EY LAW Flash

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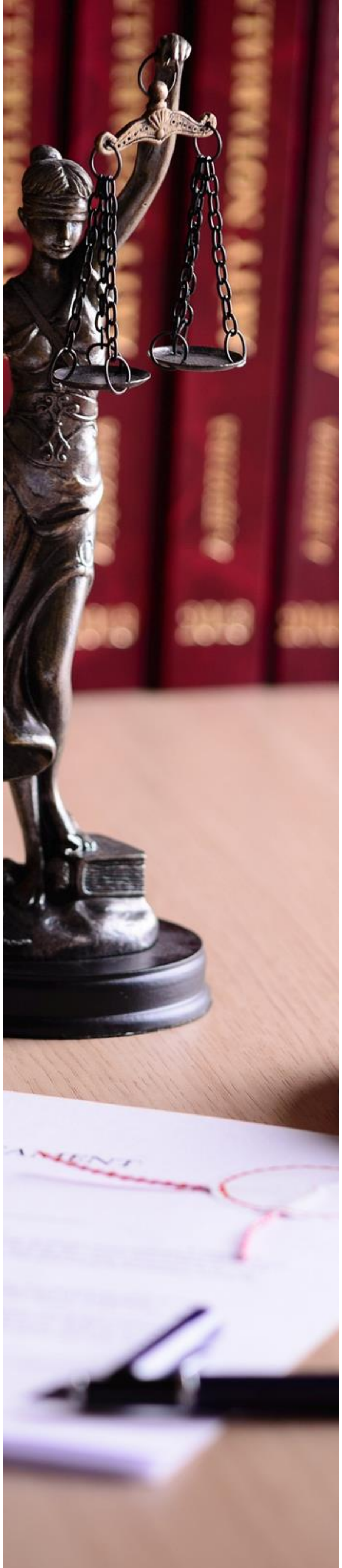
Amendment to the General Law for the Prevention, Punishment and Eradication of Crimes related to Trafficking of People and for the Protection and Assistance to Victims of these Crimes, in relation to long working hours

On June 7, 2024, an amendment to the General Law to Prevent, Punish and Eradicate the Crimes of Trafficking of People and for the Protection and Assistance to the Victims of these Crimes was published in the Official Gazette of the Federation, which includes an addition to article 21, regarding working hours that exceed the legal limits established as a form of labor exploitation.



The most relevant changes of the reform are the following:

Expansion of the definition of labor exploitation

Not only unhealthy hazardous conditions, disproportionate workloads and remuneration below the minimum wage are considered labor exploitation but also working hours in excess to those established by the Federal Labor Law.

Penalties

Penalties of 3 to 10 years imprisonment and fines of 5,000 to 50,000 days are established.

Impact on Vulnerable Groups

When the exploitation affects Indigenous or Afro Mexican people and communities, the penalty will be from 4 to 12 years of imprisonment and fines from 7000 to 70,000 days.

This amendment becomes effective on June 8, 2024 after its publication in the Official Gazette of the Federation.

- The reform seeks to discourage the use of long working hours without due compensation and poses a challenge for the labor market, especially for small and medium-sized companies that must adapt to comply with the new provisions and avoid sanctions by the authorities.

- It is essential to conduct periodic reviews of working conditions and ensure that all employees, including those in positions of trust, respect the legal limits on working hours, as well as to inform and train employees about their rights and obligations with respect to working hours and overtime pay.

- The jurisprudence of the Second Collegiate Court of the Sixth Circuit (Thesis VI.2o.28 P) sustains that the representatives of legal entities are also criminally liable for crimes committed on behalf of such entities.

- This highlights that the directors, managers, administrators, and other representatives of the companies are personally liable for the criminal acts committed under the corporate representation, for which reason it is essential to have the documentation that proves the general working conditions, the IMSS registrations and the measures within the companies to demonstrate compliance with all labor regulations.

- The reform clarifies in its statement of reasons that working hours in excess of those permitted must be interpreted in accordance with the labor legislation in force. In other words, employees may choose to work overtime and receive additional remuneration, as long as the established legal limits are not exceeded.

- According to Article 11 Bis and Chapter II of the National Code of Criminal Procedures, legal entities may be criminally liable for crimes committed in their name, on their account, for their benefit or through the means they provide, if there is a lack of due control in their organization.

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