
Employment Law

Newsletter | Portugal

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I. EU Legislation

Regulation (EU) 2019/1149 of the European Parliament and of the Council of June 20, 2019 Establishes the European Labor Authority

The European Labor Authority will assist the Member States and the Commission in issues pertaining to the effective application and enforcement of the European Union law related to cross-border labor mobility across the Union, and the coordination of social security systems within the Union.

The Authority's objectives include helping to ensure fair labor mobility across the Union and supporting the Member States and the Commission in social security coordination. To that end, the Authority has been invested with:

- > Improving access to information about rights and obligations in the area of labor mobility across the Union, as well as related services;
- > Supporting and strengthening cooperation between the Member States in the application and enforcement of Union law throughout the Union, in particular by facilitating the carrying out of concerted and joint inspections;
- > Mediating and facilitating solutions in the case of cross-border disputes between the Member States, and
- > Enhancing cooperation between the Member States in tackling undeclared work.

This Regulation is directly applicable in all the Member States.

Directive (EU) 2019/1152 of the European Parliament and of the Council of June 20, 2019 The purpose of this Directive is to promote transparent and predictable working conditions in the European Union

This Directive lays down minimum rights that apply to every employee in the European Union, who has an employment contract or employment relationship as defined by the law, collective bargaining agreements or practice in force in each Member State. The purpose of this Directive is to improve working conditions by promoting more transparent and predictable employment while ensuring labor market adaptability.

Member States must comply with this Directive by August 1, 2022.



**Directive (EU) 2019/1158 of the European Parliament and of the Council of June 20, 2019
Regarding work-life balance for parents and carers**

This Directive lays down minimum requirements designed to achieve equality between men and women with regard to labor market opportunities and treatment at work, by facilitating the reconciliation of work and family life for employees who are parents or carers.

Member States must comply with this Directive by August 2, 2022.

II. Extension Orders

Sector	Order
Foodstuffs Trade and Industry	Order no. 193/2019 - Diário da República no. 119/2019, Series I, June 25, 2019 Establishes the extension of the collective bargaining agreement between ANCIPA – National Association of Foodstuffs Trade and Industry and SETAAB - National Trade Union of Farming, Fisheries, Tourism, Food and Beverages Sector and Similar Workers (horticulture industry).
Chilled Food Industry	Order no. 195/2019 - Diário da República no. 120/2019, Series I, June 6, 2019 Establishes the extension of the collective bargaining agreement between ALIF - Chilled Food Industry Association and SETAAB - National Trade Union of Farming, Fisheries, Tourism, Food and Beverages Sector and Similar Workers.



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<p>Foodstuffs Trade and Industry</p>	<p>Order no. 196/2019 - Diário da República no. 120/2019, Series I, June 26, 2019 Establishes the extension of the collective bargaining agreement between ANCIPA – National Association of Foodstuffs Trade and Industry and SETAAB - National Trade Union of Farming, Fisheries, Tourism, Food and Beverages Sector and Similar Workers (crisps, snacks and similar products).</p>
<p>Solidarity Institutions</p>	<p>Order no. 197/2019 - Diário da República no. 120/2019, Series I, June 26, 2019 Establishes the extension of the amendments to the collective bargaining agreement between CNIS - National Confederation of Solidarity Institutions and FNSTFPS – National Federation of Trades Unions of Civil and Social Services Employees.</p>
<p>Metal, Metalworking and Similar Industries</p>	<p>Order no. 204/2019 - Diário da República no. 126/2019, Series I, July 4, 2019 Establishes the extension of the amendments to the collective bargaining agreement between AIMMAP- Portuguese Association of Metal, Metalworking and other related Sectors and SINDEL – National Industry and Energy Trades Union.</p>
<p>Pharmaceutical Industry</p>	<p>Order no. 205/2019 - Diário da República no. 126/2019, Series I, July 4, 2019 Establishes the extension of the amendments to the collective bargaining agreement between APIFARMA - Portuguese Pharmaceutical Industry Association and COFESINT - Industry,</p>



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	Energy and Transports Trade Unions Federation and one other.
Electrical and Electronic Sector	Order no. 206/2019 - Diário da República no. 126/2019, Series I, July 4, 2019 Establishes the extension of the amendments to the collective bargaining agreement between the Portuguese Association of Electrical and Electronic Sector Companies and FETESE - Industry and Services Trade Union Federation.
Wheat, maize and rye milling Industry	Order no. 207/2019 - Diário da República no. 126/2019, Series I, July 4, 2019 Establishes the extension of the amendments to the collective bargaining agreement between the National Association of Wheat, Maize and Rye Industrial Mills and FESAHT – Portuguese Confederation of Farming, Food, Beverages, Catering and Tourism Trade Unions.
Casings Manufacturing and Similar	Order no. 208/2019 - Diário da República no. 126/2019, Series I, July 4, 2019 Establishes the extension of the amendments to the collective bargaining agreement between ITA - Portuguese Association of Manufacturers of Casings and Similar Products and SinCESAHT – Trade, Offices, Services, Foodstuffs, Catering and Tourism Trade Union.
Private Hospitals	Order no. 209/2019 - Diário da República no. 126/2019, Series I, July 4, 2019 Establishes the extension of the amendments to the collective bargaining agreement between APHP – Portuguese



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	Association of Private Hospitals and FESAHT – Portuguese Confederation of Farming, Food, Beverages, Catering and Tourism Trade Unions and one other.
Pharmaceutical Industry	Order no. 211/2019 - Diário da República no. 127/2019, Series I, July 5, 2019 Establishes the extension of the amendments to the collective bargaining agreement between APIFARMA - Portuguese Pharmaceutical Industry Association and SITESE - Services, Trade, Catering and Tourism Workers and Technicians Trade Union.
Meat Trade – Lisbon	Order no. 212/2019 - Diário da República no. 127/2019, Series I, July 5, 2019 Establishes the extension of the amendments to the collective bargaining agreement between Lisbon Municipality Meat Traders' Association and Trade Union of Meat Trade and Industry Workers of Southern Portugal.
Foodstuffs Trade and Industry	Order no. 213/2019 - Diário da República no. 127/2019, Series I, July 5, 2019 Establishes the extension of the amendments to the collective bargaining agreement between ANCIPA – National Association of Foodstuffs Trade and Industry and SITESE - Services, Trade, Catering and Tourism Workers and Technicians Trade Union (fruit confectionery and preserves – clerical staff).
Wholesale Trade in Chemical Products and Pharmaceuticals	Order no. 215/2019 - Diário da República no. 130/2019, Series I, July 10, 2019



	Establishes the extension of the amendments to the collective bargaining agreement between GROQUIFAR – Chemical and Pharmaceutical Products Wholesalers' Association and SITESE - Services, Trade, Catering and Tourism Workers and Technicians Trade Union (pharmaceuticals).
Wholesale Trade in Chemical Products and Pharmaceuticals	Order no. 216/2019 - Diário da República no. 130/2019, Series I, July 10, 2019 Establishes the extension of the amendments to the collective bargaining agreement between GROQUIFAR – Chemical and Pharmaceutical Products Wholesalers' Association and COFESINT - Industry, Energy and Transports Trade Unions Federation and one other (pharmaceuticals).

III. National Case-law

Ruling by the Lisbon Court of Appeal, of July 11, 2019

Employees' private conduct is only relevant if it affects the company organization or the bond of trust between employer and employee

An employee brought proceedings against her employer, contesting her dismissal. The Court of first instance ruled in her favor and considered the dismissal to be unfair. As a result, the employer lodged an appeal before the Lisbon Court of Appeal.

The employee had been recruited by the employer to work as a cleaner. At the time of the events, the employee was performing her duties in a school, which was her employer's client. Her employer became aware of an episode involving her and a student attending the same school, which gave rise to disciplinary proceedings and ultimately led to her dismissal.



The employee had sent written messages to the said student via Facebook, threatening and insulting her, in view of an alleged affair between her partner and that student. The employee's behavior caused the student to complain to the School Board, which in turn lodged a complaint to the company calling for the employee to be replaced forthwith and warning that failure to do so could result in termination of the services contract between the school and the employer.

In its analysis of the grounds for dismissal, the Court of Appeal pointed out that the written message had been sent by the employee through Facebook, on a Saturday, when she was not working for her employer. Consequently, the message was, without doubt, personal in nature.

Hence, the Court considered that private conduct was not relevant in itself to the merits of the case, but only its possible effect on the company organization or the bond of trust between the employer and the employee. In this light, it judged that the employee's behavior had had an impact on her professional commitments and had significantly affected the company's interests, by undermining its relationship with a client. Furthermore, the Court added that the employee was obliged to act loyally towards her employer, which entailed moderating her conduct in order not to jeopardize the employer's business interests, whilst in this particular case, her behavior had given rise to the client's complaint and demands.

Notwithstanding, even though the Court found the employee's conduct to be reprehensible, it ruled that the harm caused to the employer was limited to the client's discontent and the ensuing request for the employee to be replaced and, failing that, the threat of possible termination of the services contract. Moreover, the Court found that it had not been proved that the employee's conduct had caused the student fear or duress. In light of the foregoing, the Court judged the dismissal to be unfair.

Ruling by the Lisbon Court of Appeal, of July 11, 2019

An air steward's approach to a passenger for the purposes of establishing personal contact with her later constitutes lawful grounds for dismissal

This case was brought to determine whether or not there were lawful grounds for the dismissal of an employee who worked as an air steward.

The employee brought legal proceedings to challenge his dismissal, which the Court of first instance ruled unfair and ordered the employer to reinstate him. The former then lodged an appeal before the Lisbon Court of Appeal.



The disciplinary proceedings brought to light that the employee had been a member of the crew on board a flight from Porto to Brazil, and that at a certain point during the flight, he had struck up conversation with a young passenger. He went on to ask her if she was on holiday; if she had visited Lisbon; how old she was; what her phone number was and tried to arrange to meet her. When the plane landed, the passenger, who was perturbed by what had happened, went to the Police at the Airport and filed a criminal complaint against the employee. This act caused the Brazilian Federal Police to subsequently notify the employer to identify the employee in question.

In view of the facts; the nature of the employee's "Air Steward" work and the appropriate type of behavior for performing it, as well as the employer's underlying business interests, as the national passenger airline competing at the highest level with various other similar commercial airlines, the Court found the employee's behavior to be wrongful, since he had the ability and the duty to behave quite differently, yet chose not to do so.

The Court also found that the employee had breached the professional obligations incumbent upon an "Air Steward", which comprise providing assistance to passengers on board and ensuring they have the safest and most comfortable journey possible.

Moreover, the Court considered that the employee's behavior could affect the employer's aspirations to a prestigious reputation or good name, since it had been contacted by the Brazilian Federal Police on account of his behavior.

The Court ruled that the behavior in question was so erroneous as to cause a breakdown in the employer's trust concerning the employee's attitude at work henceforth, since it had triggered a legitimate doubt about the employee's suitability for dealing with passengers on board in the same situation as that of the passenger in question.

The Court therefore ruled the dismissal fair, overturning the decision of the Court of first instance.



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