
Colombian government regulates work from home, both domestic and abroad

Legal flash Colombia

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Colombian government has regulated the minimum required conditions for approving work from home performed in Colombia or abroad, by means of Decree 649, 2022

The Ministry of Labor has issued regulations governing work from home in the private sector and the requirements for employees to request it and for employers to impose it. Some of the most significant aspects of the new decree include the exceptional circumstances that must exist to approve the arrangement, the procedure applied to requests received, and the specific obligations of employers, employees and occupational risk insurers (*administradores de riesgos laborales*, “ARLs”). These new regulations also apply when working abroad.



Key aspects

What is "work from home"?

It is a situation under which an employer authorizes an employee to temporarily work from a location outside the habitual workplace when special circumstances prevent the employee from working there.

What new elements does this decree introduce?

The decree regulates the requirements for an employee to be able to request authorization to work from home and for an employer to impose it. It also clarifies the definition of the special circumstances that allow the arrangement to be approved, the procedure to be executed prior to its implementation, the minimum contents of the document to formalize such arrangement, and the basic obligations of employers, employees and ARLs towards it. The new *work-from-home* regulations also make it possible for employees to work abroad.

What is meant by "*occasional, exceptional, or special circumstances*"?

These are defined as temporary, extraordinary situations attributed to external events unrelated to the work or that specifically affect the employee or the employer, enabling employees to fulfil their employment obligations from a location different from their regular workplace.

How is "*work from home*" formalized?

Employees can submit a request to their employers, based on specific grounds, which the employer must then analyze and issue a decision afterwards. Employers can also unilaterally impose this arrangement on a particular employee, if necessary and duly justified. In either case, the employer must notify the employee in writing, indicating at least:

- > The exceptional situation that justifies the decision.
- > The duration of the arrangement.
- > The employee's duties while working from home.
- > The communication channels to remain in contact, and the IT measures the employee must comply with while working from home.
- > The available ways to report infringements of the right to digital disconnection and labor harassment.



- The address from where the activities must be performed and the equipment the employee must use (which can belong to the employee or to the employer).

What are the employer's most significant obligations?

- To notify the ARL.
- To priorly have a digital disconnection policy in place.
- To provide the employee with IT training.
- To update the occupational safety and health management system.
- To inform all employees about the communication channels for reporting and to receive notifications on the implementation of programs designed to ensure the protection of their personal dignity, equality and privacy when working from home.

What are the employee's most significant obligations?

- To notify the employer about any changes in his / her health condition.
- To report *work-related* accidents and disabilities.
- To follow all instructions on information security.
- To provide their services only from the agreed-upon location and notify the employer of any changes at least five (5) business days in advance.
- To use the required personal protective equipment and follow the workplace health and safety rules.

Is it possible to *work-from-home* from another country?

Yes, provided the employees have received express authorization from their employer and comply with all applicable legal requirements. Employees must register a specific city and address in the foreign country from which their services must be provided, and employers must notify the ARL of the situation. Employers must also complete all necessary procedures to ensure that their employees are registered in Colombia's comprehensive social security system and can receive the corresponding benefits.

Key points of the *work-from-home* regulations

- Employers must confirm that the work can be performed entirely outside of the company's facilities.



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- > Employees must have all of the tools needed to perform their tasks. If employees use their own tools, the employer can agree to financial compensation.
- > The *work-from-home* arrangement must not imply or give rise to reduced employee productivity.
- > The arrangement can involve alternating between working from home and working at the workplace, without giving rise to additional remuneration for the employee.

For more information about the contents of this Legal Flash, please get in touch with your usual contact person at Cuatrecasas. If you do not have one, you can contact the expert lawyer below.

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