Working hours and overtime, Remuneration, Exemption from Working Hours, Misdemeanour Liability, Criminal Liability

What legislation regulates working hours and overtime?

Arts. 58, 197, 201 to 205, 207 to 209, 211, 212 to 225, 229, 265, 268 and 269 of the Labour Code (CT).

What is supplementary work?

Overtime is all that is provided outside working hours. If there is exemption from working hours limited to certain hours per day or week, overtime work is the work performed beyond them. If there is exemption with respect to the normal working period, overtime work is the work that exceeds it.

It is not overtime work:

- The work done on a normal day by an exempt worker, without being subject to the maximum limits of normal work periods;

- Work performed to compensate for suspensions of no more than forty-eight hours, when there is an agreement between the employer and the worker;

- The fifteen-minute tolerance to finish the service;

- Vocational training, even if carried out outside working hours, if it does not exceed two hours a day;

- The one provided in addition to the normal period, when the IRCT allows it;

- Work done to compensate for periods of absence from work, carried out at the initiative of the worker, if both have the agreement of the employer.

Is overtime work compulsory?

Yes, the workers are obliged to perform overtime work unless, if there are extenuating reasons, they expressly request exemption.

However:

- Employees who are pregnant or have children under 12 months old, as well as the father who has taken paternity leave, and employees with a disability or chronic illness are not obliged to work overtime;

- Minors are prohibited from working overtime.

Can the employer decide to do overtime at any time?

No. The employer can only order the performance of overtime work to deal with possible and temporary increases in work that do not justify the admission of workers, in case of force majeure, or become indispensable to prevent or repair serious damage to the company.

What are the duration limits to overtime work?

- In companies with up to 49 workers, no worker may work more than 175 hours per year;

- In enterprises with 50 or more workers, no worker may do more than 150 hours of work per year;

- No worker may work more than two hours per normal working day;

- No worker may work more than two hours per normal working day; On weekly rest days (compulsory or supplementary) and on public holidays, no worker may work more hours than the normal daily working period;

- No worker may work more hours than half a normal day's rest (normally on Saturdays).

In part-time work, the annual limit of overtime hours is 80 hours (or the time proportional to the normal working period of the full-time worker, if longer).

How is overtime paid?

Overtime is paid for the hourly wage with the following additions:

- 25% for the first hour or fraction thereof and 37.5% per hour or subsequent part thereof, on a working day;

- 50 % for each hour or fraction thereof, on a weekly rest day, mandatory or complementary, or on a holiday.

How is the payment of the work done by a worker who renders normal work on a national holiday in a company that is not obliged to suspend its operation on that day?

The worker has the right to compensatory rest for half of the number of hours worked or an increase of 50% of the corresponding remuneration, the choice being up to the employer.

Is compensatory rest due for overtime?

Only in some situations.

Who determines the taking of compensatory rest?

Compensatory rest is determined by agreement between the employee and the employer or, failing this, by the employer (no. 5, art. 229 of the CT).

Is the performance of overtime work subject to any formality?

Yes, the employer must have a register in which, in addition to the explicit indication of the reason for the overtime work and the compensatory rest periods taken by the worker, before the beginning and immediately after the end, the hours of beginning and end of the overtime work are noted.

The worker must enter his or her visa in the register (heading) immediately after the work has been performed. If there is no record, or if his/her data is not properly recorded, the worker who has done overtime work is entitled to a pay of 2 hours.

The nominal relation of the workers who have done overtime work - discriminating the one done by eventual increments and the one due to force majeure or indispensable to repair serious damages to the company - must be kept for 5 years.

Under what conditions is the worker's visa waived for the registration of overtime work?

The visa for the registration of the beginning and end hours of the overtime work is not required when the registration is made directly by the worker.

Is there a suitable model for the registration of overtime?

The registration is done in an appropriate form, namely printed matter adapted to the company's existing attendance control system, which allows for its immediate consultation and printing, and must be permanently updated, with no unanswered alterations or erasures.

How is the registration of overtime work done when the worker performs the activity outside the company?

The worker who performs the overtime work outside the company must immediately aim the registration of the overtime work after his/her return or by returning the register duly endorsed.

The company must have, duly certified, the registration of the overtime work within a maximum period of 15 days from the service provision.

Retribution

What legislation regulates retribution?

Articles 258, 260, 263, 264, 265, 266, 268, 269, 271, 276, 277 and 278 of the CT; Decree-Law No 143/2010, of 31 December, and Law No 11/2013, of 28 January.

What is retribution and what is it comprised in it?

It is the benefit to which the worker is entitled in return for his work and comprises basic pay and other regular and periodic benefits in cash or in kind. The value in kind (non-cash benefits) may not exceed that of the cash part, except as provided in an instrument of collective labour regulation.

How is the payment made?

In cash or in kind (non-cash benefits). The non-cash benefit must be intended to meet the personal needs of the worker or his/her family and may not be paid at a rate higher than the current rate in the region. The cash part can be paid by cheque, money order or demand deposit.

Where should the wages be paid?

It should be paid at the workplace or elsewhere that is agreed.

When should the wages be paid?

The salary credit is due for certain and equal periods, which unless otherwise agreed or used, are the week, the fortnight and the calendar month. It must be paid on a working day, during the working period and must be available to the employee on the due date or on a previous working day.

When paying the salary, does the employer have to provide the employee with any documents?

Yes, until the salary is paid, the employer must provide the employee with a document (commonly known as a receipt) containing his/her identification, full name, social security number and professional category, the basic salary and other benefits, as well as the period to which they relate, the discounts or deductions and the net amount to be received.

What benefits can be considered as remuneration?

The law presumes to constitute retribution any regular and periodic benefit, made directly or indirectly in cash or in kind - for example seniorities, exemption from working hours, night work, shift work, regular and periodic allowances such as hardship, risk, isolation, toxicity, bonuses due under the contract and the rules that regulates it, regular and periodic bonuses which, due to their importance and regular and permanent character, should be considered, according to custom, as an integral part of the remuneration and also the benefits related to the results obtained by the company, when both in the respective attributive title and in the regular and periodic attribution, are of a stable character, regardless of the variability of their amount (such as commissions).

What is not considered as remuneration?

As a rule, they are not considered as remuneration:

- Amounts received in the form of daily allowances, travel allowances, transport costs, installation allowances and other equivalent allowances (fault allowance and meal allowance), except where such frequent travel or expenses, to the extent exceeding the normal amount, have been provided for in the contract or should be considered by custom as part of the remuneration.

- Gratuities or extraordinary benefits granted by the employer as a reward or prize for good results obtained by the company.

- Benefits arising from facts relating to professional performance or merit and the attendance of the employee (as long as this is not guaranteed in advance.

- The participation in the company's profits, provided that the employee is assured by the contract a certain, variable or mixed remuneration, appropriate to his/her work.

How much is the minimum monthly wage guaranteed (national minimum wage)?

From 1 January 2019, the minimum guaranteed monthly wage is € 600.

Where can I find the indication of professional categories and their remuneration?

In the instruments of collective labour regulation.

You can consult them at:

http://www.act.gov.pt/(pt-PT)/Legislacao/ContratacaoColetiva/Paginas/ContratacaoColetiva.aspx

How much is the meal allowance?

You can find the amount of the meal allowance in the applicable collective labour agreement.

For this purpose, please consult:

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How much is the Christmas allowance?

It's equal to one month's pay. The law establishes a rule of proportionality for the calculation of the Christmas allowance, in the year of the employee's admission, in the year of termination of the contract and in the years in which the contract has been suspended for reasons concerning the employee.

When should the Christmas allowance be paid?

The Christmas allowance paid must be paid by 15 December of the year to which it relates.

The written agreements entered into and the expressions of will of the workers made under the suspension of the Labour Code regime, pursuant to Law no. 11/2013, of 28 January, and the 2014, 2015, 2016 and 2017, expire from 1 January 2018, due to the expiry of the transitional period of the legal regime for the payment of the Christmas allowance in twelfths, according to the 2017 State Budget for that calendar year.

Is the holiday period rewarded?

Yes. The vacation period remuneration corresponds to what the worker would receive if he/she was in effective service. In addition to this remuneration, the worker is entitled to vacation allowance.

What is the amount of vacation allowance to which the worker is entitled?

The worker is entitled to a vacation allowance which includes the basic salary and other remunerative benefits (regular and periodic benefits) which are a counterpart of the specific way of performing the work. The following table provides some examples of such benefits:

Included:

- Pay + benefits in return for the specific mode of performance of the contract (relating to the actual performance of the work)

- Basic pay

- Exemption from working hours

- Night work (rule when in effective service)

- Shift work (rule when in effective service)

Excludes:

- Benefits which are not in return for the specific mode of performance of the contract

- Daily allowance

- Travel allowances

- Meal allowance (employer's expense)

- Transport allowance (employer's expense)

- Representation allowance

When should the vacation allowance be paid?

The vacation allowance must be paid before the beginning of the vacation period and proportionally in case of staggered vacation.

The written agreements signed and the expressions of will of the workers made under the suspension of the Labour Code regime, pursuant to Law No. 11/2013, of 28 January, and the 2014, 2015, 2016 and 2017 State Budgets expire, from 1 January 2018, by virtue of the expiry of the transitional validity of the legal regime for the payment of the holiday allowance in twelfths fixed in the 2017 State Budget for that calendar year.

What is the compensation due for exemption from working hours?

The worker who is exempt from working hours is entitled to specific compensation, established by an instrument of collective labour regulation.

Whenever such an instrument is absent, the compensation shall not be less than:

- one hour of overtime per day;

- two hours of overtime per week, in the case of a scheme of exemption from working hours in compliance with the normal working period.

How is night work paid?

Night work is paid with an increase of 25% over the equivalent work paid during the day.

This increase may be replaced by an instrument of collective labour regulation:

- equivalent reduction of the normal work period;

- a fixed increase in the basic salary, if this does not imply less favourable treatment for the worker.

How is overtime paid?

Overtime is paid at hourly rates with the following reference increments:

- 25% for the first hour or fraction thereof and 37.5% per hour or fraction thereof, on a working day;

- 50 % for each hour or fraction thereof on a mandatory or complementary weekly rest day or on a public holiday.

How is the payment of holidays made?

The worker is entitled to a salary increase of 50% for each hour worked, as provided for in a collective work regulation instrument, for work done on a public holiday in a company that is obliged to stop working on that day. If the work is performed on a holiday in a company that is not obliged to stop working on that day, the employee is entitled to a compensatory rest period of half the number of hours worked or to an increase of 50% of the corresponding remuneration, the employer being responsible for this choice.

How is the hourly wage calculated?

For the purposes of the Labour Code, hourly wages are calculated according to the following formula:

(Rm x12): (52xn)

Rm - is the value of the monthly pay and n the normal weekly work period

What if there's a payoff?

- When the lack of punctual payment of wages lasts for more than 15 days over the due date, the employee may suspend the employment contract, after informing the employer and the

Authority for Working Conditions in writing, at least eight days before the date of the suspension.

Wage payment failure that extend over a period of 15 days must be declared by the employer, at the request of the employee, within five days or, in the event of refusal, be remedied by a declaration from the Authority for Working Conditions, within 10 days of the request.

- When the lack of punctual payment of the salary extends over a period of 60 days, the employee, regardless of having communicated the suspension of the employment contract, may terminate the contract.

When the lack of payment of wages extends for a period of more than 60 days over the due date, the employee may immediately terminate the employment contract with just cause, and must communicate the termination of the contract in writing with a brief indication of the facts that justify it within 30 days of the facts being due compensation to the employee.

Can the employee exercise another paid activity during the suspension of the employment contract?

Yes, he/she can, with a duty of loyalty to the original employer.

Working Hours Exemption

What legislation regulates working hours and exemption from working hours?

Arts. 58, 197, 201 to 205, 207 to 209, 211, 212 to 225, 229, 265, 268 and 269 of the CT.

Which workers can be exempted from working hours?

Exemption from working hours can only be established by written agreement and when the worker to be exempted is in one of the following situations:

- Exercise of management, direction, trust, supervision or support positions to the holders of these positions;

- Telework and other cases of regular exercise of the activity outside the establishment without immediate control of a hierarchical superior;
- Execution of preparatory or complementary work which, by its nature, can only be carried out outside the limits of normal working hours.

By means of a Collective Bargaining Instrument, other situations of exemption from working hours may be provided for.

What types of exemption from working hours are there?

The exemption from working hours can be stipulated in one of the following modalities:

- The exempted worker is not subject to the maximum limits of normal working periods;
- The exemption allows the extension of work to a certain number of hours, per day or per week;
- Exemption subject to compliance with the normal working periods agreed.

If the employer and the employee do not stipulate the form of the exemption, the exemption regime is applied without being subject to the maximum limits of the normal working periods.

What is the minimum rest period between consecutive working days?

Workers must observe a rest period between consecutive working hours that allows their recovery (at least 11 hours).

However, this rule does not apply to workers in administration or management positions or with autonomous decision power, who are exempt from working hours and in the other situations foreseen in art. 214, no. 2 of the CT.

What are the effects of the exemption from working hours?

The exempted worker does not lose the right to compulsory weekly rest days, complementary rest days or half days, compulsory holidays or daily rest between working hours (minimum of eleven hours), except in any of the situations foreseen in art. 214, no. 2 of the CT.

Does the exemption of working hours entitle the worker to special remuneration?

The worker who is exempt from working hours has the right to the specific remuneration established by the applicable Collective Labour Regulation Instrument or, in the absence thereof, the special remuneration, which must not be less than the remuneration corresponding to one hour of overtime per day or, in the case of a scheme of exemption from working hours with observance of the normal working period, two hours of overtime per week. The employee who performs administrative or managerial duties in the company may waive the remuneration for exemption from working hours.

Misdemeanor liability

What is the law governing misdemeanour liability?

Arts. 548, 550, 551, 553 to 559, 561, 562, 564 and 565 of the TC; arts. 10, 13, 17, 19, 21, 22, 24, 25, 27 to 33, 35, 52, 55 and 61 of Law No. 107/2009 of 15 September).

What is a labour offence?

It is any typical, illicit and reprehensible fact that constitutes a violation of a rule that consecrates rights or imposes duties on any subject within the scope of employment relations and that is punishable by a fine.

So, it is not only employers who can commit offences?

No. Any person to whom the legal norm imposes duties in the scope of the employment relationship may commit misdemeanours if their violation is punishable by a fine.

Is it always necessary that the violation of the law was made with intent?

No. Negligence in labour offences is always punishable.

Who are the subjects responsible for labour offences?

The employer is responsible for labour offences, even if committed by its employees in the performance of their duties. When the law states that the person responsible is the employer, this covers, in principle, the legal person itself and the offence may even be committed by an association without legal personality or a special commission.

If the offender is a legal person or equivalent, who can be held liable for payment of the fine?

In addition to the legal person, the respective administrators, managers or directors may be held jointly and severally liable for the payment of the fine.

Can the contractor be held liable for the infraction committed by a subcontractor?

If a very serious offence is committed by a subcontractor (sub-contractor, for example) on the contractor's premises (contractor), or under his/her responsibility, the contractor is jointly and severally liable with the subcontractor for the payment of the fine, unless he/she demonstrates that he/she acted with due diligence.

If the offender pays the fine, is he/she immediately released from any liability?

No. Regardless of the payment of the fine, if the offense results from the omission of a duty, it must be performed if still possible.

Are the administrative offences always of the same gravity?

No. Administrative offences are classified as minor, serious or very serious, considering the relevance of the interests violated.

How is the value of the fines defined?

Given the legal classification of the administrative offences in terms of seriousness, the value of the fines generally varies according to the turnover of the companies and the degree of fault. The fines are expressed using the procedural account unit (CU), which is, as a rule, updated annually and automatically according to the social support index (IAS). There is one value for negligence and another, higher, for malice. The value of the CU in 2013 is € 102.00.

What if a offence is committed by an employee, or other subject who is not a company, is the value of the fine different?

Yes, the value of the fine is lower.

What if the offence respects the violation of child labour standards, occupational safety and health, the rights of collective representation structures of workers and the right of strike?

In such cases, the maximum value is doubled.

What if there is a plurality of agents responsible for the same offence?

If several agents are responsible for the same administrative offence, the fine corresponding to the company with the highest turnover is applicable.

What if the violation of the law affects a plurality of workers individually?

In this case, the number of infringements corresponds to the number of workers specifically affected.

How is the fine determined in concrete terms?

The actual determination of the fine is based on the seriousness of the offence, the guilt, the economic situation of the offender and the benefit derived by the offender from his practice, as well as the measure of non-compliance with the recommendations contained in the warning notice, and the coercion, falsification, simulation or other fraudulent means used by

the agent. In breaches of occupational health and safety regulations, the general principles of prevention (to which protection measures must adapt), the permanence or transience of the violation, the number of workers potentially affected and the measures and instructions adopted by the employer to prevent the risks are also taken into account.

What is does recurrence?

There is a recidivism when an offender commits a serious offence with intent or a very serious one, after having been convicted by another of the same nature and seriousness, without the limitation period of the first one having elapsed (five years).

What is the amount of the fine to be imposed in the event of a recurrence?

The minimum and maximum limits of the fine are increased by one third of its value, which may not be less than the value of the fine imposed by the previous administrative offence, if the minimum and maximum limits are not greater than the latter.

How is it determined that an offender is a repeat offender?

For the purpose of verification of recidivism, the ACT organises an individual register of subjects definitively convicted of serious or very serious offences where the dates on which they were committed and those on which they became irrecoverable are entered.

In addition to the fine, may accessory penalties be imposed on offenders?

Yes, in case of very serious offence or repeated serious offence, committed with intent or gross negligence, the accessory advertising sanction may be applied.

In addition, accessory sanctions of temporary prohibition of the activity's exercise, of deprivation of participation in biddings or public competitions, or of publicity of the condemnatory decision, may be applied in case of recidivism in the above mentioned administrative offences, taking into account the serious effects for the employee or the economic benefit withdrawn by the employer.

In addition to the imposition of the fine and ancillary penalties, may ACT impose other behaviour on the employer?

Yes, where the infringement consists in the omission of a duty, the payment of the fine does not exempt the offender from fulfilling it if this is still possible. In case the infraction results from the non-payment of amounts, the ACT may determine, in addition to the fine, the payment of the amounts owed to the employees within the period of payment of the fine.

What are the fines destined for?

Half of the proceeds of the fines imposed reverts to the ACT, as compensation for operating costs and procedural expenses, and the remainder is transferred to the Industrial Accidents Fund, in the case of a fine imposed for health and security at work and, in the case of the other fines, 35% to the service responsible for the financial management of the social security budget and 15% to the State Budget.

When can the labour inspector issue a warning?

The labour inspector may issue a warning in the event of infringements classified as minor and which have not yet resulted in serious damage to workers, the labour administration or social security. The notice must mention the infraction found, the recommended measures, the deadline for compliance and the warning that the noncompliance leads to the initiation of administrative offence proceedings and influences the determination of the fine measure.

What if the offender fails to comply with the warning notice?

Failure to comply with the measures recommended in the warning notice shall be considered by the competent administrative authority, or by the judge in case of a judicial challenge, for the purposes of assessing the existence of intentional conduct.

When is the notice drawn up?

When the labour inspector, in the performance of his/her duties, verifies or proves, personally and directly, even if not immediately, any infraction of the rule sanctioned with a fine.

Regarding the infractions that he/she does not personally prove, the labour inspector prepares an instructed participation with the evidence he/she has and the indication of at least two witnesses.

What happens next to the gathering of the report?

After the report is drawn up, the accused is notified to pay the fine voluntarily within 15 days or, alternatively, to submit a written reply, enclosing the evidence available to him/her and registering the witnesses, or to appear in person to be heard.

Who should present the witnesses and what is their limit?

The accused may only take 2 witnesses for each infraction, or 5 if he/she has committed 3 or more infractions to which a single fine is applicable. Witnesses enrolled by the accused in the written response must be presented by him/her at the date, time and place indicated by the ACT.

Can the witness inquiry be postponed?

Yes, it can only be postponed once, even if the absence from the first appointment was considered justified.

An absence is considered justified on the ground that it is not the fault of the offender preventing him/her from attending.

If the witness is unable to attend, what should he/she do?

If it is foreseeable that the witness will not be able to appear, he must be informed five days in advance of the day and time appointed for the witness inquiry or within 24 hours in the event of manifest impossibility, if this is unpredictable, and the reason for the impossibility and the

predictable duration of the impediment must be stated in the notice, together with evidence of the impossibility, failing which the absence must be proved.

How long may the defendant voluntarily pay the fine?

During the period of 15 days after having received notification of the report, the accused, apart from very serious offences committed with intent, may voluntarily pay the minimum amount of the negligence, without having to pay any costs. Even after this period, and until the final decision, the accused may request voluntary payment, also paying the minimum amount but in this case costs are due. The minimum amount must, however, consider the aggravation (of one third) resulting from the recidivism, if any.

And can the fine be paid in instalments?

Exceptionally, in the event of economic hardship on the part of the accused, the competent administrative authority may, following a judgment, authorise payment of the fine in instalments, the latter not exceeding one year after the final decision. However, if the fine has been imposed on salary claims, social security debts and related costs, these are always paid with the first instalment.

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Are trade union associations representing workers allowed to intervene in this process?

These associations can become assistants, when representing the workers in respect of whom the administrative offence has been found, and no payment is due.

What is the deadline for the investigation of an offence proceeding?

The time limit for the completion of the investigation is 60 days, which can be successively extended by equal periods in duly substantiated cases.

Is there any possibility of reducing the amount of the fine for offence liability in any case?

Yes, if we are dealing with a proceeding (which is called a special proceeding) in which an infraction classified as light or serious is involved, with a legal minimum value lower than or equal to the value of 10 UC (judicial account units. In these situations, the reduction of the minimum amount of the applicable fine is reduced by 25%. The value of the UC for 2013 is EUR 102.00.

Does it apply to all situations where there is an infraction classified as light or serious, with a legal minimum value lower than or equal to the value of 10 HU, or are there exceptions to its application?

Even in those situations there are exceptions: the special procedure is not applicable when the offender has already been convicted of a previous infraction, for which a period of time has not yet elapsed greater than the limitation period of the respective fine, i.e. five years from the date of the condemnatory decision.

What is the procedure in special procedure?

The offender is notified prior to the indictment of the offence of the summary description of the facts alleged, with mention of the legal provisions violated and indication of the amount of the fine calculated. In the same notification, the offender is informed of the possibility of payment of the fine, with a 25% reduction of the applicable legal minimum amount within five days.

What is the effect of paying the fine in a special procedure?

The payment of the fine and the fulfilment of the obligation due is equivalent to a final condemnatory decision, and the fact cannot be re-examined as an administrative infraction, nor can the offender judicially challenge that decision.

What if the offender does not respond to the notification?

The absence of a reply, non-payment of the fine with reduction or non-fulfilment of the obligation due, determines the immediate continuation of the proceedings in accordance with the rules laid down for normal proceedings with some adjustments as regards time limits.

Is the decision of the administrative authority imposing a fine, either in the special procedure or in the ordinary procedure, open to judicial challenge?

Yes.

How is the judicial challenge made?

It must be submitted to the administrative authority that issued the decision to impose a fine within 20 days of its notification.

The judicial challenge should be addressed to the competent labour court and should contain allegations, conclusions and indication of evidence to be produced.

What is the effect of the legal challenge?

It has merely returnable effect, which means that, when the appeal against the decision is lodged, it produces immediate legal effects and, despite the challenge, is immediately enforceable.

Can the judicial impugnation have suspensive effect?

Yes, if the applicant deposits the amount of the fine and the costs of the proceedings within the time limit available to him/her to challenge, in a member bank, in favour of the administrative authority that issued the decision to impose the fine.

When does the offence procedure based on a limitation period expire?

As soon as five years have elapsed since the administrative offence was committed.

When is the fine time-barred?

Within five years, from the time when the decision is final or has become res judicata, i.e. when the decision can no longer be appealed.

Criminal liability

Who are responsible for committing the crimes under the Labour Code?

Legal persons and similar entities are responsible for committing the crimes laid down in the Labour Code.

Art. 546.º of the Labour Code (CT)

Corporate Responsibility

What are the crimes and penalties provided for in the Labour Code?

Crimes of misuse of children's work

Penalty: prison sentence of up to 2 years or a fine of up to 240 days, which may be increased to double if the minor has not completed school, or triple in the event of a repeat offence

Article 82 of the CT

Misuse of child labour

Crime of disobedience for non-cessation of the activity of a minor

Penalty: prison sentence of up to 2 years or fine of up to 240 days (penalty for the crime of qualified disobedience - Article 348 of the Criminal Code)

Article 83 of the CT

Crime of disobedience for non-cessation of the activity of a minor

Violation of union autonomy or independence, or by discriminatory act

Penalty: fine up to 120 days. Imprisonment for up to 1 year of the administrator, manager or director or other worker in charge of the act/violation. If the convicted person for violation of autonomy or independence is a union leader or delegate, he/she loses the specific rights granted by the Labour Code.

Article 407 of the CT

Crime for violation of union autonomy or independence, or discriminatory act

Retention of union quota

Penalty: jail sentence of up to 3 years or a fine

Article 459

Article 205 of the CT - Breach of Trust. Qualified disobedience for failure to submit the requested documentation to the Authority for Working Conditions (ACT)

Qualified disobedience for failure to submit the requested documentation to the Authority for Working Conditions (ACT)

Penalty: prison sentence of up to 2 years or fine of up to 240 days.

Article 547 of the CT

Article 348(2) CP - Disobedience

Prohibition of strike replacement

Penalty: fine of up to 120 days

Article 535 of the CT

Prohibition of strike replacement

Article 543 of the CT

Criminal liability with regard to strikes

Prohibition of coercion, injury or discrimination against workers

Penalty: fine of up to 120 days

Article 540 of the CT

Prohibition of coercion, injury or discrimination against workers

Article 543 of the CT

Criminal liability with regard to strikes

Lock-out ban

Penalty: imprisonment for up to 2 years or fine for up to 240 days.

Article 545 of the CT

Criminal liability in lock-out matters

the temporary closure of an undertaking or establishment for an event for which the employer is responsible, without the employer having initiated the procedure for collective redundancy, dismissal for termination of employment, temporary reduction of the normal working period or suspension of the employment contract in a situation of business crisis, or any other not consisting of closure for holidays

Penalty: jail sentence up to 2 years or fine up to 240 days

Article 311 of the CT

Procedure in the event of temporary closure due to an employer's fault

Article 315 of the CT

Extension of the scheme in the event of definitive closure

Article 316 no. 1 of the CT

Criminal liability in the event of closure of a business or establishment

Closure of a business or establishment without provision of security

Penalty: jail sentence up to 2 years or fine up to 240 days

Article 312 of the CT

Security in the event of temporary closure due to an employer's fault

Article 315 of the CT

Extension of the scheme in the event of definitive closure

Article 316 no. 1 of the CT

Criminal liability in the event of closure of a business or establishment

Practice of prohibited acts in case of temporary or permanent closure

Penalty: imprisonment for up to 3 years, without prejudice to a more serious penalty applicable to the case

Article 313 of the CT

Prohibited acts in case of temporary closure

Article 315 of the CT

Extension of the scheme in the event of definitive closure

Article 316 no. 2 of the CT

Criminal liability in the event of closure of a business or establishment

Practice of prohibited acts to the employer in the situation of lack of punctual payment of the remuneration

Sentence: prison sentence of up to 3 years

Article 324 of the CT

Effects on the employer of non-payment of wages on due time

Article 313 of the CT

Acts prohibited in the event of temporary closure.

Useful link: http://www.act.gov.pt