

Labor Newsletter

ANGOLA

June 2019

OPINION

PRESIDENTIAL LEGISLATIVE DECREE NO. 2/19, OF 11 MARCH 2019, APPROVED FOR THE FIRST TIME A LEGAL REGIME GOVERNING THE REGULARIZATION AND COLLECTION OF SOCIAL SECURITY DEBTS.

This statute covers all taxpayers linked to Compulsory Social Protection who have not complied with tax responsibilities, the payment of interest for late payments or fines, as well as those beneficiaries who have received social benefits unduly. The new regime establishes procedures for voluntary and coercive payment of debts of any kind to Social Security.

It is foreseen that, in the case of voluntary payment of a debt, Social Security may decide to reduce late payment interest by up to a maximum limit of 50%, depending on the debtor's economic situation and the amount of the debt.

Also defined is the possibility of payment of debts up to a limit of 60 (sixty) monthly installments, and the execution of agreements for the regularization of debts with the National Institute for Social Security, as well as alternative means of settling such debts. However, if such agreements for the regularization of debts are not complied with, Social Security will initiate a debt enforcement process.

The statute entered into force on 11 June 2019 and establishes a regime that we consider important because it allows for the regularization of debts to Social Security without penalties. Indeed, during the period of 180 (one hundred and eighty) days after it entered into force, taxpayers have at their disposal an exceptional regime for the regularization of debts entailing exemption from late payment interest and the expiry or extinction of infringement proceedings and fines related to the relevant debts. For this purpose, the debt should be declared in the monthly payroll forms filed electronically.

JURISPRUDENCE

Dismissal of a Union Delegate Considered Null (Ruling issued by the 3rd Section of the Luanda Provincial Labor Court, on 3 April 2019)

The case in question consisted of a Judicial Appeal of a Disciplinary Decision, in summary form, following the disciplinary dismissal of an employee who simultaneously performed functions as Union Delegate and belonged to the Union Commission in the company.

Notwithstanding the fact that the company alleged that the conduct adopted by the employee violated the legally established duties to which he was bound, in particular the duties of respect and obedience to his hierarchical superiors, and that he even instigated an unlawful strike, the Court decided that the disciplinary process was null and void.

Indeed, the Court considered that the company did not respect the special protection against dismissal that the employee enjoyed by being a union delegate, in particular regarding the need to send a copy of the communication made to the employee, within five days as from the decision being taken in the disciplinary proceedings, to the union or representative body, which must reply within ten days.

Considering that the burden of proof – that the disciplinary proceedings were in fact complied with, under the terms laid down by the law – lies with the company, and that the latter was not able to provide such proof, the Court decided that, since those rules are mandatory and must be complied with, the disciplinary measure applied to the employee should be deemed null and void. Therefore, the company was ordered to reinstate the employee in his previous position, to pay him the wages and complements lost since the date of his dismissal and until his reinstatement, and to regularize his situation with Social Security.

LABOR LEGAL NEWS

- Law No. 13/19, of 23 May 2019** – On the Legal Regime covering Foreign Citizens in the Republic of Angola. Repeals all contradictory provisions, notably Law No. 2/07, of 31 August 2007.
- Law No. 9/19, of 24 April 2019** – Amends Articles 1, 2, 3, 6, 8, 9, 10, 11 and 16, the list referred to in paragraph 3 of Article 3, as well as the annexed table referred to in paragraph 1 of Article 16 of Law No. 18/14, of 22 October 2014, which approved the Income Tax Code. Repeals Executive Decree No. 15/09, of 3 March 2009, which approved the Minimum Profit Table.
- Presidential Decree No. 88/19, of 21 March 2019** – Extends the term of validity of Decree No. 6/08, of 10 April 2008, which, for a period of five years, exceptionally allows the hiring of nationals over 35 years of age whose academic and professional qualifications acquired in Angola or abroad meet the demands of the public sector.
- Presidential Decree No. 89/19, of 21 March 2019** – Sets the amount of the national minimum wage at AOA. 21,454.10. Repeals Presidential Decree No. 91/17, of 7 June 2017.
- Presidential Legislative Decree No. 2/19, of 11 March 2019** – Establishes the Legal Regime for the Regularization and Collection of the Debt of Taxpayers and Beneficiaries to the Compulsory Social Protection Management Entity. Repeals all contradictory legislation.

UPCOMING LABOR OBLIGATIONS TO BEAR IN MIND

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

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