



Portugal Risk Assessment

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Portugal Risk Assessment

Portugal is still recovering from the consequences of the most critical economic and social crisis in its recent history. Fair Wear Foundation considers Portugal a low risk country for production, in accordance with its [Low Risk Policy](#). This means that, while Fair Wear considers there are properly functioning institutions which can guarantee compliance with basic standards, Fair Wear members are still required to monitor all their production in the country, as established in the [Brand Performance Check guide 2016 edition](#). This research analyses the main issues relevant to Fair Wear's Code of Labour Practices in Portuguese supply chains. It identifies legal requirements and their application, and international standards, and is supported by stakeholder contributions. Three main areas that are relevant for Fair Wear's Code of Labour Practice have been identified: payment of a living wage, reasonable hours of work and compensation, and health and safety at production sites.

THE GARMENT INDUSTRY IN PORTUGAL

Textiles and clothing are Portugal's largest industrial sectors. According to ATP (Association of Portuguese Textiles) these sectors include more than 5 000 companies and employ about 123,463 workers, or 20% of those employed in Portugal¹. Most workers in the garment industry are women with few years of education and relative older than in other garment production countries.

The Portuguese garment industry is geographically concentrated. Around 70% of the garment production is done in the regions in the north of Portugal, particularly Porto and Braga. Roughly 80% of the total garment production in Portugal is meant for export, and includes the production of quality jeans.

Labour conditions in Portugal were greatly affected by the global crisis of 2008. Since the start of the 2008 crisis one in seven jobs has been lost and unemployment has reached a historic peak of more than 17%. The crisis has disproportionately hit young people: the unemployment rate for people aged 15–24 exceeded 37% in July 2013, and was more than 40% for young women. Average earnings have dropped, and the incidence of temporary work in Portugal is one of the highest in the EU and continues to rise. In 2012, 20% of employees had temporary status in Portugal, compared to 14% in the entire EU². These percentages also apply to the garment industry.

¹ ATP - <http://www.atp.pt/gca/index.php?id=18>

² ILO Studies ON GROWTH WITH EQUITY - TACKLING THE JOBS CRISIS IN PORTUGAL

Changes seeking to overcome the impact of the economic crisis on the garment industry have been incorporated into labour legislation. For example, laws related to the calculation of working hours have been made more flexible to increase adaptation to shrinking orders and higher variations in peak and low seasons. Revisions to the labour code, together with specific measures established by the European Union to aid recovery, have affected power relations in the industry. The bargaining position of social partners in specific issues, such as living wages, has been weakened partly as a result of these emergency measures to help economic recovery.

While there is freedom of association in Portugal, the number of unionised workers is relatively low in the textile sector. This is because factories in Portugal are generally small. According to local trade union SINDEQ, 90% of the factories have fewer than 50 employees, with some homeworkers, with most factories employing between 5 and 10 workers. Subcontracting is very common in the Portuguese textiles and garment sector. Subcontractors are often not included in the monitoring programs of brands, who often are unaware of the existence of these production locations.

LEGISLATIVE PROFILE

The main labour law in Portugal is the Código do Trabalho, the Labour Code. This and related legislation on working conditions and labour relations is relatively strict compared to legislation in other garment production countries. There is a complaints system, managed by the national Labour Inspection, which creates access to remedy for garment workers. For urgent or dangerous cases there is the possibility to call the Labour Inspection for immediate action. Regular complaints are submitted in writing and can be handed in digitally, through the website, or mailed to one of the offices. Several aspects of the Labour Code changed substantially after August 2012, when the EU-led Financial Assistance Programme for Portugal came into force, although some of these changes will only be in effect as long as the Financial Assistance Programme is in place. The first step was concluded in January 2015. Nevertheless, Portugal is still under EU Post-Programme Surveillance³

³ http://ec.europa.eu/economy_finance/assistance_eu_ms/portugal/index_en.htm

Among the most relevant changes to labour law are:.

- The creation of a database of individual and group hours—if the employee works additional hours those hours can be compensated with free time, longer holidays or cash (at lower value than overtime). This means more flexibility in calculating working hours and in how they are compensated (for example, by compensating hours worked in peak periods with time off in the low season).
- The introduction of changes that facilitate the use of reduced normal working hours or even lay-offs by reason of company crisis.
- The easing of redundancies and lower compensation—20 days for each year of work are paid out, and the remuneration which forms the basis of calculation may not exceed 20 times the minimum wage.

Amnesty International is concerned that the austerity measures introduced by the government in the context of the international financial and economic crisis have had a negative impact on the enjoyment of human rights, in particular on the realisation of economic and social rights, by the most vulnerable groups in Portuguese society.⁴

The revision of the labour legislation has affected power relations within the industrial relations system in Portugal. Since they enable more flexible labour market practices, lower labour costs, and establish new working time arrangements, these measures seemingly strengthen the position of employers. They also appear to weaken the bargaining power of social partners to influence further change in worker conditions.

COLLECTIVE AGREEMENTS

Portugal traditionally has had a high level of collective bargaining coverage – partially through the extension of agreements by the government, and public authorities consult social partners regularly. For the garment sector, the main players in industrial relations are unions FESETE and SINDEQ and employers' associations ATP and ANIVÉC. Unions compete with each other while the employers' associations have a cooperative relationship.

Collective bargaining takes place on a more regular basis than in many other sectors and has considerable coverage. Collective bargaining agreements are based on the type of industry and the

⁴ <http://www.amnesty.org/en/library/asset/EUR38/001/2014/en/e2d62993-fb90-4837-a9ab-8f54001643e4/eur380012014en.pdf>

unions that operate in a given factory. A collective, industry-level agreement, also known as CCT, refers to an agreement concluded between employers (entrepreneurs and employers' associations) and trade unions for the purpose of regulating the working conditions to be enforced for specific industry sectors. It can be signed at the national, regional or local level. Other types of collective bargaining agreements are single-company agreements, or AEs, or multiple company agreements, so-called ACTs⁵. According to law, only the trade unions, the employers and employers' associations have the capacity to conclude CCTs (article 3 LRCT).

Labour in the garment industry is regulated by collective agreements. Several CBAs are in place, and those can be applied to factories based on the agreement between employer and employee. However, often the agreements are no longer current, because of the complex and long nature of the consultations.

Collective agreements expire five years after they were reached or five years after one of the parties has indicated that it wishes the terms to be renegotiated. However, the terms of the collective agreement continue to apply for at least 18 months after the expiration of the agreement.

⁵ See Collectively agreed wage increases in Portugal by Reinhard Naumann with Raquel Rego & Ana Cristina Pontes, Instituto Ruben Rolo <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Portugal/Collective-Bargaining>

Risks for Fair Wear labour standards

1. REASONABLE HOURS OF WORK

Law Reference: Law on the approval to revisions of the Labour Code No.7 (2009), Annex(relevant Art. 197 to 221)

According to the Labour Code, the standard working day should not exceed 8 hours per day and 40 hours per week, with no more than 5 consecutive hours. There should also be a rest period of between one and two hours, so that there working hours shall not exceed 8 hours per day and 40 hours per week. These standards can be modified by collective agreement.

Specific Country Situation

The Portuguese Labour Code opens the door to flexible work schedules within limits, in order to enable enterprises to be more adaptable to the needs of a changed economic panorama. New guidelines have been defined for working hours, with greater adaptability aimed at safeguarding the necessary periods of rest, and agreed by way of collective bargaining.

Collective agreements on normal workdays can be defined based on an average calculation. The daily limit may be extended to 12 hours and the working week could reach 60 hours and 200 hours per year, as long as the average of working hours over two months does not exceed 50 hours per week. The hours of work conducted outside of standard working hours, shall be considered overtime (known as work supplement). The law sets a maximum limit of two hours on a normal day and 8 hours per week. Overtime is limited to 175 hours per year in the case of micro and small enterprises, and 150 hours per year for medium and large companies.

Employers can define the average working day together with employees. Times can be increased to 10 hours per day or 50 hours per week, or reduced to 6 hours per day. For this to be applied to a team, section or economic unit, the proposal should be accepted by at least 75% of the workers that make up the team.

The economic crisis has had a strong impact on the production fluctuation and working hours at each company. Once a factory receives an order from a client, everything is done to ensure that the order is delivered within the time required. Sometimes work orders are too big for the manpower employed; therefore overtime and flexibility are required.

To adapt to this, the employer can use the so-called time bank, or banco de horas. This tool is regulated internally and by CBA to guarantee flexibility. During peak seasons, working hours can be increased according to the legal limits described above; this work is not considered overtime and may be compensated through an equivalent reduction of working time, an increased holiday period, or a payment.

Unions have frequently reported risks connected to the flexibility method and the "banco de horas". According to the CBA, employers extend the working hours to 12 hours a day or 60 a week. However it is very rare to find an internal monitoring system to ensure that the average of 50 hours per week over two months is respected. Risks related to more than 7 consecutive days of work have been also reported.

Time records are maintained only by larger factories. Smaller sites do not formally record working hours. The lack of time record evidence does not mean that working hours regulations are respected. The "banco de horas" is often used, yet it is rarely documented. Therefore it is complicated to assess whether the extra time worked is compensated in terms of equivalent reduction of time or increased holiday periods.

With regards to overtime, substantial changes on the payment of overtime and holiday work were introduced between 2012 and 2013, in line with the Financial Assistance Programme for Portugal, and as established in Law 23/2012 of 25 June 2012. The changes to the Labour Code overrides what until then had to be agreed upon between employers and unions on payment for overtime and holiday work.

Starting from January 1, 2015 employees whose activity is not regulated by an applicable CCT are paid for overtime and holiday work according to the percentages specified in the Labour Code, which amount to 25% for the first extra hour or fraction worked during workdays, 37.5% for subsequent hours or fractions during workdays, and 50% per hour worked during rest days or bank holidays. Employees working under a CCT that has specific clauses on additional work must be paid according to the latest revision of the applicable agreement.

2. PAYMENT OF A LIVING WAGE

Law Reference: Law on the approval to revisions of the labor code No.7 (2009), Annex

Employees are entitled to equal working conditions, particularly equal pay for work of equal value. Remuneration should be paid periodically, as agreed, and it should include a base salary and any other regular and periodic fees. The monthly minimum wage includes in-kind benefits, such as food and housing, commissions on sales or production premiums, as well as some types of bonus payments, but does not include allowances, bonus, gratuity or benefits awarded due to accident, or for a period longer than one month.

Law on the Approval to Revisions of the Labor Code No. 7 (2009) Amendment (2012), Annex, Art. 305

According to this law, in times of reduced work activity, employees are entitled to a monthly minimum equal to two-thirds of their regular work compensation, or the value of the minimum wage of their normal working hours, whichever is higher. They are also entitled to keeping social security benefits, without reduction, and to be employed elsewhere. Compensation during a reduction in working hours is paid by the public authority in the area of social security for 70%, while the employer pays the remaining 30%.

Specific Country Information

Worker wages in Portugal are conditioned by two thresholds. The first is the national minimum wage, which specifies a floor for most of the labour force. The second is wage bargaining between employers' and trade union associations, which leads to a "wage grid" with the minimum wage for each professional group.

More than 600,000 people in Portugal earn the minimum wage. In July 2014 the Portuguese government raised the country's monthly minimum wage by 20 Euros, to 505 Euros. Still, the minimum wage in Portugal is the lowest in Western Europe, well below neighbouring Spain's 752.82 Euros. The decision to increase the minimum wage came after weeks of negotiations between unions and business leaders. While largely seen as a positive sign, unions still believe that the raise was insufficient, particularly because the social security contributions on employee wages have dropped slightly, from 23.75% to 23%.

The textile sector is one of the lowest paid in Portugal. According to union reports and audit results 90% of the workers receive only the minimum wage. Interviews with relevant stakeholders (unions and workers) reveal that the minimum wage is granted; however, low production periods can lead to wage reductions.

3. SAFE AND HEALTHY WORKING CONDITIONS

Law Reference: Law on the Legal status of the promotion of safety and health at work No. 102 (2009), and the Ordinance on general regulation of safety and hygiene at work in industrial establishments No.702.

Specific Country Information

Overall working conditions at Portuguese factories are considered acceptable due to the frequent controls by authorities, especially when factories open or must renew their permits. However, there are still several unresolved issues that require attention. 10 Most companies provide medical and safety-and-hygiene-at-work services; however, most workers and stakeholders interviewed for this assessment reported that their companies do not provide information about occupational risks. Training sessions on safety and hygiene at work are rarely delivered. The lack of knowledge of evacuation procedures, and the lack of trained health and safety teams are common in Portugal.

While no critical health and safety problems have been found in clothing production sites, this does not mean problems are not present. Workers face issues related to physical effort at work, such as standing for long periods, maintaining a tiring position for a long time, or being exposed to very loud or piercing noise in their workplace, at least part of the time. Other common occupational risks refer to the inhalation of toxic materials, as well as injuries on machines and injuries from working tools.

And often these risks are only addressed at the main production sites. Yet many factories use subcontracted work to perform tasks such as dying and printing, and health and safety conditions tend to be more precarious in these situations.

Finally, the crisis has pushed employers to save on investments. Therefore machines are replaced less often and their use becomes more dangerous with time. The small size of production sites and the often informal subcontracting policies, make it difficult for brands to fully monitor the health and safety conditions at all production sites.

Conclusions

The Risk Assessment underlines how unions and Collective Bargaining still play a strong role in the labour sector, especially with regards to compensation and employee rights. Despite the crisis, unions are still active in the garment industry and they regularly visit the facilities and speak to the employees. Employers accept the presence of the unions and allow meetings with workers and social partners.

The main risks are currently related to minimum wage which is often applied at all levels, regardless of experience or responsibilities, and is rarely increased. It should be noted that 85% of workers in Portugal receive a minimum wage.

The minimum wage continues to be lower than the living wage for many workers in the garment sector. This is why employees often engage in overtime, which is in fact often paid at a lower level of compensation than the one prescribed by law, and is often unregistered.

Another risk is connected to health and safety conditions. The economic crisis has pushed employers to save on investments. Therefore machines are rarely replaced and become more dangerous to use. Also, training is not conducted and external consultants are not employed to work with the factory on a risk assessment.

Fair Wear recommends performing regular visits to suppliers to ensure that international standards and labour laws are respected, encouraging communication and transparency with factory management, and ensuring mapping the supply chain considering the risks related to subcontractors.

RELEVANT INSTITUTIONS

- 1** ACT - Autoridade para as Condições do Trabalho (Working Conditions Authority)
- 2** Segurança Social Portugal (Social Security institution)
- 3** Ministerio da Economia e do Emprego (Ministry of the Economy and Employment)
- 4** IEFP - Instituto do Emprego e Formação Profissional (Employment and Vocational Training Institute)
- 5** Ministerio das Finanças (Ministry of Finance)
- 6** DGERT - Direção Geral do Emprego e das Condições do Trabalho (General Directorate of Working Conditions)
- 7** CES - Conselho Concertação Social (Council for Social Dialogue)
- 8** CITEVE - Technological center for the textile and clothing industries of Portugal
- 9** SEF - Serviço de Estrangeiros e Fronteiras (Foreigners Service provider)

TRADE UNIONS

- 1** UGT - União Geral dos Trabalhadores
- 2** CGTP - IN Confederação Geral dos Trabalhadores Portugueses
- 3** ATP - Associação Têxtil e Vestuário de Portugal
- 4** FESETE – Federação dos Sindicatos dos Trabalhadores Têxteis, Lanífcios, Vestuário, Calçado e Peles de Portugal Portuguese Federation of the Textile, Wool, Clothing, Footwear and Leather Trade Unions
- 5** SINDEQ – Sindicato das Indústrias e Afins