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Latin America Labor and Employment Newsletter

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Data protection evolving regulation in Latin America and their impact on labor relations

The protection of personal data has become especially relevant in the workplace, driven by digital transformation, the growing use of personnel monitoring and management technologies, as well as the need to respect privacy in increasingly diverse work contexts. In recent months, countries such as Peru, Chile, and Mexico have been undergoing significant reforms that could require major changes in information management for employers.

In a new environment characterized by protecting data above any other business need, companies are forced to review internal processes and policies, as well as adopt robust measures to ensure regulatory compliance and safeguard the personal information of their employees, candidates, and contractors. From selection processes to performance evaluations and labor control mechanisms, the processing of personal data has become a central axis in people management. In addition to this, the use of AI tools generates a relevant exposure of personal information – in many cases sensitive – that will often require the adoption of policies that guarantee the confidentiality of the information that human resources departments will begin to use.

Regulations in the Latin American region have begun to respond to this reality. Peru, Mexico and Chile have already implemented relevant regulatory reforms in terms of data protection, while in Colombia the regulation dates back to 2012, but gradually employers and employees have become more aware of the importance and sensitivity of the handling of personal data. This process of assimilation and updating of regulations – which seeks to align local legislation with international standards – implies a higher level of demand for employers and more rigorous supervision by the authorities.

Below, we present an updated overview of the main regulatory developments and practical considerations related to the processing of labor and employment personal data in Peru, Colombia, Mexico and Chile.

Peru

On November 30, 2024, Supreme Decree No. 016-2024-JUS was published, approving the new Regulation of the Data Privacy Law (Law No. 29733), completely replacing the previous regulation (published on 2013). This new regulation came into force on March 30, 2025, and marks a milestone in Peruvian regulation by incorporating international standards and establishing new requirements for the processing of personal data. In the workplace, it introduces substantial changes that require a comprehensive review and adaptation of business practices linked to the processing of employee data.

As a first relevant issue, the new regulation reinforces key obligations for employers in the processing of employees' data. In this sense, it is incorporated as a serious infraction (sanctioned with up to USD 70,000.00 approximately) not to fully inform the employee about the processing of their personal data, in accordance with article 18 of the Law. From a practical standpoint, this requires reviewing and adapting main labor information documents (policies, formats, clauses, etc.).

Likewise, failure to address ARCO rights requests (access, rectification, cancellation and opposition) within the legal deadline is considered a minor infraction, subject to fines of up to USD 7,000.00. This highlights the need to review and strengthen internal procedures to ensure timely and effective responses to employees exercising their data protection rights.

As a novelty, the obligation to appoint a Data Protection Officer is introduced when certain conditions are met by data controllers (*e.g.* processing of sensitive data as core business, processing of a large

volume of personal data). Human Resources should be actively involved in this designation, as it may involve changes in functions, access to information, and working conditions.

Finally, the regulation details new security measures, such as the requirement to have an updated and internally disseminated security document that includes access procedures, privilege management and use of platforms, among others. Its correct implementation is essential to minimize legal risks, strengthen the culture of compliance and promote employees' trust in the organization.

Colombia

The protection of personal data has become increasingly important in the business environment, especially in the workplace. Since the issuance of Statutory Law 1581 of 2012, which establishes the general regime for the protection of personal data, and its regulatory decrees, organizations are obliged to implement measures that guarantee privacy, security and adequate treatment of the personal information of their employees.

In recent years, the Superintendence of Industry and Commerce (SIC), as the national authority in this area, has strengthened its role of surveillance and sanctions, issuing new instructions and decisions that require companies to constantly review their internal policies. Recently, the regulation related to data protection has been assimilated and internalized with greater zeal and stricter guidelines on the processing of sensitive data, demonstrated responsibility and database management have been consolidated, which has led to a tightening of the sanctioning regime and a greater requirement in compliance documentation.

Within the recent issuance of regulations and guidelines, the external circulars issued by the Superintendence of Industry and Commerce on the processing of personal data stand out. Among them, External Circular No. 002 of August 21, 2024, which addresses the processing of personal data in artificial intelligence systems, and External Circular No. 003 of August 22 of the same year, which instructs company administrators on the processing of such information.

In the labor context, these provisions imply a significant transformation in the way companies manage their employees' information. From obtaining informed consent during the selection process to implementing cybersecurity measures, organizations must ensure that their practices respect employees' rights and align with the principles of legality, purpose, freedom, truthfulness, transparency, access, and restricted movement.

The authority has constantly sought to issue guidelines and guides aimed at guiding companies and their collaborators in the proper processing of personal data. These instruments include booklets and technical documents on topics such as the implementation of the data protection compliance officer, as well as on activities relevant to organizations, such as video surveillance and its proper management in accordance with current regulations.

This regulatory framework not only seeks to protect the privacy of employees, but also to foster an organizational culture based on trust, transparency, and regulatory compliance. Thus, the protection of personal data has become a fundamental axis of modern labor relations in Colombia.

Mexico

On March 20, 2025, a new Federal Law on the Protection of Personal Data in Possession of Private Parties was published in the Official Gazette of the Federation. This legislation, which replaces the 2010 regulation, introduces clearer and more robust provisions to ensure the legitimate and secure processing of personal information in the country. Below, we explore the main developments and their impact on the Latin American business environment.

Greater clarity and obligations: the new law reinforces the ARCO rights (Access, Rectification, Cancellation and Opposition), now precisely defined and explicitly recognized, overcoming the ambiguity of the previous legislation. In addition, it imposes stricter obligations on companies and individuals who handle personal data, whether in physical, electronic or any other form. Among the new requirements are:

1. **More detailed privacy notices**: Companies must inform in a clear and accessible way about the purposes of data processing, specifying: (i) what data is collected, including sensitive data; (ii) which data require express consent; and (iii) how to exercise ARCO rights.

2. **Right to object**: Data subjects may object to their processing if there is a legitimate cause, such as possible damage or harm, or when the automated use of data affects their rights, evaluates personal aspects (work performance, economic situation or health, among others) or generates undesired legal effects.

3. **Mandatory confidentiality**: Organizations must implement controls to ensure that anyone involved in data processing maintains strict confidentiality.

4. **Data protection culture**: Companies must promote data protection internally, designating, if necessary, a person in charge or department to handle requests related to ARCO rights.

New institutional approach: One of the most significant changes is the disappearance of the National Institute of Transparency, Access to Information and Protection of Personal Data (INAI) as a guarantor body. Instead, the Anti-Corruption and Good Governance Secretariat will assume the supervision, verification and sanction of personal data at the federal level. The resolutions of this Secretariat may be challenged only by means of an amparo proceeding in specialized courts, eliminating the remedy of nullity before the Federal Court of Administrative Justice.

In addition, the penalties and costs associated with the exercise of ARCO rights will be calculated based on the Unit of Measurement and Update (UMA) in force, ensuring an updated economic base.

Impact on labor matters: For companies in Mexico and the region, this reform implies an urgent review of their administrative practices. Employers will be required to: (i) update privacy notices, contracts, and internal regulations to comply with the new law; (ii) implement processes that guarantee transparency in the handling of employee data and (iii) train its personnel in data protection to avoid legal risks.

These changes will not only strengthen employees' confidence but also position companies as responsible actors in an environment where privacy is a global priority.

Chile

After seven years of legislative debate, Chile has a new Law on the Protection and Treatment of Personal Data (Law 21,719), enacted in December 2024 and which will come into force in the last month of 2026. This law represents a milestone in aligning national regulation with international standards, especially the European Union's General Data Protection Regulation (GDPR), establishing a robust and modern framework for the management of personal data in the country.

The new regulations are of general application, covering all natural and legal persons. Among its main novelties, the creation of the Personal Data Protection Agency stands out, an autonomous body in charge of issuing instructions, interpreting the law, monitoring compliance and applying sanctions. This institutionality will be key to the correct implementation and supervision of the new regime.

In the labor field, the law recognizes employees as owners of personal data vis-à-vis their employers. This implies that they have the following rights over their information: access, rectification, deletion, opposition, portability and blocking of data. These rights are inalienable and must be respected in all employment relationships, reinforcing the obligation already existing in article 154 of the Labor Code, which requires employers to maintain the confidentiality of their employees' private information.

The processing of personal data in the employment context may be carried out with the express consent of the employee, but it will also be lawful when it is necessary for the execution of the employment contract, compliance with legal obligations or the satisfaction of the employer's legitimate interests, provided that the worker's rights and freedoms are not violated. Special attention should be paid to sensitive data, such as those related to health, which can only be processed under strict conditions and with greater safeguards.

For companies, the entry into force of the law implies the need to review and adapt their internal data processing policies and procedures. It will be essential to implement measures that ensure compliance with the guiding principles of the law: legality, purpose, proportionality, quality, responsibility, security, transparency and confidentiality. In addition, multinational companies will have to pay particular attention to the new requirements for the international transfer of data, ensuring that destination countries have adequate levels of protection or that sufficient contractual guarantees are in place.

In this transition period until December 2026, companies must anticipate the adequacy of their systems, train their teams and be attentive to the issuance of the regulations and guidelines that the future Personal Data Protection Agency will issue, which will give greater clarity and practical sense to the law.

It is of utmost importance to adapt correctly to the law, since non-compliance with the regulations can lead to significant sanctions, with fines that can reach up to 20,000 UTM (€ 1,466,600 approx.), a sum that could triple in the event of a repeat offense. This underscores the importance of proactive and responsible management of personal data, both to avoid legal risks and to strengthen the trust of employees and customers in the organization.

In short, the new law marks a before and after in data protection in Chile, requiring companies to make a real commitment to privacy and information security, especially in the workplace. Early preparation and adaptation will be key to successfully facing this new regulatory scenario.

Recent legislative updates in Peru

Peru will allow employees to withdraw 100% of their labor benefits (CTS) due to terminal illness or cancer diagnosis

On May 9, 2025, Law No. 32322 was published in the Official Gazette El Peruano, which modifies Article 42 of Legislative Decree No. 650, Law on Compensation for Time of Service (CTS).

Main aspects:

- In the event that a worker is diagnosed with terminal illness or cancer duly accredited, he/she may withdraw 100% of his/her CTS deposit and accrued interest at any time.

- As an exceptional and one-time measure, employees have been authorized to freely withdraw 100% of their CTS deposits until December 31, 2026.

- The publication of the regulatory rules that allow the adaptation of the legal regime applicable to the benefit of the CTS is pending.

Compensable public sector non-working days

By means of Supreme Decree No. 042-2025-PCM, various compensable non-working days have been established for public sector personnel.

Main aspects:

- Friday, May 2, 2025; Friday, December 26, 2025; and Friday, January 2, 2026, have been declared non-working days for public sector employees.
- The hours not worked on these dates must be compensated within the ten (10) calendar days immediately following, or at a time determined by the head of each public entity.
- Private sector employers may adopt these non-working days by mutual agreement with their employees, in which case both parties must agree on how the missed hours will be recovered. In the absence of an agreement, the employer may determine the recovery schedule.
- Entities and companies subject to the private sector labour regime that provide essential services may determine which roles are excluded from these non-working days.

The method for calculating profit sharing in favor of employees has been modified

Bill 456/2021-CR and 783/2021-CR propose to modify the profit-sharing calculation method in favor of employees.

Main aspects:

- Currently, the profit-sharing amount is distributed in two equal parts: 50% based on the number of days worked by each employee, and 50% based on the level of remuneration.
- The proposed reform seeks to modify this formula so that 75% of the amount is distributed according to days worked, and 25% based on remuneration—placing greater emphasis on effective work rather than salary level.
- It is proposed to include up to 130 days not worked due to illness or non-occupational accidents as computable days for profit sharing purposes.
- In the mining sector, the applicable profit-sharing percentage would increase from 8% to 10%.
- The current profit-sharing cap of 18 monthly salaries would be eliminated. Any excess would be subject to a 30% withholding, earmarked for a job training fund, while the remaining 70% would remain freely available to the employee.
- The bill was approved by the Labor Commission. It is pending to be debated and voted in the Plenary of Congress.

New legal framework for micro and small enterprises (MYPE)

On May 27, 2025, Law No. 32353, Law for the Formalization, Development and Competitiveness of Micro and Small Enterprises (MSEs), was published in the Official Gazette El Peruano.

Main aspects:

- The regime formally recognizes microenterprises involved in the commercialization of traditional beverages, including emollient-based drinks and infusions containing quinoa, maca, and kiwicha.
- Employees under the general regime are protected from dismissal when the sole purpose is to replace them with personnel hired under the special MYPE regime. In such cases, compensation equivalent to two monthly salaries per year of service is established.
- To benefit from the MYPE regime, companies must submit a sworn statement to the Labor Authority. In certain cases, this must be accompanied by the prior year's income tax return.
- If a company exceeds the established sales threshold, it may continue to apply the MYPE labor regime for up to three additional years before migrating to the general regime. Should sales subsequently fall below the threshold, the company may return to the MYPE regime.
- The right to a disability pension has also been established for affiliates with permanent disabilities, subject to evaluation by the competent authorities.
- As for sanctions, these will be reduced by 50% for small companies and by 70% for micro-enterprises.
- The law will enter into force the day after its regulations are published, which must be issued within a maximum period of 70 days, that is, around August 5, 2025.

Recent legislative updates in Colombia

Colombia adopts a new procedural code of labor and social security (Law 2452 of 2025)

On April 2, 2025, the Colombian Congress enacted Law 2452 of 2025, which establishes a new Labor and Social Security Procedural Code. This reform seeks to modernize judicial procedures in labor and social security matters, guaranteeing greater efficiency and speed in the resolution of conflicts, entering into force on April 2, 2026.

Main aspects:

- It autonomously regulates the use of information and communication technologies within judicial proceedings.
- Jurisdiction is modified by reason of place. The proceedings brought before the labour jurisdiction may be distributed to any labour judge or court in the country when there are legal disputes and it is not necessary to take evidence.
- It eliminates single-instance processes, establishing a two-instance system, with a system of jurisdiction by amount: municipal judges up to 40 minimum wages and circuit judges more than 40 minimum wages. The amount to appeal in cassation will be 150 minimum wages.
- It is established that judges and magistrates must be specialists in labor law or social security.
- The anticipated judgment is incorporated to speed up the resolution of disputes, which implies the possibility for the judge to issue a ruling before having exhausted the entire judicial process.

- It structures a special procedure for matters related to the reinstatement of a worker who has a reinforced stability privilege due to maternity, disability, pension, workplace harassment or circumstantial jurisdiction, establishing two-year limitation periods.

Entry into force of a new pension reform (Law 2381 of 2024)

On July 16, 2024, the Colombian Congress enacted Law 2381 of 2024, which establishes a new comprehensive social protection system for old age, disability, and death of common origin. This reform seeks to guarantee broader coverage and improve the sustainability of the pension system, The specific date of the entry into force is pending due to a decision of the Constitutional Court.

Main aspects:

- The contractor who is a natural person will no longer directly manage his contributions to the social security system, but the contracting company will be the one who will deduct the corresponding values from his fees and pay them to the system.

- The contracting party will have the obligation to keep updated all the information required for the correct and adequate settlement and payment of the contributions.

- The contractor will be liable for the entire contribution and its arrears, when it does not make the discount to the contractor.

- The reform establishes an increase in the number of contributions to the Pension Solidarity Fund for those who had a base contribution income of more than 4 minimum wages. The increase is between 0.5% and 1.5% depending on the level of contribution.

Ruling C-517 of 2024 of the Constitutional Court of Colombia declared unconstitutional the restrictions on paternity jurisdiction in Law 2141 of 2021

Main aspects:

- Law 2141 of 2021 established a reinforced stability privilege for those employees whose partner is pregnant or within 18 weeks of childbirth and did not have a formal job at the time of dismissal, imposing a sanction on the employer of 60 days' salary in the event of a dismissal that met these requirements.

- The Constitutional Court of Colombia, in judgment C-517 of 2024 published on April 29, 2025, modified the main requirements for the application of this jurisdiction. Specifically, it declared unconstitutional the requirement that the partner of the dismissed person lacked a formal job, so it would only be necessary to prove the pregnancy status of the couple or to be within 18 weeks after the birth to give full applicability to stability.

Penalties established for dismissal of victims of sexual harassment

On April 1, 2025, the Government of Colombia issued Decree 405 of 2025, which establishes measures for the prevention, protection, and attention against sexual harassment in the workplace and education.

Main aspects:

- The decree includes a fine for the dismissal of victims of sexual harassment, punishing the dismissal of a person who has reported sexual harassment within six months of filing a complaint of this nature, since the dismissal is presumed to be retaliatory and unjustified.

- The amount of the fine will depend directly on the size of the company in which the worker is located, ranging from 1 to 5,000 minimum wages. This, with the aim of reasonably graduating the sanction depending on the economic and/or financial capacity of the offending employer.

The reduction of working hours has been established in 2025

Law 2101 of 2021 established a progressive reduction of the working day in Colombia from 48 hours to 42 hours per week, without affecting the salary or inherent rights of employees. In 2025, the third phase of this reduction will be implemented.

Main aspects:

- From 15 July 2025, the maximum working week will be reduced from 46 to 44 hours.
- This reduction does not affect the worker's salary or benefits.
- This reduction has a direct impact on the value of the hour of work, implying that the same salary has to be distributed among fewer hours worked, which increases the value of each hour of ordinary work.
- The increase in ordinary working hours means that the cost of surcharges for overtime, night, Sunday or holiday work will increase.

Recent legislative updates in Mexico

A proposal to reform the income from work in hotels, restaurants, bars and other similar establishments has been approved

On April 29, 2025, the Chamber of Deputies approved a proposal to reform the Federal Labor Law, which aims to regulate the working conditions of people who traditionally depend on tips, such as waiters, baristas, delivery people, and gasoline dispensers. This reform proposal was turned to the Chamber of Senators to continue with its legislative process.

Main aspects:

- The right of all employees to receive a salary is recognized, which in no case may be less than the general minimum wage or the current professional minimum wage.
- The salary may not be replaced by tips, or by any other type of voluntary gratuity.
- The scope of application of the regulation is extended to include, in addition to hotels, nursing homes, restaurants, inns, cafes and bars, companies in the sports, entertainment and fuel service stations.
- Although tips are part of the income of employees, they will not be included for the purposes of calculating social security contributions.
- The distribution of tips must be made among the employees who generate them according to the time worked and the activity carried out and will be distributed equitably by the employees themselves.
- Employers may not reserve, endorse, dispose of, or have any share in tips.

- Tips will be integrated into the total payment of the service and will be optional in the event that they are delivered directly.

- A clear definition of what will be understood as tips is established, differentiating them from other payments.

Recent legislative updates in Chile

Modifications to the medical leave law in Chile

On May 24, Law No. 21,746 came into force, which regulates the issuance and use of medical licenses and reinforces oversight, toughens penalties and enables new mechanisms such as anonymous reporting.

Main aspects:

- The Superintendence of Social Security (SUSESO) is obliged to maintain on its website an anonymous reporting system for the misuse of medical licenses, allowing anyone to report possible irregularities in the issuance or use of licenses.

- The Commission of Preventive Medicine and Disability (COMPIN) and SUSESO can impose progressive sanctions on medical professionals for issuing licenses without foundation, ranging from the temporary suspension of the professional for the issuance of medical licenses to the perpetual suspension of the aforementioned right, in addition to fines that can reach up to 600 UTM.

- SUSESO will maintain a public and updated registry of sanctions applied to professionals, which must be published on the websites of health providers.

- The medical professionals who may issue medical licenses will be those surgeons, dental surgeons and midwives duly registered in the National Registry of Individual Health Providers, which will be administered by SUSESO.

- In addition, events that occurred or medical licenses with up to five years of seniority may be investigated and punished.

Pay equity bill moves forward

Last March, the Senate's Committee on Women and Gender Equity completed the votes on the indications presented by the Government of Chile, which went to the Senate's Committee on Labor and Social Welfare to be later voted on.

Main aspects:

- The principle of equal remuneration between men and women is reinforced, extending it not only to identical jobs but also to those of equal value, function or responsibility. Any differentiated wage treatment based on gender or family and care responsibilities is considered discriminatory, unless there are objective and well-founded justifications.

- Companies must establish a mandatory internal procedure for employees to claim gender pay differences. In addition, direct complaints to the courts are enabled.

- Arbitrary wage differences can be considered violations of fundamental rights, which enables the possibility for the court to order the payment of differences and adopt corrective measures.

- For companies with more than 200 employees, the obligation to form an Equal Pay Committee is imposed, made up equally of representatives of the company and the employees. This committee must carry out an analytical evaluation of the positions, identify gender pay gaps and propose an Equal Pay Plan with concrete measures and six-monthly monitoring.

- These companies must publish an annual executive report on their website on the gender pay gaps detected, safeguarding the confidentiality of personal data.

- For companies with less than 200 employees, the implementation of these mechanisms is voluntary, although they can access technical assistance and official certifications if they decide to adopt them.

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