

IMPLICATIONS OF THE COVID-19 AT THE WORKPLACE

São Tomé and Príncipe

CORONAVIRUS AND COVID-19

Coronaviruses are a large family of viruses that may cause illness in animals or humans. In humans, several coronaviruses are known to cause respiratory infections ranging from the common cold to more severe diseases such as Middle East Respiratory Syndrome (MERS) and Severe Acute Respiratory Syndrome (SARS). COVID-19 is the infectious disease caused by the most recently discovered coronavirus. This new virus and disease were unknown before the outbreak began in Wuhan, China, in December 2019. This disease was recently declared as a pandemic by the World Health Organization. Pursuant to the most recent information, the number of infected people worldwide amounts to 334,981, with cases reported in 190 countries. From the total infected population, more than 102,069 persons have been declared fully recovered.

São Tomé and Príncipe is still one of the few countries in the world with no reported cases of people infected with the COVID-19 virus up to this moment.

DECLARATION OF STATE OF PUBLIC HEALTH EMERGENCY

In order to prevent the spreading of COVID-19 virus in São Tomé and Príncipe, the Government has declared a state of public health emergency throughout the country through Presidential Decree No. 3/2020, of 17 March 2020.

Under said legal statute, the Government has adopted the following exceptional measures:

- Entry into the country is forbidden to all foreign citizens;
- Nationals and foreign residents returning to the country will be subject to compulsory home quarantine;
- Entry is authorized for technical and governmental missions invited by the Government of São Tomé and Príncipe, provided that all individuals can prove they have taken the Coronavirus screening test at the airport of origin;
- All charter flights are forbidden to land at the airports of São Tomé and Príncipe, and cruise ships are forbidden to berth;
- The provision of urgent hospital material and supplies will be ensured by special charter flights, in case of absence of commercial flights;
- In the case of cargo vessels, the relevant crew and support staff are forbidden to leave such vessels;
- All public and private schools in the country will close, effective as of 6:00 pm on 20 March;
- All public gatherings of a cultural, recreational, religious and entertainment nature will be banned, as well as discotheques/clubs, “*fundões*” (open-air dances) and popular festivities, effective as of 6:00 pm on 20 March.

RIGHT TO A SAFE WORK ENVIRONMENT

Precautionary sanitary measures shall be determined by resorting to urgency mechanisms set out in the general administrative laws for the protection of public health.

As a general principle, the Labour Code (Law No. 6/19, of 11 April 2019), mandates that all employers must adopt and strictly enforce measures on safety, health and hygiene at work, free of charge of employees, this notably includes:

- i. ensure that no employee is exposed to the effects of physical, chemical, biological or environmental conditions or agents, or conditions or agents of any other nature, or to weights, without being warned about the damage those conditions or agents may cause to health and informed of the means to avoid them. The right to special safety and health conditions of the pregnant employees, and those who have recently given birth or are breastfeeding must be highly considered;
- ii. whenever necessary to prevent the extent of reasonable risks of accident or damaging effects to health, provide the employees with garments, footwear and personal protection equipment, and to prevent access to the workplace to the employees who are not wearing personal protection equipment; and
- iii. cooperate with the sanitary authorities to eradicate epidemics or local endemic diseases. The duties mentioned above entail that employers must be particularly alerted to risk assessments and any factor related to infection and contamination of the work environment. In the context of the COVID-19 outbreak, companies should thus consider:

- circulating information on COVID-19 symptoms, the actions aimed at preventing the spread of the disease, especially related to good hygiene practices and provide any necessary equipment to facilitate this, such as clean water, hand sanitizers and masks;
- increase routine cleanings, particularly in high-traffic or common areas, spacing workstations, avoid in-person meetings or gatherings, increase remote-work capabilities and modify visitor policies;
- the existence of isolation rooms in the facilities to the extent possible;
- the definition of procedures to inform the health authorities and employee's families should be implemented, so as to allow for the application of all public health actions and provide for the best care possible;
- performance of occasional medicals exams (such as fever measurements) and requesting employees with respiratory infections to visit a Health Center and follow the health professional's advice; and,
- request employees to provide company with information if they have traveled to infected areas/countries and in that case should remain at home for a 15-day period.

MAIN IMPLICATIONS OF THE COVID-19 OUTBREAK IN THE EMPLOYMENT RELATIONSHIPS

The labour laws do not have a particular provision on the implications of public health measures on the workplace. However, this topic is indirectly regulated in multiple provisions of the Labour Code that entail a large set of implications of the COVID-19 outbreak in the employment relationships, notably the following ones:

- **Suspension of the Employment Relationships** – The Labour Code sets out that any temporary *force majeure* circumstance hindering company's operations and/or the performance of work by employees may entail the suspension of the employment relationships;
- **Redundancies** – the last resort mechanism under the Labour Code is the formal redundancy of the employees based on economic reasons. Redundancy requires compliance with a statutory procedure before the Labour Ministry for either individual redundancies or collective dismissals and payment of a severance compensation;
- **Termination of the employment contract by the employee** – culpable lack of safety, hygiene and health conditions at work by the employer and the need to comply with legal obligations due to COVID-19 incompatible with continuing to work may lead to the termination of the employment contract by the employee with just cause;
- **Sick leaves** – The immediate implication of the infectious disease caused by COVID-19 is the need for the infected employees to go on sick leave;
- **Family leave** – COVID-19 may entail the need for an employee to render assistance to infected close family members or under age children;
- **Remote work or teleworking** – Despite the total silence of the Labour Code on remote working, the implementation of this work scheme is possible either as a result of employer's unilateral decision or through company's internal policies. The use of work tools, attendance and compliance with working time limits and overtime legislation needs to be regulated in order to accommodate the Labour Code's provision on each topic and the general silence on telework.

mirandaalliance

SÃO TOMÉ

Geneleyse Franca e Lagos

Geneleyse.Lagos@stpcounsel.com

E:stp@mirandaalliance.com

LISBON

Cláudia do Carmo Santos

Claudia.Santos@mirandalawfirm.com

Paula Caldeira Dutschmann

Paula.Dutschmann@mirandalawfirm.com

E: lisbon@mirandalawfirm.com



www.mirandaalliance.com