

PANORAMIC

LABOUR & EMPLOYMENT DISPUTES

Vietnam

LEXOLOGY

Labour & Employment Disputes

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PRE-ACTION CONSIDERATIONS

Key Requirements

Are there any pre-action requirements for employment claims? If so, what are the consequences of non-compliance?

Yes. For labour claims, the parties must undergo the conciliation procedure by labour conciliators before filing any lawsuit with the court or the labor arbitration council, unless the dispute is an individual labor dispute regarding termination of employment, the payment of termination entitlements, involving a domestic worker and his/her employer, regarding the payment of statutory insurance or benefits in respect of an occupational accident or disease, regarding Vietnamese guest workers or regarding the dispute between an employee and a client enterprise (articles 188, 191 and 195 of the Labor Code).

Law stated - 28 August 2025

Third-party funding

Are there any rules or restrictions on third parties funding the costs of litigation or agreeing to pay adverse costs?

Vietnamese laws are silent on the funding of litigation costs by third parties. However, such funding may be allowable to the extent that it is not contrary to any principles of civil law. If such funding is allowable, the third-party funders would not be directly liable for any costs incurred by the other side under a judgment because they are not the involved parties participating in the proceedings.

Law stated - 28 August 2025

Contingency fee arrangements

Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into a contingency fee arrangement?

Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into a contingency fee arrangement?

Vietnamese laws are unsettled on contingency fee arrangements. In particular, there are four ways to charge lawyer fees which include hourly fees, fixed fees, retainer fees, and fees equivalent to a percentage of the claim amount/contract value (article 55.2 of the Law on Lawyers 2006). In other words, contingency fee arrangement is not clearly permitted or prohibited insofar as a civil dispute is concerned.

The typical options for contingency fees are a fixed percentage of contingency fees (ie, lawyers will receive the percentage of the award after the proceeding completes), and staged contingency fees (ie, lawyers will receive the percentage of the award depending on the stage at which the matter is resolved).

Prior to entering into a contingency arrangement, the following aspects should be taken into consideration: the fee typically charged in the locality for a similar legal service, the amount of work to be involved and the results to be obtained, any time limitations imposed by either the client or circumstances, the professional relationship between client and lawyers, the experience, reputation and skill of those performing the services.

Law stated - 28 August 2025

ISSUING A CLAIM

Forum

What is the appropriate forum for complaints concerning individual employment rights?

Most individual labour disputes must first be subject to the conciliation procedure by labor conciliators, unless the dispute fits into one of these exceptions: a dispute regarding termination of employment, the payment of termination entitlements, involving a domestic worker and his/her employer, regarding the payment of statutory insurance or benefits in respect of an occupational accident or disease, regarding Vietnamese guest workers or regarding the dispute between an employee and a client enterprise (article 188 of the Labor Code). After this conciliation step (or immediately if the dispute is subject to an exception), the employee may file a lawsuit in the labour court or, if both parties agree, they may submit their dispute to the labour arbitration council.

Law stated - 28 August 2025

Territorial jurisdiction

Are there any limitations on territorial jurisdiction?

Yes. There are certain limitations on territorial jurisdiction that apply to civil cases (eg, labour disputes) involving foreign elements. A civil case involving foreign elements means a civil case falling in any of the following cases under the Civil Code (article 464 of the Civil Code):

1. At least one party is a foreign individual, agency, organisation;
2. All parties are Vietnamese citizens, agencies, organisations but the relationship is established, changed, developed or broken up in a foreign country;
3. All parties are Vietnamese citizens, agencies and organisations but the parties of such civil relationship are overseas.

In relation to the governing law, subject to the governing law as agreed under a labour contract, labour disputes arising from such labour contract will be subject to the regulations of the chosen governing law (either Vietnamese laws or foreign laws) (article 664 of the Civil Code), provided the application of this law is not contrary to the fundamental principles of Vietnamese law (article 670.1 of the Civil Code). In practice, labour contracts in Vietnam are typically governed by Vietnamese laws, and the court would likely find that a foreign

law governing the labour relationship that varied from Vietnamese law was contrary to the fundamental principles of Vietnamese law so would instead apply Vietnamese law. Concerning the dispute resolution authority, Vietnamese courts will have the general and exclusive authority in resolving a civil case involving foreign elements under the Civil Procedure Code (articles 469 and 470 of the Civil Procedure Code). If Vietnamese courts are chosen by the involved parties to settle a labour dispute under Vietnamese laws or international treaties to which Vietnam is a member, such labour dispute will be subject to the exclusive authority of Vietnamese courts.

Law stated - 28 August 2025

Standing

Who can bring a claim?

Either employees/employee representatives or employers/employer representative organisations can bring a labour claim to the competent authorities to settle such claim (Article 182 of the Labor Code).

Law stated - 28 August 2025

Commencing claims

How are claims commenced?

A labour claim will commence after it is requested by a disputing party or by another competent authority or person and is agreed by the disputing parties (article 180 of the Labor Code).

Law stated - 28 August 2025

Fees

Are fees payable for the issuing of a claim?

Not applicable under Vietnamese law.

Law stated - 28 August 2025

Service

Is any qualifying service required?

Under article 70.9 of the Civil Procedure Code, a plaintiff is required to send other involved parties or their lawful representatives photocopies of the petition and materials and evidence related to their lawsuit. However, in practice, many plaintiffs fail to do so. Instead, most defendants will learn about the claim against them by receiving a notification from the court stating that it has accepted the plaintiff's case for handling, and after receiving this notice, will go to the court to obtain copies of the petition and all relevant materials.

Law stated - 28 August 2025

Defendants and legal personality

Against whom can a claim be brought? Can claims be brought against natural persons as well as corporations?

A labour claim can be brought against both natural persons and legal entities (articles 179.1 and 182 of the Labour Code).

Law stated - 28 August 2025

Types of claims

What types of claims can be brought?

There are two main types of labour claims under the Labor Code including (article 179 of the Labor Code):

- Individual labour disputes between an employee and an employer, between the employee and the organisation that sends the employee to work overseas, and between an outsourced worker and a labour-hire client; and
- Rights-based or interests-based collective labour disputes between one or several employee representative organisations and an employer or one or several employer representative organisations.

Law stated - 28 August 2025

Time limits

What are the time limits for bringing employment claims?

While Vietnamese laws do not regulate the time limits for bringing interest-based collective labour disputes, the time limits for bringing individual labour claims and right-based collective labour claims are the same as follows, (articles 190 and 194 of Labor Code):

- Labour conciliation: Within six months from the date on which a party discovers the infringement of its lawful rights and interests;
- Bringing the labour claims to the Labor Arbitration Council: Within nine months from the date on which a party discovers the infringement of its lawful rights and interests;
- Filing the lawsuit to the competent court: Within one year from the date on which a party discovers the infringement of its lawful rights and interests.

Law stated - 28 August 2025

Counterclaims

Can any counterclaims be brought by an employer?

Yes. Counterclaims can be brought by an employer (as a defendant) if a labour claim is referred to the resolution of the competent court under the Civil Procedure Code (article 200 of the Civil Procedure Code).

Law stated - 28 August 2025

CASE MANAGEMENT

Procedure

What is the typical sequence of procedural steps in an employment dispute?

In general, most types of labour disputes must go through the labour conciliation if required by laws before such labour disputes are referred to the competent court or the labour arbitration council (there are only a few exceptions, as mentioned above). The labour dispute process includes the following steps:

- Conciliation by labour conciliators (for individual labour disputes, right-based collective labour disputes and interest-based collective labour disputes, unless the labour conciliation is not required in certain cases by laws) (Articles 188 and 192 of the Civil Procedure Code): Within five working days from receiving the conciliation request, the labour conciliators shall complete the conciliation process with the involved parties. The labour conciliators will then put forward a settlement proposal for consideration by the involved parties:
 - If the parties agree to the settlement proposal, the labour conciliator will prepare the minutes of settlement, and both parties shall comply with the agreements recorded in the minutes of settlement.
 - If the parties do not agree to the settlement proposal, or if either party is not present to draw up the minutes of settlement without proper reason after being validly summonsed for the second time, the labour conciliators shall prepare the minutes of unsuccessful conciliation. In the event of an unsuccessful conciliation, or if either party fails to implement the minutes of settlement, or if the labour conciliators have not resolved the matter on expiry of the time limit for resolution, each party has the right to bring the dispute to the Vietnamese court (except for interest-based collective labour disputes) or the labour arbitration council.
- Dispute settlement by the labour arbitration council (for individual labour disputes, right-based collective labour disputes and interest-based collective labour disputes) (Articles 189, 193 and 197 of the Civil Procedure Code):
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Within 07 working days from the receipt of the request of the labour dispute settlement, an arbitral tribunal shall be established.

- Within 30 working days from the establishment of the arbitral tribunal, the arbitral tribunal shall issue a decision on the settlement of the labour dispute and send it to the disputing parties.

With respect to interest-based collective labour disputes, the employee representative organisation that is the disputing party has the right to carry out the procedures of strike-off under the laws, if, within the statutory timeline, the arbitral tribunal is not established, or a decision on the settlement of the labour dispute is not issued by the arbitral tribunal, or a disputing party fails to comply with the decision of the arbitral tribunal.

- Dispute settlement by the competent court (for individual labour disputes and right-based collective labour disputes) (articles 189 and 193 of the Civil Procedure Code): The disputing parties can bring the case to the court if, within the statutory timeline, the arbitral tribunal is not established, or a decision on the settlement of the labour dispute is not issued by the arbitral tribunal, or the employer fails to comply with the decision of the arbitral tribunal. The litigation process of the court shall follow the regulations of the Civil Procedure Code.

Law stated - 28 August 2025

Rules

What rules apply to case management?

The principles of labour dispute settlement under Vietnamese laws are as follows (article 180 of the Labor Code):

- To respect the parties' autonomy through negotiation throughout the process of labour dispute settlement;
- To prioritise labour dispute settlement through mediation and arbitration on the basis of respect for the rights and interests of the involved parties, and respect for the public interest of the society and conformity with the law;
- To settle the labour dispute publicly, transparently, objectively, promptly and lawfully;
- To ensure the participation of the representatives of each party in the labour dispute settlement process; and
- To initiate the labour dispute settlement by a competent authority or person after a labour claim is requested by a disputing party or by another competent authority or person and is agreed by the disputing parties.

Law stated - 28 August 2025

Amendments to claims

Under what circumstances can amendments to claims be made?

With respect to the labour claims that are subject to the court's settlement, amendments to the labour claims can be approved by the competent court if such amendments do not exceed the scope of the initial claims at the first-instance trial (article 244 of the Civil Procedure Code). Besides, there is no regulation specifying the basis on which the labour claims can be amended during the process of the labour conciliation or settlement by the labour arbitration council.

Law stated - 28 August 2025

Adding parties to proceedings

Can additional parties be brought into a case after commencement?

Yes. If the labour claims are referred to the court's settlement, any third parties having interests or obligations related to a civil suit could request the court to be allowed to participate in the proceedings. Further, at the request of an involved party, or at its own discretion, the court can summons the third parties to participate in the proceedings. In principle, the participation of any third parties must be decided during the trial preparation period (article 68 of the Civil Procedure Code).

Law stated - 28 August 2025

Consolidating proceedings

Can proceedings be consolidated?

Consolidating two or more sets of proceedings is allowed under Vietnamese law if such consolidation ensures compliance with the law or if different plaintiffs sue the same defendant in separate lawsuits under Vietnamese laws (article 42.1 of the Civil Procedure Code).

Law stated - 28 August 2025

Class and collective actions – special considerations

Are there any special considerations for class actions, multi-party or group litigation?

Vietnamese laws are silent on class actions, multi-party or group litigation. The Civil Procedure Code only recognises the right to file a lawsuit by a representative organisation of employees in order to protect their lawful rights and interests (article 187 of the Civil Procedure Code).

Law stated - 28 August 2025

Evidence

How is witness, documentary and expert evidence dealt with?

Regarding witnesses, at the request of an involved party or based on the opinion of the judge, procedures to obtain witness testimony may be carried out. Witness testimony is made in writing and may be obtained at or outside the office of the court (article 99 of the Civil Procedure Code).

Concerning documentary evidence, at the request of an involved party or based on the opinion of the judge, on-site inspections/appraisals may be conducted in the presence of representatives of the local People's Committees or Police Department where the objects which will be inspected/appraised are located. The on-site inspections/appraisals must be notified in advance so that the involved parties know and witness such inspections/appraisals, and made in writing (article 101 of the Civil Procedure Code).

Relating to expert evidence, an involved party may request the court to, or may by itself (if the court rejects its request), obtain an expert opinion/assessment. If the involved party obtains an expert opinion/assessment by itself, it may only do so before the court issues its decision on the first-instance trial. The court may also decide to obtain an expert opinion/assessment as it deems necessary (article 102 of the Civil Procedure Code).

Law stated - 28 August 2025

Witnesses

Can a witness be compelled to give evidence? Can a witness give evidence from abroad?

After being summoned by the court, a witness is required to give testimony at or outside the office of the court (article 99 of the Civil Procedure Code). Vietnamese laws are silent on whether the witness testimony can be carried out overseas.

Law stated - 28 August 2025

Witnesses

Is cross examination of a witness permitted?

Yes. A cross-examination may also be conducted at the request of an involved party or if the judge finds that there are conflicts in the involved parties' or witnesses' testimony. In addition, the witnesses may be required to deliver their testimonies at the hearing (article 100 of the Civil Procedure Code).

Law stated - 28 August 2025

Tactical considerations

What steps can a party take during proceedings to achieve tactical advantage in a case?

In order to gain a tactical advantage, parties often assert that the nature of the dispute is not a 'labour dispute', and/or that the parties have included an arbitration clause in their agreement, therefore the dispute should not be subject to the labour court. This often arises in cases where the contract between the parties is not clear, where the parties entered into an independent contractor agreement but the worker was treated like an official employee or where the parties had entered into a Non-disclosure Agreement, separate from the employment agreement. If the defendant can succeed in denying the existence of a labour relationship, the plaintiff must then bring a new petition at the court.

Law stated - 28 August 2025

INTERIM RELIEF

Availability

Can interim relief be sought in employment disputes? If so, in what types of claims?

The interim relief can be sought in labour disputes (for both individual labour disputes and collective labour disputes) at the request of the involved parties or under the court's decisions during the process of labour dispute settlement (article 111 of the Civil Procedure Code).

Law stated - 28 August 2025

Requirements

Are there any particular requirements relating to applications for interim relief?

A party requesting the application of the interim relief shall send a written request to the competent court when filing a lawsuit to the court, before the opening of the trial or at the trial. As the interim relief request for labour claims does not require security measures by laws, the in-charge judge or trial panels shall consider such request and issue decisions on the application of the interim relief if the request is accepted (article 133 of the Civil Procedure Code).

Law stated - 28 August 2025

TRIAL

Hearings – conduct and typical time frames

How is a final hearing conducted for common types of employment disputes? How long does a hearing typically last?

The employment disputes will need to go through the conciliation process first (except for some statutory cases where the disputes can be immediately referred to the court or

employment arbitration council). After that, the parties can agree to settle the dispute at a competent court or at the labour arbitration council. (article 188.1 of the Labor Code)

For the final hearing at the court, after accepting the petition from concerned party, the court will prepare for the first instance court by organizing meetings for checking the handover or, access to and disclosure of evidence by the parties and mediation. Upon completing the preparation stage, the court will issue a decision to bring the case to the first instance trial, where the parties and their authorized representatives will orally argue to defend themselves.

The timeline for completing a first instance trial from the petition of the lawsuit to the issuance of the judgment will vary depend on each case. Normally, it may take around three to eight months for an employment dispute.

Law stated - 28 August 2025

Confidentiality and public access

How is confidentiality treated? Can all evidence be publicly accessed?

How are sensitive employment issues dealt with? Is public access granted to the courts?

Agencies and persons conducting proceedings must maintain occupational secrets, trade secrets, and privacy and family secrets of the litigants upon their legitimate request (article 13.3 of the Civil Procedure Code). Evidence is normally not publicly accessible. The court shall not disclose publicly the content of data and evidence relating to professional secrets, trade secrets, private secrets or family secrets of individuals at the legitimate request of the concerned parties but must notify the concerned parties of the data and evidence which is not publicly disclosed. Based on the aforesaid general rules, sensitive employment issues can be kept confidential upon legitimate requests of relevant parties.

Normally, the court shall conduct open hearings. However, relevant parties may request the court to carry out closed hearings if they deem necessary to protect their occupational secrets, trade secrets, and privacy and family secrets.

Law stated - 28 August 2025

Media reporting

How is media interest dealt with? Are there any restrictions on media reporting?

The concerned parties may request the court to carry out the closed hearings to protect privacy and personal information of the employees (article 15 of the Civil Procedure Code).

Law stated - 28 August 2025

Elements of successful claims and burden of proof

How does a court decide if the claims or allegations are proven? What are the elements required to find in favour, and what is the burden of proof?

A court decides if the claims or allegations are proven based on the evaluation of the evidence provided by concerned parties or collected by the courts. By laws, evidence can be collected from different sources, including readable, audible or visible materials, and electronic data, physical evidence, testimony of concerned parties, results of examination by experts, and other sources stipulated by law (article 94 of the Civil Procedure Code). Evidence must satisfy criteria and standard applicable for each type of evidence. For instance, physical evidence must be the original object relating to the affairs, or readable materials must be original copies, notaried copies or authenticated lawfully or certified or provided by the competent agency or organization. (article 95 of the Civil Procedure Code)

Elements required to find in favour: Specific elements required to find in favour of a party shall depend on each claim or allegation. These elements may include factual elements, meaning the facts of the claims or allegations that must be proven. For instance, if the employee initiates a lawsuit against the employer for failure to pay salary, such employee must prove that there is actual violation by the employer for not making salary payment to the employee. Other than factual elements, the court will also rely on particular laws and regulations to identify the violation by a party.

Burden of proof: In most cases, the burden of proof lies with the party making the claim, ie, the plaintiff. The defendant is required to provide evidence in case of rebutting the plaintiff's claim. Except for the following cases: (article 91 of the Civil Procedure Code):

1. a litigant being an employee who fails to provide or deliver evidence to the court because such evidence is being controlled or held by the employer, then such employer is responsible for providing or delivering such evidence to the court;
2. if an employee initiates a legal proceeding about unilateral termination of a labour contract in cases where the employer is not permitted to unilaterally terminate such labour contract or to impose disciplinary action on an employee as stipulated by the labour law, then the employer has the obligation to substantiate.

Law stated - 28 August 2025

ALTERNATIVE DISPUTE RESOLUTION

Available types

What types of alternative dispute resolution (ADR) are available for employment disputes in your jurisdiction?

Alternative dispute resolution (ADR) for employment disputes includes labour arbitration council subject to agreement between the parties (article 188.7 of the Labor Code). Other than that, before referring the employment dispute to the court or arbitration council, the employment dispute must, except for some statutory situations, go through the labour conciliation process. (article 188.1 of the Labor Code)

The labour arbitration council can resolve individual employment disputes, collective employment disputes about rights and collective employment disputes about benefits.

(articles 188, 191 and 195 of the Labor Code) There is no specifically non-arbitrable employment dispute.

Law stated - 28 August 2025

Requirements and expectations

Are the parties required or expected to engage in ADR at the pre-action stage or later in the case? What are the consequences of failing to engage in ADR?

No. Except for some statutory cases, the employment disputes must go through the conciliation process first. On the basis of consensus, the parties have the right to request the labour arbitration council to resolve the dispute if a conciliation was unsuccessful or if on expiry of the deadline for the conciliation the conciliator fails to carry out a conciliation or one of the parties fail to implement the agreement outlined in the minutes of the successful conciliation. (articles 188.1 and 188.7 of the Labor Code)

In case of failure to engage the ADR, the employment dispute can be referred to be resolved by the competent court.

Law stated - 28 August 2025

Enforcement

How are ADR decisions and awards enforced for employment disputes in your jurisdiction?

Generally, the enforcement mechanism applicable for ADR decisions in Vietnam is not well-regulated. In case a disputing party fails to comply with the arbitral awards, the parties are entitled to bring the case to a competent court (article 193.6 of the Labor Code).

Law stated - 28 August 2025

COLLECTIVE EMPLOYMENT AND LABOUR RIGHTS

Enforcement of collective rights

How are collective employment rights enforced?

Collective employment rights are generally enforced through legal frameworks and the employees' representative organisations comprising of grass-root trade unions and employees' organisations. The employees' representative organisations are established by employees to protect employees' legitimate rights and interests in labour relationship with the employer through collective bargaining or other methods under the applicable laws (article 3.3 of the Labor Code).

Law stated - 28 August 2025

Standing

Who can bring a claim in relation to collective employment rights?

Either the employees' representative organisations or the employer can bring a claim against matters relating to collective employment rights (article 179.1(b), article 193.1 and article 192.2 of the Labor Code).

Law stated - 28 August 2025

REMEDIES AND ENFORCEMENT

Available remedies

What remedies are available?

If the dispute resolution authority finds there has been a breach of the applicable employment regulations by the employer, the following remedies can be applied: compensation, receiving the employment back to work, contribution of mandatory insurance, payment of severance and other amounts subject to labour contracts and policies of the employer (article 41 of the Labor Code).

Law stated - 28 August 2025

Assessing compensation

How is any compensation assessed?

The assessment of compensation is subject to certain factors including particular violation of the employer, salary of the employees under the labour contract, work arrangement between the employee and the employer.

Law stated - 28 August 2025

Enforcement mechanisms

How can any judgment be enforced?

The laws of Vietnam encourage involved parties to voluntarily execute judgments. If any party fails to execute the judgment, the other party is entitled to request the coercive enforcement of judgments by submitting an enforcement request to the civil judgment enforcement authorities (article 9 and article 13 of the Law on Enforcement of Civil Judgments).

Law stated - 28 August 2025

APPEALS

Appeal procedure and time frames

How and when can judgments be appealed? How many stages of appeal are there and how long do appeals tend to last?

Any first-instance judgements can be appealed by the relevant parties. Within 15 days from the issuance of the first-instance judgement, the parties or their authorized representatives can lodge an appeal to the competent court for rehearing the dispute (article 271 and article 273.1 of the Civil Procedure Code). The appeal can go through the following stages:

Resolution of the dispute at the appellate court: The appellate court directly rehears the case in which the judgement or decision of the court of first instance is not yet legally enforceable and is being appealed or protested against. (article 270 of the Civil Procedure Code) Total timeline for the resolution at the appellate court shall vary depend on each specific case. Normally, it will take several months from receipt of the appeal until the issuance of the appeal judgement.

Law stated - 28 August 2025

Other means of challenge

Can a judgment be challenged other than through the appeal process?

Other than the rehearing of the dispute at appellate courts, the legally enforceable judgement can be reviewed according to (1) judicial review/cassation process or (2) retrial process. The cassation and retrial proceedings will be handled by the Judge Committee of the High Court or the Council of Justices of the Supreme Court (article 325 and article 350 of the Civil Procedure Code). These processes can be triggered if there is error in the application of the law or if there is appearance of newly detected details that may fundamentally change the contents of the judgments or decision (article 326 and article 352 of the Civil Procedure Code).

Law stated - 28 August 2025

UPDATE AND TRENDS

Recent cases and developments

What are the key cases, decisions, judgments and policy and legislative developments of the past year?

Vietnam has been undergoing a reorganisation of administrative divisions (being effective from 1 July 2025), in which provinces have been merged, district levels have been eliminated and wards' names have been changed. Accordingly, the organisation of the People's Court system has been consequently changed. In particular, 355 new regional People's Courts have been established in replacement of previous People's Courts of District level. The provincial People's Courts of several provinces have also been merged following the merger of administrative boundaries (Resolutions No. 81/2025/UBTVQH15 and Resolutions No. 01/2025/NQ-HDTP). As a result, the first instance courts for employment disputes from 1 July 2025 are regional People's Courts (except for cases under authority of the provincial People's Courts)

Law stated - 28 August 2025

Technology developments

What impact is technology having on employment litigation in your jurisdiction?

Electronic materials such as audible or visible materials can be considered evidence if they are presented to the court together with a document explaining its origin. Electronic data message such email, fax, telegraph and other similar forms under applicable e-transactions law can also constitute evidence (article 195.2 and 195.3 of the Civil Procedure Code). However, paperless hearings are not common in Vietnam.

Law stated - 28 August 2025

Other issues

Are there any other special considerations to be taken into account when defending an employment claim in your jurisdiction?

In case of a collective employment dispute, the employees' representative organisations can organise strikes aimed at achieving interests-related demands during the process of resolution of the disputes (article 198 of the Labor Code).

Law stated - 28 August 2025