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FEDERAL LABOR LAW REFORM: TELEWORK

This past January 11, 2021 a Decree reforming and including several dispositions to the Federal Labor Law was published at the Official Gazette. Among the most important aspects of the reform is the regulation regarding work relations under the modality of telework, same which entered into force on January 12, 2021.

1. Difference between at-home work and telework

Monitoring and direct supervision from the employer at telework constitutes the main difference between this modality and at-home work. As consequence, telework necessarily entails the disposition of the employee via electronic means during working hours.

2. Definition of telework

Telework is defined as a modality of labor relation consisting of the personal execution of paid activities at different places from the establishment or establishments of the employer, by using primarily information and communication technologies.

3. Requirements

It is established that, in case of opting for this modality, the change from on-site to telework must be voluntary and documented in writing, except for cases of duly proven force majeure, provided that it is possible to agree to return to the on-site modality.

4. Working conditions

In addition to what was already established by the law, for the telework modality the corresponding agreements must contain the conditions agreed upon by the parties for the development of the telework, including, among others, indicating the supplies provided by the employer to the employee, as well as the contact and supervision mechanisms.

5. Special obligations of the employer

Special obligations are established for the employer, same which may be supervised by Labor Inspectors and include, among others:

5.1. Provide, install, give maintenance and register the supplies provided for the telework; and
5.2. Bear the costs derived from the telework, including, in its case, telecommunication services and proportional part of electricity;

Additionally, within the next 18 months the Federal Government must publish the norm through which the special security and health conditions for telework will be regulated.

For a better application of this modality, it is required for the workplace to have a telework policy. In case of having a collective bargaining agreement, it will be required to integrate said policy at the collective bargaining agreement and/or internal work regulations, in case the company does not have a collective bargaining agreement.

In case you decide to implement telework, we suggest that you contact us so that we may assist you by carrying out the applicable adjustments.

We remain at your disposal for any question or clarification regarding this matter.

January 20, 2021