



Employment Law in Colombia: Part II

Insights

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This article is the second in a series which provides an overview of employment law in Colombia and will focus on laws prohibiting discrimination and harassment in the workplace and remedies available to employees for violations of the law.

I. Laws Prohibiting Discrimination

Articles 13 and 53 of the Colombian Political Constitution (“Constitution”) and various provisions of the Colombian Labor Code (“Labor Code”) strictly prohibit discrimination in the workplace. Additionally, Article 10 of the Labor Code requires that every employee be provided with the same legal rights. Discrimination includes an employer’s failure to hire and failure to provide equal terms and conditions of employment based upon an employee belonging to a particular protected classification including the following:

- Gender;
- Sexual orientation;
- Race;
- National and family origin;
- Language;
- Religion;
- Political or philosophical opinion;
- Military status; and
- Disability.

Although the Constitution does not expressly prohibit age discrimination, Labor Law 931, issued in 2004, does. Labor Law 931 also expressly prohibits any employer from requesting the particular age or age range of job applicants and imposes hefty fines against employers who violate the law.

II. Laws Prohibiting Harassment

In Colombia, pursuant to The Work Harassment Law 1010 of 2006, harassment based upon a protected category is also prohibited. “Harassment” is defined as the persistent and demonstrable conduct taken against an employee by a supervisor or co-worker with the intent of causing the employee intimidation, fear or inducing the employee to resign. Harassment also includes conduct

which offends or threatens an employee's dignity or sexual freedom. Colombian Labor Law requires that every employer maintain both preventative and corrective measures against harassment.

III. Remedies Available to Employees for Unlawful Discrimination and Harassment

An employee may commence administrative or judicial labor actions for unlawful discrimination and harassment. A prevailing employee may be entitled to the following legal remedies: (1) reinstatement in the cases of unlawful termination; (2) granting of equal terms and conditions of employment; (3) and monetary damages. Additionally, employers found liable for harassment can be fined pursuant to Colombian's Disciplinary Code.