

To register as a taxpayer in Portugal, filling out a registration form at the local tax office is necessary, which 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 (*Imposto sobre o Valor Acrescentado - IVA*) is levied on any transfer of goods and rendering of services.

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

Certain goods and services may be subject to an intermediate IVA rate of 13%, which includes a few specific goods and services like restaurants, and a reduced IVA rate of 6%, which includes essential goods, such as food items.

In the Azores and Madeira, VAT rates are lower:

- In the Azores, the general IVA rate is 18%, the intermediate rate is 9%, and the reduced rate is 4%.
- In Madeira, the IVA 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 IVA, including but not limited to:

- Guarantees (up to 0.6%);
- Insurances (up to 9%);
- Transfer of businesses (5%); and
- Real estate transactions (0.8%).

NON-HABITUAL RESIDENTS TAX REGIME

The non-frequent residents (Residentes Não Habituais - 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:

- Employment and self-employment income obtained in Portugal will be subject to a 20% flat rate, with an additional surcharge of 3.5%; and
- Pensions obtained outside of Portugal will be tax-exempt (except for State pensions); and

In the case of foreign employment income, it will be exempt from tax if it is taxed in the source country. Other foreign source income and self-employment income from high value-added activities carried out outside Portugal, will be tax-exempt when they are taxable outside of Portugal under the applicable tax treaties or the OECD model.

These advantages will extend for ten consecutive years, including the year of registration as a tax resident in Portugal.

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

Not having been a Portuguese tax resident in the five preceding years;

Registering as a tax resident and requesting the NHR status upon such registration or by the 31st of March of the following year; and

In the 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.

Before submitting any application, potential applicants should confirm the satisfaction of the relevant requirements with Portuguese legal and tax advisers.

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ABOUT US

WHO WE ARE & WHAT WE DO

ABOUT US

MACEDO VITORINO is a leading Portuguese law firm. We advise domestic and foreign clients in a wide range of business sectors, including banking, distribution, industry, energy, TMT and projects. We are known for our professional and client oriented approach to complex and difficult matters.

Since the foundation of our firm in 1996 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 restructurings.

We have strong relationships with many of the leading international firms in Europe, Asia and the Americas, which enable us to handle cross-border transactions effectively.

The firm was recognised by The European Legal 500, IFLR 1000 and Chambers and Partners for its work in its main practice areas.

Our team is committed, hard-working, accessible and friendly. We believe in collegiality, teamwork, trust and loyalty. Clients value our team approach, the good management of time and our focus on their business goals.

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