



## PROVISIONAL MEASURE N. 927 – A MEASURE TO CONFRONT THE COVID-19 PANDEMIC

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Published in March 2020 by the President of the Republic of Brazil, Provisional Measure (MP) n. 927/20, which sought to modify Brazilian labor law under the state of public calamity declared in Brazil as a result of the COVID-19 pandemic, lost effect on July 19, 2020 due to its not having been passed in the National Congress.

Below we list the impact on the day-to-day of companies that resulted from the non-conversion of MP n. 927/20 by the National Congress into Ordinary Law.

### (i) WHAT WAS FORESEEN BY MP N. 927/20

Primordially, MP n. 927/20 sought to temporarily modify the labor law under the state of public calamity declared by Legislative Decree n. 6 of March 2020 as a result of the COVID-19 pandemic.

In general terms, MP n. 927/20 sought to make the labor law more flexible via (i) remote work for the duration of the state of public calamity; (ii) anticipation and concession of individual/collective vacations; (iii) anticipation and use of holidays; (iv) extended banking of hours; (v) suspension of administrative workplace health and safety requirements; and (vi) suspension of employee federal severance fund (FGTS) withholding.

This is to say that during the time period in which MP n. 927/20 was in effect the labor law was modified and once it was no longer in effect the labor law returned to what it was prior to the pandemic.

(ii) PRINCIPAL IMPACT WITH THE NON-CONVERSION OF MP N. 927/20

Due to the non-conversion of MP n. 927/20 by the National Congress into Ordinary Law, the principal impact on the day-to-day of companies is:

#### Remote Work

The company cannot, unilaterally, alter the workplace regime to that of remote. This signifies that after MP n. 927/20 was no longer in effect should the company opt for “home office” work it must first obtain employee consent (Article 75-C § 1 of the Consolidated Labor Laws (CLT)).

Remote work can no longer be imposed on interns and apprentices, which means, in practical terms, that they must return to their posts at the physical workplace of the company.

Lastly, time spent in the use of apps and communication programs outside of normal working hours can be configured as work-available time, which was not possible under MP n. 927/20.

#### Individual and Collective Vacations

From our viewpoint, the major impact in this respect is that the notice of vacation time returns to being that of a minimum 30 (thirty) days in advance, whereas under MP n. 927/20 notice could be given with a minimum 48 (forty eight) hours.

The minimum vacation time allowed returns to being that of 10 (ten) days, and the granting of vacation time for acquisitive as opposed to acquired time periods, that is, future vacation, is not allowed.

Further, with the non-conversion of MP n. 927/20 into Ordinary Law, the payment of vacation plus the “1/3 Constitutional’ returns to as established in the CLT, meaning the deposit of vacation pay plus 1/3 must obligatorily occur within 02 (two) days prior the start of the vacation by the employee.

With respect to collective vacation, the largest result is that the employer once again is obliged to communicate the granting of collective vacation to the employment union and to the Ministry of the Economy with at least 15 (fifteen) days advance notice (Article 139 § 2 of the CLT).

#### Anticipation of Holidays and Banking of Hours

With respect to the anticipation of holidays, after MP n. 927/20 was no longer in effect the company cannot anticipate the use of non-religious holidays, which was possible while MP n. 927/20 was in effect.

Further, with respect to the banking of hours, banking of hours cannot be compensated in up to 18 (eighteen) months, as was possible under after MP n. 927/20, the time period returning to up to 06

(six) months in the case of any individual accord or up to 12 (twelve) months in the case of Collective Convention or Collective Bargaining Agreement.

We highlight further that with the non-conversion of MP n. 927/20 into law other aspects of the labor law have been affected and, if necessary, Almeida Advogados` team of Labor Law specialists can clarify any doubt for you in their respect.

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