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Employment challenges for 2022

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This article looks at the employment challenges in Brazil in 2021 and what is expected for 2022.

Covid-19 measures to protect employment

The effect of the covid-19 pandemic is still evident in Brazil, especially after the emergence of the Omicron variant at the end of 2021. However, it is possible to look beyond the damage that the pandemic has caused, now that majority of Brazilians have been vaccinated (with at least one dose) and business operations are slowly resuming pre-pandemic levels.

In retrospect, the measures that were taken by the government to protect employment and reduce unemployment rates can be considered successful. Maintaining a job is a safeguard in many aspects, since it usually entails health insurance and food vouchers, which have grown in importance in recent years.

On the other hand, the average income of Brazilian workers has dropped and the inflation rate is accelerating, which may be a bittersweet consequence of the suspension of employment agreements and the reduction of salaries and work hours that occurred during the pandemic.

There have been many discussions as to whether the government's assistance was too generous for the economy to bear. With high inflation rates, unions are now struggling to negotiate a salary increase that is at least equal to inflation during 2021 in order to maintain purchasing power for workers.

Mandatory vaccination or remote working?

Remote working

Another challenge for 2022 will be the discussion about the return to the office. Now that many people have adapted to remote working, the need to change traditional working practices has become more significant.

There is no one-size-fits-all formula in this regard; therefore, companies will need to define a strategy to obtain the best productivity while engaging teams that sometimes have not met in person (for further details please see "[Remote work: new trend or new burden?](#)").

Data privacy

Another challenge for companies will be ensuring data protection and information security while employees work remotely, and the relevant increase of sensitive information exchange, including medical and vaccination data.

As the last element of the Data Privacy Law became valid in August 2021, it is expected that in 2022, the National Data Privacy Authority will issue new regulations and apply fines to companies in cases of non-compliance.

There are also discussions about whether covid-19 will be considered a labour-related disease, which will affect companies' accident prevention factor. This may increase the company's social security contribution rate and bury companies in administrative and/or judicial measures to revert such an increase.

Mandatory vaccination

The Supreme Court has declared that covid-19 vaccination in Brazil is compulsory, but not directly. Therefore, companies need to use indirect ways to ensure all its population is vaccinated (for further details please see "[Is COVID-19 vaccination mandatory for employees?](#)").

In November 2021, the government issued an internal regulation that prohibited companies from requesting vaccination certificates, and it considered the termination of employees who do not present a vaccination certificate to be a discriminatory act. The Supreme Court reacted and suspended the regulation a few days after its issuance, but the case is still pending judgment.

Given the lack of specific regulation on the matter, while companies are making decisions and assuming risks, such as dismissing employees that refuse to be vaccinated, the possible consequences of such decisions will likely be seen in 2022 employment lawsuits.

Will the number of employment lawsuits increase?

In 2021, the Administrative Council for Economic Defence (CADE) started an unprecedented investigation into an alleged cartel of pharmaceutical companies that had set remuneration standards, exchanged information regarding benefits paid to employees and no-poaching agreements.

It is the first time that an employment-related matter has been subject to an antitrust investigation. Although the CADE's investigation is ongoing, it has already triggered another investigation of such companies on this matter by the public labour prosecutor.

There were also several investigations by the authorities into gender and race discrimination. However, the gig economy and tech-platform workers are still among the main focus of the authorities (for further details please see "[Impact of gig economy on employment status?](#)"). The discussions on whether such workers are employees will continue until the superior courts grant a final and binding decision on the matter.

The number of employment claims has increased in recent years due to covid-19; however, in 2021, a new, unexpected development emerged – the Supreme Court ruled that plaintiffs that are granted the exemption of court costs are also exempt from paying attorney and expert fees.

Therefore, an old scenario common in Brazil's employment courts appears to once again be growing in popularity: the distribution of millions of claims every year now that the financial risk for plaintiffs has been reduced.

Comment

2022 will be critical to determine whether the economy will improve or stall. An improvement in the economic scenario can avoid an increase in the number of employment claims, and the presidential elections will certainly have an effect on such a crucial moment.

Among all these challenges, companies will need to adjust their businesses to face and overcome ongoing and upcoming issues, which means that 2022 will be a busy and exciting year for employment.

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