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LABOR EXPLOITATION IN MEXICO

In mid-June of this year, a **labor exploitation** reform became effective amending the General Law for the Prevention, Punishment, and Eradication of Crimes related to Human Trafficking and Protection and Assistance of Victims of such Crimes (the "Law").

With this reform, section IV was added to Article 21 of the Law to classify working hours in excess of the legal limits as **exploitative labor practices.**

As you know, the current limits for working hours and overtime in Mexico are as follows:

Daytime workday	8 hours
Nighttime workday	7 hours
Mixed workday	7.5 hours
Overtime	Not more than 3 hours per day nor 3 times per week.

Pursuant to this reform, depending on the severity of each case, the sanctions imposed on anyone who exploits one or more persons for labor purposes, either by imposing or allowing **working hours in excess of the legal limit,** will range from a fine of **5,000 to 50,000 days of fine** and/or **3 to 10 years of prison.** And in the case of persons belonging to indigenous or Afro-Mexican towns and communities, the sanctions are increased to a range **of 7,000 to 70,000 days of fine** and **4 to 12 years of prison;** in the understanding that the term "days of fine" is defined in Article 29 of the Federal Criminal Code, which equivalence is equal to the net daily income of the sentenced person at the time the crime was committed, considering all their income.

To that effect, it is important to clarify that:

- Labor exploitation had been sanctioned for a long time, both by the Federal Labor Law and the Law;

- The percentage of matters related to labor exploitation that the Criminal Courts have resolved to this date is minimal; since the nature of the labor relationship necessarily involves that any controversy is attended and resolved by the authorities, judges, and labor courts;

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- Pursuant to the Law, for the crime of labor exploitation to take place, in addition to the unjustifiable benefit (economic or otherwise) that one person acquires from another, the **submission** of the affected person to practices that violate their dignity, such as, among others, **working hours in excess of those foreseen by the Law** is necessarily required; in the understanding that **submission** is the imposition by force on a particular person of the authority or will of another;

- In criminal matters, specifically regarding the existence of crimes, the interpretation rules corresponding to other areas of law are not applicable; on the contrary, the rule of exact application of the law prevails, meaning that if there is no **submission** of the affected person, then the crime of labor exploitation would not exist.

- Although the submission of the employees may not be currently taking place, it is advisable to document the existence of an environment that respects the dignity of employees and, consequently, the absence of such submission on their part.

In conclusion, employers may continue to request overtime, as long as they respect the overtime limit foreseen by the Federal Labor Law (according to the table herein) and the dignity of the employees.

We recommend all our clients to perform an internal labor audit including compliance matters to verify that their working hours are within the legal limits, both in all their documents and in practice. If necessary, we also recommend to adapt their employment contracts, collective bargaining agreements, internal work regulations, and internal policies -such as codes of conduct and psychosocial risk factor identifiers- to the provisions of the Law.

We will gladly contact you to determine if you require our support in the implementation of the labor audit.

July 8, 2024.