EVC ADVOGADOS | EVERSHEDS SUTHERLAND

Newsletter

Labor changes in Angola

February 28, 2025

Legal Framework for the Professional Activity by Non-Resident Foreign Employees

On February 18, Presidential Decree no. 49/25 ("Diploma") was published, regulating the professional activity by non-resident foreign employees and repealing Presidential Decree no. 43/17 of March 6 and Presidential Decree no. 79/17 of April 24.

The main changes and novelties cover matters relating to the duration of the employment contract and the way in which the employee's remuneration is paid.

I. Requirements for Hiring Employees

The Presidential Decree added to the cumulative requirements for employment set out in Article 4 of the law, adding, in its paragraph a), the need to obtain a Work Visa, which must be valid for the duration of the employment contract.

II. Form of the contract

The Diploma requires the notarial certification of the employee's commitment to return to his/her country of origin after the termination of the employment contract.

III. Contract duration

The new regime clarifies the legal nature of the contract, classifying it as a fixed-term employment contract.

On the other hand, the Diploma subjects the contract, on its renewal, to the regime of article 16 of the General Labor Law ("GLL") regarding the duration of the fixed term contract, and therefore restricting the duration of the renewals.

IV. Contract registration

The regime clarifies that it is the employer's obligation to request the registration of the contract or addendum with the employment center in the area where the company is located.

It is important to mention that the fee due for registering the contract or addendum must be paid into the Single State Account by means of a Single State Payment Reference, clarifying the destination of this fee.

V. Remuneration

The major change brought about by this regime is the elimination of the possibility of the parties to agree on the currency for the payment of the remuneration.

In fact, the Presidential Decree refers in this respect to the general provisions of the GLL, which requires the payment of the pecuniary part of the remuneration in national currency, i.e. Kwanzas.

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VI. Modification of the contractual relationship

There is also the possibility of transferring the employee to a different area in another company in the group to which the employer belongs, by agreement between the parties.

VII. Final Provisions

Finally, it should be noted that this law refers to:

(i) With regard to the transfer of values arising from the contract, to the legislation in force on this matter;

(ii) In the event of a violation of the rules of this law, to the sanctioning system for labor offenses, regulated by separate legislation; and

(iii) As a subsidiary regime, for the GLL.

VIII. Entry into force

This law entered into force on February 18, 2025.

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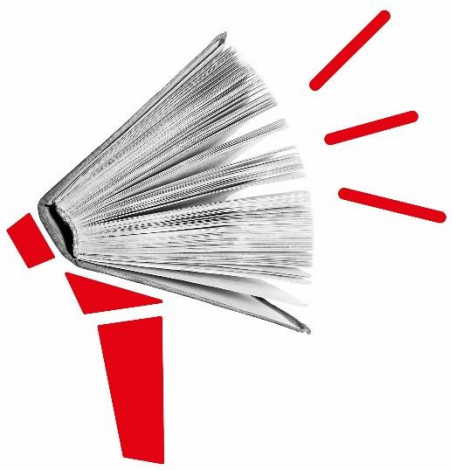

New Legal Framework for Temporary Employment Contracts and Temporary Assignment of Employees

Presidential Decree n. 51/25 of February 19th ("Presidential Decree n. 51/25") was published, regulating the legal regime for the temporary assignment of employees, as well as the activity of temporary employment agencies, and revoking Presidential Decree n. 31/17 of February 22nd ("Presidential Decree n. 31/17").

The main changes and updates cover matters relating to the conditions of Temporary Assignment, the Temporary Assignment of Employees Activity License, the Temporary Employee's Right of Option and the Sanctions Regime.

I. Admissibility of Temporary Employees Assignment Contracts:

The new law eliminates the previous requirement for temporary employees to have a two-month relationship with the temporary employment agency, allowing for greater flexibility in the placement of temporary employees, as the mere existence of an employment relationship with the temporary employment agency is now sufficient.

II. Conditions of Assignment:

The admissibility of the assignment of temporary employees must now be justified on the same grounds as the conclusion of fixed-term contracts under the General Labor Law, adapting and altering the grounds that are no longer expressly listed in this law.

Likewise, reference is made to the General Labor Law for the general rules on the duration, renewal and conversion of the assignment contract.

The cases in which the employee joins the staff of the user company on an indefinite contract are expressly extended, if there are no reasons justifying the use of the temporary contract.

It is now possible for the employee to choose, within 15 days, whether to remain with the user company or return to the temporary employment agency if the temporary employment contract is automatically converted into an open-ended contract, i.e. whenever there are no reasons for the assignment, or the employee remains in the service of the user company after the maximum period allowed. If the employee does not exercise this choice, he or she must be considered to have joined the user company.

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It is also stipulated that if the employee joins the staff of the user company after having worked under a temporary employment contract or in cases where the use of employment contracts is unlawful, their seniority in the user company must be counted from the start of the temporary employment contract.

III. Working Conditions:

It is now stipulated that the temporary employment agency will exclusively exercise disciplinary power over the temporary employee, while the respective management power will remain with the user company.

IV. License for the Temporary Assignment of Employees:

Presidential Decree no. 51/25 introduces a new formal licensing regime for the activity of temporary assignment of employees, replacing the old requirement for prior authorization provided for in article 4 of Presidential Decree n. 31/17. Now, companies wishing to carry out this activity must obtain a license addressed to the Head of the Ministerial Department responsible for Labour Administration and submitted to the National Institute for Employment and Vocational Training (INEFOP), subject to verification of specific requirements.

The new rules for obtaining a license to temporarily assign employees are as follows:

- The activity can only be carried out by licensed companies, which must meet the requirements of suitability, technical, organizational and functional capacity, and regularization of the tax and contributory situation;
- The license application will be submitted to INEFOP, accompanied by documentation proving the legality of the company and its ability to carry out the activity;
- The General Labour Inspectorate ("IGT") will now carry out a prior inspection to assess the technical, organizational and functional capacity and the conditions of Safety, Health and Hygiene at Work of the temporary employment company before granting the license, which will be the subject of a report that will be attached to the process of obtaining the license;
- INEFOP has 30 days to formulate a proposal for a decision to be submitted to the head of the ministerial department responsible for labor administration;
- The license is then issued by INEFOP and is valid for 24 months;
- Renewal of the license requires an application to be submitted at least 30 days before its expiry date, upon presentation of proof of compliance with tax and social security obligations; and
- Licensed companies must report every six months to the employment centre in their area of activity the list of employees they have assigned, detailing information such as contract, remuneration and place of work.

V. Fee applicable to obtaining a license for the temporary assignment of employees:

Presidential Decree n. 51/25 introduces a system of fees applicable to the license for the temporary assignment of employees, establishing financial obligations for companies wishing to operate in the sector. These fees are intended to guarantee the operation and supervision of the scheme, and are collected by INEFOP and regulated by the Ministries of Public Finance and Labor, under the following terms:

- Fees are set by the Heads of the Ministerial Departments responsible for the Public Finance and Labor Sectors and are subject to the General Regime of Fees and other applicable legislation, ensuring fiscal and administrative compliance;

- The fee is levied on the provision of the service of issuing the license, i.e. it corresponds to the administrative cost of the procedure for granting the license for the temporary assignment of employees; and

- Payment must be made into the Single Treasury Account, via the Single Reference for Payments to the State.

VI. Sanctioning regime:

Presidential Decree n. 51/25 does not expressly provide for a system of fines, unlike Presidential Decree n. 31/17, stating that failure to comply with the decree constitutes a labor offense, under the terms of the new Labor Offenses Regime (Presidential Decree n. 50/25, of February 19).

VII. Entry into force:

This new regime came into force on February 19, 2025, with the exception temporary employment contracts currently in force to which the Presidential Decree 31/17 still applies until the expiry date; if these contracts are renewed before the next expiry date, their renewal will already take place under the new regime.

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New Labor Offenses Regime

On February 19, 2025, Presidential Decree n. 50/25 was published, revoking the Presidential Decree n. 154/16, of August 5, and establishing a new regime for labor offenses in light of the approval of the new General Labor Law.

This new regime has restructured the sanctioning system, introducing the classification of infringements as light, serious and very serious and providing for accessory sanctions, such as a ban on activity and the publicizing of infringements. The new law also assigned a higher seriousness to several administrative offenses and began to consider recidivism as a factor in increasing fines. Finally, the sanctioning procedure was reformulated, bringing greater rigor and efficiency to the application of penalties.

I. New Classification of Labor Offenses:

Presidential Decree n. 50/25 introduces a new system for classifying labor offenses, amending and reinforcing the sanctioning system already provided for in Presidential Decree n. 154/16. The decree maintains the structure for imposing fines for labor offenses, but establishes a clearer differentiation of offenses, classifying them as light, serious and very serious and introducing more severe accessory sanctions for repeat offenses.

New rules on the classification of labor offenses:

- Creation of three categories of labor offenses, allowing for a clearer distinction between different types of violations:
    - Light Administrative Offenses - punishable by fines of between 2 and 9 times the average monthly salary of the company, depending on the degree of fault;
    - Serious Administrative Offenses - punishable by fines of between 10 and 17 times the company's average monthly salary, depending on the degree of fault;
    - Very Serious Offenses - punishable by fines of between 18 and 25 times the average monthly salary of the company, depending on the degree of fault.
- Introduction of accessory sanctions for very serious or repeat offenses, including:
    - Prohibition from practicing in the place of the offense, for up to two years;
    - Prohibition from participating in public tenders for up to two years;
    - Publicity of infringements, with the inclusion of the offending company identification in a public register kept by the General Labor Inspectorate ("IGT").

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II. Aggravation of Administrative Offenses:

Presidential Decree n. 50/25 did not limit itself to reorganizing administrative offences, but also reclassified some offences, making their categorization more severe and, consequently, increasing the penalties, in the following areas:

- Violation of the right to work and equal opportunities - is now classified as a very serious offense, subject to ancillary sanctions, including a ban on activity;
- Compulsory work - this is now classified as a very serious offense and may result in additional penalties for the employer.
- Employment related accident insurance and occupational diseases - is now classified as a very serious administrative offense, subject to a ban on activity in the event of repeat offenses.
- Compulsory medical examinations - now classified as a very serious offense, subject to higher fines and a possible ban on the activity.
- Form of employment contract - now classified as a serious administrative offense, subject to additional penalties in the event of repeat offenses.
- Duration of fixed-term employment contracts - now classified as a serious administrative offense, subject to increased penalties in the event of repeat offenses.
- Renewal and conversion of fixed-term employment contracts - now classified as a serious administrative offense, subject to additional sanctions in the event of repeated violations.
- Entitlement to define working schedules - now classified as a serious administrative offense, subject to fines and additional penalties.
- Legal regime for shift work - now classified as a very serious administrative offense, which may result in the company being banned from operating.
- Prior notice on termination of contract - now classified as a serious administrative offense, subject to additional sanctions and an increase in the fine in the event of repeat offenses.
- Preference criteria in the selection for collective dismissal - is now classified as a serious administrative offense, subject to ancillary sanctions.

III. Misdemeanor Procedure:

The New Administrative Offenses Regime established a new procedure for the IGT, dividing its actions into educational and coercive inspections and expressly providing for the powers and duties of labor inspectors in these actions.

The rules on the notifications required by the IGT are also laid down.

The administrative offense procedure is specified:

a) notice;

b) notification to the defendant;

c) instruction;

d) decision.

Within 15 days of the notice being served, the offending agent will be notified to **make voluntary payment of the fine** or to submit a **written reply** enclosing supporting documents and a list of witnesses up to a maximum of two for each offense, or five witnesses, if the offender has incurred in three or more offenses.

If the fine is paid voluntarily before the IGT's decision, it will be set at its minimum amount, in the case of negligence, with an increase for repeat offenses. Voluntary payment is equivalent to a conviction and terminates the proceedings, except where accessory sanctions apply.

Once a final conviction has been handed down, the **fine** must be **paid** within 10 days, unless a communication of justified reason for not being able to do so takes place.

The decision to impose a fine can be challenged by a complaint or hierarchical appeal, under the terms of the Code of Administrative Procedure. Furthermore, the decision may be challenged under the terms of the Code of Labor Procedure.

The IGT may authorize payment of the fine in instalments, provided that the economic situation of the offending agent justifies it, with the last instalment not exceeding one year after the final decision. Failure to pay one instalment means that the remaining instalments are due immediately, and proof of the impossibility of immediate payment is required.

IV. Prescription

The rules on setting the limitation period for misdemeanour proceedings have been amended, which will now be set based on the seriousness of the offence, as follows:

a) 5 years for very serious offenses;

b) 3 years for serious offenses; and

c) 1 year for minor offenses.

V. Entry into force

Presidential Decree 50/25 entered into force on February 19, 2025.