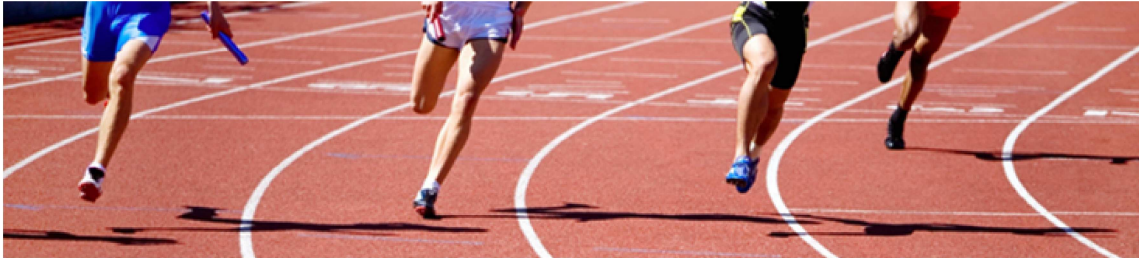


Your World First

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Meet the Law Newsletter

Direito do Trabalho & Fundos de Pensões / Employment & Pensions

It was published on the Portuguese official journal ("Diário da república") the law no. 27/2014 which makes the 6th amendment to portuguese labour code, approved by law no. 7/2009 of 12th february, establishing the criteria in case of dismissal due to extinguishment of job position or maladjustment of the employee.

Following Ruling no. 602/2013, according to which the Portuguese Constitutional Court declared unconstitutional some of the amendments made to the Portuguese Labour Code by Law no. 23/2012, namely the ones related to the dismissal to Extinguishment of Job Position or due to Maladjustment, the Portuguese Parliament, under proposal of the Ministers Council, approved the Law no. 27/2014, which now establishes the following new amendments to the Portuguese Labour Code:

Extinguishment of Job Position

The Law no. 27/2014 amends the paragraph 2 of the Article 369.º of Portuguese Labour Code, densifying the relevant and no-discriminatory criteria that must be observed in cases of dismissal due to extinguishment of job position:

1. Worst performance assessment, in case it exists an evaluation with objective criteria and previous knowledge of the employee;
2. Lowest academic and professional qualifications;
3. Highest cost with Labour relationship between the employee and the employer;
4. Lowest experience in the job position;
5. Lowest seniority at the company.

These criteria must be met in a subsequent order, for instance, in case of in the company there is not an evaluation with objective criteria and previous knowledge of the employee or there is a situation of equality in the evaluation of two employers the criteria that is applicable is the second criteria and the employee who will be dismissed is the employee with lowest academic and professional qualifications.

Dismissal due to maladjustment

As regards the termination of employment contracts due to the employee's maladjustment, when such maladjustment arises from

1. a continued reduction of the productivity or the quality of the work,
2. repeated breakdowns in the means or instruments allocated to the workplace
3. risks to the safety and health of the employee or that of other employees or third parties.

the legislator established the requirement of having no other job position compatible with the relevant employee's professional category in order to enable the recourse to this type of dismissal.

Entry into force

The Law no. 27/2014 will enter into force on 1st June of 2014.

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A CMS Rui Pena & Arnaut é membro da CMS, organização transnacional de sociedades de advogados com 56 escritórios em 31 jurisdições, contando com mais de 5000 colaboradores em todo o mundo.

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