



NEWS, LATEST, CURRENT TOPICS

LIMITATION PERIOD FOR FINANCIAL COMPENSATION OF GLOBAL NATURE

“(...) financial compensation of a global nature, despite being agreed in an agreement to revoke an employment contract, is not considered a claim arising from an employment contract, its breach or termination.”

Under the terms of the Labour Code, specifically Article 337, the employee has a period of one year from the date of termination of the employment contract to make a legal claim for any sums owed to him arising from the employment contract, its breach or termination.

In the process of terminating an employment contract, regardless of the reason behind it, it is usual for the employer and the employee to have different understandings regarding the identification of the remuneration benefits that the employee is entitled to receive, as well as to the determination of their value.

It is therefore quite common for the employer and the employee to agree on a single amount in the case of termination by mutual agreement, which is intended to include all the amounts to which the employee is entitled as a result of the termination of the employment contract: the Financial Compensation Of A Global Nature.

It should now be pointed out that, in a ruling of 21 February 2006, the Supreme Court of Justice clarified that in situations where a total amount of cash compensation is fixed, the employer and employee extinguish all labour claims by mutual agreement, replacing them with a new contractual obligation.

The Porto Court of Appeals, in a ruling on 9 September 2024, recently clarified that financial compensation of a global nature, despite being agreed in an agreement to revoke an employment contract, is not considered a claim arising from an employment contract, its breach or termination.

AUTHORS



LÍDIA SILVESTRE
Lawyer



HENRIQUE CRUZ
Lawyer

In these terms, instead of the 1-year limitation period, the general limitation period for contractual obligations for the employee to be able to claim payment of the agreed amount of global pecuniary compensation in court applies, i.e. 20 years, in accordance with the provisions of Article 309 of the Civil Code.

This makes it less appealing for the employer to set a lump-sum payment, as the employee will have a much longer period in which to take legal action against the employer, compared to the period that would be allowed under the Labour Code.

It is also important to note that with the entry into force of the changes to the Labour Law Code in 2023, the legislator expressed its intention to limit the possibility of the employee waiving labour claims by mere agreement with the employer. Currently, such a waiver is only considered valid when it is made in the context of legal proceedings and by means of an agreement approved by a judge.

In view of the above, there is a trend, both in legislation and in case law, to remove the negotiating incentives for the employer and the employee to set a lump sum cash compensation, making it increasingly safe for the employer to calculate the labour credits owed to the employee in the context of a process of termination of employment by mutual agreement.

“(...) the general limitation period for contractual obligations for the employee to be able to claim payment of the agreed amount of global pecuniary compensation in court applies, i.e. 20 years (...).”

