

BEST PRACTICES

IN PREVENTING
ANTICOMPETITIVE
AGREEMENTS IN LABOR
MARKETS





Who is it aimed at?

This guide is aimed at companies (undertakings) and human resources professionals and others involved in the recruitment process in companies.

What is the objective?

Raise awareness to the risks of entering into anticompetitive agreements and of best practices in the hiring of employees and the definition of salary conditions.

What type of labor market agreements can harm competition?

AGREEMENTS TO FIX WAGES or other forms of compensation

These are **AGREEMENTS** by which companies harmonise or standardise the wage or other benefits of their employees.

AGREEMENTS NOT
TO SOLICIT OR NOT
TO HIRE
employees (nopoach
agreements)

These are **AGREEMENTS** whereby companies mutually agree not to make spontaneous offers or to hire employees, without the prior consent of the other companies in the agreement.

What effects can labor market agreements have?



Competition Law and Labor Market

No-poach and wage-fixing agreements may harm employees and consumers by restricting competition in several dimensions.

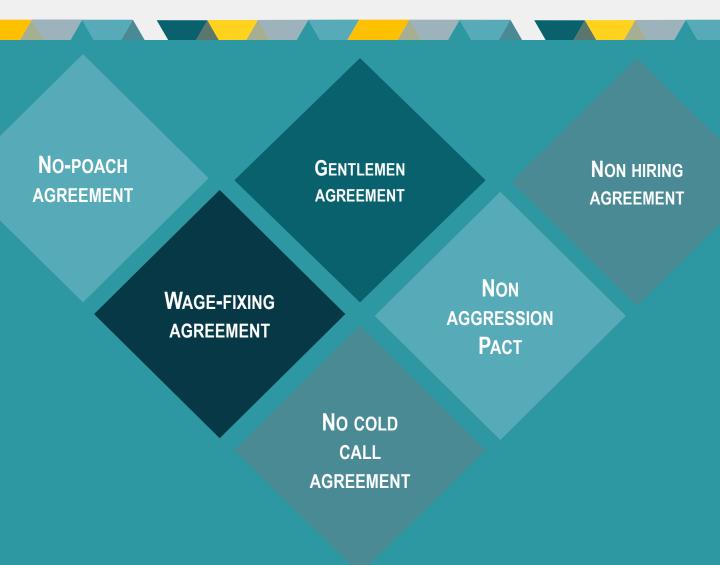
No-Poach and wage-fixing agreements may be subject to fines as agreements between companies, concerted practices and/or decisions by associations of companies within the meaning of article 9 of the Portuguese Competition Act and, if applicable, of article 101.º of the Treaty on the Functioning of the European Union (TFEU).

These **AGREEMENTS** are liable to be punished with a fine applicable (i) to infringing companies and associations of companies, **UP TO 10%** OF THEIR TURNOVER and (ii) to individuals, **UP TO 10%** OF THEIR ANNUAL REMUNERATION.

They are also subject to indemnification under civil liability.



An anticompetitive labor market agreement can also be referred to as:



Eliminate hiring or wage setting policies that involve agreements with other companies

Do not refuse to solicit or to hire employees from another company

Do not exchange
commercially
strategic and
sensitive information
about employee
hiring and
compensation

OUTSIDE LEGITIMATE CONTEXTS OF SOCIAL DIALOGUES AND/OR COLLECTIVE BARGAINING AGREEMENTS, AS SOCIAL PARTNERS:

Do not participate in meetings with other companies where salaries or any other form of compensation is discussed

Do not agree with another company to fix salaries or any other form of compensation

If you have suspicions of anticompetitive agreements involving the hiring of employees or wage setting conditions between companies contact Autoridade da Concorrência

The **complaint** can be made anonymously.

When detecting a conduct that may harm competition, the AdC investigates and punishes with fines, whenever there is a practice prohibited by the Portuguese Competition Act and, if applicable, by the TFEU.

An application for <u>leniency</u> (legal framework for granting a waiver or reduction of fines) can be made.



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