

Labor Newsletter

ANGOLA

JUNE 2022



OPINION

Draft Amendment to the General Labour Law

A legal project with amendments to the General Labor Law was prepared by the Technical Revision Group of the Ministry of Public Administration, Employment and Social Security. This project was recently submitted to the National Assembly so as to trigger the legal process of approval.

The New General Labor Law intends to fully achieve several goals, such as the country's economic and social growth and development, employability and stability, boosting the economic activity and consolidating social justice as well as harmony with the Constitution of the Republic of Angola and international regulations, such as International Conventions ratified by the Angolan State that regulate the fundamental institutions of the Labor Law, and also the current socio-economic reality of the country.

Therefore, the legal project aims at revitalizing the labor rules with relevant changes as far as training, types of contracts, validity and termination of labor relationships, criteria for additional remuneration, indemnities and compensation, disciplinary sanctions and employees' rights is concerned.

One of the main changes concerns fixed-term employment contracts, which in addition to the obligation of having to be put in writing, are only lawful if entered into based on the grounds set forth in the law. These grounds must be expressly and fully referred in the employment contract.

Some of the grounds that allow fixed-term employment contracts to be entered into are, for example, the replacement of a temporarily absent employee, the temporary or exceptional increase of company's regular activity resulting from the increase of work and the launch of new activities of uncertain duration,

beginning of work reorganization or expansion of the activities of employer or work center.

Another major proposed amendment is the elimination of the concept of micro, small, medium and large-sized companies used in the current General Labor Law and that relate to the company's dimension and turnover, notably for purposes of calculating remuneration and compensation and defining the type of employment contracts. This amendment shall lead to changes on the payment of night work, shift work and work on an availability basis. Also, the criteria for the determination of compensation and indemnities to be paid to employees in case of insolvency or extinction of employer, termination of the employment contract for reasons pertaining to employer, no reinstatement of the dismissed employee and individual dismissal, will be changed. We believe that this option will be the subject of a heated debate, since the elimination of the concepts of micro, small, medium and large-sized companies will imply a general increase in labor costs for smaller companies, which does not seem appropriate for the economic context current.

In light of the above, the likely approval and publication of the New General Labor Law will challenge employers to adapt their human resources policies and practices considering that the employment relationship model will undergo major and relevant changes.

JURISPRUDENCE

Occupational Illness – Expiry Period (Supreme Court Ruling of 28 October 2021)

In the relevant case, there was a discussion on the expiry period applicable to the right of an employee who claimed to be suffering from an occupational illness to claim pensions and other benefits in kind that, in his opinion, emerged from his health condition. This is a

very complex legal issue because, despite Article 52.1 of the Legal Regime on Accidents at Work and Occupational Illnesses (approved by Decree No. 53/05, of 15 August 2005) establishing a deadline of one year from the clinical cure for the exercise of the right of legal action, in case of occupational illnesses paragraph 2 of the same provision states that the period of one year is counted as from the moment employee receives formal communication of an unequivocal diagnosis of his/her illness. The big question focuses on what actually is an “unequivocal diagnosis of illness” for purposes of the legal expiry period for bringing a legal action against employer.

The Supreme Court made two very relevant considerations in this ruling. Firstly, it concluded that a “clear diagnosis of illness” must be reflected in a medical report followed by an examination intended to assess the clinical condition of employee and, secondly, that the legal period of one year of expiry is triggered if such report clearly mentioned that condition and its effects on employee’s professional capacity to perform his/her function and/or work in general.

In the case at stake, the Court concluded that employee had become aware of his health condition, expressly and unequivocally, through a medical report dated from 30 April 2011 which mentioned his condition and the related effects on his employment situation. Therefore, when employee filed the legal action on 17 July 2014, his right had already expired according to Article 52.1 of the Legal Regime on Accidents at Work and Occupational Illnesses. Consequently, employer was fully acquitted from all claims.

LABOR LEGAL NEWS

- **Presidential Decree No. 161/22, of 20 June 2022** – Sets forth the Sustainability Indicator of the Mandatory Social Protection System, the Minimum and Maximum Pension Limits and the Mandatory Electronic Remuneration Declaration for the Request for Benefits. It repeals Presidential Decree No. 87/19, of 21 March 2019, which adjusts the amount of the Mandatory Social Protection pensions.
- **Executive Decree No. 235/22, of 16 June 2022** – Approves the services agreement model, as well as the remuneration model of the social security mediation activity.
- **Presidential Decree No. 112/22, of 16 May 2022** – Declares the end of the Public Calamity Situation throughout the national territory and defines the rules for the control of the COVID-19 Pandemic.
- It repeals all legislation contrary to the provisions of this statute, namely Presidential Decree No. 142/20, of 25 May 2020 and Presidential Decree No. 72/22, of 31 March 2022.
- **Presidential Decree No. 109/22, of 12 May 2022** – Regulates the Career of the Social Worker, which comprises the groups of Social Worker, Social Educator, Elderly Surveillance, Social Welfare Assistant and Early Childhood Care Assistant. It repeals all legislation contrary to the provisions of this statute, namely Presidential Decree No. 188/12, of 21 August 2012.
- **Presidential Decree No. 97/22, of 2 May 2022** – Regulates the Legal Regime on the Mandatory Social Protection of Self-Employed Workers. It repeals all legislation contrary to the provisions of this statute, namely Presidential Decree No. 42/08, of 3 July 2008, on the Legal Regime of Self-Employed Workers.
- **Letter of Ratification No. 9/22, of 21 April 2022** – Grants the Agreement on Mobility between the Member States of the Community of Portuguese-Speaking Countries - CPLP as firm and valid, and guarantees that it will be strictly observed.
- **Presidential Decree No. 90/22, of 18 April 2022** – Approves the Organic Statute of the General Inspectorate of Labor - GIL and extinguishes the Center for Safety and Health at Work - CSST. It repeals Presidential Decree No. 79/15, of 13 April 2015, which approves the Organic Statute of the General Inspectorate of Labor, Executive Decree No. 50/10, of 28 May 2010, which approves the Organic Statute on the Safety and Health at Work, as well as all legislation contrary to the provisions of this statute.
- **Presidential Decree No. 52/22, of 17 February 2022** – Regulates the Exercise of the Labor Activity under the Remote Work Regime.
- **Presidential Decree No. 54/22, of 17 February 2022** – Sets the amount of AOA 32,181.15 as the National Minimum Wage. It repeals all legislation contrary to the provisions of this statute, namely Presidential Decree No. 89/19, of 21 March 2019.
- **Presidential Decree No. 12/22, of 17 January 2022** – Establishes the legal framework on social security measures to encourage the hiring of unemployed citizens, young people and people with disabilities and the voluntary settlement of Social Security debts.

UPCOMING LABOR OBLIGATIONS TO BE CONSIDERED

- Prepare and submit the payroll payment forms to INSS (companies with more than 20 employees are required to submit it electronically) and proceed with the payment of the contributions by the 10th of the following month.
- Submit to the insurance company, with which the mandatory accidents-at-work insurance policy has been taken out, a copy of the payroll reflecting salaries and additional taxable remuneration paid each month to employees, authenticated by the General Inspectorate of Labor. The relevant insurance policy may have specific rules on this matter, which must be checked.
- File with the relevant court, on a six-monthly basis, four copies of a map, in a specific model, listing any work accidents reported in the previous six months for which the employer is responsible.

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