

The logo for ACT (Autoridade para as Condições do Trabalho) features the letters 'ACT' in a bold, white, sans-serif font. The 'A' is stylized with a triangular shape on its left side. The logo is set against a white background that is part of a larger teal graphic element.

AUTORIDADE PARA AS
CONDIÇÕES DO TRABALHO

Transnational Mobility of Workers

Instruments, Rules and Tools on Posting

Transnational Mobility of Workers and Companies Working Group

Legal Frame

- Treaties establishing the European Union
- Directive 96/71/EC, of 16/12/1996 (Posting of Workers Directive)
- Directive 2014/67/EU of 15/05/2014 (Enforcement Directive)
- Directive (EU) 2018/957 of 28 June 2018 (Revision of the Posting of Workers Directive)

Legal Frame

- Constitution of the Portuguese Republic
- Labor Code
- Law no. 29/2017, of 30-05, modified by Decree-Law no. 101-E/2020 of 7 December
- Decree-Law 260/2009, of 25-09
- IRCT
- Jurisprudence (national and community)

Factors in the growth of the phenomenon of posting in PT

Flexibility of freedom of movement

Economic Crisis/Globalisation

High unemployment rate in the construction sector

Construction companies expand business outside Portugal

Concept of posting in Portuguese law

There is a posting in situations when a worker, on behalf of his employer, for a limited period of time, goes to work in the territory of another State other than the one in which he habitually carries out his activity (inside or outside the European Economic Area).

Modalities of posting

- A. Posting of workers under a contract concluded between the employer (posting) and the recipient of the services;
- B. Posting of an employee to another establishment of the same undertaking or of an undertaking of the same group situated in another State;
- C. Posting carried out by a temporary work company or a company that makes the worker available to a user (occasional assignment regime).

Provided that, in any of the three cases, there is an employment relationship between the posting company and the posted worker.

Instruments, Rules and Tools on Posting

Working Conditions in Portugal

Worker posted to Portugal is entitled to the same working conditions as national employees, without prejudice to any more favorable regime contained in the law or contract of employment applicable in the country of origin:

- ✓ **security of employment**
- ✓ Maximum working time
- ✓ Minimum rest periods
- ✓ Holidays
- ✓ Minimum remuneration and overtime pay
- ✓ Assignment of workers by a temporary employment agency

Instruments, Rules and Tools on Posting

Working Conditions in Portugal

- ✓ Occasional assignment of workers
- ✓ Safety and health at work
 - ✓ **Protection in parental rights**
- ✓ Protection of child labor
- ✓ Equal treatment and non-discrimination
- ✓ The existence and conditions of accommodation, when made available by the employer;
- ✓ the remuneration, allowances and benefits inherent in the posting, it being assumed that these are paid by way of reimbursement of travel, food and accommodation expenses, when it is not determined which items are paid as remuneration

Instruments, Rules and Tools on Posting

Working Conditions in Portugal

Security of employment

- In Portugal, dismissal without just cause or for political or ideological reasons is prohibited.

Maximum length of working time

- The maximum weekly working period is 40 hours and the normal daily working period may not exceed 8 hours.

Minimum rest periods

- The daily working period must be interrupted by a rest period of not less than 1 hour and not more than 2 hours.
- The worker is guaranteed a minimum rest period of 11 hours between two consecutive daily working periods.
- The worker is entitled to at least 1 day of rest per week.

Instruments, Rules and Tools on Posting

Working Conditions in Portugal

- **Safety and Health at Work**

Portuguese legislation in this area is characterized by a set of rules based on the employer's responsibility to ensure the safety and health of workers, including those posted, in all aspects related to work.

- **Equal treatment and non-discrimination**

The employer may not discriminate on any basis such as descent, age, gender, sexual orientation, gender identity, marital status, family situation, genetic heritage, reduced work capacity, disability or chronic illness, nationality, ethnic origin, religion, political or ideological beliefs and trade union membership.

Instruments, Rules and Tools on Posting

Working Conditions in Portugal

- **Holidays**

Workers are entitled to a period of paid leave in each calendar year. The annual holiday period is, as a rule, a minimum of 22 working days.

- **Minimum wage and overtime payment**

There is a minimum wage (RMMG) which is set by the government, generally, annually.

If supplementary work and/or work performed during the night is provided, it will be remunerated with the increases established in the applicable labor code or applicable collective instrument.

Law No. 29/2017, 30.05 (Enforcement Directive)

It requires companies to:

- ✓ Provide information on the identity, the number of workers to be posted, the start and end dates of the posting, the address of the workplace and the nature of the services to be provided
- ✓ Designate a contact person to liaise with the ACT
- ✓ Retain relevant documentation, such as employment contracts, pay slips and time records

Instruments, Rules and Tools on Posting

Posting declaration to Portugal

Before the beginning of the activity:

- ✓ Submit a declaration to the ACT containing the following information:
- ✓ Identity of the service provider
- ✓ No. and identification of workers to be posted
- ✓ Identification of the person liaising with ACT
- ✓ Length of posting, indicating start and end dates
- ✓ Address of place/place of work
- ✓ Nature of the services justifying the posting

Instruments, Rules and Tools on Posting

Posting declaration to Portugal

[http://www.act.gov.pt/\(pt-PT\)/CentroInformacao/DestacamentoTrabalhadores/Destacamentodetrabalhadores/Paginas/default.aspx](http://www.act.gov.pt/(pt-PT)/CentroInformacao/DestacamentoTrabalhadores/Destacamentodetrabalhadores/Paginas/default.aspx)

Declaração de destacamento de trabalhadores em território português
Prestador de Serviços estrangeiro (Entidade Empregadora)

* Denominação Social:
* Morada Sede Comercial:
Localidade: Código Postal:
* País: * Nif:
-- Escolha --
* Email: Nº de Telefone (Deve conter indicativo):

Local de trabalho *
Novo Local de trabalho

Trabalhador por conta de outrem *
Novo Trabalhador

Locais de trabalho dos trabalhadores *
Adicionar

Natureza dos serviços que justificam o destacamento
Destinatário da prestação de serviços em Portugal

* Denominação Social: * Nif:
* Morada:
* Código Postal: * Localidade:

***Atividades:**

Agricultura:
 Atividades Administrativas e dos Serviços de Apoio:
 Construção:
 Indústrias Transformadoras:
 Outras Atividades:

Natureza dos serviços que justificam o destacamento
Destinatário da prestação de serviços em Portugal

* Denominação Social: * Nif:
* Morada:
* Código Postal: * Localidade:

***Atividades:**

Agricultura:
 Atividades Administrativas e dos Serviços de Apoio:
 Construção:
 Indústrias Transformadoras:
 Outras Atividades:

Duração previsível do destacamento:
* Inicio: * Termo:

Pessoa designada pelo prestador de serviços para estabelecer ligação com a ACT, bem como, se for o caso, para articular com os parceiros sociais.

* Nome completo ou denominação social:
* Morada em território Português (Caso Exista):
Localidade: Código Postal:
* Email: Nº de Telefone (Deve conter indicativo):

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Instruments, Rules and Tools on Posting

Posting declaration to Portugal

During the period of posting:

- ✓ Preserve copies of:
- ✓ Employment contract or written information;
- ✓ Retribution receipts;
- ✓ Registration of working times;
- ✓ Proof of payment of wages.

These documents must be available in an accessible and clearly identified place in Portugal, namely at the workplace indicated in the declaration.

Assign ACT contact person:

The designated person does not have to be a Portuguese national and must be contactable and available in case of needing to liaise with ACT.

Instruments, Rules and Tools on Posting

Posting declaration to Portugal

After the period of posting:

- Present, up to one year after the end of the posting, the referred documents, if requested by ACT in an inspection.
- It must be presented in Portuguese or accompanied by a translation, certified under the legal terms.

Instruments, Rules and Tools on Posting

Joint and several liability of the contractor

Under Article 12, the contractor to whom the service is provided is jointly and severally liable for any overdue net remuneration due to the worker posted by the service provider as a direct subcontractor.

In the Portuguese legal system this mechanism applies to all sectors of activity.

Instruments, Rules and Tools on Posting

Transnational collection of sanctions/fines

- Provides for the possibility of notification of decisions imposing penalties or fines imposed in another Member State
- Establishes the possibility of transnational recovery of fines or financial penalties imposed in another Member State

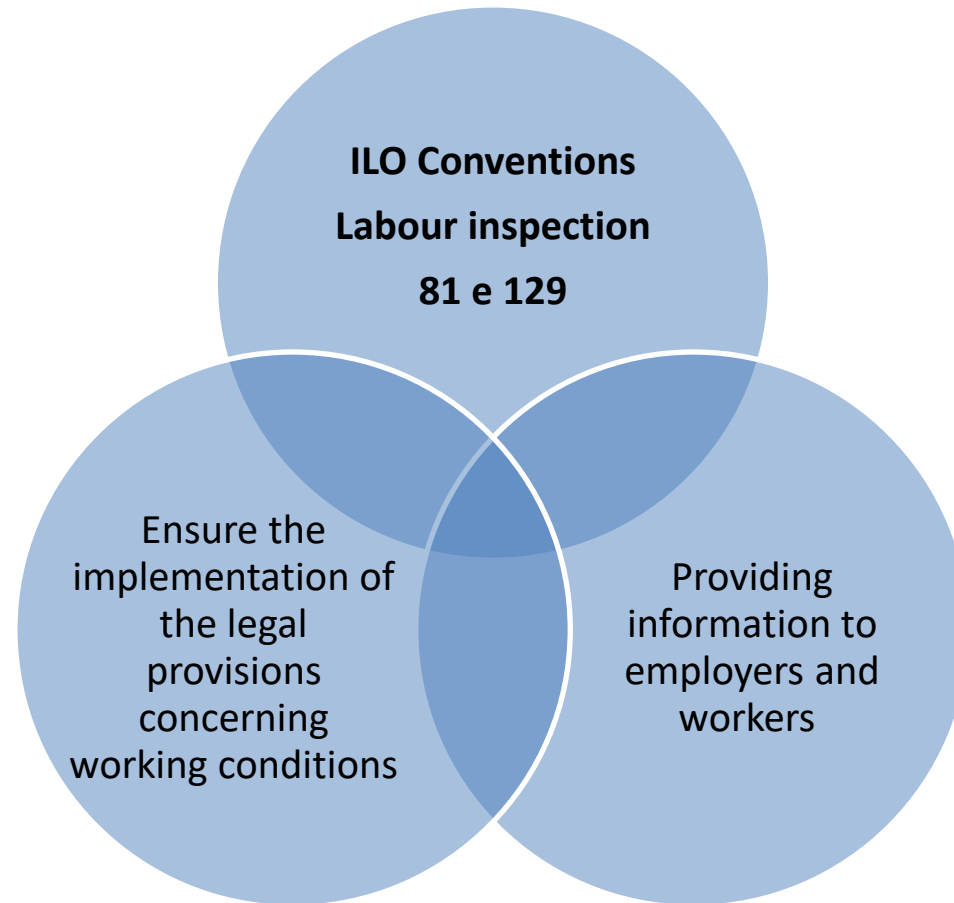
Connection situations

- **Labor intermediation**
- **Cross-border working:**
workers residing in one Member State and working in another Member State for an employer established in the latter

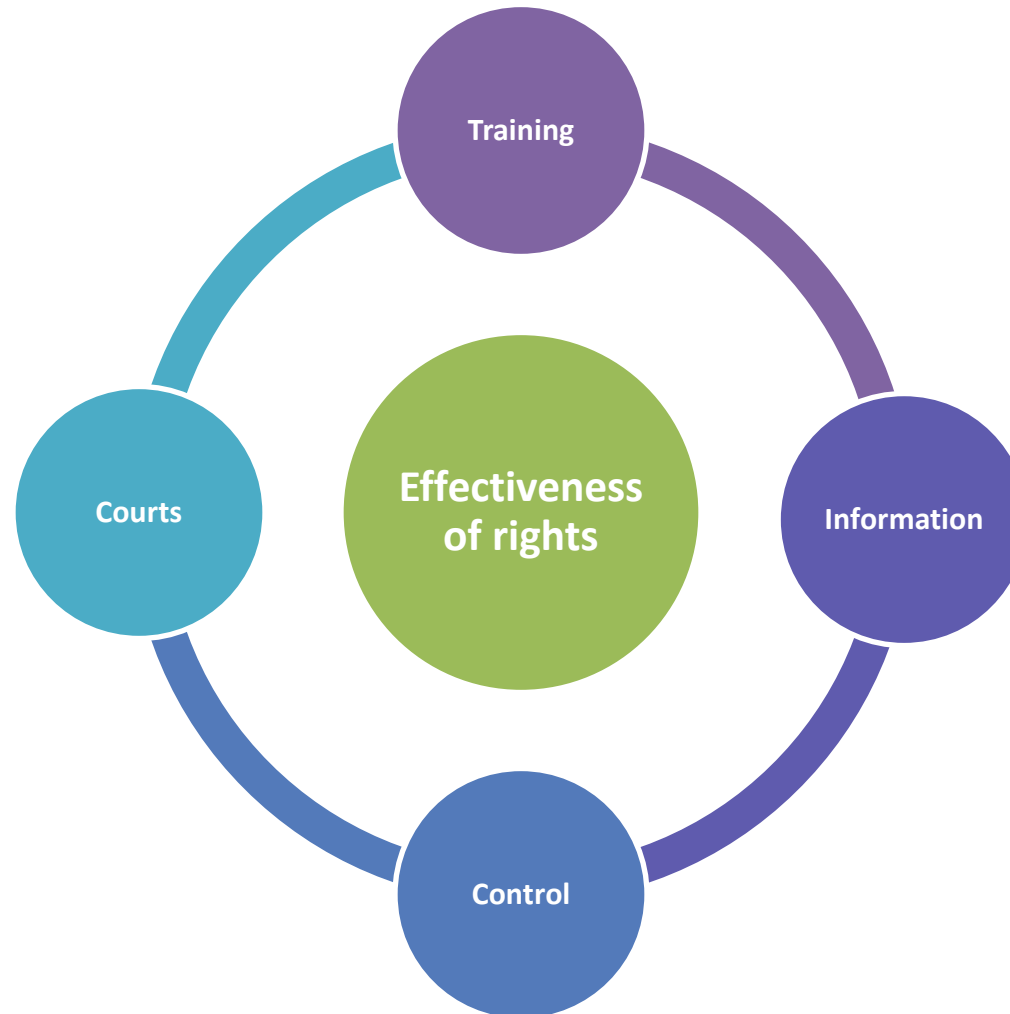
Principal irregularities

- Lack of declaration of the posting to ACT
- Minimum pay and payment of overtime work
- Working hours
- Lodging conditions

Labor Inspection services



Defending the rights of posted workers



Defending the rights of posted workers

Training

- Key players
 - Labour inspectors
 - Magistrates
 - Employers and representatives
 - Workers and representatives

Defending the rights of posted workers

Information

- Practical guides
- Information sheets
- Leaflets
- FAQ
- Response to information requests

Defending the rights of posted workers

Information Channels

- Website
- Info service in the offices of LI
- Telephone information service
- Inspection visits
- Seminars/Workshops
- Information campaigns
- Social communication / social networks

Defending the rights of posted workers

Control

- Powers of labour inspectorates
- Cooperation
 - Cooperation
 - Social Security/ Courts of Justice/ OPC/ Social Partners
 - External
 - IMI system
 - Bilateral agreements
 - European projects
 - Eurodétachement
 - Reder

Instruments, Rules and Tools on Posting

Information on Posting

- [http://www.act.gov.pt/\(pt-PT\)/CentroInformacao/DestacamentoTrabalhadores/Paginas/default.aspx](http://www.act.gov.pt/(pt-PT)/CentroInformacao/DestacamentoTrabalhadores/Paginas/default.aspx)

Practical Guide on Transnational Mobility of Workers and Companies

- [http://www.act.gov.pt/\(pt-PT\)/crc/PublicacoesElectronicas/Relacoesdetrabalho/Documents/Mobilidade%20Transnacional%20de%20Trabalhadores%20e%20Empresas.pdf](http://www.act.gov.pt/(pt-PT)/crc/PublicacoesElectronicas/Relacoesdetrabalho/Documents/Mobilidade%20Transnacional%20de%20Trabalhadores%20e%20Empresas.pdf)

Information request

- [http://www.act.gov.pt/\(pt-PT\)/CentroInformacao/DestacamentoTrabalhadores/Paginas/default.aspx](http://www.act.gov.pt/(pt-PT)/CentroInformacao/DestacamentoTrabalhadores/Paginas/default.aspx)

Instruments, Rules and Tools on Posting

IMI Requests received by PT

COUNTRY	IMI Requets 2019	IMI Requets2020
AT	58	14
BE	86	91
ES	3	2
FR	27	13
NL	1	1
LU	2	1
Blank		2
Total	177	124

Posting from Portugal in 2019 e 2020

2019

Country	Nº Declarations	Nº employees
Total	8564	33077
FRANCE	3998	14389
BELGIUM	1135	6504
SPAIN	1402	5478
GERMANY	397	1933
NETHERLANDS	305	801
ITALY	85	372
UNITED KINGDOM	96	365
SWEDEN	56	347
LUXEMBOURG	89	301
AUSTRIA	70	281
Other Country	931	2306

2020

Country	Nº Declarations	Nº employees
Total	3282	11440
FRANCE	1307	4229
SPAIN	739	2324
BELGIUM	414	1586
AUSTRIA	64	1370
NETHERLANDS	250	539
GERMANY	111	442
SLOVAKIA (REPUBLIC)	27	202
UNITED KINGDOM	27	67
ITALY	17	64
SWEDEN	35	53
Other Country	291	564

Posting from Portugal in 2019 e 2020

2019- Sector of activity - SWEDEN	Nº Declarations	Nº employees
Total	56	347
Manufacture of metal molds	2	2
Manufacturing of motors, generators and electric transformers	2	2
Repair and maintenance of machinery and equipment	1	7
Building construction	16	45
Construction of railroads	4	7
Construction of electricity transmission and distribution networks	4	25
Construction of other civil engineering works n.e.c.	22	201
Floor and wall covering	1	5
Other miscellaneous specialised construction activities n.e.c.	2	50
Engineering activities and related technical consultancy	1	1
Activities of personnel selection and placement companies	1	2

2020 - Sector of activity - SWEDEN	Nº Declarations	Nº employees
Total	35	53
Building construction	18	27
Electrical installation	13	21
Other building installation	1	2
Wholesale of other machinery and equipment	2	2
Engineering activities and related technical consultancy	1	1

Posting to Portugal in 2019 e 2020

2019

Country	Nº Declarations	Nº employees
Total	807	2499
SPAIN	422	1119
MAN ISLAND	63	602
BULGARY	27	173
GERMANY	127	172
ITALIA	92	146
POLAND	10	114
NETHERLANDS	5	28
SLOVENIA	4	22
AUSTRIA	10	14
MAROCCOS	3	14
Other Country	44	95

2020

Country	Nº Declarations	Nº employees
Total	77	166
SPAIN	37	108
GERMANY	17	19
ITALY	8	10
MAROCCO	3	9
NETHERLANDS	1	5
PHILIPPINES	1	2
MAN ISLAND	1	2
SMALLER ISLANDS AWAY FROM THE ES	1	2
VENEZUELA	1	2
AUSTRALIA	1	1
Other Country	6	6

Posting to Portugal in 2019 e 2020

2019- Sector of activity	Nº Declarations	Nº employees
Total	807	2499
Installation of industrial machinery and equipment	50	337
Construction of other civil engineering works n.e.c.	75	295
Construction of buildings	80	285
Travel agency activities	1	240
Construction of roads and airfields	23	125
Other miscellaneous manufacturing n.e.c.	22	104
Other Sector of Activity	251	1113

2020 - Sector of activity	Nº Declarations	Nº employees
Total	77	166
Retail trade in supermarkets and hypermarkets	10	43
Road and airport runway construction	5	21
Retail sale of food, natural and dietary products	4	17
Retail sale of sporting, camping and leisure goods	7	12
Other miscellaneous manufacturing n.e.c.	4	10
Construction of other civil engineering works n.e.c	4	7
Other Sector of Activity	43	110

Transnational Mobility of Workers



Thank you for the attention