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European Monitoring Centre on Change

## Portugal: Effects of non-compliance with dismissal regulations

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Portugal

Phase:

Management

Type:

Effects of non-compliance with dismissal regulations

Last modified: 16 February, 2021

Native name:

Código do trabalho

English name:

Labour Code

### Article

360 (6), 361(6), 363 (6), 381, 389 (1 and 2), 390, 391, 392, 396, 554 and 555

### Description

The Authority for Working Conditions (Autoridade para as Condições de Trabalho - [ACT](#)) is an administrative structure operating within the Ministry of Employment which investigates compliance with employment legislation. Companies that do not comply with regulations are sanctioned. Sanctions take the form of financial penalties that vary in accordance with the type of offence and companies' turnover.

In the event of an unlawful dismissal, the employer is obliged to compensate the worker and reinstate him/her in the same department of the company, keeping the previous category and tenure of the worker. The worker may choose compensation instead of reinstatement. In the event of minor procedural irregularities the compensation amounts to half of the compensation defined by law (between 15 and 45 days of salary, with an additional amount based on years of service).

Dismissal is considered unlawful if it is due to political, ideological, ethnic or religious reasons or if there was no previous consultation of the Commission for Equality in Labour and Employment (Comissão para a Igualdade no Trabalho e no Emprego - CITE) in case of a worker who is pregnant, recently gave birth or breast feeding or of a worker who is enjoying initial parental leave.

If the worker chooses the compensation instead the reinstatement it is up to the court to establish the amount of the compensation, within the above-mentioned range. The amount of the compensation must not be lower than the equivalent to three months of basic salary and seniority payments.

In case of micro enterprises or of worker with a management position the employer may require the court to exclude reinstatement. In this situation the worker has the right to compensation between 30 and 60 days of basic salary and seniority payments. This amount can not be lower than the equivalent of six months of basic salary and seniority payments.

The Labour Code states that a variable fine is applied in conformity with the scale of seriousness of the administrative offences in the field of labour and according to the firm's volume of business and the degree of the law-breaker's culpability. The fine may vary between 2 to 600 Units of Account (UC). The Unit of Account is currently valued at €102 (2019).

### Comments

No additional information available.

#### Cost covered by

Employer

#### Involved actors other than national government

Other

#### Involvement others

Authority for Working Conditions (Autoridade para as Condições de Trabalho - ACT Courts

### Thresholds

No, applicable in all circumstances

### Sources

 Labour Code (Law 7/2009, of 12 February) – consolidated version

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