

# Labor Newsletter Cape Verde

A photograph of a person's hands holding a stack of three books. The top book is blue, the middle one is yellow, and the bottom one is red. The person is wearing a white sleeveless top. The background is dark.

FEBRUARY 2022

## OPINION

### The year 2021 as a difficult page to change.

With the arrival of 2022 and the termination of most of the measures implemented by the Government due to the pandemic, namely those aimed to support companies and employees, the state budget for 2022 recovered the previous VAT rate for the hospitality and restaurant sectors which was 10% until the 31st of December, now being 15%.

In a moment that tourism and hospitality businesses are slowly recovering and far from what it was before the pandemic, the entrepreneurs of these sectors find themselves once again suffocated by austerity measures, namely the increase of the VAT rate to 15%. If on one hand VAT increase is directly reflected in an increase of revenue obtained by the State, on another hand this increase will be reflected on the final price of the products presented to consumers.

In a country that depends heavily on tourism, representing approximately 25% of the Gross Domestic Product (GDP), the affected entrepreneurs fear that with the rise of the prices in these sectors will make the offers of other competitors markets more attractive, namely in destinations where the VAT rate of the hospitality and restaurant sectors remains at 6%.

In addition to this, the Cape Verdean government also terminated with the simplified regime of collective suspension of the employment contract which was in force until 31st of December of 2021, not be extended to 2022.

The end of the simplified regime of collective suspension of the employment contract necessarily implies that companies, where the effects of the pandemic are still felt, resort to the normal regime of collective suspension of the employment contract foreseen in the Labor Code to compensate the lack of tourists in Cape Verde. It should also be mentioned that this regime has higher costs for the companies than the simplified regime that was in force in 2021.

Furthermore, companies that found themselves forced to resort to the simplified regime of collective suspension of the employment contract are blocked, at least during the 120 days immediately after the end of this measure, from terminating employment contracts, by non-renewing fixed term contracts, by collective dismissal and by dismissal due to the extinction of workplace.

Even though it is being verified some recovery of tourists, the Government should consider that maintenance of some measures to support companies and employees during 2022, since the pandemic did not terminate in 2021 and there is many uncertain about the recovery of tourists in accordance with the levels before the beginning of the pandemic.

## CASE LAW

### **Barlavento Court of Appeal – Decision of 17/01/2019**

#### ***Workplace abandonment; compensation by lack of prior notice; wrongful dismissal.***

This case involved the assessment of an employee's situation that, without formally report to its employer, decided not to attend the service and did not provide any justification to that effect.

This is because on 16th of November of 2014 the employee fainted on its workplace, being rescued on spot and conducted to the hospital. On the following day, the employee returned to its workplace and delivered a letter to its employer along with a medical certificate, which laid down a request to change its job tasks and, in case the request was not attended, that would she remain in its workplace waiting for service orders. However, after that day, the employee did not return to its workplace. Besides not justifying its absence, the employee no longer informed the employer about its whereabouts.

Three months after the first absence, the employer sent a notice to the employee in which deemed the employment contract to be terminated as from the date of the first absence, fact that was challenged by the employee as she claimed that her dismissal was wrongful on the grounds that it did not was preceded by a disciplinary procedure.

The Court ruled in favor of the employer, considering neither the disciplinary procedure nor the notice were required, since unlike other jurisdictions (namely the Portuguese), the Cape Verdean law does not foresee that any notice has to be made to the employee, unless the employer intends to obtain a compensation due to the lack of prior notice.

## DEADLINES AND ALERTS

Until 31st of March, post the staffing chart in a location that is easily accessible and visible to the employees, and send it, along with three copies, either in computer support or by database access, with updated data in relation to February, to the General Labor Inspectorate in the Municipality of Praia, for employees who work on the leeward islands (Maio, Santiago, Fogo and Brava), or to the Regional Delegation of the General Labour Inspectorate in São Vicente, for employees who work on the windward islands (Santo Antão, São Vicente, Santa Luzia, São Nicolau, Sal and Boa Vista).

The staff map must contain for each of the company's employees, among other information, the full name, professional category, base salary and other benefits, date of admission and scheduled vacation period.

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