

## **Terms of Reference (ToR)**

### **Recruitment of an international tax expert in the framework of the reform of the special regime for micro and small enterprises (REMPE)**

#### **I. Country context**

On 12 June 2015, the International Labour Conference adopted the Recommendation on the Transition from the Informal to the Formal Economy (R204), with the aim of facilitating the transition of production units and workers from the informal to the formal economy, promoting the creation, preservation, and sustainability of enterprises so that they generate decent work in the formal economy and preventing the informalization of jobs in the formal economy.

For governments, it was an opportunity to regulate the unregulated sectors of the economy and increase the tax revenue base, as well as to extend social security coverage and improve the socio-occupational situation.

Aware of the high weight of the informal economy in the national economy (12% of GDP), with all the consequences that this entails, and with the aim of promoting competitiveness, productivity, formalisation and the development of micro and small enterprises (MPEs), at the proposal of the Cabo Verdean Government, the National Assembly approved Act 70/VIII/2014, of 26 August 2014, which defines the special legal regime for micro and small enterprises (REMPE), whose effective implementation began on 1 January 2015.

Being considered the first public policy aimed at promoting the transition from the informal to the formal economy in Cabo Verde, Article 6 of the law charges the State with promoting a favourable environment for the creation, formalisation, development and competitiveness of MSEs, granting them differentiated treatment, adopting legal and regulatory provisions and integrated measures to encourage the creation, promotion and development of MSEs; adapting the operation of the public administration, as far as possible, to the needs of these businesses; reducing bureaucracy and the costs associated with the context; giving them preference in public procurement, to name but a few.

In 2020, 5 years after its adoption, it was republished by Law No. 86/IX/2020, of 28 April, thus absorbing the ad hoc adjustments dictated by the implementation process, such as those introduced by Law No. 5/IX/2016, of 30 December, approving the State Budget for 2017, which exempted microenterprises with a turnover of less than \$1,000,000 (one million escudos) from payment of the

TEU, and clarified the mechanisms for entry and exclusion from the regime.

Activities of a high technical level, as well as those which, because of their complexity, require a certain degree of organisation and control, have therefore been excluded from the scheme, while electronic payment has also been encouraged, micro and small businesses are obliged to have electronic payment methods, and tax incentives have been granted to businesses that carry out more than 80% of their transactions electronically.

The reinforcement of the obligation for companies covered by the regime to have at least one bank account, through which all their payments and receipts are recorded, was another axis of the reform.

As part of the process of digital transformation of the Tax Administration (Decree-Law no. 79/2020, of 12 November) and in order to bring it into line with the legal regime establishing the invoice and fiscally relevant electronic documents, under Law no. 116/IX/2021, of 2 February, the sixth amendment was made to Law no. 70/VIII/2014, of 26 August, more specifically to its articles 28 and 31. Recently, in the State Budget for the current year, Law no. 35/X/2023, of 31 December, another article was added concerning the withholding of the Special Unified Tax (TEU) on income earned by taxpayers covered by REMPE.

The regulation at the end of that year, through Ministerial Order no. 56/2023, of 29 December, of the self-invoicing system established by the Value Added Tax Code, represents legal progress towards access to the formal market for informal economic operators, by simplifying invoicing procedures.

In 2018, the National Strategy for the Transition from the Informal to the Formal Sector, adopted by Resolution 45/2018, which also creates the Interinstitutional Commission for the Strategic Management of the Transition from the Informal to the Formal Economy, under the leadership of the Ministry of Finance, warned of the existence of complex administrative procedures (the impact of the tax burden and the incidence of social security calculation on it), poor coordination between the various institutions responsible for formalising companies and their deficient monitoring and control capacity, deficiencies in communication about rights, duties, obligations and measures to encourage formalisation, as well as the limits to the application of REMPE to certain sectors of activity.

The Feasibility Study on the Package of Incentives and Services to Support Formalisation, carried out in 2022, recommends its reform as a means of encouraging formalisation, introducing the organisational dimension and management assistance for formalised units, especially micro and small businesses.

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The weak participation of municipalities and the poor involvement of Microfinance Institutions, which are the privileged vehicle for financing Informal Production Units (UPI), in the formalisation process, inadequate and inefficient communication with informal operators, a lack of fiscal, financial and digital literacy among entrepreneurs, as well as problems in accessing financial resources, both on the part of formal operators and informal ones, are some of the main obstacles to the development of their businesses pointed out by the entrepreneurs contacted.

In 2023, as part of the *Sustainable, Integrated and Inclusive Public Finance Framework for Cabo Verde project*, carried out by the International Labour Organisation (ILO) with funding from the Sustainable Development Goals (SDG) Funds, an evaluation of its implementation was carried out. While the relevance of REMPE and its contribution to improving the business environment is unquestionable, especially for Micro and Small Enterprises, by extending social security coverage, generating formal employment, and promoting decent work, as shown by the number of people registered with Social Security, which rose from 330 in 2015 to 18,322 in 2021, its implementation has also been slow.

According to the study in question, one of the main obstacles to the implementation of REMPE has to do with the failure to provide an integrated interoperability platform between the various institutions that provide services to companies and, in terms of governance, the lack of clear leadership and the consequent setting of global targets, which compromises the efficient supervision of its operation and its full application, a prime example of which is the operationalisation of incentives.

Priority was given to strengthening/widening the tax base, neglecting other dimensions related to increasing productivity, competitiveness and business development. With regard to the tax dimension, it can be seen that the scheme presents problems of tax equity due to the fact that the Special Unified Tax (TEU) is levied on turnover, neglecting the operating costs incurred by companies, which differ according to their size and branch of activity, being more advantageous for those operating in the services sector than for those operating in commerce and industry.

This problem could be solved, according to the study in question, by taxing profits and differentiating the requirements for registration and accountability, as well as in terms of the scope and limits of the benefits granted, depending on the type of company (whether micro or small) and the sector of activity, whether commerce, manufacturing, or independent consultancy. The aforementioned evaluation also proposes the creation of a class that precedes the micro-enterprise category to cover "subsistence entrepreneurs".

REMPE's financial sustainability was also analysed. The exponential increase in the number of beneficiaries, especially social security beneficiaries, has not been accompanied by the same growth in revenue. However, the issue must be analysed not only from the point of view of tax collection, but also from the point of view of the quality of employment and the social benefits that have resulted from its adoption.

In December 2023, the *Form@empresa project - Formalisation, Enterprise Development and Decent Work in Cabo Verde* - organised, in partnership with the Turin International Training Centre and the ILO's Enterprise Department, an international forum entitled "The Road to Prosperity through Formalisation", which aimed, among other things, to share experiences and good practices on simplified regimes for promoting the transition to formality, with the aim of gathering input for drawing up a roadmap for the reform of REMPE. In addition to making improvements to the governance of the formalisation ecosystem, the Forum also produced recommendations to modernise the company registration process, with the implementation of the *One Stop Shop* system or a Virtual One-Stop Shop, supported by an integrated platform for registration and information sharing between all stakeholders, and the adoption of more effective taxation, which ensures both the transition to formality and the transition from REMPE to the organised accounting system. It should be noted that these tax issues will have to be the subject of in-depth studies looking at the costs associated with granting incentives and possible tax waivers, as well as the benefits of formalisation.

Within the framework of the Strategic Plan for Sustainable Development (PEDS II), the 8th Constitutional Government set out to "promote sustainable, inclusive and continuous economic growth, full and productive employment and decent work for all". The Plan to Accelerate the Transition from the Informal to the Formal Economy (2022-2025), seen as an important element of business development, set itself the ambitious specific goal of formalising the 33,228 UPIs registered in 2015. It included the revision of REMPE as one of the priority activities to be undertaken, even in 2023, to encourage formalisation, while also introducing the organisational dimension and management assistance for formalised activities and units - micro and small businesses - with all UPIs that formalise themselves being granted POS, with exemption from commissions for a period of 2 years.

Given the above and the role that micro and small businesses, which make up the bulk of Cabo Verde's business fabric (85%), play in promoting the country's sustainable development and as a way of providing the country with a legal and institutional framework, adapted to its reality, that can be effectively implemented, that encourages the formalisation of the economy, boosts competitiveness and tax justice and fosters business development, the services of an international tax expert will be enlisted for the reform of REMPE.

## **II. Guiding principles REMPE reform**

- Strengthening the principle of equality and tax justice, inherent in the duty to contribute to which all citizens and legal persons, or those legally equivalent, are subject, as an element of capital importance for the country's development (Law no. 37/IV/92 of 28 January);
- Preserving the simplicity of the Cabo Verdean tax system, which is characterised by two regimes: organised accounting and simplified accounting (REMPE);
- Without prejudice to the aforementioned simplicity, to present the advantages and disadvantages of creating, under REMPE, a category prior to that of the individual micro-entrepreneur, while pursuing fiscal and social policy objectives;
- Defining a functional REMPE governance mechanism, with clear institutional leadership;
- Respect for the principle of transience underlying the creation of the REMPE scheme, ensuring the transition to formality in the simplified scheme and from this to the organised accounting scheme;
- In conjunction with the previous principle, assessing the relevance of existing incentives, maintaining those that are justified, proposing the removal of those that are not appropriate and the introduction of new ones if necessary;
- Simplifying procedures and speeding up the electronic processing of company creation

processes, through the operationalisation of the one-stop shop and the virtual company register;

- Taking into account relevant comparative experience, which can be adapted to the Cabo Verdean reality.

### **III. Purpose**

The purpose of this tender procedure, launched by the *Form@empresa* project - *Formalisation, Business Development and Decent Work in Cabo Verde* - implemented by the International Labour Organisation, with funding from the Grand Duchy of Luxembourg, as the contracting entity, is to hire the services of an international tax expert to provide technical support, in his area of expertise, to the Cabo Verdean government, through the Ministry of Finance and Business Development, in the process of reforming the Legal Framework for Micro and Small Enterprises (REMPE).

### **IV. Tasks of the International Expert**

The international expert will be entrusted with the following tasks:

#### **1. Stage 1. Draw up a Technical Note with proposals, supported by studies, for REMPE reform.**

To do this, they will have to:

- a) Carry out documentary research: inventory Cabo Verdean legislation on promoting entrepreneurship and business development, including REMPE and relevant comparative legislation; review the relevant documentation, namely the studies referred to in these ToR, reports and other secondary data relating to REMPE;
- b) Conduct interviews with key actors with responsibilities for the implementation of the REMPE and the promotion of entrepreneurship and business development, as well as the social partners, to assess the weaknesses, strengths, opportunities and challenges, as well as the main constraints to the implementation of this scheme;
- c) Prepare an inception report with the results of the document analysis, in which it explains the approach and methodology to be used and presents an updated work plan;
- d) Draw up a technical note, including impact studies on tax, social security and other matters, as well as reasoned proposals for changes to REMPE on tax, governance and other matters;
- e) Within this framework, it should draw up clear scenarios, duly substantiated, with proposed solutions based on best practice for the following options:
  1. Generalised access via compliance with the turnover and number of employees criteria or maintaining the criteria set out in Article 2 (2);
  2. Criteria for leaving the scheme via the current solution (Article 4(4) vs. the maximum period of time in the scheme;

3. Permanence of Article 9(1) vs. limitation on the number of companies included in REMPE owned by a micro or medium-sized entrepreneur;
  4. Single TEU rate vs variable rate depending on turnover;
  5. Single TEU rate vs variable rate depending on sector of activity (or trade vs services);
  6. Incentives for leaving the regime, justification and reasoned proposals;
  7. Permanence of the inclusion of social security or its exclusion from the regime vs. sustainability of the regime.
  8. Reasoned proposals for an organisational model to promote MSEs, bringing together the entities involved in this process, namely DNRE, INPS, Casa do Cidadão and Proempresa.
- f) Present the technical note with the updated diagnosis, based on the above-mentioned studies, and the proposed changes to REMPE, at a meeting with experts from the ILO Dakar Office.

**Stage 2. Socialising the Technical Note (or Technical Paper), including the studies produced, and supporting the government in the drafting and approval phase of the new REMPE law**

- a) Facilitate a tripartite workshop to validate the Technical Note, with the updated diagnosis and the basic studies that underpin the proposed changes contained therein, with the aim of gathering contributions from the main stakeholders to improve it;
- b) To collaborate, if necessary, with the lawyer or legal team that will draft the new REMPE law;
- c) Provide technical support, in their area of speciality, to the government during the process of approving the law.

**V. Deliverables due as part of the consultancy**

- a) Initial report with the result of the document review, which explains the approach and methodology to be used and presents an updated work plan, within 10 working days after signing the contract;
- b) Technical note with the result of the diagnosis update, which presents the impact studies at tax, social security and other levels, as well as the substantiated proposals for changes to the REMPE in tax, governance and other matters, up to 5 September at the latest;
- c) Facilitation of a tripartite workshop to validate the Technical Note, with clear scenarios, for the reform of REMPE, on September 12th at the latest;
- d) Technical note, with contributions from the tripartite validation workshop incorporated, until 16 September;
- e) A final consultancy report, including support to the Government in the final approval of the diploma by the competent authorities, by October 10th.

## **VI. Profile of the international tax expert**

- Have a master's degree or equivalent in Taxation or related areas. The doctorate will be an asset;
- Have proven experience and knowledge of the Cabo Verdean tax system;
- Knowledge of REMPE and simplified taxation regimes will be an added value;
- Excellent command of the Portuguese language, written and spoken;

## **VII. Supervision**

This consultancy will be carried out under the supervision of the “Form@empresa” project team, in partnership with the Ministry of Finance team responsible for monitoring its implementation, with the support of the Enterprise Development Expert of the Dakar Office of the ILO and the Enterprise Formalization Expert of the Small and Medium Enterprises Unit at ILO Headquarters.

## **VIII. Duration of consultancy and payment scheme**

The consultancy will last 45 working days, including support to be provided to the government in the diploma approval phase. It is expected to start on July 18th.

The payment of due fees will be made in accordance with the following:

- a) 30% upon delivery of the initial report, 10 working days after signing the contract;
- b) 50% upon delivery of the Technical Note, with contributions from the tripartite validation workshop incorporated, by September 16th, at the latest;
- c) 20% upon delivery of the final consultancy report by October 10th, at the latest.

## **IX. Proposal evaluation criteria:**

- Academic qualification (20 points);
- Relevant and proven experience in the consultancy's areas of intervention (35 points);
- Methodological approach, including the work plan (15 points).
- Financial Proposal - 30 points

## **X. Administrative considerations**

Proposals must be sent by 12 July at 5 pm to the e-mail address: [neves@ilo.org](mailto:neves@ilo.org). Any questions or requests for clarification about the ToR should be addressed to the same email.

**Proposals not correctly identified and incomplete dossiers will be excluded.**