



Presidential Decree n.º 272/11, 26 October – Legal Regime for the Temporary Assignment of Workers

On October 26th, 2011, with the publication of the Presidential Decree n.º 272/11, the Regime for the Temporary Assignment of Workers and the Activity of Temporary-Work Agencies (“Regime”) came into force in the angolan legal system.

Until such date, this matter was only briefly referred to in article 32.º of the General Labour Law (“GLL”), and now, the Regime contains the regulation of this matter.

The temporary assignment of workers is characterised by a three-party relationship between the Temporary-Work Agency (“TWA”), the temporary agency worker and the user undertaking, whereby the TWA hires the temporary worker (by entering into a temporary employment contract, which must be concluded in writing, containing the information listed in article 8º of the Regime) to temporarily assign him to a third party (named “user undertaking”), with whom the TWA enters into a contract for assignment of temporary work.

Only companies and cooperatives whose corporate purpose is the temporary assignment of workers may carry out this activity upon prior authorisation from the Ministry of Public Administration, Employment and Social Security. In order to obtain the required license, applicants must meet three cumulative requirements: a) good reputation, b) necessary technical, organisational and functional capacity to pursue the activity and c) no outstanding payments to tax and social security authorities.

If a legal entity intends to use the services of TWA (according to this Regime, only legal entities may use temporary agency workers), a contract for assignment of temporary work (which must contain certain references) needs to be entered into between the user undertaking and the TWA.

Nevertheless, the conclusion of these contracts is only allowed to satisfy temporary needs of the user undertakings. Such authorised needs are set-out in the Regime,

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and, although similar to those established for fixed-term employment contracts, the legislator has introduced a few innovations. For a better understanding, listed below are all circumstances under which user undertakings and TWA's are allowed to sign a contract for assignment of temporary work:

- a) Replacement of an absent worker or who is unable to render services;
- b) Vacancy when recruitment procedures on going;
- c) Exceptional or temporary increase in the undertaking's business;
- d) Specifically defined and non-lasting tasks;
- e) Seasonal activities or other economic activities whose annual production cycle presents irregularities arising from relevant cause;
- f) Intermittent labour needs resulting from activity fluctuations during days or part of days, that do not use does not exceed, weekly, half the normal working hours of the user undertaking;
- g) Intermittent labour needs, during days or part of the days, to provide direct family support, having a social character;
- h) Labour needs to implement limited time projects;
- i) Specialised labour needs.

Similarly to the fixed-term employment contracts, the contracts for assignment of temporary work must have a maximum duration which will depend on the reason for their existence. This maximum period may vary from six months [paragraph e)], twelve months [paragraphs b), d), f), g) and h) - in what concerns the latter four hypotheses, the duration may be extended for a period up to twelve months, upon authorisation from the General Labour Inspectorate ("GLI")], twenty-four months [paragraphs a) and c)] and thirty-six months [paragraph i)], which can be renewed for a further twelve months, after authorisation from the GLI].

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When the maximum duration of the agreement is reached, the user undertaking cannot hire the same or any other temporary worker to perform the same functions. If the temporary agency worker remains employed by the user undertaking after the maximum duration is reached, and in case that both parties agree, the temporary employment contract between the worker and the TWA may be converted into a contract of indefinite duration with the user undertaking.

During the assignment, the temporary agency worker is subject to the user undertaking's applicable rules concerning manner, place, duration, suspension, health and safety at work and access to social facilities. The temporary agency worker

is also subject to the direction and other powers arising from the provision of work to the user undertaking.

Prior to entering into the contract for assignment of temporary work, the user undertaking should be ensured that the TWA is properly licensed. For this purpose, user undertakings should request the TWA's license. If contracts for assignment of temporary work are entered into with unlicensed TWA's, the contracts will be considered as null. The consequence of such irregularity will be the automatic conversion of such contract for assignment of temporary work into a contract of indefinite duration, and, as a result, the worker becomes part of the user undertaking staff. However, considering that the Regime provides a period of 180 days for all TWA's to regularise their situation, until the end of such period, the referred consequence of the conclusion of contracts for assignment of temporary work with unlicensed TWA's should not be applied .

On the other hand, the user undertaking should requires that the TWA, prior to the conclusion of the contract for assignment of temporary work, provide a copy of the insurance policy against accidents at work and occupational diseases that covers the assigned temporary agency worker. The duties to be performed by this worker should also be specified, under the penalty that the responsibility for this insurance becomes attributable to the user undertaking.

Matters that are not specifically covered in the Regime are governed in the GLL and other labour legislation.

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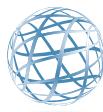
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