

Labor Newsletter

ANGOLA

April 2018

OPINION

JOB QUALIFIER AND REGISTRATION OF EMPLOYMENT CONTRACTS WITH EXPATRIATES – PRACTICAL CONSOLIDATION OF THE NEW REGIME AND RELATED RISKS

The mandatory approval of a job qualifier by the General Inspectorate of Labor has been a requirement since the publication of Decree No. 70/01, of 5 October 2001.

In a nutshell, this obligation consists of the preparation of an internal regulation requiring a description of: (i) all the existing positions in the company; (ii) the corresponding hierarchy; (iii) the functions pertaining to each position; (iv) the professional skills and qualifications required for each position; (v) the main rules on career progression; and (vi) employees' salaries.

Failure to prepare and approve a job qualifier is subject to one of the highest fines provided for in labor law, varying from 10% to 15% of the company's total payroll depending on the gravity of the employer's conduct. By means of Presidential Decree No. 43/17, of 6 March 2017, the existence and approval of a job qualifier is now very easy to supervise by the labor authorities. This is because the registration of any employment contract entered into with an expatriate employee entails filing, with the Employment Center of the employer's area of activity, a copy of the relevant job qualifier, approved by the General Inspectorate of Labor.

The most recent practice of Employment Centers demonstrates that the mechanism for supervising compliance of the requirement to prepare a job qualifier and submit it for prior approval is being perfectly implemented. Indeed, Employment Centers have been rejecting all applications for registration of employment contracts that are not accompanied by a copy of the relevant job qualifier with express reference to the position held by the expatriate employee.

It should be noted that although the supervision mechanism of the Employment Centers is focused on applications to register employment contracts, said mechanism can lead to inspections from the General Inspectorate of Labor in order to check whether job qualifiers have been prepared and/or are appropriate to the company's human resources. HR departments should therefore take steps to comply with this requirement.

JURISPRUDENCE

Labor infractions: Non-retroactivity of the new penalizing law (Supreme Court Ruling, of 29 September 2017).

In the case in question, the Supreme Court was asked to rule on the application of a fine by the Inspectorate Office of the Ministry of Petroleum for violation of rules and procedures related to the recruitment, integration, training, and development of Angolan personnel and the hiring of foreign personnel for the execution of petroleum operations approved by Decree-Law No. 17/09, of 26 June 2009. Specifically, the relevant company only entered into the Program Contract with the Ministry of Petroleum in 2011. However, the fines for non-compliance with the *Angolanization* and training of personnel plans, under Decree-Law No. 17/09, related to the years of 2007 and 2010.

The Supreme Court ruling was informed by the Constitution of the Republic of Angola, Article 65.2, which prohibits any new law from being applied to practices carried out before it comes into force. The Supreme Court thus annulled the application of fines for violation of the statute in question in previous years.

LABOR LEGAL NEWS

- Presidential Decree No. 56/18, of 20 February 2018, approved a regime on the exemption from,

and simplification of, tourist visas for nationals of the Republics of Botswana, Mauritius, Seychelles, Zimbabwe and Singapore, who will be exempt from tourist visas for stays of up to 30 days per entry and 90 days per year. Nationals from other African countries, as well as from America, Asia, Europe, and Oceania, now benefit from a simplified regime for the granting of tourist visas, the rules of which provide that: (i) diplomatic missions and consular offices of the Republic of Angola are required to issue tourist visas within a period of no more than 3 working days; and (ii) tourist visa applications may be submitted on-line through the official internet site of the Angola Migration Services. The new regime has been in force since 30 March 2018.

UPCOMING LABOR OBLIGATIONS TO BEAR IN MIND

- Prepare and submit the table of remunerations to the National Institute of Social Security (companies with more than 20 employees are required to submit said list electronically) and pay the relevant contributions for a given month by the 10th day of the following month;
- Prepare and submit the Nominal Register of Employees (RENT form) by 30 April in respect of personnel data for March.

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