
Changes to Work Compensation Fund and Guarantee Fund for Work Compensation

Decree-Law 115/2023 of December 15 amends the legal regimes of the Work Compensation Fund and the Guarantee Fund for Work Compensation.

Portugal - Legal Update

December 20, 2023



Key aspects

- > Reformulation of the objectives of the Work Compensation Fund
- > Termination of the equivalent mechanism
- > Strengthening of the Guarantee Fund for Work Compensation



Decree-Law 115/2023

Decree-Law 115/2023 of December 15 (“Decree-Law 115/2023”) makes the third amendment to Law 70/2013, which establishes the legal regimes of the Work Compensation Fund (*Fundo de Compensação do Trabalho*, “FCT”), the equivalent mechanism, and the Guarantee Fund for Work Compensation (*Fundo de Garantia de Compensação do Trabalho*, “FGCT”), reformulating the objectives of the FCT and terminating the equivalent mechanisms.

FCT

> Conversion into a fund

The FCT is converted into a closed accounting fund, with the purpose of:

- > supporting employees’ costs and investments related to housing;
- > supporting other investments made by mutual agreement between employers and employee representative structures;
- > financing the qualification and certified training of employees; and
- > paying up to 50% of the compensation due for terminating the employment contract of employees included in the FCT.

> Overall accounts

The FCT will now comprise employers’ overall accounts, each corresponding to the individual account balances of each of its employees.

> Accessing and mobilizing balances

Employers can access the balances of overall accounts from the last quarter of 2023 to December 31, 2026, considering their value in euros on the date they were created.

During this period, balances below €400,000 can be mobilized up to two times, and those above that amount up to four times. The amounts mobilized must be used before the date the FCT is terminated and are reimbursed after the deduction of the sums that the employer owes to the FGCT.

Given the restrictions on accessing and mobilizing balances, employers should carefully assess the needs and priorities for investment, training, housing, and employee compensation based on the amount available, the number of mobilizations allowed, the time limit for use, and reimbursement to the FGCT.



FGCT

> Individual inclusion

- > The FGCT is now an individual and compulsory inclusion fund.
- > After the employer informs Social Security that the employee has been hired, Social Security automatically communicates the employee's inclusion in the FGCT.

> Purpose

The mechanism is designed to guarantee employees' right to receive half of the compensation amount due on termination of the employment contract.

> Payment of contributions

Inclusion in the FGCT means the employer is obliged to pay the respective contributions from the start of each employment contract until the date it is terminated. The amount of the employer's contributions to the FGCT is 0.075% of the base salary and seniority payments owed to each affected employee.

The amount calculated from the sum of the balances transferred from the FGCT to the FCT is returned to the FGCT:

- Corresponding to 50% of the annual surplus balances that the FGCT delivered to the FCT between 2016 and 2023, minus the operating costs that the FCT incurred during the same period.
- This refund will entail a decrease in the FCT's overall value, which will be reflected in the value of the fund's units and in each employer's overall balance.

> Liquidation and termination of FCT

In the event of the liquidation or termination of the FCT, any amounts that have not been redeemed by employers or amounts that, following a request for reimbursement, cannot be transferred for reasons not attributable to the FCT or its managing body, will be returned to the FGCT.



Termination and suspension of obligations

- The obligations to join and pay contributions to the FCT are terminated.
- The obligation to join the equivalent mechanism instead of the FCT is terminated.
- The obligations to enroll new employees and pay contributions to the FGCT are suspended for the duration of the Medium-Term Agreement for the Improvement of Incomes, Salaries and Competitiveness.
- Ongoing regulatory offense proceedings and debts relating to contribution arrears to the FCT, as well as the enforcement proceedings brought to collect them and the respective default interest, are also declared terminated.

Duration

- Decree-Law 115/2023 enters into force on January 1, 2024.
- The return to the FGCT of the amount calculated on the sum of the balances transferred from the FGCT to the FCT took effect on December 16, 2023.

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