



**GLOBAL
EXPANSION
GUIDEBOOK
EMPLOYMENT**

Colombia



Downloaded: 07 Sep 2024

INTRODUCTION

Welcome to the 2024 edition of DLA Piper's *Global Expansion Guidebook – Employment*.

GLOBAL EXPANSION GUIDEBOOK SERIES

Many companies today aim to scale their businesses globally and into multiple countries simultaneously. In order to help clients meet this challenge, we have created a handy set of global guides that cover the basics that companies need to know. The *Global Expansion Guidebook* series reviews business-relevant corporate, employment, equity compensation, intellectual property and technology, and tax laws in key jurisdictions around the world.

EMPLOYMENT

As business grows more global, the challenge for in-house counsel and HR professionals responsible for workforce issues and employment law compliance is intensifying. This guide is designed to meet that challenge head on and has been produced in response to feedback from clients in both established and emerging international businesses. We hope it will become an invaluable resource for you.

This 2024 edition of our popular guide covers all of the employment and labor law basics in 63 key jurisdictions across the Americas, Asia Pacific, Europe, the Middle East and Africa. From corporate presence and payroll set-up requirements, language rules, minimum employment rights, business transfer rules, through to termination and post-termination restraints, we cover the whole employment life span.

We have used our global experience and local knowledge to bring you this newest edition of our guide. With over 300 lawyers, DLA Piper's global Employment group is one of the largest in the world, with one of the widest geographical footprints of any global law firm. We partner with our clients, wherever they do business, to find solutions and manage risk in relation to their legal challenges and objectives.

While this guide provides high-level guidance, it is not a substitute for legal advice, and we encourage you to take advice in relation to specific matters. If you wish to speak to any of our contributors, their contact details are set out towards the back.

We hope that you find this guide valuable and we welcome your feedback.

To learn more about DLA Piper's global Employment practice, visit www.dlapiper.com or contact:

Brian Kaplan
Co-Chair, Global Employment practice
brian.kaplan@dlapiper.com

Ute Krudewagen
Co-chair, International Employment practice
ute.krudewagen@dlapiper.com

Pilar Menor
Co-Chair, Global Employment practice
pilar.menor@dlapiper.com

This publication is provided to you as a courtesy, and it does not establish a client relationship between DLA Piper and you, or any other person or entity that receives it.

This is a general reference document and should not be relied upon as legal advice. The application and effect of any law or regulation upon a particular situation can vary depending upon the specific facts and circumstances, and so you should consult with a lawyer regarding the impact of any of these regimes in any particular instance.

DLA Piper and any contributing law firms accept no liability for errors or omissions appearing in this publication and, in addition, DLA Piper accepts no liability at all for the content provided by the other contributing law firms. Please note that employment law is dynamic, and the legal regime in the countries surveyed could change.

COLOMBIA



Last modified 13 June 2024

LEGAL SYSTEM, CURRENCY, LANGUAGE

Civil law. The official currency is the Colombian Peso (COP). The official language is Spanish.

CORPORATE PRESENCE REQUIREMENTS & PAYROLL SET-UP

In principle, to comply with social security obligations, a foreign entity cannot directly engage employees in Colombia without setting up a branch or subsidiary. Proper payroll registrations are required for both employer and employees. Social security (in respect of health, pension and labor risks, see “Benefits and pensions”), payroll taxes and union contribution withholdings may apply if employees are unionized, and withholding tax may apply depending on the employee’s income.

PRE-HIRE CHECKS

Required

1. Immigration
2. Education degree or qualification that demonstrates professional, technological, technical or specialist training (applies to regulated professions). Where a candidate completed study abroad, their degree or qualification must be validated by the Ministry of Education.
3. Current professional card or registration in Colombia (if applicable): Colombia has regulated professions which require permits. Regulated professions include engineering, law and accounting, among others.
4. Onboarding medical examination: This certifies the suitability of the candidate to perform their duties for the employer.

Permissible

Pre-employment background checks are permitted, and it is common to use specialized companies for these services (ie, 3rd-party validations of background checks).

Background checks may include educational history and professional qualifications, employment history, consumer credit checks, civil litigation, criminal and fiscal records, OFAC/Global Sanctions Lists, a driver's license check and passport/ID validation, among others.

On the initiation of the recruitment process, the applicant must grant express written consent to conduct background checks.

Under Colombian law, there are few restrictions on an employer's right to request substantiating documents and to confirm the information provided by the applicant (eg, regarding health conditions, pregnancy, drug use, family situations and political tendency).

IMMIGRATION

A foreign national needs a temporary visa or immigration permit authorizing them to live and work in Colombia. Work visas in Colombia (ie, a Migrant Visa or a Visitor Visa with a work permit) are granted for up to 3 years in the case of the Migrant Visa and for up to 2 years in the case of the Visitor Visa on a discretionary basis and are renewable indefinitely.

After 5 years of holding a Migrant Visa, it is possible to apply for a residency visa. The general rule is that applicant themselves must file the visa application before the Ministry of Foreign Affairs in Bogotá, Colombia or before a Colombian Consulate abroad. However, if the process is conducted before the Ministry of Foreign Affairs in Colombia, it is possible to file the visa application through a proxy.

Other visa alternatives may be available depending on the activities to be performed in Colombia by a foreign national or their personal situation.

Additionally, the government has issued special permits that allow Venezuelan nationals to work in Colombia.

HIRING OPTIONS

Employee

Indefinite, fixed-term or for the duration of a project.

Fixed-term agreements cannot exceed 3 years but may be extended indefinitely. If the duration of the contract is less than 1 year, it can be extended 3 times (with each renewal equal to or less than the initial term) but, after the 3rd renewal, the contract may only be extended for periods of 1 year.

Additionally, employees may be hired for face-to-face work, telecommuting (allowing hybrid work) and remote work.

Independent contractor

Independent contractors may be engaged. Specific rules regarding direction and control, subordination and autonomy in how they perform the work must be followed in order to reduce misclassification exposure. Independent contractors are obliged to pay social security contributions monthly in arrears.

Agency worker

Staffing agencies or "temporary services agencies" are entities that provide services to 3rd-party beneficiaries to temporarily assist in the development of their activities via individuals hired directly by the staffing agency. The agency acts as the individual's employer.

Agency workers may only be hired in 3 cases:

- For occasional or sporadic activities
- For replacement of employees on vacation, maternity or sick leave, or
- To support production increases, for a period of up to 6 months, which is extendable for 1 further period of 6 months after which the employer must either terminate the engagement or hire the worker directly.

If none of these scenarios apply, the company receiving services from the agency may be considered the employer of the agency workers and/or may be subject to monetary sanctions including a fine of up to 5,000 times the minimum monthly wages which may be imposed by the Ministry of Labor.

EMPLOYMENT CONTRACTS & POLICIES

Employment contracts

Written employment agreements are mandatory for fixed-term agreements, telecommuting and remote work. However, written employment agreements are generally recommended for all employees.

Probationary periods

Employees hired under an indefinite employment agreement may be subject to a probationary period of up to 2 months. Employees hired under a fixed-term employment agreement may be subject to a probationary period of up to 1/5 of the fixed term agreed upon up to 2 months.

Policies

Depending on the number of employees, the following policies will be mandatory:

- Internal regulations (*Reglamento Interno de Trabajo* or *RIT*) are mandatory under Article 105 of Colombian Labor Code for employers with more than 5 permanent employees in commercial business, more than 10 employees in industrial companies or more than 20 employees in agricultural, forestry or cattle
- Health and safety regulations (*Reglamento de Seguridad y Salud en el Trabajo*) are mandatory under article 349 of Colombian Labor Code for employers with more than 10 permanent employees.
- An occupational health and safety management system (*Sistema de Gestión de Seguridad y Salud en el Trabajo*) and labor harassment and data privacy policies are Additional corporate policies are permitted.

- A biosafety protocol, in accordance with Resolution 692 of 2022 issued by the Ministry of Health which requires employers to comply with the general biosafety protocols to mitigate and control COVID-19 at the workplace.
- Data privacy policy is mandatory, regardless of the headcount.
- Disconnection labor policy is mandatory, regardless of the headcount.
- Telecommuting policy is mandatory for employers with employees who telecommute, regardless of the headcount.
- Companies that own, manufacture, assemble, sell, hire or manage fleets of motor vehicles of more than 10 units, or engage or manage drivers, must implement a strategic road safety plan.

Third-party approval

Generally, no approvals are required, with the exception of employees who are 15 to 17 years old, in which case authorization of the employment relationship from the Ministry of Labor is required.

LANGUAGE REQUIREMENTS

No statutory requirements. However, Spanish is recommended as the Colombian authorities require any employment document to be in Spanish or translated into Spanish.

WORKING TIME, TIME OFF WORK & MINIMUM WAGE

Employees entitled to minimum employment rights

All.

Working hours

Up to 47 hours a week. Employees must have at least 1 paid day off every 6 days (usually Sundays). The Colombian Labor Code allows employees to work 47 hours per week distributed over 5 days in order to also have all Saturdays as days of rest.

The Colombian Congress approved a bill whereby the weekly working hours will gradually decrease within the next 5 years. The bill gradually reduces the maximum weekly working hours to 42 per week, without reducing salary or affecting employees' rights. Nevertheless, employers may reduce the weekly working hours before the special shifts are permitted according to the needs of the company.

Maximum implementation date	Maximum weekly working hours

July 15, 2024	46
July 15, 2025	44
July 15, 2026	42

Overtime

An employee may not be required to work more than 2 hours per day as overtime or more than 12 hours in a given week. The ordinary working day is from 6:00 am to 9:00 pm. Overtime during the day is paid at a rate of 25 percent on top of the ordinary hourly rate. The working night is from 9:00 pm to 6:00 am; workers who ordinarily work during these hours must be paid 35 percent on top of the ordinary hourly rate. Overtime pay for night work is equivalent to 75 percent on top of the ordinary hourly rate.

Employers must have a special permit from the Ministry of Labor for overtime work.

Through Resolution 3031 of August 2023, the Ministry of Labor orders Employers to update their overtime work authorization. Such authorization cannot exceed 2 years, and those who fail to update it are subject to sanctions.

Employees who perform functions of direction, trust or management as well as employees who are engaged in intermittent activities or in activities of simple vigilance (e.g., security guards), provided they stay at the workplace, are excluded from the above rules regarding the maximum workday and overtime.

Wages

The minimum wage is determined by the Colombian government every calendar year. The minimum wage for 2024 is COP1,300,000 million (approximately USD338) per month. The minimum wage is increased annually using the Consumer Price Index (IPC) as a reference.

Salaries in Colombia may be agreed under the ordinary or integrated salary scheme.

Employees under the ordinary salary scheme are entitled to the following mandatory fringe benefits and payments in addition to the monthly remuneration:

- Severance aid. Equivalent to 30 days of salary for every year of service, proportionally for fractions of a year.
- Interest on severance. Equivalent to 12 percent of the severance payment per year, proportionally for fractions of a year.

- June and December service bonus. Equivalent to 15 days' salary, payable to the employee every calendar year. The first payment must be made on the last day of June, and the second payment must be made within the first 20 days of December, in proportion to the time worked during the respective calendar semester.
- Vacation. 15 working days of vacation for every year of service.
- Work clothes 3 times a year (ie, April, August and December) to employees who earn less than twice the minimum wage.
- Transportation allowance or connectivity allowance, depending on the work modality (for the year 2024: COP162,000; approximately USD42), for employees who earn less than 2 times the minimum monthly legal wage.

The ordinary salary scheme is mandatory for salaries below 13 times the monthly minimum wage (for the year 2024: COP16,900,000; approximately USD4,390)If the proposed salary is equal or higher to that amount, an integrated salary scheme may be agreed.

The monthly integrated salary includes the legal, social or fringe benefits provided to employees, except for vacations (employees are entitled to 15 business days of vacation per year). This includes the following:

- Severance aid (*auxilio de cesantías*)
- Interest on severance aid (*intereses a las cesantías*)
- Legal service bonuses and extra-legal bonuses
- Any type of surcharge Sunday and holiday surcharge and days off
- Night work surcharge
- Subsidies and in-kind supplies
- Travel allowances, within the Colombian territory or abroad Bonuses of all types and natures
- In general, all benefits that an employee receives in money or in kind, either regularly or sporadically, except for vacation

The minimum monthly integrated salary must be equivalent to at least 13 times the minimum wage.

Vacation

The employee is entitled to 15 business days of vacation per year, proportional to the fraction of a year.

Sick leave & pay

If an employee cannot work due to illness or an accident, a medical authorization from a Colombian Social Security entity must be obtained in order for the employee to get paid for the days during which the employee

could not attend work. The employer pays sick leave during the employee's absence (for an indefinite period) but, as from the 3rd day of sick leave, the employer can claim the payment back from the social security system.

Moreover, employees are entitled to paid leave of 10 working days per year to care for minors suffering a terminal illness or condition. The leave must be agreed with the employer and may be taken by the father, mother or whoever has custody and care of the minor. An employer may seek reimbursement for the payment to the employee during leave from the healthcare social security system.

Maternity/parental leave & pay

Paid maternity leave for every employed pregnant or adoptive mother in Colombia is granted for 18 weeks. Mothers are entitled to 1 week before childbirth and 17 weeks after. For medical reasons the mother can have 2 weeks before childbirth or can have the 2 weeks before childbirth postpartum, which means that the maternity leave will last 18 weeks after childbirth. Adoptive mothers, and fathers in charge of the newborn in case of sickness or death of the mother, are also entitled to this maternity leave.

A male employee is given 2 weeks of paid paternity leave when his spouse or significant other gives birth or he adopts a child. The Law sets forth that for every 1 percentage point that the national unemployment rate decreases, paternity leave will be extended for 1 additional week. The extension of paternity leave will be maximum 5 weeks. The methodology to calculate unemployment rate will be jointly defined and published in December every year by the Ministry of Finance and Public Credit, the Colombian Central Bank, and the National Planning Department.

Shared parental leave: Parents may freely distribute or share between them the last 6 weeks of maternity leave.

Flexible part-time parental leave: Parents may choose to exchange a period of their leave for a part-time work period, equivalent to twice the time corresponding to the chosen period.

Other leave/time off work

Employees may also be entitled to leave for other purposes, such as bereavement, domestic calamity, breastfeeding, voting, terminal illness leave (for parents or caretakers of underage kids who have been diagnosed with terminal diseases), among others.

DISCRIMINATION & HARASSMENT

Employers may not discriminate against employees or job candidates on the basis of age, ethnic origin/race, gender, citizenship, disability, health conditions, religion, opinions, sexual orientation, marital status, union membership, or any other criteria.

WHISTLEBLOWING

There are no specific laws addressing whistleblower protections; however, there are several sectorial rules that address internal whistleblowing hotlines, such as the Chapter X and Chapter XIII of the Legal Basic Circular issued by the Superintendence of Corporations, which provide that the denouncing of Money Laundering or Corruption should be incentivized, without fear of labor retaliations.

BENEFITS & PENSIONS

Employees in Colombia must be enrolled in the social security system (for pension, health and labor risks), and employers have the obligation to make the corresponding monthly contributions on time.

If foreign employees are covered by the pension system in their home country, they are not obligated to be enrolled in the pension system or to pay monthly contributions to the Colombian pension system.

Social security contributions and payroll taxes must be paid as follows:

Contributions ¹	Rate	Employer	Employee
Pension	16 percent	12 percent	4 percent
Health	12.5 percent	8.5 percent for employees who earn more than 10 minimum wages.	4 percent
Solidarity pension Fund	1 to 2 percent	N/A	1 to 2 percent
Professional Risks ²	0.348 to 8.7 percent	0.348 to 8.7 percent	N/A
Payroll Taxes ³	4 percent or 9 percent depending on whether employees earn more than 10 minimum wages.	4 percent or 9 percent depending on whether employees earn more than 10 minimum wages.	N/A

¹The basis to calculate contributions to the social security system (pensions, solidarity pension fund, health and labor risks) is the ordinary monthly salary earned by the employee. However, if the monthly salary exceeds 25 times the minimum wage (for the year 2024: COP32.5 million; approximately USD8,400), contributions to the social security system will be calculated on the maximum basis of 25 times the minimum wage. However, the maximum basis may be 45 times the minimum wage when the real growth of the Colombian economy is higher than 4 percent during the last 3 fiscal years and the fiscal spending on pensions is less than 2 percentage points of the GDP. Non-salary payments agreed between the employer and the employee are not included in the basis to calculate social security contributions, if such payments do not exceed 40 percent of the employee's compensation. If these non-salary payments exceed 40 percent, the difference will be subject to social security contributions.

In case of employees earning integral salary, 70 percent of salary will be the basis to calculate contributions to the social security system. However, if 70 percent of the integral salary is more than 25 times the minimum wage, contributions to the social security system will be calculated on the maximum basis of 25 times the minimum wage.

²The contribution to the Solidarity Pension Fund only applies for employees who earn more than 4 times the legal minimum wage. This payment is equivalent to 1 percent of the monthly salary, but in the case of employees earning more than 16 times the minimum wage, the rate is increased as follows: between 16 and 17 times the minimum wage, an extra 0.2 percent; between 17 and 18 times the minimum wage, an extra 0.4 percent; between 18 and 19 times the minimum wage, an extra 0.6 percent; between 19 to 20 times the minimum wage, an extra 0.8 percent; and between 20 and 25 times the minimum wage, an extra 1 percent. Contributions to the solidarity fund also have the cap of 25 times the minimum wage.

³Contributions to SENA, ICBF, Family Compensation Fund (payroll taxes) shall be calculated based on the ordinary monthly salary earned by the employee, including any paid rest, such as vacation. For employees who earn less than 10 times the minimum wage, contributions to ICBF and SENA do not apply. In case of employees earning integral salary, 70 percent of salary is the basis for this contribution. Non-salary payments are excluded from payroll taxes. Payroll taxes do not have a ceiling.

DATA PRIVACY

Subject to certain exceptions, all data processing in Colombia should be based on consent for it to be lawful. Before employees provide consent for the processing of their personal data, they must receive certain information concerning the identity of all data controllers, the means and purposes for the processing of their data, and their rights. The processing of sensitive information requires explicit consent, which cannot be compulsory in any way. To process personal data, data controllers must provide a privacy notice to the affected employees prior to the collection and processing of personal data. In the case of data transfers to other data controllers, the privacy notice must contain the name of the transferee or the person to whom the information is transferred. Unless data is transferred for processing purposes, transfers of personal data to domestic or foreign 3rd parties must be pre-approved by the data subject/employee. If data is transferred for processing purposes, no prior consent is necessary, and the data controller and processor may enter into a data processing agreement for it to be lawful.

Employees have the right to know, update and rectify their personal data. The right to rectify personal data may be exercised in relation to partial, inaccurate, incomplete, split or deceptive data, and/or data that cannot be processed. They also have the right to request a copy of the consent that was granted to the data controller, the right to be informed about the use that has been effectively given to their information, and the right to revoke the

consent granted for the processing of their personal data and may request to remove their personal information from the employers or subcontractor's databases by filing a formal claim, save for information directly related to their employment (eg. HR core data, recruitment, performance, global compensation learning and training-related data and master data). This possibility is only applicable in the case of wrongful use of the employee's information.

RULES IN TRANSACTIONS/BUSINESS TRANSFERS

Employment transfers may be implemented via employer substitution or the assignment of employment agreements, or by termination and rehire. Employees transferred by substitution or assignment are entitled to receive at least the same benefits and to perform their work subject to the same terms and conditions as before the transfer. The employer who has been substituted is jointly responsible with the new employer as to the labor obligations arising prior to the employer substitution.

An employer substitution occurs, regardless of the will of the parties, when the following 3 criteria are met:

- Change of employer (for any reason)
- Continuity of establishment (understood as the core business of seller) and
- Continuity of employment agreement.

EMPLOYEE REPRESENTATION

Trade unions are prevalent in certain sectors, including the sugar, railway, automotive, oil and mining industries as well as the public sector, especially education and energy.

A minimum of 25 workers is required to maintain or establish a trade union in Colombia. So, where the company employs at least 25 employees, the employees may establish a company-level union. Only the employees may form a union.

There are no work councils or other employee representatives.

TERMINATION

Grounds

An employer may terminate their employment relationship with an employee without incurring liability if any of the justified causes established by law exist, which are mostly based on misconduct or poor performance. A disciplinary process should be conducted before any termination with cause. Terminations without cause are also valid but will trigger severance obligations. In a dismissal not for cause, no notice is required, but the employee is entitled to compensation (*ie*, indemnification) for unilateral termination as set out below.

Employees subject to termination laws

All employees.

Restricted or prohibited terminations

There are special cases where it is not possible to terminate an employment agreement without the authorization of the Ministry of Labor or a Labor Judge, even with just cause:

- **Maternity:** Employees who are pregnant or on maternity leave cannot be dismissed without just cause and without previous authorization from the Ministry of Labor.
- **Paternity:** Employees whose partner is pregnant or on maternity leave cannot be dismissed without just cause and without previous authorization from the Ministry of Labor.
- **Health conditions:** Employees who are on sick leave or have restrictions that substantially limit their ability to complete their labor duties cannot be dismissed without just cause. No authorization is needed for termination with just cause.
- **Pre-pensioner:** Employees who are less than 3 years away from meeting the requirements to obtain a retirement pension cannot be dismissed without just cause. No authorization is needed for termination with just cause.
- **Union protection (*fuero sindical*):** For union leaders, a labor judge must authorize the termination, and only for just causes established in the Colombian Labor Code and the company's policies and/or procedures.
- **Temporary collective bargaining protection (*fuero circunstancial*):** During collective bargaining, an employer may not terminate a unionized employee without cause. No authorization is needed for terminations with just cause.

Third-party approval for termination/termination documents

3rd-party approval is required for restricted or prohibited terminations.

No 3rd-party approval is required in other cases, but it is common to have employees sign a labor settlement in before the labor authorities (*ie*, the Ministry of Labor or Labor Judge).

Mass layoff rules

Depending on the number of employment agreements to be terminated, prior authorization from the Ministry of Labor may be required. This should take 2 months. However, the Ministry generally takes much longer.

If the requirement for a collective dismissal (*ie*, mass redundancy) is met (see threshold triggers below), the above authorization is mandatory. If the company does not have such authorization, the terminations shall be void by operation of law and the company will be obliged to re-engage the employees.

Simultaneously, the employer must notify its employees in writing regarding the authorization requested before the Ministry of Labor.

A collective dismissal occurs when it affects in a period of 6 months:

- In a company employing between 10 and 50 employees, 30 percent of employees

- In a company employing between 50 and 100 employees, 20 percent of employees
- In a company employing between 100 and 200 employees, 15 percent of employees
- In a company employing between 200 and 500 employees, 9 percent of employees
- In a company employing between 500 and 1,000 employees, 7 percent of employees, and
- In a company of more than 1,000 employees, 5 percent of employees.

Notice

At least 15 days' written notice is required in cases of poor performance. In cases of misconduct or termination without cause, no notice is required, and such terminations may be effective immediately.

For employees with a fixed-term agreement, written notice is required at least 30 days prior to the agreement's expiration.

The law sets forth that employees who acquire a retirement pension by the Colombian Social Security System may be terminated with cause with a notice of at least 3 months. Nevertheless, judicial precedent has ruled that notice has been set in order to prevent any interruption between retirement and payment of the pension.

Statutory right to pay in lieu of notice or garden leave

Not applicable under Colombian Law.

Severance

Unilateral termination without cause is lawful but will trigger severance obligations.

If the termination is unilateral and without cause, the employee is entitled to receive an indemnification in addition to the final wages. For employees with an indefinite-term agreement, such indemnification would be calculated as follows:

- For employees earning less than 10 minimum legal monthly wages (for the year 2024: COP13 million; approximately USD3,380), compensation is 30 days of salary for the first year of service and 20 days of salary for each additional year of service (proportional to the fraction of a year).
- For employees earning 10 minimum legal wages or more, compensation is 20 days of salary for the first year of service and 15 days of salary for each additional year of service (proportional to the fraction of a year).
- For employees with a fixed-term agreement, severance is equal to the salary owed to the employee until the term of the agreement expires.
- For employees who entered into agreements for the duration of a project, severance is the estimated salary owed to the employee until the project concludes. However, in no case may severance be less than 15 days of salary.

POST-TERMINATION RESTRAINTS

Non-competes

Post-termination non-compete clauses or agreements are not enforceable. However, such provisions are typically included in employment agreements because they can have a deterrent effect or create a sense of moral obligation on the part of an employee.

Customer non-solicits

Post-termination customer non-solicits clauses or agreements are not enforceable. However, such provisions are typically included in employment agreements because they may have a deterrent effect or create a sense of moral obligation on the part of an employee.

Employee non-solicits

Post-termination employee non-solicits clauses or agreements are not enforceable. However, such provisions are typically included in employment agreements because they may have a deterrent effect or create a sense of moral obligation on the part of an employee.

WAIVERS

Enforceable and advisable through a labor settlement before a Labor Judge or the Ministry of Labor. However, employees cannot waive their vested mandatory benefits or rights.

REMEDIES

Discrimination

No specific sanctions are in place.

Unfair dismissal

Employees are entitled to receive an indemnification in addition to the final wages. Such indemnification is calculated as follows:

- For employees on indefinite employment agreements earning less than 10 minimum legal monthly wages (for the year COP13 million; approximately USD3,380), the compensation is 30 days of salary for the first year of service and 20 days of salary for each additional year of service (proportional to the fraction of a year).
- For employees on indefinite employment agreements earning 10 minimum legal wages or more, the compensation is 20 days of salary for the first year of service and 15 days of salary for each additional year of service (proportional to the fraction of a year).

- For employees under fixed-term employment agreements, the labor indemnification is the equivalent to the pending payments between the effective date of termination and the date of termination agreed under the agreement.
- For employees who entered into agreements for the duration of a project, the severance is the estimated salary owed to the employee until the project concludes. However, in no case may it be less than 15 days of salary.

Failure to inform & consult

Not applicable under Colombian law.

CRIMINAL SANCTIONS

Employees may be subject to criminal sanctions if they do not honor their non-disclosure or confidentiality agreements.

Employers may be subject to criminal sanctions if they perform actions to reduce enrollment to unions or to discourage such enrollment.

KEY CONTACTS



Diana Zuleta Martínez
Partner
DLA Piper Martinez Beltran
dzuleta@dlapipermb.com

Disclaimer

DLA Piper is a global law firm operating through various separate and distinct legal entities. Further details of these entities can be found at www.dlapiper.com.

This publication is intended as a general overview and discussion of the subjects dealt with, and does not create a lawyer-client relationship. It is not intended to be, and should not be used as, a substitute for taking legal advice in any specific situation. DLA Piper will accept no responsibility for any actions taken or not taken on the basis of this publication.

This may qualify as 'Lawyer Advertising' requiring notice in some jurisdictions. Prior results do not guarantee a similar outcome.

Copyright © 2024 DLA Piper. All rights reserved.