



LIABILITY FOR WORK ACCIDENTS COMPENSATION REGARDING SELF-EMPLOYED WORKERS

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In a ruling of 30 March 2022, the Portuguese Supreme Court of Justice took a stand, under Law No. 100/97, of 13th of September (which contains the former legal regime of work accidents and occupational illnesses), on the obligation of companies to undertake liability for the compensation of work accidents suffered by workers who are economically dependent upon them.



In the aforementioned decision, the Supreme Court considered that, regardless of the fact that no employment contract had been signed, but rather a provision of services agreement, Law no. 100/97 obliged companies to undertake responsibility for work accidents if the injured worker is economically dependent upon the company.

To that end, the Court considered that a situation of economic dependence exists when the worker is integrated into the organisational structure of the company, performing its services for the benefit of the company on a regular basis, and not only sporadically or incidentally, and receives from the provision of services earnings which constitute its sole or primary means of subsistence.

While it is true that this court decision was grounded upon the previous law regarding work accidents compensation – in force until 2009 –, the Supreme Court's understanding is already beginning to be reflected in other court decisions that analyse the same issue under the current Portuguese legislation on the compensation for work accidents and occupational illnesses (that is, Law no. 98/2009, of 4th of September).

In this regard, the ruling of the Lisbon Court of Appeal of the 25th of May 2022 determined that the injured worker, despite not being able to establish proof of having an employment contract, would be entitled to have its employer undertake the liability for the compensation for the work accident suffered, on the basis that he was economically dependent on the company – this ruling was taken under Law no. 98/2009, of 4th of September, with several references to the above-mentioned decision of the Supreme Court of Justice of 30 March 2022.

These Court rulings – within the framework of a tendency that has been accentuated in the last few years and that will be mirrored in written law with the publication of the forthcoming alterations to the Portuguese Labour Code –, seek to ensure the accountability of companies that hire self-employed workers under the regime of the provision of services when, in reality, the relationship established between the company and the worker is of an **employment relationship**.

