

As fontes do Direito comuns e específicas do vínculo de emprego público

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Abstract

The public employment relationship is currently subject to a plurality of sources of law, which must be considered in order to determine the rule of law applicable to the specific case.

As with all legal branches, there are general and specific sources of law applicable to the public employment relationship as well to the common labour regime, on the one hand, general sources of law such as the Constitution, European Union Law and ordinary laws, on the other hand, specific (national) sources of law like the instruments of collective labour regulation and other specific (international) sources like International Labour Organization (ILO) Conventions.

Moreover, in the system of sources of law applicable to the public employment relationship, there is an intersection of typical sources of law, from Administrative Law and from the Labour Law, both of which have to be taken into account.

Privacidade e direitos de personalidade no teletrabalho*

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Abstract

The world currently lives unique times, of great uncertainty, going through quite troubled periods in world history. We are facing a pandemic crisis with repercussions on society and the world of work. Countries had to implement urgent measures to try to contain the pandemic and Portugal was no exception, having adopted several measures in different sectors, namely, the work through digital technologies and the increase of workers on digital platforms.

Estatuto constitucional da função pública e limites à aproximação ao direito laboral comum

Rogério Peixoto, Secretário-Geral do Ministério das Finanças

Abstract

Is there a specific constitutional status for the Civil Service? And if so, what are its essential vectors? Is it possible to extract from the jurisprudence of the Constitutional Court the definition of its main guidelines? Do Civil Service employees have a life tenure? And, if they do not have it,

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should they in any case have their own statute with a firmer bond and less precariousness? Is there an insurmountable limit to the approximation to labour law whose trend, incidentally, has seen a very marked acceleration at the beginning of the current century in Portugal? How has the labour status of public employees evolved over the last decades?

As argued in this article, the constitutional status of the civil service presupposes a clear statutory dimension. However, the civil service is not a status that is necessarily marked by homogeneity.

A Transparência Administrativa na era do Big Brother

Sérgio Pratas, Administrador Executivo da Valorsul

Abstract

In Portugal, it was only in 1993 that the first law on access to administrative documents (or LADA) was approved – Law 65/93, of 26 August. It was a very advanced law at the time, both in terms of the extent of the right of access and the guarantees it enshrined. Almost 20 years after its publication, much has changed: Public Administration, technological context, citizen participation, the law itself.

The new framework for administrative transparency reflects this reality, including threats, opportunities, and challenges. What challenges? Fundamentally four: to scrutinize administrative activity; to ensure the protection of personal data without seriously impairing the control of administrative activity; to create a system of guarantees that ensures access to information; to ensure both the active dissemination of administrative information and the marketing rights to such information.

As linhas cruzadas do teletrabalho na Administração Pública

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Abstract

Telework legal regulation in public administration is a point of coincidence between public and private employment. Since 2003 the Portuguese Labour Code (LC) foresees a telework legal framework, but its quantitative expression remains discreet. In 2009 the LC adopted telework as an alternative form of employment contract. With the COVID 19 pandemic and its emergency legislation, the notion of telework broadened. At present telework regulation is going through legal reform. It is firmly established as an alternative form of employment within both the public and private sectors. However, some critical points remain unsolved, like the qualification of contract issues and the enforcement of the principle of equality.

A governança regulatória em Portugal: entre o risco do particularismo e a tensão institucional entre a fragmentação e a interação

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Abstract

This article offers an analytical proposal on the current Portuguese regulatory financial institutional framework highlighting multi-level governance mechanisms for safeguarding good public governance, serving the public interest and preventing and mitigating the risk of private and clientele capture at the regulatory level. Through a scientific positioning on a *new public governance approach* and specifically considering a “meta-governance” and “fragmentative” perspective, this text defends that those multi-level governance mechanisms should be seen therefore inextricably linked to the dynamics of codecision, coordination and inter-organizational negotiation, which should continue to be studied and framed according to the science of administration and political science, in the area of governance, in order to see their potential and added value for the desired common good and try to prevent risks inherent to its weaknesses and self-blockages in management and governance processes.

¹ Mestre em Direito. As opiniões expressas no presente texto, essencialmente vertidas em relatório apresentado no âmbito de curso doutoral em Administração Pública, vinculam exclusivamente o autor e não, naturalmente, as instituições com quem este mantém vínculo profissional ou colaboração regular. Agradeço ainda, penhoradamente, à Prof.^a Doutora Elisabete Carvalho pela orientação científica e inabalável incentivo a que prosseguisse a presente investigação, a qual, sublinhe-se, vincula apenas o respetivo autor.