

LABOR NEWSLETTER

// *Cape Verde*

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OPINION

Labor Code aligned with Cabo Verde's Challenges

The ongoing revision of the Labor Code presents a rare opportunity to deeply modernize the country's labor relations. It is a necessary and urgent step to align the legal framework with current economic and social realities, at a time when businesses are facing new challenges and the labor market is evolving rapidly.

In a country highly exposed to the dynamics of tourism — the sector that contributes most to GDP — it is essential that the new Code reflects both realism and flexibility. The seasonal nature of tourism, demand variability, and service-specific characteristics require a labor law that is adaptable. A rigid legal framework risks stifling job creation and increasing operational costs.

In this context, the revision should liberalize certain labor practices while ensuring essential worker protection. It should also introduce specific regulations for the tourism sector, recognizing its unique characteristics and allowing greater agility in hiring, training, and workforce deployment. This sectoral approach can help reconcile business dynamism with social justice.

At the same time, it is important to understand that flexibility does not mean loss of rights. On the contrary, a more flexible labor market can generate more formal job opportunities, increase productivity, and attract investment. A renewed, balanced, and modern Labour Code will be key to fostering an environment where businesses can thrive and workers can access dignified and stable employment.

This is a moment for forward-thinking leadership. Reforming the Labor Code is not just a technical exercise — it is a national strategy for inclusive and sustainable growth.

JURISPRUDENCE

SAL ISLAND JUDICIAL COURT

Proceeding No. 17/2024-25

In the ruling under review, the Claimant, in his capacity of employee, filed a claim against the Defendant with the following requests:

- i) nullity of the disciplinary proceedings due to violation of his rights of defense.
- ii) Convict the Defendant to pay a compensation equivalent to 40 days of salary for each year of service

In June 2024, the Head of the Human Resources Department ceased her duties with the Defendant, and for the following two months, the Claimant solely assumed all responsibilities inherent to that department. In that capacity, he was responsible for processing the payroll of the Defendant's employees, based on a payment list previously entered the system by the former Head of Department, prior to her departure. Said list contained an error, given that it was ordered the payment of the salary of an employee who, at the time, was on maternity leave.

Upon detecting the error, the Claimant contacted said employee, requesting the return of the unduly paid amount. To that end, he provided the employee with the details of his personal bank account, and the employee proceeded to transfer the amount to said account. Subsequently, following the appointment of a new Head of the Human Resources Department, the Defendant became aware of the payroll error, as well as the fact that the repayment had been made to the Claimant's personal account — an amount which, until then, he had not returned.

Considering these facts, the Defendant considered that there had been an irreparable breach in the relationship of trust, and accordingly initiated the appropriate disciplinary proceedings, which culminated in the imposition of dismissal for just cause.

In the ruling, the Court dismissed all the Claimant's claims and absolved the Defendant. The Court based its decision on the fact that the Claimant only returned the funds deposited into his account after having been expressly requested to do so by the Defendant. In the Court's view, this conduct evidenced the Claimant's intention to misappropriate the amounts in question, constituting a serious breach of his contractual and legal obligations.

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