

Labor Newsletter

ANGOLA

DECEMBER 2021



OPINION

Angola ratified the agreement to create the African continental free trade zone

Angola has ratified the Agreement creating the African Continental Free Trade Area (AfCFTA). The AfCFTA entered into force on 30 May 2019 and business operations under it commenced on 1 January 2021.

The AfCFTA is a trade agreement, entered into between 54 countries of the African Union, which establishes the constitution, until 2028, of a common market, an economic union and an area for the free movement of people, capital, goods and services.

The United Nations Economic Commission for Africa (Uneca) hopes that this agreement will involve more than 1.2 billion people and a Gross Domestic Product (GDP) superior to USD 2.5 trillion, thus creating the largest free trade area at world level, with the progressive elimination of barriers, notably customs. Indeed, there is the possibility of creating wealth through economies of scale, creation of trade, structural transformation, productive employment and poverty reduction.

The free movement of people is of particular importance to enable the acceleration of trade and the creation of wealth in the African continent.

AfCFTA does not address this matter, however, a separate Protocol on the Free Movement of People was negotiated between the Member States, which has not yet been approved. The main objective of this Protocol is to provide a solution for the difficulty felt by Africans to travel within their own continent, constituting a step towards creating an African Union Passport and facilitating the movement of people within the continent. Due to political and economic issues, Angola did not ratify this agreement.

Additionally, Angola is a signatory to the 2014 SADC Protocol on Employment and Labor, which provides for programmatic rules on the control of immigration and non-discrimination of migrant employees. Angola also signed several visa waiver protocols with several countries, such as, Namibia, Zambia, South Africa and Portuguese-speaking African countries. However, none of these documents provide for the right to work, look for a job or establish residence in the country, nor is there any harmonization in terms of Social Security with any other African country.

Although AfCFTA is particularly important as a vehicle for greater prosperity, setbacks are already verified due to the impact of the COVID-19 pandemic and with the indication by several countries that it could be potentially harmful to their national economic interests.

CPlp member states approve agreement on mobility

An agreement on mobility was entered into by the Member States of the Community of Portuguese Language Countries ("CPLP"), which was signed in Luanda on 17 of July. The agreement will only enter into force when at least three of the Member States deposit their ratification instrument.

Mobility within the CPLP is an old aspiration and will significantly contribute to a greater proximity between the citizens of the Member States and to the increase of relations of cooperation in all domains, notably social, cultural and economic.

The facilitation of mobility between the countries that are part of the CPLP considers the specificities of each country, in its most varied domains, notably the normative, institutional and regional, in order to guarantee that the solutions adopted are solid, safe and achievable.

For this reason, the Agreement sets forth a flexible and variable system that allows Member States, from a mandatory minimum basis, which consists on the free movement of holders of diplomatic, official, special and service passports, to choose the category of people, depending on their profession or field of activity, as well as the State or Member States to which the agreement will apply.

The facilitation of the entry and stay regime for citizens of a CPLP Member State in the territory of another Member State will be done through the following migratory documents: i) CPLP short-stay visa; ii) CPLP temporary stay visa; iii) CPLP residence visa; and iv) CPLP residence permit.

It should be noted that the Agreement allows Member States, if necessary, to condition, within reason, the effective access to their territory through the compliance with certain requirements that are considered essential to safeguard the public interest and the purposes for which they were established.

JURISPRUDENCE

Obligation to present the improved pleadings within 30 days after the conciliation or mediation has been carried out, under penalty of expiry (issued by the Belas Labor Court)

The case consisted on a labor lawsuit, in which the applicant was notified to present additional improved pleadings within 30 days as from the date of the conciliation hearing, as per Article 291 of the General Labor Law.

The applicant only presented the mentioned pleading to the procedure 88 days after the conciliation hearing.

In the meantime, the Court had already issued a decision rejecting the procedure, grounded on the non-presentation of the additional improved pleadings.

Thus, and having the defendant argued the exception of expiry, the Court decided that the submittal of the additional and improved pleading happened after the established deadline and that the applicant's right of action expired (in addition to the decision of rejection of the procedure). Indeed, by not exercising the right of action within the period legally established for the purpose, the applicant lost the possibility of doing so due to expiry.

Expiry is a material exception, consisting on an extinguishing fact of the applicant's right, and implies the full acquittal from the proceedings under Article 493.3 of the Civil Procedure Code.

LABOR LEGAL NEWS

- **Presidential Decree No. 298/21, of 13 December 2021** – Approves the Visa Waiver Agreement on Diplomatic and Special Passports between the Government of the Republic of Angola and the Government of Qatar.
- **Presidential Decree No. 301/21, of 14 December 2021** – Approves the amendment to article 42 of Presidential Decree No. 280/21, of 29 November 2021, which updates measures to prevent and control the spread of the SARS-CoV-2 and COVID-19 viruses, as well as the rules for the operation of public and private services, social facilities and other activities during the Public Calamity Situation.
- **Presidential Decree No. 264/21, of 8 November 2021** – Creates a temporary, daily allowance for employees and administrative officers directly involved in the process of preventing and combating COVID-19.
- **Presidential Decree No. 280/21, of 29 November 2021** - Updates measures to prevent and control the spread of the SARS-CoV-2 and COVID-19 viruses, as well as the rules for the operation of public and private services, social facilities and other activities during the Public Calamity Situation.
- **Letter of Approval No. 46/21, of 27 October 2021** – Sets forth as firm and valid the Agreement on the Movement of People along the Common Border between the Republic of Angola and the Democratic Republic of Congo, in order to facilitating the mobility of the respective citizens within the permitted territorial limits, and guarantees that it will be strictly observed.
- **Law No. 22/21, of 18 October 2021** – Angolan passport and the entry and exit regime for national citizens. Repeals all legislation contradictory with this Law.
- **Executive Decree No. 501/21, of 7 October 2021** – Defines the cost-sharing scheme for SARS-CoV-2 tests, mandatory, post-landing, of the PAMBIO COVID-19 AG type test, to be carried out to citizens from abroad, upon arrival in national territory, at airport facilities.
- **Presidential Decree No. 240/21, of 29 September 2021** – Approves the Bilateral Protocol entered into between the Government of the Republic of Angola and the Government of the Portuguese Republic on the Facilitation of National Visas.

UPCOMING LABOR OBLIGATIONS TO BE TAKEN INTO ACCOUNT

- Prepare and submit the payroll payment forms to the 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.
- For companies engaged in the oil industry with a Program Contract in force, prepare and submit the 2022 Human Resources Development Plan ("HRDP") to the Ministry of Petroleum by 23 December. Pursuant to the most recent information released by the Ministry of Petroleum National Directorate for the Promotion of Angolanization, the 2022 HRDP should be submitted through the digital platform referred to as SIASP, already in use for the issuance of prior opinions regarding entry visas applications for oil sector personnel. The HRDP must be prepared using the official forms approved by the Ministry of Petroleum and cover the national and expatriate personnel's recruitment and training objectives, and also the goals for the nationalization of workforce for 2022.
- MIREMPET has been meeting individually with companies under its supervision to inform them that is preparing an industry-specific document with the different job positions and the respective functions (reference function qualifier - QFR), which will serve as template for the future preparation of job qualifiers. For this purpose, the Ministry made available an official form that should be completed by all companies by 31 October 2021, in accordance with its instructions and submitted through SIASP. MIREMPET informed that failure to submit the form could lead to the application of fines.
- Companies pertaining to the oil sector, which have entered into a Program Contract with the Ministry of Mineral Resources, Petroleum and Gas, must prepare and submit to said Ministry's National Directorate for the Promotion of Angolanization and Value Chain, until 31 of March, a detailed report on the balance of the implementation of the Human Resources Development Plan regarding the previous year. Companies should use the digital platform provided by the National Directorate for this purpose.
- 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.
- Keep updated, fill in and send to the Employment Center competent for the area, until 30 of April of each year, a Nominal Record of Employees, according to the official form (RENT form), with the information up to March of the corresponding year.

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