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EMPLOYMENT & BENEFITS

THE SCOPE OF THE JUDICIAL PROCEEDINGS TO RECOGNIZE THE EXISTENCE OF AN EMPLOYMENT CONTRACT AND THE PROCEDURAL MEANS TO FIGHT AGAINST THE CONCEALMENT OF EMPLOYMENT RELATIONSHIPS WERE RECENTLY BROADENED

Law 55/2017, published on 17 July, enhances the inspection powers of the Authority for Labour Conditions (Autoridade para as Condições do Trabalho or “ACT”) and reinforces the role of the Public Prosecutor’s Office (Ministério Público or “MP”) in proceedings for the recognition of employment contracts in instances of undeclared concealed employment detected during any inspection actions.

ACT’s and MP’s intervention is no longer restricted to false “service providers” but rather extends to any type of undeclared employment, including false internships and volunteer work.

Moreover, the judicial proceedings for recognition of an employment contract have gained in efficiency:

- i. The MP must now initiate injunction proceedings to suspend a dismissal following ACT’s inspection;
- ii. The law put an end to the conciliation hearing where the parties could have settled the dispute; and
- iii. The court’s decision must be notified to the ACT and the Social Security, so that any missing Social Security contributions can be paid (going back to the date the employment relationship began!).

Law 55/2017 will come into force on 1 August 2017. For the full text of the law, please visit:

<https://dre.pt/web/guest/pesquisa/-/search/107693725/details/maximized>