

Industrial Relations **Portugal: Developments in working life 2018**

[Working life in 2018 – Annual review](#)

Author: Maria da Paz Campos Lima and Paula Carrilho, Cesis

Research Manager: Christine Aumayr-Pintar, Eurofound

Eurofound reference number: WPEF19047

Related reports: EF19029 Working life in the EU 2018 – Annual review

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European Foundation for the Improvement of Living and Working Conditions

Telephone: (+353 1) 204 31 00

Email: information@eurofound.europa.eu

Web: www.eurofound.europa.eu

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Political context affecting working life aspects

The year 2018 corresponded to the third year of the mandate of the government of the Socialist Party (PS), with the support of the left parties, the Left Bloc (BE) and the Communist Party (PCP), as well as the Greens (PEV). According to the National Statistics Institute, in the third quarter of 2018 GDP growth was 2.1% in comparison with the same period in 2017. This pace of growth maintained the trend of convergence with the European Union and the euro zone. The pattern of growth in the year 2018 was marked by a strong job creation dynamics (an increase of 2.3%, with 110,000 new jobs) and a reduction in unemployment (1.9 pp reduction of the unemployment rate, minus 96.9 thousand unemployed). In 2018, the unemployment rate reached 7%, the lowest level since 2002 (Statistics Portugal, 2019). On the other hand, data released by the National Statistics Institute on poverty levels showed a positive trend with 100 thousand persons no longer below the poverty line, while the ratio of income of the richest 10% to the income of the poorest 10% was reduced from 10 to 1 to 8.9.

Despite some tensions, the trajectory of political stability was not compromised this year. The two most recent political surveys published in November 2018, reported by the press (Público, 2018), estimate that the PS keeps a considerable distance – varying between 11 to 15% of votes – above the PSD score, the main centre right, opposition party. Furthermore, all together the intended vote on left parties overcomes the score of the centre right and right parties.

This year the planned labour reforms related with commitments between left parties to combat precariousness and individualisation of work were translated in legislative proposals, some of which came into force, while some most contentious issues related with the implementation the tripartite agreement signed in June 2018 (CES, 2018; Eurofound, 2018b), are not yet closed. In the last quarter 2018, the government was confronted with a wave of strikes in the public sector for the recovery of wages and careers, a political challenge considering the limits to public expenses and European budgetary constraints.

Labour market reforms or major packages of working life regulations

In Portugal, in 2018, the measures regarding labour market and working life covered a wide range of issues.

Specific measures and correspondent legislation were approved during the year, after consultation of social partners represented at the Standing Committee for Social Concertation (CPCS), in various domains: promoting gender equality regarding wages (equal job equal wage); improving self-employees social security contributory careers and social rights (sickness; children assistance and unemployment benefits); and facilitating early retirement pensions without penalties for workers with very long working careers (Eurofound, 2018; 2018a; 2018b; 2018c).

On the other hand, in June 2018, the government and the social partners, with exception of CGTP, the largest trade union confederation, signed at the CPCS the *Tripartite agreement on combating precarious work and labour market segmentation and promoting greater dynamism in collective bargaining*, a major package including several measures (CES, 2018; Eurofound 2018b). The proposals of legislation on the issues comprised in the tripartite agreement started to be discussed, in general, in 2018. Specific discussion and final decisions are expected to take place in the first quarter of 2019. In the domain of combating precarious work and labour market segmentation, the tripartite agreement (and the government proposal of law) envisages to limit the duration of fixed-term contracts and to penalize companies who use them in excessive number; and aims to limit the number of renewals of temporary agency contracts. On the other hand it proposes to extend the duration of very short employment contracts and to extend their use in other sectors beyond seasonal work in agriculture and tourism; and also to extend the probationary for first-time job-seekers and long-term unemployed people, when they are hired for open-ended contracts. In the domain of collective

bargaining, the tripartite agreement (and the government project law) proposes new mechanisms of arbitration as a last instance before expiring of collective agreements; it enlarges the scope of rights that workers keep after collective agreements expire, adding parental and health and security rights; and it establishes company referendums organized by employers, under the surveillance of trade unions and worker representatives, to decide on the implementation of ‘working time accounts’ to replace the previous regime of employer-employee individual agreements.

Eventually, on 5 December 2018, the government presented a new package – Programme 3 em Linha – to promote work and life balance in line with gender equality, which will involve social partners and social dialogue in various ways in 2019: the Pact for reconciliation that aims to develop a pilot project for the adoption of measures to promote reconciliation in 47 organisations; and the Social dialogue for reconciliation to debate the application of regimes of adaptability or working hours and bank of hours to workers with children aged under 12 or with children, regardless of age, with a disability or a chronic disease and to propose that father’s optional initial parental leave does not depend upon the mother’s eligibility to parental leave. It comprises also the Collective bargaining for reconciliation goal to propose the approval of guidelines for the inclusion of provisions in collective agreements that promote reconciliation; and the Reinforcing the parental leaves regime increasing father’s parental leave (Eurofound, 2018c).

Social partners’ views and reactions on changes in governments and working life policies

The measures on gender and wage equality, on improving social protection and contributory careers of self-employed workers, and on early retirement pensions of workers with very long working careers, resulted and were inspired by the dialogue and negotiations between the PS government and left parties. They did not generate a formal agreement between the social partners, but did not either generate public controversy. The laws implementing those measures were approved after consultation of social partners represented at the Standing Committee for Social Concertation (CPCS) and were published in 2018.

The Tripartite Agreement generated controversy at the CPCS, with the opposition of CGTP to sign it. This trade union confederation argued that part of the measures included in the agreement risk to have the opposite effects, instead of limiting precarious work. This trade union confederation is against the criteria to penalize companies who use fixed term contracts, which will only penalize them when their use is above the average in the sector, arguing these criteria risk to reproduce precariousness. And they argue, as well, against the proposals to extend the duration of very short employment contracts and their use beyond seasonal work in agriculture and tourism; and also to extend the probationary for first-time job-seekers and long-term unemployed people. CGTP highlights these measures risk to generate other forms of precariousness. This trade union confederation opposed also to some of the proposals regarding collective bargaining stressing they are very limited and claiming the full re-establishment of the *favor laboratoris* principle (in the relation between the law and collective agreements) and the reversal of the rules that allow agreements to expire on the basis of unilateral decision. Moreover, they argue against the new system of setting up ‘working time accounts’ at company level because they allow 150 hours of unpaid overtime work set up by referendums organized by the employers and not by collective bargaining (Eurofound, 2018a).

On the other hand, the project law of the government, aiming at implementing the tripartite agreement, generated controversy at the parliament with the left parties BE, PCP and PEV. The arguments against were similar to those of CGTP. Moreover, these parties claimed that some of the measures included in the tripartite agreement to secure employer confederations signature at the CPCS risked to undermine the positive impact of other measures negotiated between the left parties to limit fixed term contracts and temporary agency work and also to combat individualisation of work. The whole legislative package was approved, in general, by the parliament in July 2018, with the favourable votes of PS and abstention of the centre right

parties (PSD and CDS) and votes against of the left (Eurofound, 2018b). The final approval will depend of the ongoing detailed discussion at the parliament (probably in the first quarter of 2019).

Eventually, on 5 December 2018, the government presented a new package – Programme 3 em Linha – to promote work and life balance in line with gender equality, which will involve social partners and social dialogue in various ways in 2019: at the level of tripartite concertation and at the level of collective bargaining (Eurofound, 2018c).

Developments in industrial relations 2018

Changes affecting the national-level actors and institutions in 2018

Actors

No changes.

Representativeness

No changes.

Institutions

No changes.

Changes affecting the sectoral and company level social dialogue 2018

The tripartite agreement 2018 proposed measures with impact on collective bargaining allegedly to combat the growing individualisation of labour relations and to promote dynamic collective bargaining instead. It proposes to eliminate the possibility of implementing ‘working time accounts’ (*banco de horas*) with basis on individual agreements employer-employee introduced in 2012 (that could circumvent collective agreements). The new system proposed will allow companies to take decisions on working time accounts at company level (increasing the normal working period by up to two hours a day with a limit of 50 hours per week and 150 hours per year) with basis on referendums consulting the workers, organised by employers, under the supervision of local trade unions or other representative structures. Other measures to promote dynamic collective bargaining include the creation of an arbitration court under the framework of the Economic and Social Council (CES). The range of rights that workers keep after collective agreements expire will be also extended, with provisions added for parental and health and security rights.

The government project law that comprises these measures was approved in general but detailed discussion and final vote will take place only in 2019.

Innovation in collective bargaining

The Annual Report on the Evolution of Collective Bargaining 2017, published by the Centre of Labour Relations on June 2018 (CRL, 2018), examined, among other issues, the content of collective agreements published in 2017 in relation to the flexibility of working time with focus on the provisions on adaptability and on ‘working time accounts’ (*banco de horas*). During the year 2017, there was an overall increase in this type of provisions (in first agreements and global revisions), with 23% of the agreements including that type of clauses compared with 17% in 2016. The report highlights that the large majority of the agreements published in 2017 admitting the use of working time accounts allows their establishment by a unilateral act of the employer, subject to the verification of certain circumstances. Some conventions, however, require the agreement of the worker. On the other hand, as in 2015 and 2016 there are cases of collective agreements where the bank of hours can be established in response to workers' interests (and on their own initiative). The report highlights that most agreements set limits for the hourly volume to be allocated to ‘working time accounts’ below

the legally established limits, although a significant part extend those accounts to the limits set by law.

The report *Digital Economy and Collective Bargaining* (Ramalho, 2019), presented by the Centre of Labour Relations (Centro de Relações Laborais), dedicates a chapter to the analysis of the content of collective agreements related with digital economy considering the universe of collective agreements published in 2017 (208) and in the first semester 2018 (112). The analysis focuses, in particular, in the following domains: telework, electronic means of communication and means of electronic surveillance; access to workers individual data; and vocational training as a vehicle for adapting to digital technologies. As regards to teleworking the clauses (10 out of 320 agreements) reproduce the regime contained in the Labour Code (Articles 165 to 171) but there are also solutions different from the law in aspects such as: the right of preference to perform functions under telework regime - giving priority to workers with disabilities, with chronic illness or that are responsible for children up to 12 years of age or for family members with disabilities or chronic disease; duration of the telework scheme; conditions of cessation of this scheme; recording of working time; vocational training and a period of time in the company's premises with the objective of strengthening the integration of teleworkers into the structure and in company culture; rules on the supervision of the provision of work and possibility of employer visits to the workplace. As regards the electronic means of communication the clauses (13 out of 320 agreements) include provisions admitting its use as a general form of communication in the company, but ensure the reservation and confidentiality of messages and of private information, while allowing the employer to set the rules on the use of electronic communication. As to the access to workers personal data or individual files of the employees, the clauses (19 out of 320 agreements) usually refer to the legislation in force; on the other hand they make reference to the guarantees associated with workers individual files in seven agreements (six in 2017 and one in the first half of 2018). As regards to the means of remote surveillance (13 out of 320 conventions), the content (13 out of 320 agreements) follows closely the legal regime, namely, on the obligation to provide prior information to workers and to workers structures of representation about their existence and purpose. As regards vocational training, the overall provisions in the period under analysis account for 99 of the 320 agreements. While 28 out of 99 agreements regulate professional qualification; only one alludes to ICT training or technology training. There are provisions on vocational training at worker's initiative, in particular associated with the use of annual credit of hours for training, when the training is not ensured by the employer and when it is related to the work context; and also provisions including the possibility of granting a license without remuneration for formative purposes, very similar to the law (article 317 of the Labour Code).

National social dialogue in 2018 – Scope and Contribution

Theme	Description	Social dialogue interaction	Social dialogue outcome and/or output
<i>Terms and conditions of employment - limiting precarious or atypical contracts</i>	Resolution of Council of Ministers 72/2018 of 6 June approved the “Action programme to combat precariousness and to promote collective bargaining”, building on the measures agreed with the Social Partners. The resolution envisaged limiting the duration of fixed-term contracts and penalize companies who use an excessive number of non-permanent contracts and limiting the number of renewals of temporary agency contracts. In turn, the agreement extends the duration of very short employment contracts and admits that these can be used in other sectors beyond seasonal work in agriculture and tourism. On the other hand it extends the probationary period for first-time job-seekers and long-term unemployed people.	The proposed measures were negotiated as a package at the CPCS between the government and the social partners. part of the Tripartite agreement on combating precarious work and labour market segmentation and promoting greater dynamism in collective bargaining, signed in June 2018, by the government and all the social partners, represented at the CPCS, with the exception of CGTP.	Following the tripartite negotiations, the Tripartite agreement on combating precarious work and labour market segmentation and promoting greater dynamism in collective bargaining was signed in June 2018 by the government and all the social partners, represented at the CPCS, with the exception of CGTP. The legislative package (Bill 136/XIII) with basis on the tripartite agreement was approved, in general, by the parliament in July 2018, but the final approval will depend of the ongoing detailed discussion at the parliament (probably in the first quarter of 2019).
<i>Taxation and non-wage related labour costs - changes to social security contributions for self-employed</i>	New rules of the contributory social security scheme for independent workers aiming at a better distribution of the contributory effort between contractors and self-employed.	Social partners represented at the CPCS were consulted.	Decree- Law 2/2018 defines new rules for Social Security contributions made by self-employed workers and entities that hire self-employed workers. It redefines the conditions of economically dependent work - perform 50% of their yearly activity for the same entity; it lowers the workers contributions to social security from 29,6% to 21,4% while employers contributions will vary from 7% to 10% (previously 5%). Workers will pay a fix contribution of 20 euros per month to maintain the continuity of their integration in social security and benefit from all correspondent provisions. Personals taxes will be calculated on the basis of real income.
<i>Pension reforms - Early retirement</i>	Reflecting the government’s stated objective of valuing very long contributory careers and the workers who started their contributory career at a very young age measures envisage to extend access to early retirement without penalties to workers aged 60 or more with a contribution record of at least 46 years who started their working life at the age of 16 or younger.	Social partners represented at the CPCS were consulted.	Decree-Law 73/2018 of 17 September approves the new rules of early retirement without penalties for workers with very long working careers: workers aged 60 or more, who started their professional activity aged 16 or under and with at least 46 years of contributory career (ESPN, 2018).

Theme	Description	Social dialogue interaction	Social dialogue outcome and/or output
Working time - Individual working time accounts	According to government programme, the provisions set up in 2012 of ‘individual working time accounts’ should be eliminated as they promoted the individualization of labour and gave room for circumventing collective agreements. In alternative, the tripartite discussion focused on ‘group working time accounts’ to be decided on the basis of company referendums organized by employers, under the surveillance of trade unions and worker representatives.	The discussion of this issue was comprised in a broader discussion at the tripartite level. The alternative of ‘group working time accounts’ allowing to increase the normal working hours up to two hours a day with a limit of 50 hours per week and 150 hours per year, through company referendums, was supported by all the social partners, with the exception of CGTP.	The Tripartite agreement on combating precarious work and labour market segmentation and promoting greater dynamism in collective bargaining signed in June 2018 included the proposal to eliminate the ‘individual working time accounts’ and to introduce in alternative ‘group working time accounts’ to be decided either through collective bargaining or at the workplace on the basis of company referendums organized by employers, under the surveillance of trade unions and worker representatives (CES, 2018; Eurofound, 2018a). In July 2018, Portuguese parliament approved (in general terms) the Bill 136/XIII integrating this measure. The process is not concluded as the detailed discussion of contentious proposals will take place in 2019 (Eurofound, 2018b).
Work-life balance - Reconciliation	On December 2018, the Programme ‘3 Aligned - Programme for the Reconciliation of Professional, Private and Family Life 2018-2019’ was launched. This programmes aims at promoting a better work-life balance as a condition for equality between men and women as well as for a full citizenship (Eurofound, 2018, c).	The programme, presented on 5 December 2018, aims to promote a better balance between professional, personal and family life, as a condition for effective equality between men and women. Its discussion and steps of implementation are considered high priorities of social dialogue for 2019, namely at the level of tripartite concertation and collective bargaining, but also with other relevant actors/institutions. In 2018 social dialogue hasn't commenced.	Issue not closed, ongoing exchange.
Wage setting - Gender Pay Gap	Measures to promote equal pay between women and men who perform equal work or work of equal value.	Social Partners were consulted at CPCS.	Law 60/2018 of 21 August introduces measures to promote remuneration equality between women and men who perform equal work or work of equal value. Under the new regime, in the first half of each year, the government will publish (i) general and sectoral information about differences in remuneration between women and men, and (ii) an assessment of the differences in remuneration between women and men per company, occupation and qualification level, based on the Personnel Records.

No major social dialogue debates were held on the following themes: Benefits; Employment; Health, safety and well-being at work; Skills, training and employability.

Selected major social dialogue debates

Combating precarious work and promoting dynamics of collective bargaining

Tripartite agreement on combating precarious work and labour market segmentation and promoting greater dynamism in collective bargaining, a major package including several measures. The proposals of legislation on the issues comprised in the tripartite agreement started to be discussed, in general, in 2018. Specific discussion and final decisions are expected to take place in the first quarter of 2019. In the domain of combating precarious work and labour market segmentation, the tripartite agreement (and the government proposal of law) envisages to limit the duration of fixed-term contracts and to penalize companies who use them in excessive number; and aims to limit the number of renewals of temporary agency contracts. On the other hand it proposes to extend the duration of very short employment contracts and to extend their use in other sectors beyond seasonal work in agriculture and tourism; and also to extend the probationary period for first-time job-seekers and long-term unemployed people, when they are hired for open-ended contracts. In the domain of collective bargaining, the tripartite agreement (and the government project law) proposes new mechanisms of arbitration as a last instance before expiring of collective agreements; it enlarges the scope of rights that workers keep after collective agreements expire, adding parental and health and security rights; and it establishes company referendums organized by employers, under the surveillance of trade unions and worker representatives, to decide on the implementation of ‘working time accounts’ to replace the previous regime of employer-employee individual agreements.

Unilateral government actions – without social dialogue

Unilateral government actions – Not unilateral, but difficulties to re-establish a successful dialogue in the public sector

The discussion that prepared the tripartite agreement 2018 and that followed up the debate of the legislative package in the parliament concerned a large range of issues as highlighted previously. That was the major social debate. The other legislative measures passed during 2018, as explained before, were preceded by consultations of social partners, but they did not generated major debates between them with public visibility. That was the case of the new regulations concerning social rights and contributory careers of independent workers; early retirement without penalties for workers with very long careers; and measures to guarantee equality of wages regarding gender.

When considering the private sector, in general, significant political measures with incidence in industrial relations, working conditions and social protection were taken with basis on social dialogue, after consultation of social partners. In these terms, legislation was not the result of unilateral decision. That does not mean that there was always an agreement between employer and trade union confederations and the government. But disagreements were not to the point of generating open conflicts.

Most problematic has been the process in the public sector, but not so much concerning formal unilateral decisions taken by the present government. However, prolonged and (in most cases) unsuccessful negotiations with the unions, postponed the full recovery of wage and careers of public employees, therefore keeping in place, *de facto*, some of the conditions defined by unilateral decision almost a decade ago, during tough austerity times. Some of the difficulties might be still related with restrictions on public expenses, despite the success of Portuguese financial adjustment in recent years.

Collective labour disputes in 2018

Changes in the regulation of collective labour disputes

There were not changes in the regulation of collective labour disputes. However, the Tripartite Agreement 2018 and the government project law include a proposal of a new tool of arbitration, as a last instance before collective agreements expire – the creation of an arbitration court under the framework of the Economic and Social Council (CES). In addition the project law comprises a proposal to enlarge the scope of rights that workers keep after collective agreements expire, adding parental and health and security rights, what can be seen as a protective measure to prevent conflicts.

Selected major labour disputes of national significance

Major labour disputes concerned the public sector. The first public sector general strike during the PS government mandate, on 26 October 2018, was called by trade unions affiliated of both trade union confederations, CGTP and UGT, and aimed at pressing the government to include in the State Budget for 2019 the funds needed to increase civil servants wages, which have been frozen since 2009. In addition, several strikes have been called by unions in the public sector representing workers of specific careers such as teachers, nurses, judges, and several other groups.

The most prolonged and the one encompassing more persons has been the teachers' strike – from 15 October to 31 December – a strike where teachers did not attend extra meetings and did not provide extra learning activities. The major issue has been the demand that the period of almost 10 years of wage freezes, since 2009, should be counted towards their career progression, salaries and future pensions. The issue will continue to be discussed in 2019. On the other hand nurses strikes.

In the private sector the two most significant conflicts concerned Ryanair cabin crew and Setubal port dock workers. The trade union representing Ryanair cabin crew (SNPVAC) called a national three-day strike at the end of March 2018, over alleged employment law violations by the airline, receiving the support of CGTP and of the European Cabin Crew Association (EurECCA). The dispute only came to an end on 28 November 2018 when an agreement was reached between the trade union and Ryanair where this company assumed the commitment of respecting the Portuguese Labour Code and of starting negotiations towards the conclusion of a company collective agreement. The second conflict opposed the dock workers of the Port of Setúbal - on strike between 5 November and 14 December 2018 - and the port operators Operestiva - Empresa de Trabalho Portuário de Setúbal and Yilport Setúbal (Sadoport), where only 10% of the jobs are permanent, while 90% of the workers are hired on a daily and casual basis. The trade union SEAL claimed the integration of precarious workers in regular contracts and the negotiation of a collective agreement. Eventually, the persistence and unity of the dock workers and SEAL and the intervention of the government mediating the negotiations with the port operators led, on 14 December, to an agreement for the immediate integration of 56 workers, and integration of 10 to 37 workers in a second phase, guarantying also the priority in the allocation of work to current casual workers, who are not integrated into the port operators.

Working time 2018

Changes in the regulation of working time 2018

Legislation on working time duration or organisation

No changes

Collective bargaining outcomes on working time duration or organisation

No outcomes

Major debates concerning working time duration or organisation

Major debates related with the discussion of the tripartite agreement 2018 – on the implantation of ‘working time accounts’ at company level. See Major Social Debate 1.

Health and well-being at work 2018

Physical working environment

No major issues regarding physical working environment.

Psychosocial working environment

No major issues regarding psychosocial working environment.

Employment status 2018

‘Standard’ employment contracts

There were not changes proposed or implemented.

Self-employed

Decree- Law 2/2018 defines new rules for Social Security contributions made by self-employed workers and entities that hire self-employed workers. It redefines the conditions of economically dependent work - perform 50% of their yearly activity for the same entity; it lowers the workers contributions to social security from 29,6% to 21,4% while employers contributions will vary from 7% to 10% (previously 5%). Workers will pay a fix contribution of 20 euros per month to maintain the continuity of their integration in social security and benefit from all correspondent provisions. Personals taxes will be calculated on the basis of real income.

Decree Law 53/2018 reduced the period of absence for conceding sickness benefits to self-employed workers from 30 to 10 days (closer to the regime of contractual work); and extended to them maternity and paternity cash benefits for children assistance. As to the regime of unemployment benefit for the self -employed economically dependent the record of contributions will be equal to the one of contractual workers - 360 days in the previous 24 months.

Fixed term contracts

See Major Social Debate 1. Proposals to limit de duration and renewals and the excessive use of fixed term contracts included in the *Tripartite agreement on combating precarious work and labour market segmentation and promoting greater dynamism in collective bargaining*. . Ongoing discussion.

Temporary agency workers

See Major Social Debate 1. Proposals to limit the renewals of TAW included in the Tripartite agreement on combating precarious work and labour market segmentation and promoting greater dynamism in collective bargaining. Ongoing discussion.

Posted workers

No legal changes.

Seasonal workers

See Major Social Debate 1. Proposals to allow and increase the duration of very short employment contracts beyond seasonal work in tourism and agriculture included in the *Tripartite agreement on combating precarious work and labour market segmentation and promoting greater dynamism in collective bargaining*. Ongoing discussion.

Zero hour contracts

No legal changes.

Other contracts

See Major Social Debate 1 – proposals to increase Proposals to allow and increase the duration of very short employment contracts beyond seasonal work in agriculture and tourism *Tripartite agreement on combating precarious work and labour market segmentation and promoting*

Although UBER and other electronic platform drivers might have different types of employment relationships, like the taxi drivers (self-employed; employed; cooperative associations, etc.) – their regulation was for the first time objet of attention with the publication in October 2018 of the Law 45/2018 establishing the legal regime for the activity of individual transportation of passengers in vehicles linked to electronic platforms (TVDE). This law, which main purpose was to regulate this economic activity to prevent unfair competition, establishes in its article 10 the main provisions in relation to employment contracts and working time of the drivers of TVDE. In particular, it extends to these drivers the provisions of the labour code (article 12) defining the concept and conditions of dependent work; extends to the drivers, bound by a labour contract, the provisions for the organization of the working time of persons carrying out mobile road transport activities provided for in Decree-Law 237/2007, of June 19; and provides for independent driver the rules on the organization of working time provided for in Decree-Law 117/2012.

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