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## Newsletter



# Expert Legal Assistance

**Presidential Decree no. 43/17 of March 6<sup>th</sup>**

**Regulations on the performance of a professional activity by non-resident foreign workers**

**An Expert Legal Assistance Publication**

## **Regulations on the performance of a professional activity by non-resident foreign workers**

Presidential Decree no. 43/17, of 6 March 2017 just enacted new regulations on the performance of a professional activity by non-resident foreign workers, repealing former Decree no. 5/95, of April 7<sup>th</sup> and Decree no. 6/01, of January 19<sup>th</sup>.

Main changes to take in consideration:

- The hiring of a foreign non-resident employee is no longer subject to the minimum term of 3 months, though its maximum term remains the same, (36 months);
- **Presidential Decree no. 43/17 also applies to the so-called Technical Cooperation Agreements, but proffers no definition for this type of agreement;**
- **The quota rule on foreign workers remains the same as set out in the previous regime it must not exceed 30% of all employees.**
- Along with the registration of the employment contract with the Employment Centre within 30 days after effective term including payment of administrative fee of 5% on the base salary, employer is now required to submit a copy of the job qualifier (This will enable the authorities to verify whether the position of the expatriate corresponds to one of the positions described in the job qualifier. This means that all job positions mentioned in the employment contracts need to match with the ones described in the job qualifier and, along with General labor Law Provisions, Presidential Decree no. 43/17 establish employer obligation to guaranty the same job conditions to foreign and national workers.);
- Articles 4, 6 and 8 of Presidential Decree no. 43/17 approve new material and formal requirements for the validity of employment contracts entered into with expatriate employees, notably related to their legal capacity to work in the country, minimum content of the written employment contract and the procedure for registration of such instrument with the Employment Centers;
- **Expats' additional benefit packages paid in cash or in kind must not exceed 50% of their base salary**, in our opinion, this provision needs to be interpreted as excluding the statutory vacation and Xmas allowances from the 50% limit for being mandatory benefits;
- **Expats' remuneration is to be paid in kwanzas, and the Central Bank of Angola is expected to determine how much of their remuneration may be wired abroad**, this aspect will require

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additional clarification, but one should expect a new Angolan Central Bank Order on this (This rule will normally apply whenever the remuneration is paid by employer directly in Angolan territory to the expatriate employee. The law does clarify whether this rule will limit employer's possibility to pay the expatriate employee's remuneration directly to his bank account in his home country and in foreign currency.).

**Failure to comply with these obligations is punished with heavy fines** (between 5 and 10 times the company's average monthly salary per infringement per employee).

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