

Labor Law Alert – Provisional Measure nº 927/2020



The exponential rise in the number of infections caused by the COVID-19 (novel coronavirus) pandemic is not only cause for obvious concern about the population's well-being, but has also had numerous, serious impacts on labor relations, specifically as a result of the legislative vacuum and lack of relevant jurisprudential precedents on this matter.

In particular, within the realm of labor law, for starters, Law No. 13979/2020 was passed on Feb. 6, 2020, which included on the list of justified absences from work (i.e., those paid for by the company) time off for doctor visits, hospital and outpatient procedures, compulsory isolation and quarantines, which have not yet been determined by the proper authorities.

In theory, spontaneous isolation or quarantine periods in this scenario are not justified absences from work, which is why employees must perform their duties

normally through any alternative methods offered by their employer.

In this regard, considering the exceptional nature and gravity of the circumstances, employers may implement telework options (including work in home offices) separately or in conjunction with other alternative conditions (rotations, staggered schedules, shortened workdays, vacation time, among other things).

Furthermore, with the goal of avoiding a substantial increase in the number of layoffs, in addition to lessening the negative impact on employers' cash flow, the Federal Government has issued Provisional Measure 927, on 03.22.2020, establishing, among other things, the possibility of making adjustments to the following premises through an individual agreement with the employee (without the union's involvement):

- a) Cutting the workday and monthly salary by up to 25%, as long as at least the national monthly minimum wage is guaranteed (coupled with art. 503 of CLT);
- b) 3-month grace period for withholding the FGTS (Workers Compensation Fund);
- c) Possibility of advancing vacation time or holydays, as long as employees have been notified at least 48 hours in advance;
- d) Making the rules for remote and home-office work more flexible; and
- e) Suspending employment contracts up 4-months to conduct employee to take professional courses (probably is gonna be repeal).

Considering the potential conflict of new legislation with the basic principles of Brazilian labor law, historically applied by labor courts, it is possible that, once the COVID-19 contagion has stabilized, any individual agreements may come under scrutiny within the labor justice system. As such, greater caution should be exercised with respect to any adjustments.

We remain at your disposal for further clarifications and questions.

Cordially,

Yours Sincerely,



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**** This alert is for information purposes only and does not contain any legal opinion, recommendation, or advice by Santos Bevilaqua Advogados with respect to the matter addressed herein.*