

KING AHEAD

2024

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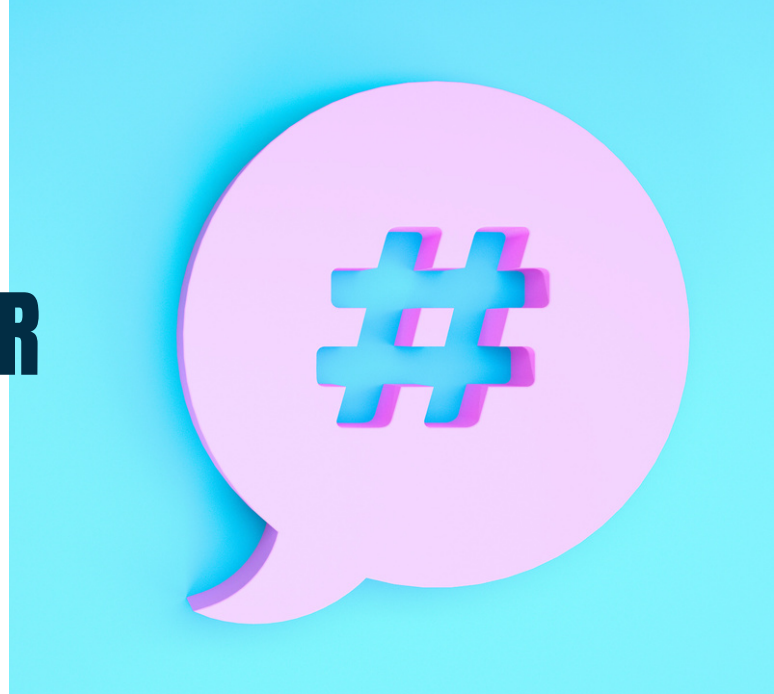
LOOKING AHEAD 2024

OUR VISION FOR EMPLOYERS

2023 was an intense year in terms of defining work rules. We saw hybrid work has been set to stay in post-pandemic Chile, especially in industries and types of work such modality is feasible.

The pandemic rebalanced work, family, and personal time. In fact, after years in Congress, the work schedule reduction (to 40 hours weekly) was approved and became law.

Also, mental health awareness in the workplace was something that lead to a new protocol for monitoring psychosocial risks to come into force. Under this, it is mandatory to evaluate workers' exposure to this type of risk and, also, to implement measures that prevent mental health problems.



Along the same lines, and together with the ratification of ILO's Convention 190, local statute was amended, incorporating new concepts for both workplace harassment and sexual harassment. Also, violence in the workplace was introduced as a new hypothesis.



The pandemic rebalanced work, family, and personal time.-



Although these changes came in force during 2023, many of them will require implementation throughout 2024, which will undoubtedly bring management challenges to employers all throughout the country and in every industry.

Then, we foresee the following topics as trends that will mark 2024's agenda.

CONSTITUTIONAL PROCESS

Constitutional amendment process ends without a new constitution:

On December 17, 2023, a referendum was held to vote on the Second Proposal for a New Constitution, (drafted by an Experts Commission and a Constitutional Council). The proposal was overwhelmingly rejected.

Thus, the current Constitution will continue to govern. Any amendment from now onwards will require a 4/7 approval rate by members of Congress in practice.



COMPLIANCE ESG CRITERIA

Gaining momentum, with a special focus on respect for human rights:

In order to comply with the Sustainable Development Goals, a Special Council^[1] has been appointed to **a)** promote awareness and training on human rights and business and processes to be adopted for due diligence; and; **b)** encourage transparency and reporting mechanisms development on human rights and business.

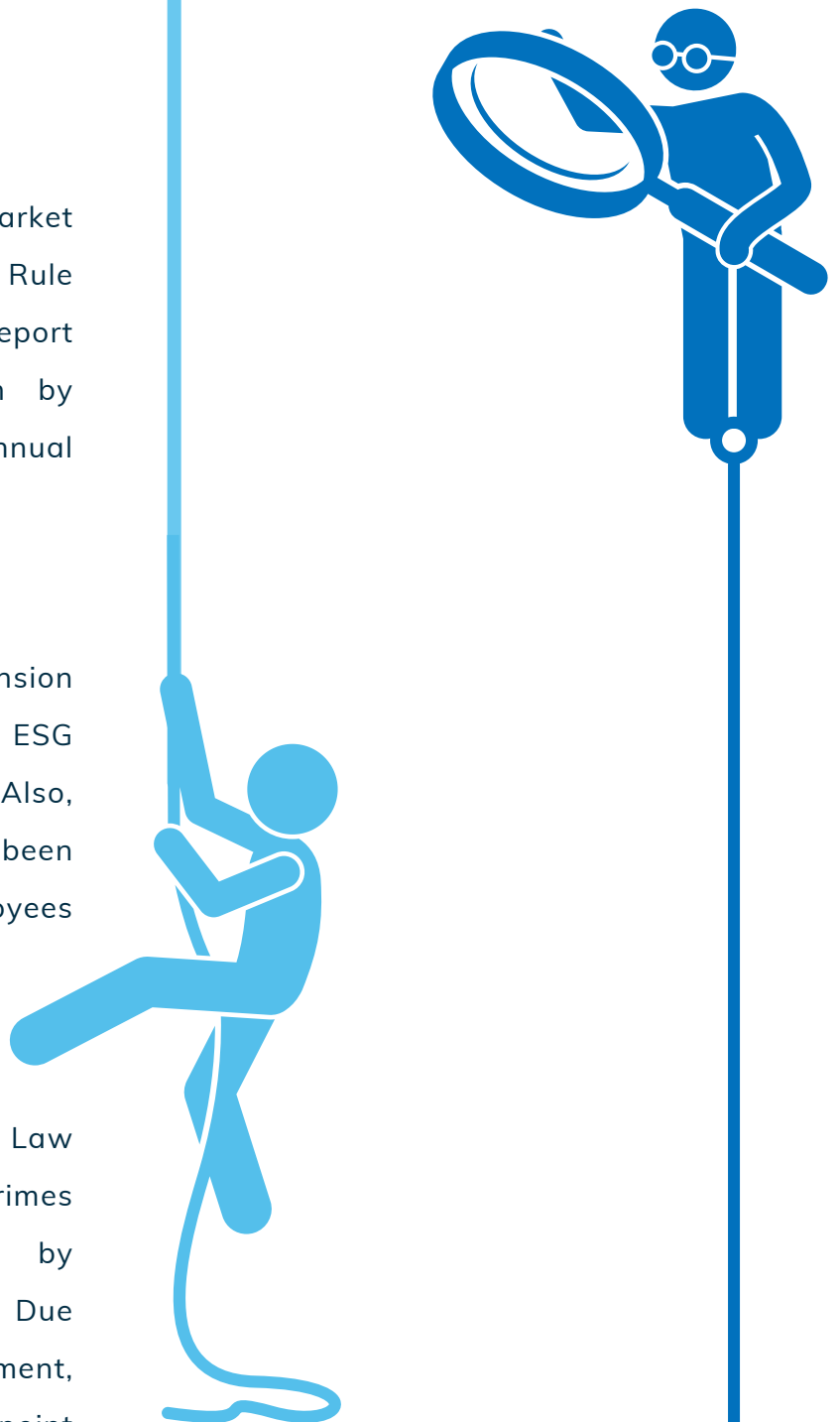
[1] This is the Council for Sustainable Development in Chile, developed as a requirement of the Foreign Affairs Ministry.

Additionally, strong progress has been made to install in companies and organizations compliance with ESG criteria, i.e., environmental, social (workers and communities) and governance aspects.

Thus, the Chilean Financial Market Commission issued a General Rule requiring, among other things, to report certain ESG related information by regulated entities on their Annual Report.

Another example is requiring Pension Fund Administrators, to include ESG criteria in their annual reports. Also, rules related to social criteria have been enacted, like Disability Employees quota.

Finally, a New Economic Crimes Law came into effect, including new crimes and misdemeanors incurred by companies in ESG-related matters. Due to the importance of this amendment, compliance will become a focal point and, as such, will be addressed separately in the following section.



NEW LAW ON ECONOMIC CRIMES



New conducts that expand criminal liability related to labor matters:

This law came into effect in August 2023, and creates a new category of economic crime by providing special penalties for its perpetrators, also expands the list of crimes for which companies and people may be liable, including a whole new regulation on environmental crimes. This certainly strengthen the criminal liability regime.

Under this new law, people who, in the context of a business activity, participate in the commission of an economic crime may be criminally liable.

Thus, this regulation provides certain crimes to be considered as economic, and subsequently be governed by this new scheme of specific penalties and fines.

Furthermore, under the new statute crimes that are perpetrated (i) in the exercise of an office, function or position in an enterprise; or (ii) for the economic or other benefit of an enterprise, are deemed as economic.



Expands the list of crimes for which companies and people may be liable, including a whole new regulation on environmental crimes.-





Under such category it is possible to include environmental, fraud, bribery, computer crimes, disloyal administration, among others. Also, certain labor compliance issues may entail criminal liability, among them:

- A)** Salary payment below the legal minimum monthly income can be deemed as a serious abuse.
- B)** Failure to withhold or pay social security contributions, or declaring an lower amount without the employee's consent.
- C)** Disclosure or consent access to trade secrets.
- D)** a) Financial or other benefit requested or accepted the company's representative or agent to favor contracting with one bidder.

Company's liability may be exempted should they execute a Protocol that ensures early identification of activities or processes that may expose it to any criminal liability.



This Law certainly raises the standard for protocols to be able to exempt the company and its people from criminal liability.-



Additional good practices to include in those protocols are:

- a) implementing whistleblower channels;
- b) employee training; and
- c) periodic evaluations by third parties.

In summary, this Law certainly raises the standard for protocols to be able to exempt the company and its people from criminal liability. In fact, all legal applicable framework should be implemented within a year from the law publication. Thus, all these changes must be applicable by August 2024. Therefore, it is imperative to analyze the new labor framework impact on each company.



HOURS LAW

Changes to the working day regulation:

Although this regulation was published on April 26, 2023, it will gradually become into effect, and its first set of rules will be applicable by April 2024.

Among its main changes, the gradual reduction of the ordinary work week (from 45 to 40 hours) is set to come into effect through 3 milestones as of the date the law was published: as of April 2024, the workweek is reduced to 44 hours; as of April 2026, to 42 hours and by the same date on 2028, it must be finally reduced to 40 hours.

Workers excluded from the limitation of working hours are considerably limited under this new statute. Therefore, the exemption will only be applicable to (i) workers who provide services as managers or administrators, with powers of administration and (ii) all those who work without immediate superior supervision due to the nature of the work performed.

Flexibility measures are introduced to enhance productivity despite the reduction of the workweek. Under such, workers can distribute their week between 4 and 6 days; 4 week work cycles averaging 40 hours; compensating overtime with vacation; flexible bands to anticipate or delay the start of the workday for workers with children under 12 years of age.



Flexibility measures are introduced to enhance productivity despite the reduction of the workweek.-



Regarding Exceptional Work Schemes (which is widely applied in the mining, aquiculture and health), the new permits a maximum average of 42 hours per week, provided the employer compensates the excess worked over 40 hours in each cycle with additional rest days or even money, should some requirements be met.

The Ministry of Labor must issue a regulation for Exceptional Work schemes. It is also expected the Department of Labor to issue some interpretative rulings of the law.



PERSONAL, FAMILY AND WORK LIFE RECONCILIATION

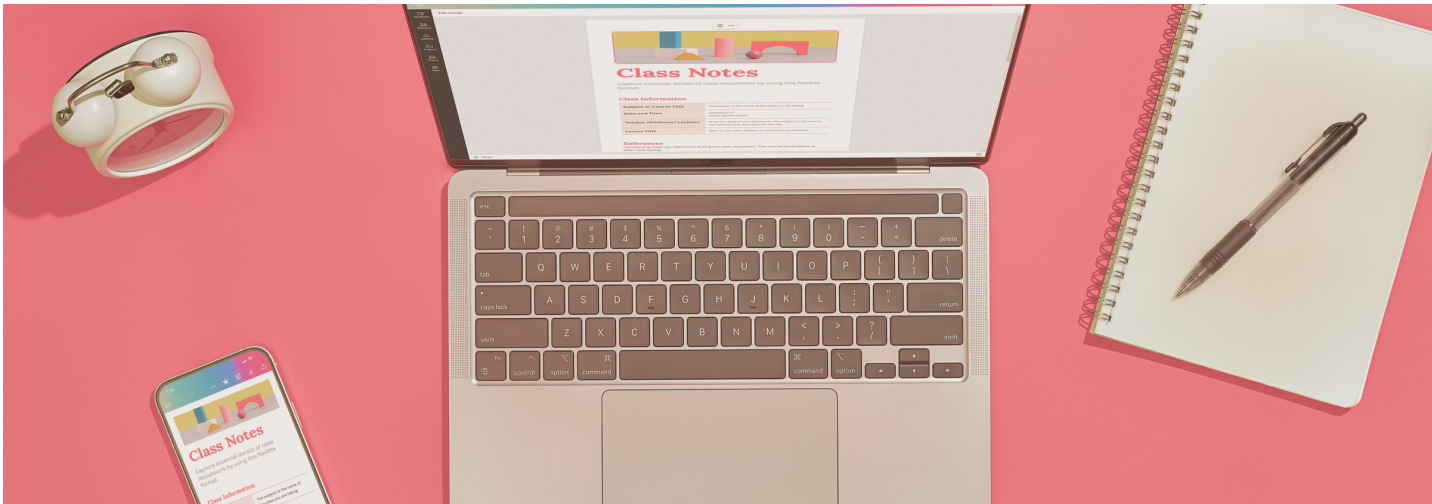


PERSONAL, FAMILY AND WORK LIFE

The law was published on December 29, 2023, and we will see its effects as of 2024. This new statute seeks to accommodate personal, family and work life balance. No doubt this will significantly impact work planning and talent management.

Among the more relevant changes, this law (i) provides a worker's preferential right to vacation should they care of children under 14 years of age and use their vacations along school holidays period; (ii) grants a right to temporarily modify the same employees' working day, as long as the nature of the work allows it; (iii) provides that workers with children or dependent persons in their care, are enabled to work from home, provided the nature of their functions allows it; and finally, (iv) transitory shifts or work day changes during school vacation, when the nature of the functions allows it.

Regarding the right to telework, totally or partially, the employer can reject it providing it proves the reasons.



NEW REGULATION OF SEXUAL AND WORKPLACE HARASSMENT AND INCORPORATION OF REGULATIONS ON VIOLENCE IN THE WORKPLACE

Last December, Congress sent this bill to be published by law. On January 15, 2024 it came into effect. Although the new statute will come into force as from July 1st, 2024.

Among its main changes are:

- A)** Gender perspective as a guiding principle in labor relations. This means implementing measures to promote equality and to eradicate discrimination based on gender.
- B)** New work harassment concept, extending it to one-time conducts.
- C)** Adds "violence in the workplace" as a new type of conduct contrary to human dignity and performed by third parties.

These amendments will certainly require employers to review and update both their internal regulations on sexual and workplace harassment and include workplace violence. A new prevention protocol must come into effect as well as protection measures and applicable sanctions.

Under this new statute, investigation procedures must be reviewed providing they ensure confidentiality, impartiality, celerity and gender perspective. A specific regulation must be issued the Ministry of Labor providing the guidelines for this matter.

Employers will be required to inform, on a biannual basis, the available channels to report non-compliances related to the prevention, investigation, and sanction of these conducts.



Under this new statute, investigation procedures must be reviewed providing they ensure confidentiality, impartiality, celerity and gender perspective.-



CONSOLIDATION OF LABOR LITIGATION



HYBRID

Following the pandemic remote rules based on mobility restrictions, telematic litigation has been allowed and are permanently incorporated into labor proceedings.

Thus, parties can request electronic litigation for preparatory hearings, trial hearings (as well as litigation before the Courts of Appeals and Supreme Court). This has speeded the proceedings considerably.

As for preparatory hearings, since it is not required to physically appear in court, documentary evidence must be uploaded prior to the hearing through the Judiciary website. This enables the opposing party to review the evidence before the hearing. Thus, all the time previously spent in to review the evidence of the opposing party and the reasons for its exclusion have been significantly reduced, and the hearing are running shorter and more efficiently

However, under current law all witnesses, confessions and experts inputs must be conducted in the court, so telematic trial hearings are seldom requested



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