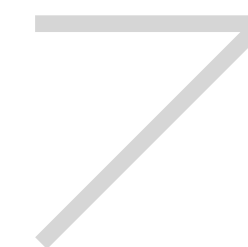




Government of the Azores

Regional Secretariat for Parliamentary Affairs and Communities
Regional Directorate for Communities



Guide for hiring foreign citizens in the Azores

PRACTICAL GUIDE

JANUARY 2024



This Guide for Hiring is the result of a resolution by the CCRAI - Regional Advisory Council for Immigration Affairs.

For its preparation, the Chamber of Commerce and Industry of the Azores was consulted, as well as the relevant information from the website of the IEFP (Institute of Employment and Vocational Training) and their Normative Circular no. 18/2022 - Third-country Workers

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Guide for hiring foreign citizens in the Azores



- Principle of Equal Treatment
- Who can hire?
- Who can be hired?
- What obligations must the contract fulfil?
- What communications must be made?
- What are the requirements for entry in Portugal?
- With which countries are there protocols or with which processes are faster?
- What are the types of visas and who grants them?
- What conditions must a foreign citizen fulfil to apply for a short-stay visa for seasonal work of 90 days or less?
- Annex I - Authorisations to work in Portugal
- Annex II - Useful contacts



Principle of Equal Treatment

In Portugal, it prevails the Principle of Equal Treatment of foreign or stateless worker.

THE ARTICLE 15 OF CONSTITUTION OF THE PORTUGUESE REPUBLIC ESTABLISHES THE PRINCIPLE OF EQUALITY AS A GENERAL PRINCIPLE FOR THE FUNDAMENTAL RIGHTS AND DUTIES:

Article 15

(Foreigners, stateless persons, EU citizens)

1. Foreigners and stateless persons who find themselves or who reside in Portugal enjoy the same rights and are subject to the same duties as Portuguese citizens.
2. Political rights, the exercise of public functions that are not predominantly technical in nature, and the rights and duties that the Constitution and the law reserve exclusively to Portuguese citizens are excepted from the provisions of the previous paragraph.
3. Save for access to appointment to the offices of President of the Republic, President of the Assembly of the Republic, Prime Minister and President of any of the supreme courts, and for service in the armed forces and the diplomatic corps, rights that are not otherwise granted to foreigners are accorded, as laid down by law and under reciprocal terms, to the citizens of Portuguese-speaking states who reside permanently in Portugal.
4. Under reciprocal terms, the law may accord foreigners who reside in Portugal the eligibility to vote for and stand for election as officeholders of local authority organs.
5. Under reciprocal terms, the law may also accord citizens of European Union Member States who reside in Portugal the eligibility to vote for and stand for election as Members of the European Parliament.

The article 4 of the Labour Code establishes the principle of equal treatment for foreign of stateless worker, according to which the foreign of stateless worker who is authorised to carry out a professional activity under a contract has the same rights and is subject to the same duties as a Portuguese worker.

Exceptions:

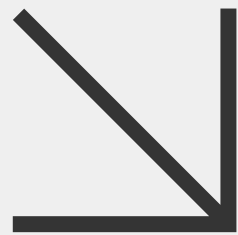
- Form and content of the contract – article 5 of the Labour Code
- Law applicable to workers deployment – articles 6 to 8 of the Labour Code



Principle of Equal Treatment

Who can hire?

There is no difference on who can be an employer of national and foreign workers.



ANY NATURAL PERSON OR ENTITY LEGALLY CONSTITUTED CAN HIRE, AS AN EMPLOYER.

IN ORDER TO ACCESS ANY SUPPORT FOR HIRING, THE EMPLOYER MUST MEET THE FOLLOWING REQUIREMENTS:

1	fulfil the legal requirements to carry out the activity or make proof of starting the applicable process;
2	have its tax and social security situation regularised;
3	not be in a default situation regarding the financial supports granted by the Regional Secretariat for Youth, Housing and Employment.
4	a)not be suspended or banned from exercising the activity as a safety measure or accessory sanction to an administrative or criminal offense.

Who can be hired?

➔ Any foreign or stateless person with a work visa or with residence or permanent residence permit in Portugal can be hired as worker.



IN ADDITION TO EU CITIZENS WHO HOLD AN EU CITIZENS' RESIDENCE CARD (EURC), FOREIGN CITIZENS OR STATELESS PERSONS WHO HOLD THE FOLLOWING DOCUMENTS MAY BE EMPLOYED AS WORKERS:

- Visa from the Community of Portuguese-Speaking Countries
- Temporary stay visa for seasonal work for a duration of over 90 days
- Job seeker visa
- Residence visa for subordinate professional activities
- Residence permit from the Community of Portuguese-Speaking Countries
- Residence permit for subordinate professional activities
- Expression of interest (that can be submitted with a promise of employment contract or declaration of intention)
- Residence permit for teaching purposes, highly qualified or cultural activities; Residence permit for investment activity - "Golden Visa"
- Residence permit for investment activity - "Golden Visa"
- Residence permit for investigation, study, professional training or volunteer work
- Residence permit for family reunification
- Long-term resident status
- Residence permit for UK citizens under the Withdrawal Agreement between the European Union and the United Kingdom
- Residence card for family members of citizens of the EU - third-country nationals
- Temporary residence permit - international protection
- Refugee/Asylum Status
- Temporary Residence Permit - Ukraine

(see Annex 1 of this Guide)

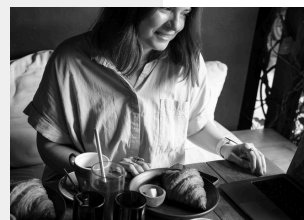
What obligations must the contract fulfil?

THE WORK CONTRACT MUST BE CELEBRATED IN WRITING AND CONTAIN, AT LEAST, THE FOLLOWING ELEMENTS:

- a) Identification, signatures and domicile or headquarter of both parties;
- b) Reference to the work visa or the residence or stay permit in Portugal;
- c) Activity of the employer;
- d) Hired activity and worker's retribution;
- e) Place and normal working hours;
- f) Amount, periodicity and method of payment of the retribution;
- g) Dates of the contract's signature and start of activity.

The worker must attach the name and address of the people entitled to a pension in case of death resulting from a work accident or disease.

The contract is signed in two copies, one for the employee and one for the employer. The copy of the contract that remains with the employer must be accompanied by documents proving compliance with the legal obligations relating to the entry and stay or residence of the foreign national or stateless person in Portugal and copies of these documents must be attached to the other duplicate.



What obligations must the contract fulfil?

THE EMPLOYMENT CONTRACT MUST BE CONCLUDED IN WRITING AND CONTAIN AT LEAST THE FOLLOWING INFORMATION:

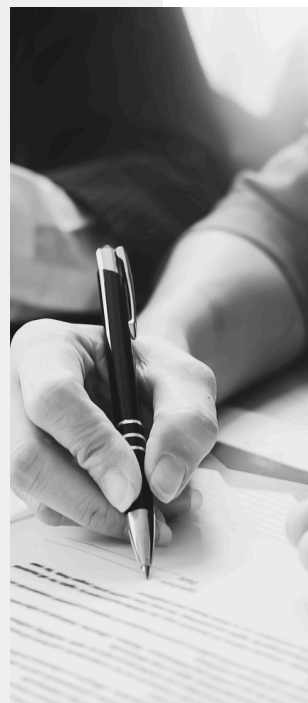
The work contract celebrated with a foreign or stateless worker is subject to a written form and must contain, without prejudice to other requirements in the case of a fixed-term contract (article 141 of the Labour Code), the indications mentioned in paragraphs a) to g), number 1 of article 5 of the Labour Code, namely, reference to the work visa or the residence or stay permit in Portugal.

The worker must attach to the contract the name and address of the people entitled to a pension in case of death resulting from a work accident or disease.

The work contract must be signed in two copies and the employer delivers one copy to the employee.

The copy of the contract that remains with the employer must be accompanied by documents proving compliance with the legal obligations relating to the entry and stay or residence of the foreign national or stateless person in Portugal and copies of these documents must be attached to the other duplicate.

The provisions of article 5 of the Labour Code are not applicable to a work contract with a national of a member state of the European Economic Area or of another state that consents to equal treatment than towards a national in matters of free exercise of professional activity.





What communications must be made?

**THERE IS NO DIFFERENCE IN THE COMMUNICATIONS THAT
MUST BE MADE TO ALL WORKERS.**

The same communications must be made to all workers, immigrants or not:

Communication of the admission of workers to Social Security Direct, in accordance with article 29 of the Social Security Contributions Code
Take out a work accident insurance (number 5 of article 283 of the Labour Code; article 5 of the Law 98/2009 of September 4)

The employer must provide to the worker the number of the work accident insurance policy and the identification of the insurance entity. (article 106 no. 3 paragraph j) of the Labour Code)

What communications must be made?

The negative effects of undeclared work affect workers, companies and governments.

- For the workers, undeclared work means:
- Entitlement to a lower pension
- Less access to health care
- Poor work conditions
- Potential violation of labour rights (inadequate salary, lack of security and protection)
- For the companies, it creates unfair competition, since companies that do not declare their workers gain an unfair advantage.
- For the governments, it means the loss of tax and social security revenues.



What are the requirements for entry in Portugal?

To enter Portuguese territory, foreign citizens must meet the following conditions

- Hold a travel document valid for at least 3 months longer than the duration of the intended stay.
- Hold a valid and adequate visa for the purpose of the stay. This visa must always be applied for at a Portuguese diplomatic mission or consular post based abroad.
- Have sufficient means of subsistence for the duration of the stay.
- Not be registered in the Integrated Information System of the Schengen Information System.

NATIONALS OF SEVERAL COUNTRIES ARE EXEMPT FROM VISA REQUIREMENT FOR SHORT STAYS. FOR FURTHER INFORMATION, CONSULT THE WEBSITE OF THE AGENCY FOR INTEGRATION, MIGRATIONS AND ASYLUM (AIMA, I.P).



With which countries are there protocols or with which processes are faster?

Usually, within the Schengen area, mobility is simpler and faster.

In addition, Portugal currently has agreements with Cape Verde, Morocco and India.



MORE INFORMATION AT



www.iefp.pt/recrutar-no-estrangeiro

What are the types of visas and who grants them?

All visas are issued by the Ministry of Foreign Affairs, through the respective Consular Network.

For a list of visas that allow to work, see **Annex I** of this guide.



MORE INFORMATION ON VISAS, AT THE WEBSITE OF THE MINISTRY OF FOREIGN AFFAIRS, AT



<https://vistos.mne.gov.pt/pt/>

WHAT CONDITIONS MUST A FOREIGN CITIZEN FULFIL TO APPLY FOR A SHORT-STAY VISA FOR SEASONAL WORK OF 90 DAYS OR LESS?



According to the number 1 of article 51-A of the Law 23/2007 of July 4:

- a) To hold a valid employment contract or promise of employment contract for seasonal work, signed with a temporary employment agency or employer established in national territory, which identifies the place, time and type of work, as well as the respective duration, the remuneration to be earned and the duration of paid leave to which he/she is entitled;
- b) To have adequate protection in the event of illness, in the same way as nationals, or health insurance, when there are periods in which they do not benefit from coverage of this type, nor from benefits corresponding to professional practice or as a result of the work to be carried out, as well as work accident insurance provided by the employer;
- c) To have decent accommodation, through a rental contract or equivalent, which may also be provided by the employer, in the terms of numbers 3 e 4 of the article 56-D;
- d) In the case of a regulated profession, to meet the conditions laid down in national legislation for the respective exercise;
- e) To hold a valid travel document that guarantees their return to the country of origin.

In addition to these specific conditions, the conditions laid down in Article 52 of Law 23/2007 of July 4 must also be met.

Annex I

AUTHORISATIONS TO WORK IN PORTUGAL

Cfr. Annex I of CN 18/2022 from IEFP

Authorisation	Legislation	Framework / Description	Identification document (SIGAE)
Visas			
CPLP Visa (Community of Portuguese-Speaking Countries)	Article 52.º-A of Law no. 23/2007, of 4 July (current wording)	These visas have the same purposes as the others but are granted to nationals of member states of the Community of Portuguese-Speaking Countries (CPLP). These citizens benefit from greater simplification in the granting of visas (article 54, paragraph h))	Residence Visa (VR)
Temporary stay visa for seasonal work for a duration of over 90 days.	Article 56 of Law no. 23/2007, of 4 July (current wording) (1) Order no. 745/2018, of 17 January, corrected by Order no. 6743/2018, of 2 January July.	Visa granted for seasonal activities, namely those defined by Order (1). In the event of unemployment, and as long as the authorisation is valid, the holder can perform a professional activity.	Temporary Stay Visa (VET)
Job seeker visa	Article 57-A of Law No. 23/2007, of July 4th (current wording) Article 49.º-A of Regulatory Decree No. 84/2007, of November 5th (current wording)	Granted for a period of 120 days, entitling the third-country national to enter and remain in national territory for the purpose of seeking work. The visa application is accompanied by a declaration of expression of interest for enrolment in the IEFP (Institute of Employment and Vocational Training), which is obtained in advance and automatically on the website of the IEFP (www.iefp.pt). The holder is authorised to carry out a subordinate professional activity, until the visa expires or until the residence permit is granted. The issuance of this visa supposes scheduling a date with the Agency for Integration, Migrations and Asylum to apply for the Residence Authorisation and grants the issuance of a taxpayer number (NIF), social security number (NISS) and a health system number (user number).	Job seeker visa
		The visa is renewable for another 60 days, and the request for an extension of stay must be accompanied by proof of registration with the Regional Public Employment Service - Qualification and Employment Centre and a declaration from the applicant stating that the conditions of the intended stay have been maintained.	
Residence visa for subordinate professional activities	Article 59 of Law No. 23/2007, of July 4 (current wording)	Authorisation prior to the Residence permit	Residence Visa (VR)

Authorisation	Legislation	Framework / Description	Identification document (SIGAE)
Residence Permits			
CPLP Residence permit (Community of Portuguese-Speaking Countries)	Article 87-A of Law No. 23/2007, of July 4 (current wording)	These residence permits have the same purposes as the others but are granted to nationals of member states of the Community of Portuguese-Speaking Countries (CPLP). These permits enable the exercise of subordinate professional activity.	Residence Permit (ARE)
Residence permit for subordinate professional activities	Article 88, no. 1, of Law no. 23/2007, of 4 July (current wording)	This is a residence permit issued by AIMA, I.P., which allows the holder to carry out a subordinate professional activity. It is issued to citizens who hold a residence visa for subordinate work.	Residence Permit (ARE)
Expression of interest (IM)	Article 88, no. 2, of Law no. 23/2007, of July 4 (current wording)	<p>Through expression of interest, submitted directly or online at the website of AIMA, I.P (SAPA portal). A residence permit can be requested without a residence visa if the applicant holds a work contract or a promise of work contract or has a proven work relationship. Therefore, although the MI is not a residence permit, it is an application for a residence permit from AIMA, I.P., as results of the fact that the immigrant has an employment contract and, most of the time, has been contributing to social security and the tax authority. The MI allows the regularization of the third-country national's stay in Portugal and the exercise of a work activity, even if the entry into national territory was not for that purpose, or by the appropriate means.</p> <p>This request for residence permit (regardless of the date of the MI's request) is sufficient for carrying out a work activity, for the period of the pending request's appreciation by AIMA, I.P, being available the enrolment for employment.</p> <p>If any doubts subsist, especially if the MI was submitted after 31.12.2021, to be accepted by the employment services, the document of the MI registration must be accompanied by any document proving the intention or existence of a work relationship, namely: (1) form for requirement of unemployment benefits issued by the employer, (2) register of contributions in the Social Security system, (3) a signed work contract or promise of work contract.</p>	Expression of Interest

Authorisation	Legislation	Framework / Description	Identification document (SIGAE)
Residence Permits			
Residence permit for teaching purposes, highly qualified or cultural activities	Article 90 of Law no. 23/2007, of July 4 (current wording)	These are residence permits issued by AIMA, I.P., which allows the holder to carry out a subordinate or a self-employed professional activity, with the same purpose that gave origin to the residence permit. In the event of unemployment, and as long as the authorisation is valid, the holder can carry out a professional activity.	Residence Permit (ARE)
Residence permit for investment activity – “Golden Visa”	Article 90.º-A of Law no. 23/2007, of 4 July (current wording)	This is a residence permit issued to third-country nationals who carry out an investment activity, either personally or through a company established in Portugal or in another European Union country and with a permanent establishment in Portugal, who meet one of the quantitative requirements and the time requirement laid down in the applicable legislation. The beneficiaries of this Residence Permit/Golden Visa have the right to carry out a work activity.	Residence Permit (ARE)
Residence permit for investigation, study, professional training or volunteer work	Articles 91 to 94 of Law no. 23/2007, of July 4 (current wording)	These are residence permits issued by AIMA, I.P., which allows the holder to carry out a subordinate or a self-employed professional activity, in addition to the activity that gave origin to the residence permit. The Institute of Employment and Vocational Training is not responsible to verify the compatibility of the work with the activity that gave origin to the visa, and only verifies the availability for work declared by the job applicant.	Residence Permit (ARE)
Residence Permit for family reunification	Article 98 of Law No. 23/2007, of July 4 (current wording)	This is a residence permit issued by AIMA, I.P., to family members of third-country nationals residing in Portugal, so that they can join them in the country. The holder of a residence permit for family reunification can perform a professional activity, unless the title specifically mentions otherwise.	Residence Permit (ARE)
Long-Term Resident Status	Article 116 of Law No. 23/2007, of July 4 (current wording)	The beneficiaries of Long-term Resident Status benefit of equal treatment as nationals, in the terms of the Constitution and the Law.	Residence Permit (ARE)

Authorisation	Legislation	Framework / Description	Identification document (SIGAE)
Residence Permits			
Residence permit for UK citizens under the Withdrawal Agreement between the European Union and the United Kingdom	Withdrawal Agreement between the European Union and the United Kingdom	Residence permit issued by AIMA, I.P. and other public entities, namely the Institute of Registries and Notary and Citizen Spots, to UK citizens who resided in Portugal before January 1st, 2021. It confirms their status of beneficiaries of the Withdrawal Agreement between the European Union and the United Kingdom. Until the issuance of the new residence document, the proof of the application made through the AIMA, I.P. Portal for Brexit must be accepted. After the submission of the form, the citizen can download the proof of application digitally - with QR Code scanning - which can be printed and used to prove residence in Portugal.	Residence Permit (ARE)
Residence card for family members of citizens of the EU - third-country nationals	Article 19 of Law no. 37/2006, of August 9 (current version)	Third-country nationals, holders of a residence card for family members of citizens of the EU - third-country nationals, regardless of their nationality, have the right to carry out a subordinate or a self-employed professional activity. According to the provisions of article 21 of Law no. 37/2006, of August 9, the possession of a residence card for family members of citizens of the EU is not, under any circumstances, a precondition for exercising a right or completing an administrative formality, and the status of beneficiary of resident rights under the Community regime may be attested to by any other means of proof.	Residence card for family members of citizens of the EU - third-country nationals
Temporary residence permit - international protection	Article 27 of Law no. 27/2008, of June 30 (current version) Articles 55 and 56 of Law no. 27/2008, of June 30 (current version)	The Temporary residence permit for international protection is issued when the request for asylum or subsidiary protection is admitted and under analyses, being valid for 6 months from the date of the admission decision, renewable until the final decision. Therefore, for the duration of the procedure, the holder is authorised to carry out a subordinate professional activity in Portugal, and is entitled to the same rights and are subject to the same duties as a Portuguese worker. In addition to access to the labour market, they are also guaranteed "access to employment and vocational training programs and measures under conditions to be established by the ministries responsible for the area in question." If the immigrant holds a Declaration of Request for Asylum, they can only be registered with the Employment Service as a user, exclusively for the purpose of benefiting from the Portuguese courses as Host Language.	International protection - Residence permit (PIR) International protection - Declaration (PID)

Authorisation	Legislation	Framing/ Description	Identification document (SIGAE)
Residence Permits			
Refugee/Asylum Status	Article 67 of Law no. 27/2008, of June 30 (current version)	Immigrants who are granted Refugee/Asylum Status, a situation which automatically grants them a valid residence permit, are entitled to the same rights and are subject to the same duties as third-country nationals legally resident in Portugal.	International Protection – Residence permit (PIR)
Temporary Residence Permit - Ukraine	Council of Ministers' Resolution no. 29-A/2022, of March 1 amended by Council of Ministers' Resolution no. 29-D/2022, of March 11 (see consolidated legislation)	The temporary protection regime covers Ukrainian citizens and their family members that can't return to their country as a result of the war, as well as citizens of other nationalities who are relatives, related, spouses or in a non-marital partnership with Ukrainian citizens who are also unable to return to Ukraine for the same reason. The temporary protection regime also covers foreign citizens residing legally in Ukraine at the date of the beginning of the conflict. These citizens can carry out a subordinate or a self-employed professional activity.	Ukraine – Temporary Protection (UPT)

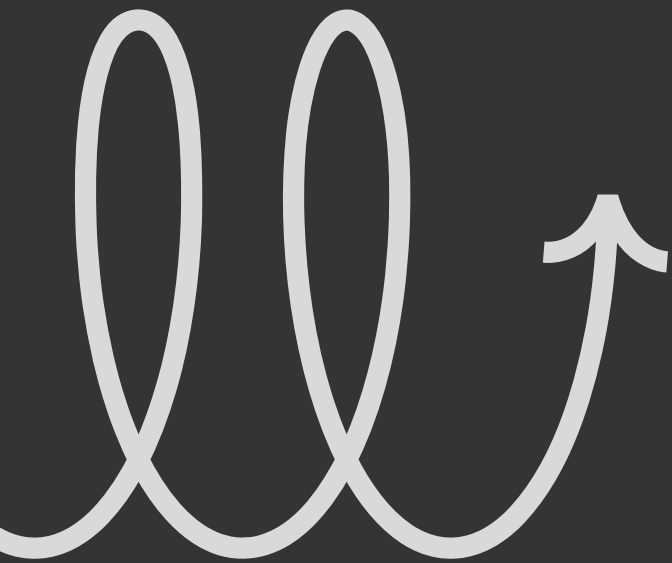
Annex II



USEFUL CONTACTS

Information regarding job offers; enrolment in the training and employment centres; unemployment benefits; job search; youth employment; certification of competences.

Regional Directorate for Vocational Training and Employment (DRQPE)



SÃO MIGUEL

Rua Dr.º José Bruno Tavares
Carreiro, s/nº
9500 – 119 Ponta Delgada

TERCEIRA

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9700-087 Angra do Heroísmo

FAIAL

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9900-144 Horta



drqpe@azores.gov.pt



(+351) 296 308 000



<https://emprego.azores.gov.pt>



<https://portal.azores.gov.pt/web/drqpe>



Services related to the process of entry, stay, reception and integration of migrants, as well as for the legalization of foreign citizens in Portugal



Agency for Integration, Migrations and Asylum(AIMA, I.P.)



<https://aima.gov.pt/pt>

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Information and support related to the process of entry, stay, reception and integration of migrants, as well as for the legalization of foreign citizens in Portugal



Regional Directorate for the Communities (DRC)



<https://portal.azores.gov.pt/web/drcomunidades>

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<https://migrante.azores.gov.pt/>

Association of Immigrants in the Azores, LP. (AIPA)



www.aipa-azores.com

CLAIM DE PONTA DELGADA

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9500-326 Ponta Delgada



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CLAIM DE ANGRA DO HEROÍSMO

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**CRESAÇOR –
Regional Cooperative
of Solidarity
Economy, CRL**



<https://www.cresacor.pt/>

**MIGRANTS SUPPORT
OFFICE AND CLAIM AZORES**

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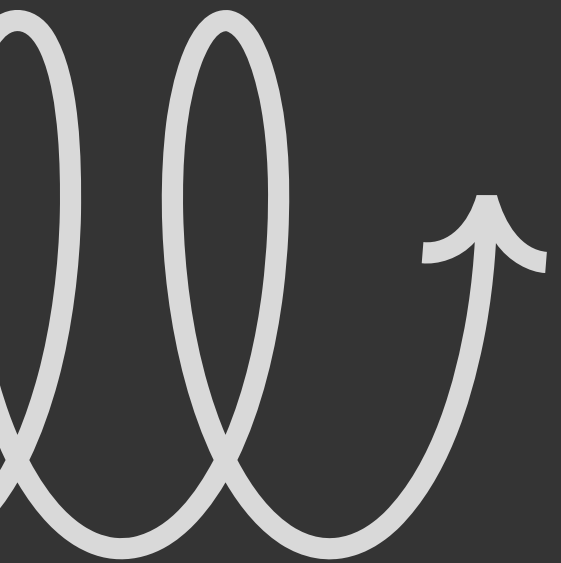


(+351) 910 021 434

Promotion of the improvement of working conditions through the inspection of compliance with labour standards and monitoring compliance with labour legislation



Regional Labour Inspectorate



<https://irt.azores.gov.pt/site/>

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