

LABOR NEWSLETTER

// *Cape Verde*

FEBRUARY 2025



OPINION

The procedural deadlines quest in labor law

The Labor Procedural Law (“LPL”) was prepared more than 30 years ago to address the specificities of labor issues, with the aim of ensuring speed and efficiency in resolving conflicts between employers and employees. However, it is undeniable that the procedural framework has not kept pace with the social, technological and legal transformations that occurred over the last decades. One of the main points that currently draws criticism is the rigidity of procedural deadlines, which often prove insufficient given the complexity of many contemporary disputes.

The current labor scenario presents increasingly complex disputes, requiring the parties and their representatives to have more time for thorough and technical analysis. Nevertheless, the deadlines established in the LPL are shorter than the deadlines established by the Civil Proceedings Law (“CPL”), which provides broader deadlines, allowing for deeper argumentation and more comprehensive presentation of evidence. While the CPL seeks to balance speed with legal certainty, in many cases the LPL disproportionately prioritizes speed over the proper exercise of the rights to judicial resource and defense as well as properly grounded decisions.

Moreover, the LPL’s short deadlines can create practical difficulties for parties. For instance, the draft of a defense statement requires a thorough review of the facts, contracts and documents enclosed in the legal claim. A short deadline leads to errors and omissions, harming one of the parties (usually the employer, but also the employee in civil liability cases for instances), especially in more technical or complex disputes. Similarly, in appeals, broader deadlines could ensure that issues are debated in a more detailed and efficient manner in higher courts, contributing to the development of more solid and consistent precedents.

Therefore, it is essential to consider a reform of the LPL to align the deadlines for defense statements and appeals with those established by the CPL. This change would bring greater parity between civil and labor proceedings, as well as align the labor procedural system with the demands of a constantly evolving legal and social context.

The revision of the LPL is an urgent necessity. Updated legislation in harmony with the constitutional principles of broad defense and adversarial proceedings will not only strengthen Labor Justice but also bring greater confidence and predictability to the legal system as a whole.

JURISPRUDENCE

JUDICIAL COURT OF SAL

[Labor proceedings No. 11/2023-24](#)

In the ruling under consideration, the Plaintiff (employee) filed a legal claim against the Defendant (employer), in which the following requests were made: i) the disciplinary proceeding conducted against him should be declared null; ii) if not declared null, the court should rule that no disciplinary infraction had occurred; iii) his dismissal should be considered without just cause; iv) payment of wage differences due to wage discrimination in comparison to a colleague; and v) compensation for damages suffered as a result of moral harassment.

Through the legal decision rendered on June 21, 2024, the Judicial Court of Sal declared that the claims related to the Plaintiff's dismissal had expired on December 8, 2023. The Court based this understanding on the fact that the Plaintiff's employment contract with the Defendant ended on December 9, 2021. On December 8, 2022, the Plaintiff requested a judicial notification from the Defendant in order to interrupt the 1-year statute of limitations established by Article 6 of the Labor Code. Thus, the Plaintiff would have an additional year to file the lawsuit, that is, until December 8, 2023. However, the Plaintiff was

only served with the lawsuit on February 7, 2024, a date after the expiration.

According to the Plaintiff, his salary was reduced due to his work schedule being shortened, and his salary became lower than one of his subordinates. According to the Plaintiff's argument, this salary reduction was discriminatory, and therefore, he requested payment of the salary differences.

Although the Court reiterated that Cape Verdean labor law is guided by the principles of equality and non-discrimination between national and expatriate employees, it found that the reduction of the Plaintiff's monthly wage was done within the parameters established by the Simplified Regime of Suspension of Employment Contracts. The Defendant made this reduction not out of any discriminatory intent against the Plaintiff or any persecution, but rather in accordance with the established policy during the pandemic.

However, the Court condemned the Defendant to pay the Plaintiff the amount of CVE 850,000\$00 for moral harassment inflicted upon the Plaintiff. This decision was based on the Court's finding that there was, in fact, a reduction in the Plaintiff's duties compared to those for which were hired due to the COVID-19 pandemic. However, the Defendant did not adopt the same policy with respect to other employees holding the same position as the Plaintiff, not reducing their salary or work hours. This conduct violated the Defendant's obligation to ensure effective employment for the Plaintiff, and the amount of compensation was determined after considering the Defendant's degree of culpability, as well as the economic situation of both the Defendant and the Plaintiff.

LABOR OBLIGATION TO BE TAKEN INTO ACCOUNT

Posting of the Personnel Chart

Companies must prepare a personnel chart and post it at an easily accessible and visible place for the employees by 31 March with updated HR data in relation to February. The personnel chart must also be filed (along with three copies, or via a digital file or database access) with the General Inspectorate of Labor at the Municipality of Praia, in relation to the employees whose workplaces are located

in Sotavento Islands (Maio, Santiago, Fogo and Brava), or the General Inspectorate of Labor Regional Delegation of São Vicente, in relation to the employees whose workplaces are located in Barlavento Islands (Santo Antão, São Vicente, Santa Luzia, São Nicolau, Sal and Boa Vista).

The personnel chart must describe in relation to each employee, amongst other information, the full name, professional category, base salary and other remuneration benefits, date of hiring and scheduled vacation periods.

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