

Labor immobility favoring public and private sector workers



The President of the Republic enacted Decree No 1583 in Official Extraordinary Gazette No 6168 dated December 30th, 2014, in which pro public and private sector worker labor immobility is established, in compliance with the Organic Labor Law (LOTTT).

Validity

The labor immobility rule will be effective between January first (1st) and December thirty- first (31st), 2015.

Individuals protected by immobility

Workers protected by this Immobility Decree are the following:

- Workers who have entered into an undetermined term contract effective the first month of service to the employer.
- Workers hired for specific periods, if the term established in the contract is not expired.
- Workers hired for a determined work, if this has not been completed or partially completed.

Furthermore, workers with management positions and temporary workers are excluded from this protection.

Consequences of the immobility rule

As a consequence of this pro worker immobility establishment, employers shall not fire, decline work conditions or move workers from their job place without a justification. This justification must be previously qualified by the Labor Inspectorate, in compliance with the LOTTT procedure.

Therefore, a worker protected by the labor immobility rule that is unfairly fired, affected in his/her work conditions or moved from his/her job place shall be able to resort to the corresponding Labor Inspectorate to report this irregularity within a 30- day period subsequent to this event. The Inspectorate shall be then able to demand the restitution of the breached legal status by ordering the employer to pay overdue wage and some other unreceived benefits, as well as immediately rehiring the worker to his/her job entity.

However, the decree is a little bit flexible when referring to employers and employees negotiating collective agreements to achieve reduction in force or to modify job conditions.

Finally, it is important to remark that the breaching or hindering of the rehire order or restitution of the worker legal status by the employer shall trigger sanctions and measures established in the LOTTT.

Procedural aspects

The procedures resulting from labor immobility carried out in the administrative headquarter before the Labor Inspectorate shall be preferred in case of any other event. Furthermore, they shall be more efficiently processed.

Additionally, the Decree establishes that invalid administrative resources before Labor Courts regarding decisions and Labor Inspectorate functions shall not proceed until the employer does not comply with the rehire orders.

Contacts

Alejandro Gómez
algomez@deloitte.com

Miriam González
mirgonzalez@deloitte.com

Marketing Department
vmercadeo@deloitte.com

Offices

Caracas
Avda. Blandín, Torre B.O.D,
Piso 18. La Castellana.
Teléfono +58 (212) 206 8502
Fax +58 (212) 206 8740

Pto. La Cruz
Avda. Principal de Lechería,
Centro Comercial Anna,
Piso 02, Ofic. 41, Lechería.
Teléfono +58 (281) 286 7175
Fax +58 (281) 286 9122

Pto. Ordaz
Avda. Guayana, Torre Colón,
Piso 2, Ofic. 1, Urb. Alta Vista.
Teléfono +58 (286) 961 1383
Fax +58 (286) 962 7234

Valencia
Torre Venezuela, Piso 3,
Oficinas A y D, Av. Bolívar
Norte, Urb. La Alegría.
Teléfono +58 (241) 824 2790
Fax +58 (241) 823 4119

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