

LABOR IMPACTS OF THE ECONOMIC FREEDOM ACT

Although there was expectation that the Economic Freedom Act would bring significant changes to labor legislation and even a new “mini labor reform”, Enviai opposition on the part of unions and civil society limited considerably the outcome of the new legislation in that regard.

The Economic Freedom Act was sanctioned in September 2019 as a result of the conversion into law of the Provisional Measure 881 (MP 881), enacted during the first semester of President Jair Bolsonaro's Administration to boost economic freedom and reduce bureaucracy, reflecting a liberal view of law. During its review process by the Brazilian Congress, several amendments were proposed to MP 881 in matters such as work on Sundays, labor inspections, employees' commissions and the contracts of employees with high salaries, thus creating high expectation on the topic.

Regardless of the strong resistance by the opposition and consequent timid results, some changes to labor legislation prevailed and show that slowly Brazil is moving in a direction to modernize and make its labor market more flexible.

The new law provides for the issuance of the digital work card to replace the physical document, in which information of an employment contract were still hand-written. Besides not being useful and practical, the physical card facilitates frauds.

It also determined the replacement of the “e-social” - the electronic system for the transmission to authorities of information related to human resources and payroll - by a simple system of digital registry for labor, social security and tax purposes.

Under the Act, employers may keep employment documents through microfilm or other digital means to comply with legal obligations, including transmission to authorities in case of inspection. Until then, physical documents had to be saved.

Also, only companies with more than 20 employees (and not 10, as before) are obliged to register the working times of its employees. That said, employees not subject to time control are still entitled to the payment of overtime, in case they work beyond the ordinary work schedule defined by contract or set forth by law; indeed, the exemption of registry does not imply exemption from payment of employment rights.

In this respect, the Economic Freedom Act also provides that time registration may be exceptional, provided it is negotiated by means of an individual or collective agreement. Whenever this is the case, employees will register only the periods of time worked beyond the ordinary working periods.

These changes add to previous innovations aimed at reducing the formalities in employment relations in Brazil with a view to improving the business environment in the country, but many aspects of the labor legislation still need to be addressed in the future.

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