

21. Portugal

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Portugal’s legal system deals with the migratory flows of third-country-national workers in a number of ways. This is strongly influenced by migration movements originating in countries with Portuguese as an official language. The protection regime, although not intuitive, affords some social protection to these workers.

Box 1 Sector-specific variations of social security rules

Third-country nationals resident in Portugal commonly have the same rights and duties as nationals. Whether employed or self-employed, third-country nationals have the right to social security. In the case of workers with an employment contract, the employer must register them and pay social security contributions. Self-employed workers must register their activities with the tax authorities and are bound by the social security scheme for self-employed workers. Equal treatment as regards social security thus depends on workers' legal residence in Portugal.

Table 1.21 Overview of the relationship between form of migration and entitlement to a particular social security service

TCN categories	Social security categories					
	Health insurance	Pension contributions	Unemployment insurance	Basic security (social assistance)	Insurance against accidents at work	Children benefits
Posted workers	Yes	Yes	Yes	Yes	No	No
Intra-corporate transfers	Yes	Yes	Yes	Yes	No	No
Seasonal workers	Yes	Yes	Yes	Yes	No	No
Temporary agency workers	Yes	Yes	Yes	Yes	No	No
High-level professionals	Yes	Yes	Yes	Yes	No	No
Self-employed	Yes	Yes	No	Yes	No	No

Source: Authors' analysis, 2022.

Box 2 Changes during the Covid-19 pandemic

Since 1 January 2020, a Social Security Identification Number (NISS) has been given on the spot to foreign citizens embarking on activities under the schemes for employees, domestic service workers or independent workers. This process facilitated the registration of these workers during the pandemic.

Description of the Portuguese system

1. Overview of social security rights of short-term third-country-national migrant workers

Portugal's legal system deals with the migratory flows of third-country-national workers in a number of ways. This is strongly influenced by migration movements originating in countries with Portuguese as an official language. The protection regime, although not intuitive, affords some social protection to these workers, even if they are in the country only short-term.

2. Differences in social security rights of different categories of short-term third-country-national migrant workers

(i) Third-country-national seasonal workers

Third-country-nationals in Portugal commonly have the same rights and duties as nationals. Equal treatment as regards social security depends on legal residence.

(ii) Third-country-national posted workers

Workers who are posted to work in Portugal, as well as their employers, are required to be covered by general Portuguese social security, unless they can prove that they are covered by a compulsory social protection scheme in the sending country. The same applies to self-employed workers. According to Art. 24 of the Social Security Contribution Code, workers who perform paid work under an employment contract in accordance with the provisions of the Labour Code are mandatorily covered by the general regime. In addition, Art. 25 of the Code states that posted workers from Portugal are considered, in particular, to be covered by the general regime, without prejudice to the provisions of specific legislation and international instruments by which Portugal is bound.

Posted workers remain subject to their national social security system and therefore benefit from the same rights as other workers in the country from which they were posted, including those resulting from exceptional measures approved within the scope of the Covid-19 pandemic, namely: (i) sickness allowance resulting from prophylactic isolation imposed by the health authorities; (ii) exceptional family support for employees; and (iii) assistance to children/grandchildren because of isolation imposed by the health authorities

(iii) Third-country-national temporary agency workers

Temporary workers are entitled to have their social security contributions paid by the temporary work agency. The agencies are also obligated to ensure that workers receive medical, medication and hospital treatment, if they do not receive the same treatment in the host country, by means of insurance that guarantees payment of these expenses.

3. Portability of benefits between host country and country of origin

Portability depends on bilateral agreements signed by Portugal with other countries, such as Argentina, Bolivia, Brazil, Cape Verde, Canada, Chile, Ecuador, El Salvador, USA, Philippines, Jersey, Guernsey, Alderney, Herm, Jethou and Man Islands, India, Marocco, Mozambique, Moldova, Paraguai, Tunisia, Ukraine, Uruguay and Venezuela.

4. Social security rights of short-term third-country-national migrant workers during the Covid-19 pandemic

No major changes were made with regard to social security in the context of Covid-19 for this type of worker, except for the simplification of registration, access to rights and information and extension of deadlines.

5. Overview of enforcement and monitoring

In addition to the courts, the situation of migrant workers is monitored by three public entities. The SEF (Foreigners and Borders Service), which controls entry and residence in Portugal; the ACT (Authority for Working Conditions), which supervises the fulfilment of legal, regulatory and conventional provisions on labour relations and working conditions, namely those related to security and health at work; and the ISS (Institute of Social Security), which is responsible for compliance with the rules on social security.