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Chile:
New workers protected or covered by The Work Accidents and Occupational Diseases Insurance of Law N°16.744

The Superintendency of Social Security (SUSESO) through Circular Letter N°3370 modified the Compendium of Social Security Standards for Work Accidents and Occupational Diseases, specifically its Book I, dealing with people protected by the insurance of Law 16.744 for Work Accidents and Occupational Diseases.

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Chile:
Nuevos trabajadores protegidos o cubiertos por el Seguro de Accidentes del Trabajo y Enfermedades Profesionales de la Ley N°16.744

La Superintendencia de Seguridad Social (SUSESO) mediante la Circular N°3370 modificó el Compendio de Normas del Seguro Social de Accidentes del Trabajo y Enfermedades Profesionales, específicamente su Libro I, que trata sobre las personas protegidas por el seguro de la Ley 16.744. sobre Accidentes del Trabajo y Enfermedades Profesionales.

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Right to Honor and Credit Blacklists

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Ministry of Economy launched National Competitiveness and Productivity Policy (PNCP)

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Perú:
Ministerio de Economía lanzó Política Nacional de Competitividad y Productividad (PNCP)

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Federal Labor Law reform initiative

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Chile:
New workers protected or covered by The Work Accidents and Occupational Diseases Insurance of Law N°16.744

Estudio Jurídico Otero

Chile

The Superintendency of Social Security (SUSESO) through Circular Letter N°3370 modified the Compendium of Social Security Standards for Work Accidents and Occupational Diseases, specifically its Book I, dealing with people protected by the insurance of Law 16.744 for Work Accidents and Occupational Diseases.

This modification includes in the coverage of the aforementioned insurance workers who:

- Carry out their work totally or partially in their own homes.
- Carry out their work totally or partially in the place they have freely agreed with the employer.
- Carry out their work totally or partially in the place they freely determine because it has thus been set out in their work contract.
- Workers who sign the agreement “for workers with family responsibilities”, to which Article 376 of the Labor Code refers to.

In this way, the aforementioned workers have coverage for the work accidents or occupational diseases they suffer as a direct result of providing their services to the employer. However, it has been clearly established that any domestic accident suffered by workers who provide their services in any of these modalities, will be accidents of a common origin and will not enjoy the insurance coverage of the law at issue.

The commented rule also regulates the issue of the classification of the origin of an accident or disease suffered by a worker who provides services under any of the remote forms of work, i.e., outside the employer’s facilities. For such classification, the administrative entity will request the employer, in addition to the background which is always required to carry out the classification, the work contract or work contract annex, except if the employer has already submitted the Remote Contract Notification Form and it has been registered in the information systems of the aforementioned entity.

Said form must contain at least:

- The worker’s name and tax-ID.
- Effective date of the contract.
- The activity or activities which the worker will carry out in connection with the remote work contract.
- The schedule, the work place or places that have been agreed and the control systems used by the employer, if any, or else the statement that the worker is excluded from the limitation of working hours and that he/she may freely determine the place where he/she will provide the services.
- Contract period.
- Duration of the remote working modality, if applicable.

The above does not prevent the insurance adminis-

trating organization from deeming necessary to carry out an on-site visit to the worker. This visit, or the ones the entity carries out to investigate an accident or illness require the prior authorization of the worker, which must be stated *"by signing an application for admission to his/her home which is extended by the administrator expressly stating the procedure(s) that need to be carried out at the worker's home."*

Finally, the circular letter specifically refers to the fact that although the worker provides his/her services remotely, this does not exempt the employer from fulfilling its obligation to adopt and maintain the necessary safety and health measures to effectively protect the worker's life and health (Article 184 of the Labor Code). Therefore, if the administrator finds out *"that the conditions under which the work agreed in a work contract concluded under the remote modality place at risk the health and safety of the workers, it must prescribe the employer to implement the necessary measures to correct the detected deficiencies".*

España:
Right to Honor and Credit Blacklists

ILP Abogados

Spain

The credit blacklists are records that include people, that have incurred in default of a debt. For better or worse, this is a well-known concept, right?

We all have heard about this kind of lists, very common among telecommunications companies and financial entities. If you are an entrepreneur, you may have used them to analyze the creditworthiness of a provider. You also may know people included in these kinds of lists, even when they have opposed the debt claimed.

The processing of personal data, with the purpose of monitoring the impact of defaulted payments, is legal. But attention because this process, must complain with certain requirements.

The inclusion of inaccurate data in files of defaulters, may imply a violation of the right to honor. That is the conclusion included in the case law of the Supreme Court, when data protection regulations are not observed.

Let's see, what is the law and judicial criteria about this. How data protection is linked to the right to honor, and the regulations that currently regulate files of defaulters.

Right to the Personal Data Protection as a Fundamental Right. Violation of the right to honor, by files containing inaccurate data.

The data protection right, is a fundamental right included in article 18 of the Spanish Constitution:

> *Article 18.4: The law shall limit the use of data processing in order to guarantee the honor and personal and family privacy of citizens and the full exercise of their rights.*

It is also included in article 8.1 of the Charter of Fundamental Rights of the European Union:

> *8.1. Everyone has the right to the protection of personal data concerning him or her.*

The data protection legislation has been developed as a consequence of this fundamental right. The Principle of Accuracy of the personal data files, is included in the Data Protection Legislation. Depending on whether the files are accurately complied, the courts may consider that your rights have been violated.

The Principle of Accuracy implies, the faithful reality of the data, that must be observed in all personal data file. We find the principle of accuracy, developed in article 5.1.d of the General Data Protection Regulation (RGPD), which states:

Article 5: Principles relating to the processing of personal data.

> *1 Personal data shall be:*
>
> *d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy');*

As the principle of accuracy is a consequence of a fundamental right, it applies to all kind of automated data processing. The failure complying this principle, implies a violation of the right to honor. So consequently, it has a special significance with respect to "Credit Blacklists".

Take a current example. Publishing someone's debts with a telephone company, can be the cause of the denial of a credit card: If a debtor has been included in a "Blacklist", and the bank issuing the card, does consult that list. But, what if that debt, was objected by the debtor? Is that a real debt? Is this information (data) included in the defaulters list accurate, in terms of the debtor's solvency?

The credit card's example, is the case solved by the Spanish Supreme Court's case 174/2018, March 23rd. In this case, the Supreme Court (SC), in application of previous jurisprudence, resolved, in favor of the plaintiff. The SC considered that the right to the honor of the plaintiff, was violated. And it was violated because the debt was published, even when the debtor constantly refuted it. The SC, also recognized the damages compensation asked by the plaintiff.

Principles of Credit Information included in "Credit Blacklists"

As explained before, our case law doctrine requires that the records of defaulters must include only accurate information.

Monetary obligations included in Blacklists, must be due and payable, and its payment must be previously required. The doubtful, non-pacific or litigious debts, cannot be included in defaulters lists.

Examples of this case law criteria are included in the following Supreme Court resolutions:

- STS 13/2013, January 29th,
- 672/2014, November 19th,
- 740/2015, December 22nd, and
- 114/2016, March 1st.

The inclusion of clients in registers of defaulters, to pressure them paying controversial debts, is also expressly forbidden. That practice may cost you the payment of a compensation, as the SC resolved in its case 176/2013, March 6th:

> *(…) The inclusion in records of defaulters cannot be used by large companies to seek debt collection, based on the fear of personal discredit and impairment of their professional prestige, and the denial of access to the credit system, as a consequence of appearing in a file of defaulters, avoiding with such practice, the expenses that would entail the initiation of the corresponding judicial procedure, many times, superior to the amount of the debts claimed (…).*

Article 20 of the Spanish Data Protection Act (LO 3/2018 December 5th)

This fundamental right to data protection, is currently regulated in article 20, 3/20018 Data Protection Act. This Act entered into force on 12/07/2018, and regulates the principles of credit databases as follows:

a) The data included in a list, must have been provided by the creditor, or someone acting on the creditor's behalf/interest.

b) The data must refer to correct, due and payable debts. The debt must not have been claimed by the debtor. (By any kind of administrative, judicial or alternative dispute resolution procedures).

c) The creditor, when signing the contract or when requesting the payment, must inform the debtor about:

   I) The possibility of inclusion of her personal details and debts, in a debt management information system,

   II) The creditor must inform about the credit databases that she does manage, or in which she include credit information, and

   III) If the data is finally registered in a defaulters file, the creditor must notify to the debtor about its inclusion. The notification must inform to the debtor about all her rights (Right to access, modify, change, remove, limitation of treatment, portability and opposition as indicated in arts 15 to 22 GRDP). The debtor may exercise any of these rights, within 30 days since the notification date.

d) The data can only remain in the debt management systems, while the debt exists. And only for five years since the deadline of the monetary, financial or credit obligation.

e) The data referred to a determined debtor, can only be consulted when:

   I) The consultant of the debt management system, shall maintain a contractual relationship with the debtor, which involves the payment of a monetary amount or

   II) When the debtor had requested to the consultant, some kind of financing agreement.

   When a Blacklist is consulted, the consultant must be informed, about the possible objections regarding the accuracy of the debt.

f) The debtor must be informed about a blacklist consultation, if that is the reason because her deal proposal was denied.

Article 20 covers our case law regarding credit management information systems. The Law clearly establishes the obligations that must be observed by those ones managing this kind of files.

So, be aware of the publication of disputed debts. They imply non-accuracy of the published data, and imply the possibility of claims to the debtor.

If this article has been of your interest, we also suggest you to read this publication from our website: "Global Transfer of Assets and Liabilities":

https://www.ilpabogados.com/en/global-transfer-of-assets-and-liabilities/

Germany:
A Hacker publishes private data on politicians and celebrities in germany. Internet security.

ILP Global Mertens Thiele

Germany

On January 4, the attack by hackers on various German politicians and celebrities was made public.

These data are published on Twitter in the form of an "Advent Calendar" in which from 1 to 24 December doors are opened daily with small packages of private information about politicians and celebrities from Germany.

Their e-mails, letters, photos and even private addresses are made public. The Hacker publishes supposed address books of the affected politicians which entailed the access to data of their contacts. As a curious fact only in the CDU (conservative party) more than 400 entries were published. Even private data of Chancellor Angela Merkel and Speaker of Parliament Wolfgang Schäuble were published.

The Public Prosecutor's Office in Frankfurt am Main, together with the Central Office for Combating Internet Crime, is opening a procedure to locate the author and blocking the Twitter account used by the Hacker.

On January 6, a 20-year-old young man from Hessen is arrested as a suspect in the authorship of this attack, the suspect confesses and collaborates, delivering the media where he stored the information. As there is no risk of escape, no criminal record and being within the scope of the Juvenile Act (Jugendstrafrecht Gesetz) is subsequently released.

It is now necessary to clarify what security breaches this Hacker has used.

However, the data leak was not a direct attack by Hackers on the German parliament and government system, as there is evidence that this information was obtained through the misuse of data accessing services in the cloud, email accounts or social networks. But this situation leads us to ask ourselves, to what extent are we sure, to what extent providers should be more responsible. Above all, however, the extent to which users should handle their data with due protection.

While the authorities must be able to defend themselves against a hacker attack, this case warns us of the importance of making sure our data is protected. Not only with general state measures, with regulatory standards and high fines for infringements, but also at individual level.

At state level, there is talk of the need to draft a new IT security law that would give the Federal Office for Security (BSI) more power to act and would imply new duties for companies.

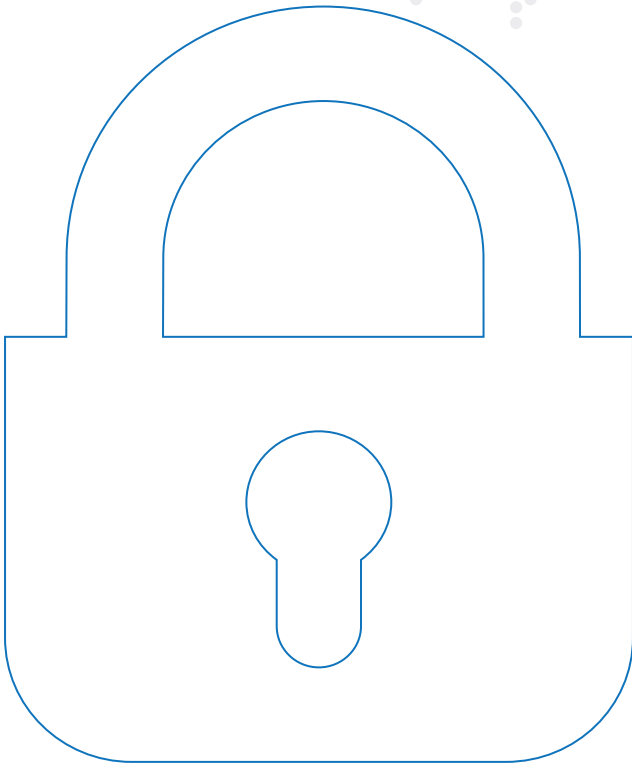
At the individual level, more attention needs to be paid to data security, for example by adequately protecting our passwords, to prevent a computer-savvy teenager from gaining access to our private information.

Markus Söder (CSU) calls on all users to better protect their data on the Internet:

> This is a wake-up call that should be reconsidered. Just as it is normal to close the front door, so too must care be taken on the Internet to protect data from unauthorized use.

So it is important to change passwords periodically, to stop using simple passwords like our birthdays etc. This is done by creating complex combinations of at least 10 digits, where numbers, letters and symbols are mixed. And do not repeat the password.

With more individual attention to security will come to a greater general protection.



Peru:
Ministry of Economy launched National Competitiveness and Productivity Policy (PNCP)

Estudio Laos, Aguilar, Limas & Asociados

Peru

In 180 days, the policy will land in a specific plan, which will be agreed with various sectors of the country.

The Ministry of Economy and Finance (MEF) published the last day of the year 2018, the latest version of the National Policy on Competitiveness and Productivity (PNCP), which contains the country's vision to increase competitiveness and productivity levels in the coming years . The objective is that the PNCP transcend the different government administrations, until the year 2030.

Despite the evident progress that Peru has made in terms of economic growth and poverty reduction, this trend has slowed down, so the country has experienced in recent years a constant rate of poverty and levels of growth below of the country's potential growth rate, which is currently 5% of GDP. Bearing this in mind, the Competitiveness and Productivity Policy seeks to change this trend to generate well-being for all Peruvians, based on sustainable economic growth with a territorial approach through the implementation of cross-cutting measures.

A key factor to achieve this objective is the increase of the country's productivity based on the efficient use of resources, which will provide companies with an environment with opportunities to prosper and grow.

Objectives

The PNCP is composed of nine Priority Objectives and Policy Guidelines linked to these objectives; as well as indicators to constantly monitor and evaluate progress in its implementation.

The nine Priority Objectives (OP) of the PNCP are the following:

- Infrastructure

  To provide the country with quality economic and social infrastructure, through efforts aimed at planning and efficient prioritization of infrastructure. It incorporates a territorial approach focused at the efficient use of the country's comparative advantages.

- Human Capital

  Strengthen human capital, prioritizing the optimization of services for the strengthening of capacities and for the certification of labor competencies.

- Innovation

  Generate capacity development for innovation, adoption and transfer of technological improvements.

- Financing

  Promote local and external financing mechanisms, through the generation of financial instruments according to business needs.

- Working Market

  Create the conditions for a dynamic and com-

petitive labor market for the generation of formal employment.

- **Business Environment**

  Generate the conditions to develop a productive business environment, through administrative simplification and improvement of the tools of productive development and associativity.

- **Foreign Trade**

  To facilitate the conditions for foreign trade, by developing a diversified and competitive export offer.

- **Institutionality**

  Strengthen the country's institutions, improving the administration of justice service, articulating measures that promote public integrity and facilitate the fight against corruption.

- **Environment**

  Promote environmental sustainability in economic activities, by promoting the circular economy in the markets.

This plan will be developed within the framework of a participatory process of dialogue and consensus between the public and private sectors.

The National Council of Competitiveness and Formalization, responsible entity within the MEF for the implementation of the policy, has 180 calendar days to prepare a proposal for the National Competitiveness Plan in coordination with the sectors included.

> "With the PNCP, public interventions will be promoted in an articulated and systematic manner to boost competitiveness and productivity, fundamental factors to sustain growth in the medium and long term and raise the income and well-being of the population," This are the convincent statements of the Minister of Economy and we hope to see them become a reality for the good of the country.

Mexico:
Federal Labor Law Reform initiative

Bitar Abogados

Mexico

By: José Raúl Bitar Romo

We hereby inform you that the Morena parliamentary group has promoted an initiative through which it intends to reform, add and repeal various provisions of the Federal Labor Law, the same initiative that was published in the Parliamentary Gazette on December 22, 2018.

Here are some of the most relevant aspects of the aforementioned initiative:

- Total independence of the labor justice system of the federal and local executive powers, since both federal and local judicial powers will be the ones that will provide labor justice, and the Federal and Local Conciliation and Arbitration Boards will disappear and creating the Federal and Local Labor Courts in each State of the Republic.
- The creation of the Federal Labor Conciliation and Registry Center is proposed, with the following registry and conciliation functions:
    - Register of all Unions and Collective Labor Agreements of the Country and must start operations within a period of no more than 2 years, counted as of the effective date of the reform.
    - Conciliation of matters of federal jurisdiction and will begin at the same time as the Labor Courts begin their functions, without this term exceeding 4 years.
- The new system would be fully operational within FOUR YEARS after the labor justice reform comes into effect.
- A pre-judicial instance of compulsory conciliation is created, which will be carried out before the Federal Center for Conciliation and Labor Registration and before the Local Conciliation Centers in the States of the Republic, whose procedure should not exceed 45 calendar days. The conciliatory instance begins with the presentation of the conciliation request, at which time, it will be set within 10 days, date and time of the conciliation hearing.
- The Local Labor Courts in each State of the Republic will enter into office within THREE YEARS after the reform comes into force.

The following modifications are proposed in trade union matters:

I) The union directives will be elected through free and secret vote. In order to obtain the constancy of representativeness, a vote of at least 30% of the workers attending the vote is required.

II) The evidence of representativeness must accompany the strike summons.

III) The union leaders must render accounts of the administration of the assets to the worker.

IV) Each guild will determine the duration of the directive period, which cannot be indefinite.

V) Calls for elections shall be published in the union premises and in the places where the members of the work center are most affluent.

VI) Unions will have a period of 6 months to modify their statutes adapting them to the reform.

- Collective contracts must have the support of the majority of workers through free and secret vote.
- The evidence in the trials must be offered and accompanied from the initial brief of demand and the answer to it.

By this means we will keep you informed of the progress related to this initiative.