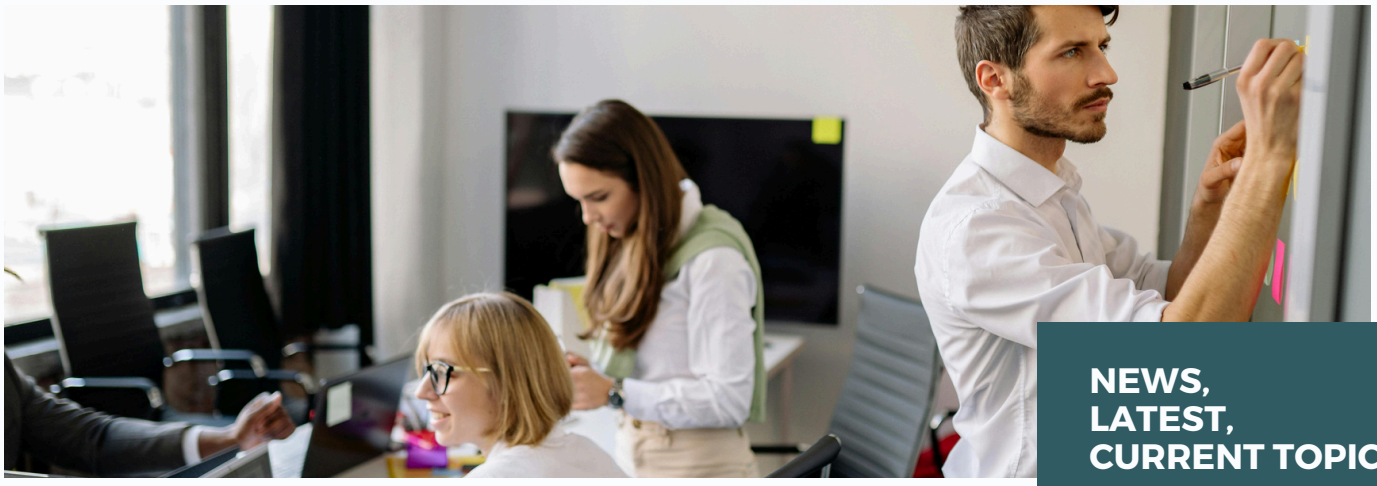
ACCUMULATION OF OFFENCES AND PLURALITY OF LABOUR OFFENCES



NEWS, LATEST, CURRENT TOPICS

"THIS MEANS THAT, CURRENTLY, IN THE EVENT OF MULTIPLE LABOUR OFFENCES, THE SINGLE FINE TO BE IMPOSED NO LONGER COMPLIES WITH THE REQUIREMENTS SET OUT IN THE GENERAL REGIME FOR ADMINISTRATIVE OFFENCES, MENTIONED ABOVE, BUT IS NOW THE ARITHMETIC SUM OF EACH OF THE FINES SPECIFICALLY IMPOSED FOR EACH OF THE ADMINISTRATIVE OFFENCES, WITH THE LIMIT IMPOSED BY ARTICLE 558(3) OF THE LABOUR CODE (...)."

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The amendment to the labour administrative offence regime resulting from Law No. 13/2023 of 3 April replaced the legal accumulation system with the material accumulation system for the purpose of setting fines.

The **legal accumulation system** determined, in the event of multiple labour offences, the application of a **single fine** – through the use of the criteria applicable in criminal proceedings, namely those arising from Article 19 of the General Regime for Administrative Offences – (i) whose maximum limit resulted from the sum of the fines actually applied to the offences in question; (ii) which could not exceed twice the highest maximum limit for the offences in question; and (iii) which could not be less than the highest of the fines actually imposed for the various offences.

This model constituted a genuine mechanism for containing the penalty to be imposed, allowing the decision-maker to assess the overall context of the offences.

However, with the aforementioned legislative amendment, Article 25 of the Procedural Regime Applicable to Labour and Social Security Administrative Offences now provides that *"The penalties imposed for concurrent administrative offences are always subject to **material accumulation**"* – that is, there has been a transition to a **system of material accumulation**.

This means that, currently, in the event of multiple labour offences, the single fine to be imposed no longer complies with the requirements set out in the General Regime for Administrative Offences, mentioned

above, but is now the arithmetic sum of each of the fines specifically imposed for each of the administrative offences, with the limit imposed by Article 558(3) of the Labour Code (which has not been amended and which stipulates that "(...) *offences shall be punished with a single fine that may not exceed twice the maximum fine applicable in each specific case"*).

This new sanctioning paradigm introduces a **clear intensification of the economic responsibility of employers**, since, in the case of multiple offences, the final amount of the fines may increase exponentially compared to the previous regime - the practice of multiple offences is no longer *"protected"* by the legal aggregation that softened the overall impact of the sanctions. This obliges companies to strengthen and prioritise compliance with their labour obligations, under penalty of serious financial consequences, in addition to naturally representing a deterrent effect for legislative non-compliance.

"THIS NEW SANCTIONING PARADIGM INTRODUCES A CLEAR INTENSIFICATION OF THE ECONOMIC RESPONSIBILITY OF EMPLOYERS, SINCE, IN THE CASE OF MULTIPLE OFFENCES, THE FINAL AMOUNT OF THE FINES MAY INCREASE EXPONENTIALLY COMPARED TO THE PREVIOUS REGIME - THE PRACTICE OF MULTIPLE OFFENCES IS NO LONGER "PROTECTED" BY THE LEGAL AGGREGATION THAT SOFTENED THE OVERALL IMPACT OF THE SANCTIONS. "

Without prejudice to the doctrinal and jurisprudential discussion that a change of this nature obviously entails, and its compatibility with the other rules in force, which have not undergone any change, its purpose is therefore clear: to require companies to show greater commitment and rigour in complying with labour legislation.