Baker McKenzie.

The Global Employer: Colombia 2021

The Global Employer

Colombia Guide 2021

Key contacts

For more information regarding the Employment & Compensation Practice in Colombia, please contact:

Tatiana Garcés-Carvajal (Bogotá)
Tel: +57 1 634 1543
tatiana.garces@bakermckenzie.com

Evelyn Romero
Tel: +57 1 6341566
evelyn.romero@bakermckenzie.com

María Cecilia Reyes
Tel: +57 1 6341568
mariacecilia.reyes@bakermckenzie.com

Daniela Liévano
Tel: +57 1 6341558
daniela.lievano@bakermckenzie.com

For more information regarding the Employment & Compensation Practice Group, please contact:

Michael Brewer (Global Chair)
Tel: +49 69 2 99 08 142
michael.brewer@bakermckenzie.com

Michael Michalandos (Asia Pacific)
Tel: +61 2 8922 5104
michael.michalandos@bakermckenzie.com

Bernhard Trappehl (Europe, Middle East and Africa)
Tel: +49 89 5 52 38 115
bernhard.trappehl@bakermckenzie.com

Leticia Ribeiro C. de Figueiredo* (Latin America), *Partner at Trench Rossi Watanabe*
Tel: +55 11 3048 6917
leticia.ribeiro@trenchrossi.com

George Avraam (North America)
Tel: +1 416 865 6935
george.avraam@bakermckenzie.com

**Trench Rossi Watanabe and Baker McKenzie have executed a strategic cooperation agreement for consulting on foreign law*

About the guide

This guide is intended to provide employers and human resources professionals with a comprehensive overview of the key aspects of Colombian employment and labor law. It covers the entire life cycle of the employment relationship from hiring through to termination, with information on working terms and conditions, family rights, personnel policies, workplace safety and discrimination. The guide links to our global handbooks, which include information for Colombia on immigration and data privacy. The guide also contains information on the employment implications of share and asset sales.

Save where otherwise indicated, law and practice are stated in this guide as at September 2021.

Table of Contents

1 Overview

1.1 General overview

In terms of population, Colombia is the third largest country in Latin America, following Brazil and Mexico. It also has the fourth largest economy, with over 70% of the population living in cities, the largest being the capital city Bogotá, D.C.

Colombia has a highly skilled and competitive workforce with well-qualified and experienced executives. As specific labor and employment codes regulate employment relationships that protect the employee, Colombian labor legislation is generally favorable to employees.

Colombian labor and employment law governs all employment relationships of employees who render services within the Colombian territory. Therefore, regardless of the place of execution of the employment contract, the employee's nationality and the fact that the employer is a foreign entity, Colombian labor and employment law applies if services are rendered within its borders.

1.2 General legal framework

1.2.1 Sources of law

The main sources of Colombian labor and employment law are statutes.

The most significant statutes are the Constitution (setting out fundamental employment principles, rights and obligations), the Substantive Labor Code (covering matters including individual employment contracts, mandatory social benefits, vacations, union organizations and collective bargains), the Social Security Regime (covering health, pension and labor risks) and regulations issued by the Ministry of Labor.

Decisions of the Constitutional Court and Supreme Court of Justice, when they become binding, are also an important source of law.

1.2.2 Collective agreements

Most employment issues are dealt with in employment legislation, as it sets out minimum standards. These standards are increased through collective bargaining agreements and these become mandatory for companies that execute such agreements with the unions. These minimum standards (or "increased" standards, as mentioned) leave little space for individual agreements.

1.2.3 Court framework

Colombia is a highly litigious country. It is usual for workers to file legal claims when they feel that their rights have been violated. It is important that employers are strategically well prepared to demonstrate compliance with legal and contractual obligations before the courts.

1.2.4 Litigation considerations

As a rule, except for special procedures, the time limit for an employee to bring a labor or employment claim is three years, counted from the date on which the right/benefit became due and demandable. Pension rights are not subject to a statute of limitations.

1.3 Types of working relationship

Employees broadly fall into the following groups: (i) ordinary employees and (ii) management and trust employees. The status of an employee is important because it determines whether they are subject to the regulations on maximum working hours (i.e., whether they will be entitled to surcharges for overtime work). The table below provides more information on these groups.

Types of working relationship	
Ordinary employees	Ordinary employees must comply with the working schedule established by the employer within the legal limits, or the statutory working schedule in the absence of one established by the employer. These employees are entitled to surcharges for overtime work — see **6.5**.
Management and trust employees	Management and trust employees are the employees filling directive positions or positions in which they are entrusted with relevant tasks/information of the employer or its clients. This status depends on the actual duties performed by the employee and not necessarily on the employee's title. Employees holding a "management and trust" position are not entitled to receive surcharges for overtime work.

Regardless of the name the parties give to the contract or to the provisions/agreements/covenants included within it, an employment contract is deemed to exist when: (i) there is a rendering of a personal service by an individual to another or to a legal entity; (ii) a payment of remuneration/salary is made as consideration for the rendering of services; and (iii) there is a continued subordination and dependence of the individual rendering the service to the beneficiary of the services, who has the authority to give orders and instructions on how the work should be performed as well as the time, manner and place the services should be done.

Subordination is the decisive factor for the courts when determining if an employment relationship exists. Circumstantial evidence and particular situations are also taken into account by courts in deciding if subordination exists, such as whether the individual goes to the same place every day on a certain schedule to render services the individual has an office that is owned or paid for by the beneficiary of the services; the individual works with tools provided by the beneficiary of the services; or the individual obtains reimbursement from the beneficiary for some expenses or receives typical employment payments.

1.4 On the horizon

The Constitutional Court, through some recent rulings, has strengthened the labor stability of some groups of employees by introducing important changes to the rules regarding protection against dismissal. These changes have extended this protection to employees with three years or less remaining before retirement who cannot be terminated without cause.

The protection establishes that the employer cannot terminate the employment contract without cause in this situation.

A labor judge could consider the termination to be invalid. Consequently, the employee could be reinstated to their job, with the employer paying the salary and labor accruals that the employee should have received if their employment contract had not been terminated. As the protection against dismissal is not legal in these cases, but provided by case law, this will depend on the analysis of each case by the labor court and the specific circumstances of termination.

In relation to employees with pregnant partners, spouses or companions, recently, the Congress of Colombia adopted this protection by establishing that for this protection to be granted, the woman who is pregnant must be registered as the beneficiary of the employee in the social security system and/or she must not have formal employment.

Additionally, due to the COVID-19 pandemic and the isolation measures implemented in Colombia during 2020, the Congress issued several regulations for remote working or telecommuting. Currently, there are different ways to render services outside of the employer's premises in Colombia, as follows:

- Work from Domicile (1950) allows employers and employees to agree that the employment relationship will be performed from the domicile of the employee (in the terms of the Colombian Civil Code), without use of technologies and with the condition for the employer to deliver all the necessary elements to provide services.
- Teleworking (2008) allows employers and employees to agree that the employment contract will be performed outside of the employer's premises (on a full or partial basis), using information and telecommunication technologies (TICs).
- Work from Home (2021) enables employers to allow employees to work outside of the premises and from their homes, on a temporary basis, when a special, occasional or exceptional situation arises that prevents employees from working on-site.
- Remote Work (2021) allows employees and employers to agree that the employment contract, from its beginning to its end, will be executed on a remote basis using TICs. Employees will not be required to work on-site, unless some legal requirements are met.

Employers are increasingly designing and implementing hybrid work models that incorporate remote and on-site systems on premises, not only resulting from COVID-19 biosafety measures, but also as a new way of operating moving forward.

2 Hiring employees

2.1 Key hiring considerations

Employers in Colombia can be individuals or legal entities (such as companies, corporations, government entities, nonprofit organizations, etc.). In order for the legal entities to properly comply with labor and employment laws, it is necessary for them to be legally incorporated in Colombia.

Legal entities are provided with a tax identification number (NIT), which is necessary to comply with employment and social security obligations, such as: (i) registering with the social security administrator entities; (ii) paying employment benefits; and (iii) complying with payroll tax obligations.

Entities with which the employer must be affiliated are Health Promoting Enterprises, the Labor Risks Administrator, the Pension Fund Administrator and the Family Compensation Bureau.

2.2 Avoiding the pitfalls

Discrimination claims are not common at the recruitment stage. However, it is forbidden to request certain information such as the candidate's military book, or HIV, hepatitis or pregnancy status. In addition, the employer must comply with all data protection requirements.

In 2021, the Congress of Colombia issued specific prohibitions related to: (i) application of pregnancy tests when the position does not have risks for the candidate's health; and (ii) questions associated with the reproductive programs of the candidates. In cases of violation of these prohibitions, the employer must be compelled to pay economic sanctions and, in case of a prohibited pregnancy test, there is an obligation to hire the candidate.

Employers must keep documents, files and any relevant material during the hiring process to preserve evidence in the event of any employee claim or investigation by labor and employment authorities.

2.3 Procedural steps and key documents in recruitment

2.3.1 Identifying the vacancy

The recruitment process begins when a vacancy arises because of the need to either create a new position or fill a position that has become vacant due to, for example: (i) termination of employment contract; (ii) leave; or (iii) vacations.

2.3.2 Preparing a job description and person specification for the position

The job description must describe the main duties and responsibilities of the role. It is also important to determine the type of employee being hired (see **1.3**).

2.3.3 Advertising the job

Employers should register all new vacancies in the Public Employment Service through any authorized provider within 10 working days after the vacancy is advertised. It is expressly forbidden to include in the job description for advertisement purposes any requirement that could be deemed as discriminative, such as a requirement relating to gender, age, race, politics or sexual orientation.

2.3.4 Shortlisting and interviewing

The shortlisting and interviewing of candidates is managed according to the specific policies and procedures of each company. Nondiscriminatory language must be used. Shortlisting based on age, gender, political background, race, reproductive plans etc., is prohibited. It is important that the profile of the candidate complies with all prerequisites of the vacant position.

2.3.5 Making an offer of employment, subject to conditions where appropriate

There is no regulation governing how job offers should be made or what information they should contain (as long as no laws are breached). Conditional job offers can be made with an employment obligation created when a candidate that fulfills the conditions accepts the offer.

2.3.6 Involvement of trade unions or works council

The involvement of unions in the hiring process is not mandatory, unless required under a collective bargaining agreement.

2.3.7 Apprenticeship quota

Employers with more than 15 permanent employees must coordinate with a government entity called Servicio Nacional de Aprendizaje (SENA) to promote the training and education of students from educational institutions recognized by the state in certain technical tasks, by hiring apprentices through apprenticeship contracts (which are different from employment contracts). The apprenticeship quota that employers must meet is determined in accordance with the number of employees engaged by the company who hold positions contained in the list of occupations established by SENA.

3 Carrying out pre-hire checks

3.1 Background checks

It is a normal and common procedure for employers to carry out an investigation into the profile and suitability for work of a candidate, or even to carry out investigations on current employees. To be able to do so, the employer needs to have: (i) the candidate's or employee's consent; (ii) a legitimate and lawful purpose to collect, treat and review this information; and (iii) information that has been freely submitted by the candidate or the employee. An employer can only use and/or transfer this information if authorized by the candidate or employee. It is also relevant to verify whether there is an

express prohibition on collecting this information for employment matters (i.e., financial, commercial or credit records).

Data protection regulations and conditions established by the Constitutional Court must be considered when accessing and using information about candidates and employees.

3.2 Reference checks

It is common for employers to request references for candidates. Information about referees should be given freely by the candidate.

3.3 Medical checks

Candidates must agree to a pre-hire medical examination. The medical practitioner or institution that performs the examination should be specialized in occupational health and must provide the employer with a certificate confirming whether the employee is: (i) fully suitable for the role; (ii) suitable provided some restrictions are applied; or (iii) not suitable for the position due to a special medical condition.

4 Immigration

Please refer to our Handbook — The Global Employer: Focus on Global Immigration and Mobility, which is accessible HERE for information about the immigration system applying in Colombia.

5 The employment contract

5.1 Form of the employment contract

Employment contracts can be oral or written. A written contract is not required unless the contract is for a specific job or for a fixed term. For these types of contracts, special requirements and formalities are required for the contract to be enforceable.

In an oral contract, the parties must at least agree on the nature and place of work, and the remuneration.

Under a written contract, all parties must sign the agreement with each party obtaining a copy. The written agreement should reflect the complete understanding of the parties. Additionally, there are certain provisions that are only valid if expressed in writing, for example, a trial period, the so-called integral/all-inclusive salary and an agreement executed for a fixed term (such as for six months).

5.2 Types of employment contract

Employees can be hired for an indefinite term, for the duration of a specific job and for a fixed term. The table below provides further information on each of these types of contracts:

Types of employment contract	
Indefinite term of duration	This contract does not state a fixed period and the duration of employment is not tied to a specific task or project.
For the duration of a specific job or hired service	For this type of contract, the employer should be able to show that the labor relationship is for a specific task. The employer should clearly establish the exact nature of the task and the specific period that the employee has to complete the task. A contract for a specific job must be entered into in writing.
For a fixed term	The initial duration of a fixed-term contract should not exceed three years, but it can be renewed successively for further fixed periods. Fixed-term contracts

Types of employment contract	
	may also be entered into for less than one year, in which case it can only be renewed three times in equal or lesser extensions. After the third renewal of the contract, it can only be renewed for successive periods of one year. A fixed-term contract can be terminated (by either party) on the expiration of its term, provided the relevant party gives 30 calendar days' notice, in advance of the expiration date, of its intention not to renew the contract. If this is not done, the contract is automatically renewed. A fixed-term contract must be entered into in writing.

5.3 Language requirements

There is no requirement that an employment contract must be executed in Spanish. However, in case a dispute arises over the terms of the contract or in case a claim arises, it is advisable that the parties execute the contract in Spanish.

6 Working terms and conditions

6.1 Trial periods

The maximum trial period is two months. For fixed-term contracts, if the term of the contract is less than one year, the maximum trial period is one-fifth of the term, without exceeding two months. Only trial periods agreed in writing are valid and enforceable.

6.2 Working time

Working hours are agreed by the parties, subject to the maximum legal working hours of eight hours per day and 48 hours per week until 2022. However, the Colombian Congress approved a gradual reduction in the weekly working schedule, with the following terms:

Year	Maximum working hours per week
2023	47 hours per week
2024	46 hours per week
2025	44 hours per week
2026	42 hours per week

Employers must adjust their working times according to the schedule mentioned above. Employers may adopt the reduction before the mandatory date.

Management and trust employees (e.g., individuals filling directive positions or positions in which they are entrusted with relevant tasks/information of the employer or its clients) are not subject to legal regulation on maximum working hours and are not entitled to surcharges for overtime work, as they must render their services during the time required to fully comply with their duties.

Ordinary working hours may be agreed during daytime (any time between 6:01 am and 9 pm) or nighttime (any time between 9:01 pm and 6 am). To extend ordinary working hours in a flexible manner, the parties can agree on legally defined special flexible rotatory schedules (shifts) tailored to

the business activities of the employer and to the duties of the employee. Depending on the type of schedules/shifts, overtime/surcharge payments may not apply. All employees, whether ordinary or management and trust, are entitled to enjoy remunerated rest on Sundays and holidays.

6.3 Wage and salary

The minimum monthly salary is COP 908,526 per month for 2021 (approximately USD 245). Employees cannot earn less than this monthly legal minimum salary, unless they work part time.

The “equal pay for equal work” principle is fully applicable and must be respected by all employers in the country.

Colombian labor and employment law allows two types of salary arrangements: the so-called “traditional structure,” under which salary and some mandatory fringe benefits are paid separately, and the so-called “integral salary structure,” under which some of the mandatory benefits are already included pro rata in the monthly salary payments. The integral salary must be agreed in writing and is only applicable for employees who earn 13 monthly legal minimum salaries or more. The minimum monthly integral salary was COP 11,810,838 for 2021 (approximately USD 3,192). It compensates not only ordinary services, but also mandatory fringe benefits, allowances, overtime work, surcharges and whatever payment or benefit in money or in kind expressly identified in the agreement (except for vacations and social security contributions) which the employee would otherwise receive separately.

Employees paid under the traditional structure are entitled to the following mandatory fringe and social benefits: (i) an unemployment aid payment; (ii) interest on an unemployment aid payment; and (iii) a service bonus payable in June and December each year.

6.4 Making deductions

Making a deduction to an employee’s salary is prohibited unless: (i) the employee has authorized the deduction previously and in writing; and (ii) legal limits are followed, such as payment of the monthly legal minimum salary.

6.5 Overtime

Overtime work exceeds ordinary working hours or in any case, the maximum legal working hours. The maximum amount of legally allowed overtime work is two hours daily and 12 hours weekly.

Supplementary work, daily or nightly, must also be remunerated with a special statutory surcharge. To schedule overtime, employers must be authorized by the Ministry of Labor. Nighttime working hours and work on Sundays/holidays generate the payment of statutory surcharges.

Employers must keep a book that records overtime work, including the employee’s name, the number of hours of overtime work authorized, if such hours are day or nighttime overtime and the base salary for payment of the corresponding work.

The special statutory surcharges are as follows:

- 25% daytime overtime
- 75% nighttime overtime
- 75% on Sundays and holidays
- 35% for night work during regular working hours

6.6 Bonus and commission

Bonuses of a salary nature or commissions are not mandatory. If such payments are provided to exclusively compensate an employee for sales or individual efforts, the value of the bonus or commissions must be deemed to be integrated into the salary.

Employees under the traditional salary structure (see **6.3**) are entitled to a service bonus. This is equivalent to 15 days of salary payable to the employee on a biannual basis, in proportion to the time worked during the respective calendar semester. Upon termination of employment, the outstanding service bonus must be paid to the employee in proportion to the time worked during the calendar semester in which termination takes place.

6.7 Benefits in kind

Typical benefits in kind include the provision of food, a company car, housing benefits, health plans and life insurance. As a rule, these benefits are not mandatory and most are subject to the terms and conditions of the employment contract.

6.8 Equity incentive plans

Profit sharing and giving stock options is possible in Colombia but not mandatory.

6.9 Pensions

Colombian employees, and some foreign employees who render services in Colombian territory, must be affiliated to a social security system pension fund. Once affiliated, the employer and the employees must pay contributions as established by law.

For 2021, this is 16% of 100% of the employee's monthly remuneration when they are paid under the traditional salary structure; or 16% of 70% of said remuneration when the employee has an integral salary structure. The employer pays 12% and the employee assumes 4%. When the activity of the employer is qualified as high risk and other conditions are complied with in relation to the employee's activities, the employer must contribute an additional 10% as a pension contribution over the relevant remuneration percentage.

In April and May 2020, the national government allowed employers to pay pension contributions at only 3% instead of the regular 16%, as a measure to temporarily reduce employers' pension liability as an aid measure for employers impacted by the pandemic. However, the Constitutional Court considered this measure unconstitutional and ordered employers to pay the remaining part of the contribution (13%). Employers are allowed to pay the remaining pension contributions immediately or by instalments, provided the total contributions debt is paid by June 2024.

6.10 Annual leave

Employees are entitled to 15 working days of paid vacation per year of services. This is a remunerated rest, which is different to that provided for Sundays and statutory holidays. Upon the employee's request, the parties can agree on economic compensation for up to half of the employee's accrued vacation days in cash as long as an equal number of days are simultaneously enjoyed. There is no annual vacation bonus.

Employees must enjoy at least six continuous working days of vacation annually, which are not cumulative. The right to claim vacation time has a statute of limitations of four years, counted from the date on which the obligation became enforceable. In the case of ordinary employees (see **1.3**), vacation time can be accumulated for up to two years, while for trust employees (see **1.3**) vacation time can be accumulated for up to four years.

Additionally, employees are entitled to 18 days of statutory holiday leave each calendar year as paid mandatory rest. Those are Colombian public holidays regulated by law.

In the event that an employee's contract is terminated and the employee has not enjoyed their full holiday entitlement, a payment representing this accrued but untaken holiday entitlement should be included in the employee's final pay check/separation payment.

6.11 Sick leave and pay

Sick leave is paid by the social security system, provided the employee has been affiliated to such system for the minimum period required. The employer must assume sick leave of two days or less, where such leave has not originated from an employment-related illness. The employer is required to pay an amount equivalent to 66.67% of the employee's daily salary during the first two days of sick leave, even if the employee did not render services due to the sick leave.

6.12 Taxes and social security

Employers are legally required to register all their employees in the social security system in relation to health, pensions and labor risks, and must pay the relevant contributions. Employees' registration is intended to cover them against the risks of general/employment-related sickness, maternity, work-related accidents, invalidity, old age and death. The risks are subrogated by the social security system as long as affiliation and contribution payments have been timely and correctly performed. The employer's liability for employment-related accidents/illnesses (which must be proven by the claimant employee) is not covered by the system.

Failure to fulfill the obligation of affiliating employees to the social security system and/or paying the relevant contributions triggers the employer's exposure to be directly required to assume the health, pension and labor risk benefits offered by the system.

Contributions to the pension and health subsystems are shared between the employer and employee and are determined as a percentage of the employee's salary, as described above. Contributions to the labor risk subsystem are exclusively paid by the employer. In any case, the amount of the contributions may vary depending on the salary level of the employees and the employment risk level.

All payments of a salary nature received by the employee on a monthly basis are considered base income to calculate the amount of the contributions to the social security system. Base income varies depending on the salary agreement of the employee (traditional/integral) and on the proportion between salary and non-salary nature payments received by the employee on a monthly basis. The contribution base income cap is 25 monthly legal minimum salaries.

Payroll taxes, similar to contributions to the Family Compensation Bureau, SENA and the Colombian Family Welfare Institute, must be paid by employers for employees who earn more than 10 monthly legal minimum salaries (except for payment of taxes to the family compensation fund, which must be paid for all employees on the payroll). To calculate the contributions, a company must take into account the total value of the monthly payroll, which includes salary payments and paid rests.

Although the Tax for Equity (CREE) was repealed, the most recent tax reform maintains a payroll tax release for companies. If an employer has employees who earn up to 10 monthly legal minimum salaries, it will be exempt (for those employees) from paying contributions to SENA and the Colombian Family Welfare Institute, and from the payment of health contributions (which the employer is required to pay). For employees who earn 10 or more monthly legal minimum salaries, employers must continue to pay payroll taxes.

From a tax standpoint, employment payments are those arising from or related to an employment relationship and, as a rule, are subject to taxes, except as otherwise specifically provided.

To make this taxation effective, employers must perform income tax withholdings through two procedures. The tax reform issued in 2019 also entailed important modifications in establishing the basis for such withholding, which have an impact on the determination of the income tax for employees.

When employers do not comply with mandatory obligations, they may be subject to sanctions, such as fines of up to 5,000 monthly legal minimum salaries (COP 4,542,630,000 for 2021, approximately USD 1,227,737) upon investigation by the Ministry of Labor and the Special Administrative Unit of Pension and Payroll Tax Management (UGPP).

6.13 Other terms

6.13.1 Unemployment aid

Unemployment aid is equal to one month of salary for each year of service, and is proportional for parts of a year. Unemployment aid is calculated based on the average salary accrual in the last calendar year. For employment contracts entered into after 1 January 1991, the unemployment aid must be calculated and deposited by the employer into an account designated by the employee in an unemployment aid fund, on a yearly basis, by no later than 14 February. This deposit constitutes final payment of the unemployment aid through 31 December of each year.

Upon termination of employment, outstanding unemployment aid not deposited in the referred fund must be directly paid by to the employee.

6.13.2 Interest on unemployment aid

Interest on unemployment aid is equal to 12% of the amount of the unemployment aid per year. Calculation of such interest must be done on 31 December of every year and direct payment must be made to the employee no later than 31 January of the following year.

Upon termination of employment, the employer must recognize the proportional interest accrued for the calendar year of termination directly payable to the employee.

7 Family rights

7.1 Time off for antenatal care

Employees do not have a legal right to time off for antenatal care. However, maternity leave can start one or two weeks before childbirth depending on the medical recommendation the pregnant woman receives.

7.2 Maternity leave and pay

All female employees (or one of the parents in LGBTI+ families) are entitled to 18 weeks' maternity leave; up to two weeks can be scheduled before childbirth and 16 weeks after childbirth. The week prior to the anticipated date of birth is mandatory maternity leave. If the employee is having a multiple birth, the employee is entitled to an additional two weeks' maternity leave.

Employees entitled to maternity leave may take part-time flexible leave, which consists of the doubling of the leave time by working part-time and enjoying the remaining time as maternity leave. The employer's agreement is required and it can be agreed as of week 13 of the maternity leave.

It is also possible to share the last six weeks of maternity leave between both parents by mutual consent of both parents and with the prior authorization of the treating doctor. Parents must decide how the leave will be divided and cannot alternate, fragment or simultaneously enjoy this shared portion of the leave. The employer's consent or authorization is not required.

7.3 Paternity leave and pay

The spouse or permanent companion of a female employee on maternity leave is entitled to paid leave of two weeks to be taken during the female employee's period of maternity leave.

Employees entitled to enjoy paternity leave may agree with their employer to the same part-time flexible leave mentioned in **7.2**. before the second week of paternity leave.

7.4 Parental leave and pay

Parental leave is not available in Colombia.

7.5 Adoption leave and pay

Female employees who adopt children are entitled to the same maternity leave as mentioned in **7.2**. This leave is extended to the adoptive male parent without a spouse or permanent partner.

7.6 Other family rights

During the first six months following childbirth, female employees are entitled to two paid 30-minute breaks during their workday to nurse their children.

Companies with more than 50 employees or with a capital equal to or greater than 1,500 minimum statutory monthly salaries must provide a conditioned and dignified space to be used for lactation during the working day.

8 Other types of leave

Employees are entitled to additional types of leave, some examples of which are set out below.

8.1 Grieving leave

Employers must offer employees five working days of leave if any of the following relatives passes away: spouse or permanent companion, mother, father, son, daughter, brother, sister, grandparent, grandchild, stepchild, adoptive parent or adopted child.

8.2 Time off for domestic calamity

The employer must state what is considered to be a domestic calamity (e.g., flood or fire at the employee's home) and the leave that it will allow in such circumstances.

8.3 Leave to attend the funeral of a fellow worker

This leave will apply when the employer is duly informed and when the number of persons absent does not adversely affect the employer's operations.

8.4 Leave to vote or to hold official positions of mandatory acceptances

Employees are entitled to half a day of paid leave after they exercise their right to vote. Employees are also entitled to one day's paid leave to hold official positions such as when an employee is appointed to be on a jury.

9 Termination provisions and restrictions

9.1 Notice periods

Please refer to **15.5**.

9.2 Payment in lieu of notice

Payment in lieu of notice is not allowed. When termination of employment requires notice to be given, failure to give such notice will result in the termination being deemed without cause, thereby entitling the employee to statutory severance.

9.3 Garden leave

Placing employees on garden leave is neither mandatory nor common practice in Colombia.

9.4 Intellectual property

It is common practice that employment contracts include an intellectual property clause under which the employee expressly understands that all economic rights to intellectual property are the exclusive and unconditional property of the company for the maximum term allowed by law.

9.5 Confidential information

It is common practice that employment contracts include a confidentiality clause in which the employee has the responsibility to ensure the security of confidential information of the company and its clients. These clauses do not include fines or obligations effective after termination. Any claim regarding breach of confidentiality restrictions after the termination is governed by civil law.

9.6 Post-termination restrictions

Non-compete restrictions after termination are not enforceable under local legislation.

9.7 Retirement

The current retirement age in Colombia is 57 for women and 62 for men.

In Colombia, an employee becoming a pensioner (i.e., receiving a pension allowance) is just cause for termination. However, it is not mandatory to terminate the employment contract and the employee can continue rendering services even as a pensioner.

10 Managing employees

10.1 The role of personnel policies

Workplace regulations and hygiene, biosafety and safety regulations are mandatory and incorporated into the employment contract. The aim of the workplace regulations is to define the working schedule applicable to the company, the employment harassment process, the people in charge of the disciplinary process, and the obligations, prohibitions and acts of misconduct of employees, among other matters. The workplace hygiene, biosafety and safety regulations are intended to identify work-related risks and prevent work-related accidents and illnesses.

10.2 The essentials of an employee handbook

The table below shows the policies and procedures that are generally required by law and the main recommended policies.

Policies required by law	Recommended policies
Workplace Regulations	Code of Conduct
Hygiene and Safety Regulations	
Labor harassment investigation process	
Disciplinary process	
Policy of Health and Safety at the Workplace	
Biosafety protocol to manage risks associated with COVID-19	

10.3 Codes of business conduct and ethics

Employers are not required to have a code of business conduct and ethics. However, having this in place is recommended.

11 Data privacy and employee monitoring

Please refer to our Global Privacy Handbook, which is accessible HERE, for information on data privacy and monitoring requirements in Colombia.

12 Workplace safety

12.1 Overview

In relation to health and safety obligations, employers should provide a healthy and secure work location to employees and supply them with safe working equipment and proper training. Regardless of the number of employees, all employers must implement a Workplace Health and Safety Management System.

Arising from the COVID-19 pandemic, biosafety regulations in Colombia have reached a prominent position in employment affairs. The main obligation of employers is to adopt and implement a biosafety protocol that regulates health and safety measures including social distancing, premises capacity, personal protection elements, and how to proceed in case of suspected and confirmed contagion cases..

12.2 Main obligations

An employer is obliged to:

- implement a health and safety committee or occupational watchperson (for companies with less than 10 employees)
- prepare and publish workplace regulations
- prepare and publish hygiene and safety regulations
- implement a health and safety management system at the workplace
- create emergency brigades
- establish an emergency plan

- monitor and investigate work-related incidents, accidents and illnesses
- establish a health and safety management manual and policy
- perform health and safety reports
- establish a system of management indicators
- prepare and update a risks matrix
- prepare and update a legal matrix
- have in place a plan of risk prevention and control measures
- perform occupational medical examinations (entry, periodical, post-medical leave and exit)
- abide by medical recommendations
- draft a database of safety and health at work that must be available to all employees
- have in place a strategic road safety plan
- have and implement a biosafety protocol for COVID-19 matters

12.3 Claims, compensation and remedies

Employers that do not comply with the obligations set out in **12.2** may be subject to sanctions such as fines of up to 5,000 monthly legal minimum salaries (COP 4,542,630,000 for 2021, approximately USD 1,227,737) or a judicial or administrative claim from employees seeking compliance with health and safety regulations and, potentially, damages (which are usually high amounts) arising from work accidents or labor-related illnesses. Should the employer relapse into incorrect behavior or fail to comply with corrective measures imposed, the Ministry of Labor can order the suspension of the employer's activities for up to 120 days or, in the worst-case scenario, shut down its operations.

Employees who suffer an employment-related accident or occupational disease and are granted medical leave are entitled to monetary aid equal to 100% of their basic salary from the time of the accident or disease until rehabilitation, declaration of permanent partial disability, incapacity or death.

The Labor Risks Administrator repays the employer for this monetary aid for 180 days, which may be extended for additional periods of up to 180 additional continuous days. If the employee does not recover, the system should provide an invalidity pension for the employee.

Employers may be held responsible for the employment-related accident or illness. In the event of a claim and upon proven negligence, a court may order the employer to pay the employee damages in connection with the accident/illness, regardless of the payments they received from the social security system.

13 Employee representation, trade unions and works council

Information about working with trade unions and works councils can be found throughout this guide. For more information about this subject in Colombia, please contact us. See Key Contacts for contact details.

14 Discrimination

14.1 Who is protected?

In Colombia, it is unlawful to discriminate against the following:

- pregnant women or employees with a pregnant spouse, partner or permanent partner
- founders or directors of a union with union privilege
- employees with medical problems or physical limitations
- employees that have been victims of employment harassment
- employees on the grounds of age, religion, race or ethnicity or belief and sexual/gender orientation
- employees close to the pensioner age

14.2 Types of discrimination

- Discrimination: Please refer to **14.1**.
- Harassment: Since 2006, conduct that constitutes employment harassment within public and private employment relationships has been penalized. Employment harassment can take place in various ways, such as labor mistreatment, persecution, discrimination, obstruction, inequity and lack of protection. The law identifies several types of conduct that constitute employment harassment, along with extenuating and aggravating conduct. It also provides two types of mechanisms — preventative and corrective — to counter conduct that constitutes labor harassment.
- Sexual harassment within the workplace is deemed to fall within the concept of employment harassment. However, this issue is not well developed in Colombia. Recent case law develops the criteria for analyzing sexual harassment in the workplace and consequences thereof. Among other things, it specifies that there are behaviors that may be deemed to be sexual harassment by taking into account the victim's perception and not the potential harasser's intention.

14.3 Special cases

Equal pay

To avoid remuneration discrimination, employers must be able to provide objective and reasonable explanations as to why employees in the same positions receive different remuneration (e.g., this could potentially be explained on the basis of years of experience, educational background, foreign language skills, or objective and measurable performance).

Employers must also keep a special record of gender equality pay and the ratio of women and men in the same position, including the responsibilities of all employees and the salaries and benefits assigned to each.

14.4 Exclusions

To fill a technical vacancy, the employer is able to select employees that comply with the professional requirements for the position.

In addition, minors under 18 years of age cannot be employed when the job activities entail exposure to severe risks to their health or physical integrity. However, companies can hire minors over the age of 15 with the consent of their legal guardians.

14.5 Employee claims, compensation and remedies

If moral or physical damage is caused by conduct such as sexual harassment, the affected individual can sue the aggressor. The affected employee may also take criminal action against the aggressor.

14.6 Potential employer liability for employment discrimination

If an affected individual pursues a criminal action, only the aggressor is responsible for those damages. The employer company would not be deemed liable unless the affected individual claims employment harassment and it is proven, before the labor authority, to be the employer's responsibility and that the employer knew about the situation and did not take any action to prevent it from occurring.

As mentioned in **2.2.**, when discrimination is performed during the hiring process by requesting pregnancy tests or asking questions related to reproductive plans, employers may be sanctioned with fines of up to 2,455 Tax Value Units (COP 89,136,140 for 2021, approximately USD 24,090).

14.7 Avoiding discrimination and harassment claims

Employers must adopt an internal, confidential, effective and conciliatory procedure to deal with harassment that can occur in the workplace. Employees who make a complaint or act as a witness have some guarantees/protection against retaliation.

When a case of employment harassment occurs, the employer should respond immediately. Employers should adopt and apply internal mechanisms and policies, which must be drafted in such a way that they seek to maintain relations based on dignity and respect.

For the government, and specifically for the Ministry of Labor, the law against discrimination and harassment is an invitation to look forward to a healthier labor atmosphere. The private sector, on the other hand, views the same law with distrust, believing that it can be a clear limitation on the employer's ability to instruct its employees, obstructing the employer's day-to-day operations. In any event, employers must create a sustainable environment to listen to employees through internal work regulations.

15 Termination of employment

15.1 General overview

Employment contracts in Colombia can be terminated for the following reasons:

- without cause, by the unilateral decision of one of the parties
- for cause, argued by one of the parties
- for legal cause, such as the expiration of a fixed term, the completion of the task or activity for which the employee was hired, the employee's death, or the decision of a labor court
- by mutual consent when both parties agree on termination

15.2 By the employer

The Labor Code establishes that an employment contract may be terminated by the employer with or without cause.

Termination for cause

An employer may have cause for unilaterally terminating an employment contract when the employee commits a grave act of misconduct (such offenses are usually provided in the employer's workplace regulations, in the employment contract or labor regulation — see further below) or once they are in receipt of retirement or disability pension allowance (see **9.7.**).

The relevant cause must be stated in writing upon termination and employers cannot invoke other causes later. Employers must have serious evidence to demonstrate the cause, and should keep all the documents necessary to support their decision in the event of a claim. In a judicial claim, the employer will have the burden of proving the reasons for termination while the employee only has to inform the judge that the cause did not exist.

When the employment contract terminates for cause, the party that makes the decision should not pay an indemnity for dismissal. Depending on the circumstances, however, termination of employment for cause must be handled carefully and might require previous special proceedings in relation to investigation and the decision-making process or further consideration with labor attorneys.

Causes for termination listed by Colombian employment law include: deceiving an employer; violence; insulting acts during work or outside of work against the employer or employer's family; material damage to the workplace and its materials; immoral or wrongful acts in work; grave violations of obligations; employee imprisonment for more than 30 days unless they are subsequently acquitted; revealing commercial secrets that will harm the employer; not being capable of carrying out the work; not performing work without a valid reason; poor discipline; and systematic omissions to safety regulations aimed to avoid diseases/accidents.

In some cases, special procedures have been established to unilaterally terminate an employment contract for cause.

Termination without cause

When an employment relationship is terminated without cause by an employer, the employer must inform the employee in writing of its intention to terminate the relationship and pay the corresponding legal indemnity/severance. The amount of legal indemnity/severance will vary depending on the salary level, seniority and duration of the employee's employment contract. From a legal point of view, no special format has to be followed and no minimum prior notice is required.

There are certain cases when the employer cannot freely terminate employment contracts — unilaterally and without cause — see **15.8**.

15.3 By the employee

Employees can resign at any time without prior notice or payment of legal severance.

Employees can resign with cause if their employer has committed a grave breach of its employment obligations (often called "constructive dismissal"). The cause must be set out in writing by the employee at the time of termination, as it is not possible to invoke different causes afterward. Upon litigation, the burden of proof will lie on the party arguing the cause for termination.

If litigation follows and the employee provides evidence supporting the constructive dismissal, the employee will be entitled to receive a severance payment (which is the same indemnity for termination without cause).

15.4 Employee entitlements on termination

Regardless of the cause for termination, employers must: (i) pay employees all outstanding mandatory amounts, which vary according to the salary arrangement (integral or ordinary); (ii) notify

all relevant entities of the termination; and (iii) deliver all outstanding termination documents and certifications to the employee.

As mentioned at **6.3**, Colombian labor law allows two types of salary arrangements: the so-called traditional structure under which salary and fringe benefits are paid separately, and the so-called integral salary structure under which mandatory benefits are already included pro rata in the monthly salary payments.

Upon termination of employment, employees in the traditional salary structure are entitled to the following minimum legal benefits: pending salaries, unemployment aid, interest on unemployment aid, legal semester bonus and pending vacations. Employees under the integral salary structure would only be entitled to pending salaries and vacations.

Depending on the employee's situation, additional payments may arise on termination, including any extra-legal benefits owed and a legal and/or settlement bonus.

Failure to pay salary and fringe benefits upon termination can lead to a delayed payment indemnity after termination. This is equivalent to one day of salary per day of delay for a maximum period of 24 months. If payment is not made after 24 months, moratorium interest will apply at the maximum rate defined by the Superintendent of Finance. The salary and fringe benefits are certain and indisputable rights of the employees and they cannot, therefore, be waived or settled.

If unemployment aid was not duly deposited in an unemployment aid fund by the dates required by law, the employee is entitled to an additional indemnity. This indemnity is equivalent to the payment of one day of salary per day of delay, to be deposited in the unemployment aid fund, counted from 15 February of each calendar year, up to the date of termination of employment or until the date of the deposit, whichever occurs first.

Failure of the employer to pay interest on unemployment aid on a timely basis requires that the payment of the interest be calculated at a rate of 24% of the unemployment aid.

The obligation to pay the failure indemnities previously described is not automatic. The employer's behavior or reasons for not paying the social benefit must be considered by a judge and finally qualified as being done in "bad faith."

In all terminations, the employer must deliver the following termination documents to the employee: (i) labor certificate indicating date of entry, type of agreement, last salary earned, last position, date of termination and legal reason for the termination; (ii) an order for the medical termination exam; (iii) the final liquidation of labor accruals (including the legal indemnity for dismissal, if applicable); (iv) an order to cash the amounts accumulated for unemployment aid in the unemployment fund, for employees under the traditional salary scheme; and (v) a copy of the written records of the payment vouchers of social security quotations and payroll taxes, performed in favor of the employee during the last three months of service. Vouchers for the last month of services should be send to the former employee's home address through a certified courier.

In addition to termination for cause or without cause, there can be termination by mutual consent (see **15.12**).

15.5 Notice periods

Generally, employers are allowed to notify termination on the same day as the effective date. However, in certain instances of dismissal by an employer for cause, recognition of pension or due to poor performance, the employer must give the employee advance notice of no less than 15 days in order to be able to terminate the employment contract. In these instances, the employer must provide the required notice with no exceptions.

Employers with employees on fixed-term contracts are required to provide prior notice of no less than 30 days prior to the contract's expiration date. Otherwise, the employment contract will be automatically extended for a period equal to the one initially agreed or stated by law.

15.6 Terminations without notice

If an employer fails to give an employee advance notice of dismissal (in the instances when this is required — see **15.5**), the termination of the employment agreement will be considered a termination without cause, thereby entitling the employee to statutory severance.

15.7 Form and content of notice termination

To have appropriate evidence of termination, the termination notice should be made in writing. From a legal standpoint, no special format needs to be followed and, except for the situations outlined in **15.5**, no minimum prior notice is required. However, in the event of a termination for cause the employer must state the reason for the termination in writing.

In the scenario of termination by mutual consent, the parties usually agree termination through a release and settlement agreement through a private or public document. These agreements include the employee's consent in writing to termination, and the execution of a release and settlement document.

15.8 Protected employees

Colombian legislation provides special privileges to certain employees to protect them from dismissal.

The limitations on dismissal include:

- the ability to dismiss employees in a collective dismissal situation (see **15.10**)
- the right of reinstatement for those employees who by 1 January 1991 had more than 10 years of tenure
- protection for certain protected categories of employees (i.e., pregnant women and women during the 18 weeks following childbirth, spouses, permanent companions or partners of women who are pregnant and do not have formal employment; founders and adherents of a union; members of the board of directors or the claims committee of a union; employees that file a petition sheet during a collective bargaining negotiation; employees with three years or less to retire; employees with health problems; and employees who have filed an employment harassment complaint during the six months prior to termination)

Unless the employer has a strong legal cause to terminate protected employees, the employees can seek reinstatement to their job position. In practice, this means that termination of protected employees is usually achieved through authorization from the Ministry of Labor when there is just cause (see **15.11**) or a settlement agreement under which termination takes place by mutual consent.

15.9 Mandatory severance

In the event of termination without cause, the following severance payments apply to employees on an indefinite-term contract:

- For employees who earn less than 10 monthly legal minimum salaries (for 2021, less than COP 9,085,260, approximately USD 2,455), the severance is equal to 30 days of salary for the first year of service and 20 additional days of salary for each additional year of service and proportionally per fraction of the year.

- For employees who earn 10 monthly legal minimum salaries or more, the severance is equivalent to 20 days of salary for the first year of service and 15 additional days of salary for each additional year of service and proportionally per fractions of the year.
- For employees who had more than 10 years of service as of 27 December 2002, the severance is equivalent to 45 days of salary for the first year of service and 40 additional days of salary for each year subsequent to the first and proportionally per fractions of the year.
- For employees who had 10 or more years of service as of 31 December 1990, and who have not waived their right to reinstatement, the severance is equivalent to 45 days of salary for the first year of service and 30 additional days of salary for each year subsequent to the first and proportionally per fractions of the year.
- For employees with agreements entered into for a fixed term or for the duration of a specific job, the severance is equivalent to the salaries corresponding to the unexpired period of the agreement. In the case of agreements for the duration of the job, the indemnity cannot be less than 15 days' salary.

Historically, this legal severance has been considered to be a complete payment to compensate the employee for unemployment. However, the Colombian Constitutional Court has ruled that the amount of the legal indemnity/severance recognized for wrongful termination of the employment contract may potentially be disregarded as a definite payment if the employee can prove additional damages. The burden of proving this potential claim is on the employee.

15.10 Collective redundancy situations

Under Colombian legislation, within six months, an employer may not terminate a certain percentage of employees (depending on the size of the total workforce) without cause except with prior authorization from the Ministry of Labor. The closing of operations, totally or partially, is prohibited unless employers have prior authorization from the Ministry of Labor.

Voluntary reorganization of the employer's business is not deemed a legal cause for termination of employment. Therefore, the collective dismissal of employees requires prior clearance from the Ministry of Labor. The employer must continue employing the employees and pay their wages and other labor benefits until such clearance is obtained. In practice, the Ministry of Labor will thoroughly examine the request before granting authorization, to be certain that the reorganization is supported by the facts and the employer is complying with all labor obligations. The ministry can take more than six months to approve the collective termination.

Once permission from the Ministry of Labor is granted, the employer is legally authorized to unilaterally terminate the employees and has to pay the employees the mandatory indemnity and separation payments resulting from termination. No extra legal or other settlement benefits need to be recognized.

Mass layoffs without authorization from the Ministry of Labor will be deemed void. The consequence is that the employees must be reinstated with back pay of salaries and labor benefits accrued but not paid during the time they are unemployed.

Certain employees have special protection against dismissal — see **15.8**.

Thresholds

Payroll (number of employees)	Percentage of employees dismissed without cause in a period of six months, which triggers collective dismissal
Between 11 and 50	30%
Between 51 and 100	20%
Between 101 and 200	15%
Between 201 and 500	9%
Between 501 and 1,000	7%
More than 1,000	5%

Procedure and information and consultation requirements

As mentioned above, an employer must obtain prior authorization from the Ministry of Labor for collective dismissal. Authorization from the Ministry of Labor is also required for the partial or total shutdown of operations.

15.11 Claims, compensation and remedies

Dismissals with or without cause and constructive dismissals can result in claims for moral and economic damages caused by the termination. Additionally, in the event of a constructive dismissal, the employer could be ordered to pay statutory severance.

To dismiss protected employees (see further at **15.8**), the employer must obtain prior authorization from the Ministry of Labor or a labor judge. In the event that the employer does not receive such authorization for the termination, the employees can seek reinstatement to their job position and compensation.

15.12 Waiving claims

Upon termination, the parties can decide to execute a settlement and release document, which can be private and/or ratified before a labor authority. This is usually achieved where there is mutual consent for the termination. These agreements include the employees' consent in writing to their termination, and their execution of a final full release of claims under the settlement agreement.

Under the settlement agreement, the employees fully release the employer from any employment-related judicial claim with the effect of *res judicata*. This means that any future claim from the employees for facts related to the labor relationship that was terminated by mutual consent would be dismissed by a labor judge if all minimum labor rights were duly paid.

In Colombia, any person has the right to file a claim, even if termination of the employment was formalized by means of a settlement agreement. However, where the employees have signed settlement agreements, the probability of facing a judicial complaint is remote.

16 Employment implications of share sales

16.1 Acquisition of shares

When a business is transferred by means of a stock purchase, such a transaction will not involve a change of employer. Therefore, employees and their conditions, benefits and entitlements are unaffected.

16.2 Information and consultation requirements

As a change of ownership of the shares of a company does not affect the employment contracts and employees' employment conditions, there is no obligation to inform or consult with them in advance of the share purchase.

17 Employment implications of asset sales

17.1 Acquisition of assets

If the transaction is structured as an asset purchase, which entails the transfer of personnel, it is considered an employer substitution if the parties have not previously assigned or terminated the employment agreements. This operates automatically, by virtue of law, upon the execution of an asset purchase agreement and the transfer of personnel.

The main effects of the employer substitution are the following:

- The employment contracts of employees are not modified, suspended or terminated, and all risks, duties and liabilities will transfer to the purchaser.
- The purchaser must, therefore, match the salaries and benefits the employees were receiving.
- If the incoming employees have enjoyed different employment benefits compared with those of the purchaser's existing employees in comparable job roles (in terms of rank/seniority, skills, qualifications, etc.), the purchaser could be forced to harmonize these by offering all employees the most favorable conditions (unless otherwise agreed with all employees — "old" and "new").
- All employees' seniority must be maintained for all legal purposes.
- The seller's pension liability will be transferred to the purchaser.
- The former and new employer would be considered jointly and severally liable for all labor obligations relating to the existing employment contracts at the time the employer substitution takes place, and the new employer will be responsible for the obligations that come into effect after the substitution occurs. If the new employer assumes payments regarding labor obligations that the old employer was forced to recognize, then the new employer can recover them from the old employer, unless otherwise agreed.

The transferred employees will not be legally entitled to refuse the change of employer or to demand payment of any social benefit, redundancy, or severance pay due as a result of an employer substitution. If they do not wish to work for the new employer, they can resign, as any employee is legally entitled to do.

17.2 Automatic transfer of employees

Please refer to **17.1** above.

17.3 Changes to terms and conditions of employment

Please refer to **17.1** above.

17.4 Information and consultation requirements

In case of transfers via employer substitution, the seller is not legally required to give notice of the closing of the transaction to the employees or request their consent to it. Nonetheless, it is advisable to notify affected employees that their employment contracts have been or will be transferred to a new employer by indicating the date on which it occurred or will happen, as the case may be. It is not unlawful to inform employees after the employment contracts have been transferred to the new employer.

There is no obligation to consult with works councils unless this has been agreed under individual employment contracts or a collective bargaining agreement.

17.5 Protections against dismissal

Please refer to **15.8** and **15.10** above.

17.6 Other considerations

By virtue of the principle of the "autonomy of the parties' private will," it is viable for a contracting party (old employer) in an employment relationship to be substituted by a third party (new employer) in every labor obligation by the assignment of the employment contract. Such assignment implies that all obligations, rights and legal benefits inherent in the nature and conditions of the employment contract are transferred to the new employer unless otherwise agreed. This means that before an employer substitution occurs, the current employer will be able to assign the employment contracts to the purchaser and regulate the terms and conditions of that assignment in that private document.

For the assignment to be fully effective legally, the employees' consent to any such change of employer must be obtained. Assuming consent is granted by the employees, such an assignment will have the same effects as an employer substitution, namely:

- The employment relationship continues uninterrupted.
- The old employer and the purchaser are jointly and severally liable for any labor obligations and employer liabilities up until the date of assignment.
- The employees' length of service is maintained for all legal effects.

The advantage of an assignment is that the new employer can agree in advance to any change or modification it wishes to perform to the employment contracts by means of an assignment agreement signed by the old employer, the new employer and the transferred employee. This means that the new employer might, for example, be able to reduce employees' wages or agree to new benefits.

At Baker McKenzie, we understand that business success requires legally sound, strategically savvy labor and employment policies and practices. With 77 offices in 26 countries, Baker McKenzie has an unparalleled global reach to serve the needs of employers.

Our Global Employment & Compensation Practice Group includes more than 500 lawyers strategically positioned around the globe. We help employers navigate and understand the ever-changing requirements necessary to comply with local and international laws and customs, prevent unwanted employee issues from arising, and continuously adapt to the realities of worker issues in an intensely competitive global economy.

For more information, please contact:

Tatiana Garcés Carvajal
Bogota
tatiana.garces@bakermckenzie.com
+ 57 1 634 1543

Daniela Liévano Bahamón
Bogota
daniela.lievano@bakermckenzie.com
+ 57 1 634 1500

Evelyn Romero Avila
Bogota
evelyn.romero@bakermckenzie.com
+ 57 1 634 1566

Maria Cecilia Reyes Jaimes
Bogota
mariacecilia.reyes@bakermckenzie.com
+ 57 1 634 1568

bakermckenzie.com