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Background to the Health and Safety Regulation at Work in Colombia

Marrugo EAB[1]* and Aleman MJM[2]

[1]Gibiomas group, Cartagena de Indias, Bolivar, Colombia

[2]National Learning Service SENA, Agribusiness and Mining Center, Bolivar, Colombia

***Corresponding author:** Elías Alberto Bedoya Marrugo, National Learning Service SENA, Agribusiness and Mining Center, GIBIOMAS group. Cartagena de Indias-Bolivar, Colombia, Email: ebedoya@sena.edu.co

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Abstract

In this reflection on the new occupational risk system in Colombia, the way in which it evolved is discussed, changing its context from professional to labor, encompassing the expansion of the definitions of work accident and occupational disease. In addition, the issue of the variation in the name occupational health program is addressed, which is now defined as a safety and health management system at work, bringing with it a totally different dynamic from the one previously raised by the extinct resolution, 1016 of 1989 regarding the constitution and the dynamics that this new norm requires. The foregoing must be fulfilled by the companies of the different economic sectors, addressing the new provisions of the disability qualification boards, their functions and characteristics, in the same way, the aspects of the guarantees offered by the state in the application of the regulations of labor risks, contributions to the system, obligations of employers and reports of accidents and labor inspectors, among others.

Keywords: Legislation; Normative Evolution; Risk System; Colombia

Abbreviations: ARL: Occupational Risk Administrators; CAC: Contentious-Administrative Code; CCP: Code of Civil Procedure; ILO: International Labor Organization; UN: United Nations; ISSA: International Social Security Association; OISS: Ibero-American Social Security Organization; CISS: Inter-American Conference on Social Security; CAN: Community of Andean Nations; ILI: Disabling Injury Index; USA: United States of America; Inspection, IVC: Surveillance and Control System; SG-SST: Occupational Health and Safety Management System; ICTs: Information and Communication Technologies.

Introduction

The international labor conference by Meza Rodríguez [1]; gathered in Philadelphia in 1944, defined social security as an international premise as a set of measures that society provides to its members in order to avoid economic and social imbalances to move away the disparities of class or high social caste compared to an underlying or lower one, which, when seen at a disadvantage and if this situation is not resolved, tends to generate conflicts of a social nature.

In order to better understand the terminology related to social security, we will begin by stating that the word security comes from the Latin word *Seguritas (atis)* which means: Quality of (being) safe or free from danger, damage or risk, certain, indubitable and in a certain infallible way, a word that directly approaches what is conferred or desired as possible or feasible to desire, from a precision of life, health or well-being, while as far as the social word, it is derived from the word socialis, by the which everything that

belongs to society is conceived. Society is understood as any natural or agreed group of people who come together for the purpose of fulfilling, through mutual cooperation, all or some of the purposes of life [2]. Therefore, social security must be understood as any protection that society itself must give to each and every one of its members so that they have the confidence to be able to face any eventuality that endangers their existence, their health, at any stage. Of his life and have the certainty of having enough income to lead a decent life during his old age, together with his family [3]. Currently, there is an international consensus regarding the consideration of social security as an inalienable human right, the product of almost a century of joint work by relevant international organizations, such as the International Labor Organization (ILO), the United Nations (UN), and supranational institutions, such as the International Social Security Association (ISSA), the Ibero-American Social Security Organization (OISS) and the (CISS) Inter-American Conference on Social Security [4].

Social security is an instrument that satisfies human needs and arises from the individual's capacity for foresight and from solidarity as a collective value, taking into account the family as a dynamic, but not autonomous, organism, with its own needs, which it deserves. the figure of the State, understood as an inalienable characteristic, to which every subject is entitled, regardless of their condition. In addition, it is seen as an instrument based in its beginnings on family, private and public assistance, which later evolved into social security, an individualized protection mechanism that allowed it to institutionalize its normative figure and become insurance, which is no longer the way of being seen by the social crowd [5].

Observed from the perspective of the Colombian Magna Carta that indicates Social Security as a mandatory public service that will be provided under the direction, coordination and control of the State, subject to the principles of efficiency, universality and solidarity, in the terms established by law, guarantees all inhabitants the inalienable right to Social Security. The State, with the participation of individuals, will progressively expand Social Security coverage, which will include the provision of services in the manner determined by Law. Social Security may be provided by public or private entities, in accordance with the law. The resources of the Social Security institutions may not be allocated or used for purposes other than that. The law will define the means so that the resources allocated to pensions maintain their constant purchasing power.

The constitutional protection of work, which involves the exercise of the productive activity of both the employer and that of the worker or public servant, is not limited exclusively to the right to access a job but, on the contrary, is broader and includes, among others, the subjective power to work in decent conditions, to carry out work in accordance with the minimum principles that govern labor relations and to obtain compensation in accordance with the quantity and quality of the work performed. From the preamble of the Constitution, it is stated as one of the objectives, to ensure people life, coexistence, work, justice, equality, knowledge, freedom and peace. In other words, work is a founding principle of the Social State of Law. For this reason, from the first decisions, it was to guarantee a fair political, economic and social order and made work an indispensable requirement of the State, meaning that the labor matter, in its various manifestations, cannot be absent in the construction of the new legality.

The standard of safety and health at work in Colombia defines the guidelines that must be followed for compliance, and implementation of management systems, among these the management of safety and health at work can stand out, this must be applied in the companies, both the employer, whether public or private, the contractors, the organizations of the cooperative productive sector, also those who are dependent or whose work is short-term except for no one, all must have coverage to provide the worker with security in their place of work.

Work represents for man a commitment to his personal fulfillment, social development, and the dignity of his condition. Therefore, it is transcendental that this is carried out under the best conditions, basically without affecting their health, since "work always produces changes and it is logical to think that these changes will affect the physical, mental and social balance of the person who works" [6], also affecting the production processes, the welfare of the family and the progress of the nation. In other words, if the worker is in good health, he will do his job well, and if he does his job well, obeying all safety regulations, he will be in good health and processes will not be disrupted. One of the great creations of governments has been the social security systems and from there, occupational health and industrial safety, this provides us with elements, methods, techniques and tools to manage intervention, promotion and prevention activities aimed at minimizing the risk factors in the industry; physical, chemical, biological, ergonomic, psychosocial, physical-chemical, electrical and mechanical risks, each one with its different implications, but which come together in work environments representing dangers for the worker and triggering accidents and occupational diseases. Currently, it is an obligation for every company and a challenge for all countries, since the magnitude of the situation, despite the progress, is still critical, it is estimated, for example, that 120 million occupational accidents and that 200,000 of them cause death. For its part, the number of fatal accidents in developing countries is much higher than in industrialized countries, due to the existence of better safety and health

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programs at work, the improvement of first aid and medical services, and the participation of workers in decision-making on health and safety problems [7].

In Law 1562 of 2012, "By which the Occupational Risk System is modified and other provisions on occupational health are issued" makes a change to the previous name "General System of Professional Risks" for "General System of Occupational Risks Labor", highlighting that the labor expression is more appropriate because it identifies more with work, in relation to the professional expression, which is related to those who exercise a profession, in this regulation the Congress of the Republic includes several changes between these the which expresses the obligation on the part of companies to implement an occupational health program and the sanctions that this entails by omitting such a provision, as well as the obligation to join the professional risk system that concerns people linked through a formal contract provision of services with public or private entities or institutions, such as civil, commercial or administrative contracts, with a duration of more than one month and with precision of the situations of time, manner and place in which said provision is made. Among those already mentioned and other essential changes, it is a priority to take into account that future public health professionals and current actors in occupational health and safety understand and manage the novelties in terms of regulations, mainly those involved with the definitions of Work Accident that in principle, it developed Decree 1295 of 1994 based on the declaration of the Andean community of CAN nations, now declared unenforceable and also the concept of occupational disease assimilated by the substantive labor code in its article 202.

Derived from social security, labor risks, security and work in Colombia, the purpose is to deal with the contingencies of an accident at work or an occupational disease, where the entities under an insurance scheme in which the contributions or premiums, that the employer delivers to the system for each one of the affiliated workers, generate a mutual or common fund, with which the noted benefits are financed-, they must take care of providing the workers with the provision of the health services they require, as well as assume the recognition and timely payment of the economic benefits established for temporary disability, partial permanent disability, disability pension, survivor's pension, funeral aid, while carrying out prevention, counseling and professional risk assessment activities, and promoting and disseminating occupational medicine, industrial hygiene, occupational health and industrial safety programs. For this purpose, the employer has the obligation to transfer said risk to entities specialized in its administration, mediating a contribution that inevitably corresponds to him to pay. The position of the Court does not vary in the face of omissions by the employer to enroll their workers in the Occupational Risk System, understanding that it seriously affects their rights, compromising the direct responsibility of the employer, in the sense of assuming all of the costs inherent to the preservation of the social security of affiliated workers and their beneficiaries. Seeking to avoid that due to the breach of obligations by the employer, workers are prevented from receiving comprehensive health care or claiming the assistance and economic benefits to which they are entitled, due to an accident or occupational disease.

Conceptualization of the Labor Risk Regulation

The first legislative pronouncement on occupational health in Colombia was given in 1915 with the rule on occupational accidents and occupational diseases, which for the purposes of said rule, means an accident at work, an unforeseen and sudden event occurring due to and on the occasion of the work, and that produces in the organism of the person who performs work for another person an injury or a permanent or temporary functional disturbance, all without the fault of the worker, annexed to this and any person, natural or legal, owner of the industries, works or companies in which, by itself or through an intermediary person, a job is being verified, and per worker, any person whose salary does not exceed six gold pesos per week, who performs work on behalf of the employer, who is responsible for accidents occurring to its workers due to the work they perform and in the exercise of the profession they exercise, unless the accident is due to the fault of the worker, or due to force majeure unrelated to the work in which it occurs the accident, or to imprudence or carelessness of the operator, or to a sudden attack of illness that deprives him of the use of mental faculties or physical forces or to violation of company regulations. Later, in 1918, hygiene and sanitation measures for employees and employers were enacted; specifically in housing and health spaces, establishing economic sanctions for violators of the conditions required by the norm.

During the year 1921, it was established for industrial, agricultural, commercial or any other kind of companies, of a permanent nature, existing in the country, or to be established in the future, whose payroll or salary is or exceeds one thousand pesos. ($1,000) per month, must carry out, at their own expense, the collective life insurance of their employees and workers, for a sum equivalent to the salary or wages of the respective employee or worker for one year, including all employees or workers who enjoy up to two thousand four hundred pesos ($2,400) annually. The insurance will not be contracted in favor of a certain individual, but in favor of the entity that makes the contract, which when the case comes to make effective the fee to which there is a right due to the death of one of the insured, is obliged to pay in full, said fee to the surviving spouse, if any, and legitimate heirs

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of the employee who dies and whose name appears on the respective payroll for the month in which the death occurs.

With the issuance of Law 10 of 1934, it was established that private employees will enjoy concessions and aid, such as fifteen days of paid vacation for each year of service, in accordance with the ordinary remuneration earned. The vacation season would be designated by the employer; together with a sickness benefit for up to one hundred and twenty (120) days, at the next rate, payable in two-thirds of the salary, during the first sixty (60) days of the illness; half for the following thirty days and a third for the remaining time and in case of dismissal, which is not caused by proven misconduct or breach of contract, they will be entitled to severance pay equivalent to one month's salary for each employee. year of service they provide or have provided and proportionally for the fractions of the year, the average salary that the employee has earned in the last three years of service will be taken and if he has worked for a shorter time, the average salary of the entire employee will be taken, working time.

In 1938, the Office of the Executive Branch was created, called the Ministry of Labor, Hygiene and Social Welfare, whose objective was to ensure a healthy relationship between workers and employers. Promote and generate vacancies and mitigate high unemployment rates. Responsibility for promoting policies for work and unemployment, the creation of this Ministry was motivated by the epidemics that generated a health crisis, such as cholera in 1832. This is why it was initially called the Ministry of Labor, Hygiene and Social Prevention.

For its part, with Law 44 it gives rise to the creation of compulsory insurance and compensation for work accidents, useful for the employer when a worker suffers a work accident with injuries, with which you will be entitled to compensation for the injuries suffered, their sequels and incapacities derived from the performance of their duties, Work.

The primary purpose of the Substantive Labor Code is to achieve justice in the relationships that arise between employers and workers, fundamentally it deals with a compendium of norms that regulate the labor interaction between employer and worker from a point of view within a spirit of economic coordination and social balance applied throughout the territory of the Republic for all its inhabitants, regardless of their nationality whose purpose is also to regulate the relations of Individual Labor Law of a particular nature and those of Collective Labor Law. For any employer or worker, or who in one way or another has to deal with labor matters, it is essential to have this code at hand, managing to regulate the hiring and management of workers and employers.

It must be specified that in the law of the new Colombian General System of Occupational Risks with which it can be established in a company, whether public or private, to exercise control and prevention of work accidents and occupational risks through a Management System for the occupational health and safety, formerly known as the occupational health program, whose main objective in accordance with decree 1295 of 1994 indicates the definition of the general system of occupational hazards, together with the definition of occupational health and occupational health program; however, the general system is the same, with the same objective of controlling and preventing occupational accidents and illnesses.

Similarly, the modification made to article 13 of decree 1295 of 1994, which denotes in a more detailed and precise way that the different workers, students and pensioners who have the right that the employer or where they are providing their services related to the object of the company must be affiliated with a company that promotes health services, in charge of forecasts regarding common non-occupational illness and their respective contingencies together with contributions to a pension fund determined by themselves for the retirement of workers fulfilled the time established by the state for the causation of this condition and the Occupational Risk Administrator whose purpose is advice, care and assistance in the event of an accident at work and occupational disease.

For the affiliates referred to in literal

1. Of article 157, the contributory regime will recognize the incapacities generated by general illness, in accordance with the legal provisions in force.
2. To cover these risks, Health Promotion Companies may subcontract with insurance companies.
3. Disabilities caused by occupational disease and work accidents will be recognized by the Health Promoting Entities and will be financed from the resources earmarked for the payment of said contingencies in the respective regime, in accordance with the regulations issued for this purpose.

In the modification of the risk system, the concept of work accident was expanded, going from a single definition to a complete argument that indicates specific situations on how a related event can be confirmed or denied, requiring the worker to have knowledge about this concept to argue. the considerations in this regard; where the contribution of the different articles of resolution 1401 of 2007 that indicates more about the inspection of accidents and work incidents which leads to the improvement of the quality of life of workers and the productivity of companies. In addition,

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in the fourth article, reference is made to the definition of occupational disease that is produced by a causal agent in the work environment in which he is forced to work; these diseases are found in a table decreed by the presidency of the republic where the 42 diseases that can be generated by work are cited, it should be clarified that if said disease is not established within this classification, but its origin can be verified Occupational disease has effects of recognition as an occupational disease.

The expansion of coverage in occupational risks guarantees the right of access to a greater number of workers, materializing their right to equality, and even the dignity of all workers, to be covered for the continence's that may arise with their work without distinction. Of the contractual form that originates the obligatory link. In this sense, the jurisprudence of the Court has found that the different treatment granted by the legislator to contractors is fully justified. The guarantees of the right to work in decent and fair conditions promoted by the State fall exclusively on labor subordination contracts, therefore, it is unconstitutional to protect the link of provision of services with the provisions of the right to social security in professional risks, who naturally are not the weak party in the relationship, but who enjoy autonomy to develop the object of the contract. In any case, if it is a natural person, it is evidently difficult to demonstrate the occurrence of the work accident since the contractor is not subject to working hours and can perform the work in an area other than that of the company, even can develop several contracts for the provision of services, preventing the establishment of a causal link between the event and the occasion of the service. The concept of work accident contained in the Law is developed mainly in the context of an employment relationship, by using normative assumptions such as "on the occasion of work"; "enforcement of employer orders"; "work under his authority, even outside the place and working hours" among others, for which, in principle, it would generate some doubt regarding the elements to take into account to determine the work accident of an independent contractor.

Related Economic Benefits

It was specified on the liquidation base income which provides economic benefits within the company either due to work accident or occupational disease; also in decree 1295 of 1994 this topic is mentioned, however the dimension on assistance and economic benefits to the worker taken into account within a company for the rights of workers is more detailed in terms of the amounts and modalities in the new reform of the year 2012, as reflected in the sixth article which indicates that the amount of the contributions for workers linked by contracts with public entities where the payment of contributions by the employer and may not be less than 0.348% nor greater than 8.7%, understanding for this reason the regulation that exists in this parameter. Continuing with the seventh article, where it is indicated that the employer and/or contractor in default with the payment of contributions, general risk systems, will be in charge of the assistance and economic expenses of the worker, however, there will be no automatic disaffiliation of the worker affiliates, it being understood that is in arrears when it has not complied with its obligation to pay said contributions within what is stipulated.

Indeed, the social security system founded on the Constitution and developed by law, has as its primary goal respect for human dignity and the quality of life of individuals, based on the fact that work is an essential value and a founding principle of the Colombian State, in addition to being a fundamental right of workers, essential elements of the Social State of Law. Thus, the social security system concerned with the protection of professional risks is an insurance system in which discrimination is established between workers insured by the professional risk system, because despite the fact that the company and the worker contribute In a total way to the system, as all the insured do, the worker who suffers an accident at work or sensibly decreases his work capacity, is not taken into account to qualify the degree of disability previous health conditions, which violates the right to equality and the principles of inalienability, universality, solidarity and compulsory social security enshrined in Article 48 of the Constitution. In contrast to the above, those people who carry out work to promote and prevent occupational accidents and illnesses must be trained in relation to the management systems and the established modifications [8].

The Occupational Risk Management entity must make a report of the Management System for safety and health at work for the prevention and promotion of the company in charge, this must be presented every six months before the Ministry of Labor for respective follow-up, non-compliance with such disposition will have their respective fines.; In the same way, when resolution 1016 is reviewed, it is found on the subprograms of preventive medicine, work, safety and industrial hygiene, now known as subsystems [9], which regulate the organization and operation of the Management Systems for Safety and Health in the job. It should be clarified that these precepts have been modified, understanding from the issuance of the new system law as management systems before programs and occupational health and safety [10], previously recognized as occupational health.

The modification of article 66 of decree law 1295/94 is specified, which indicates that the supervision of high-risk companies must be in charge of companies certified to carry out said work, confirming that the governing bodies in this

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regard are the Administrators of labor risks and the Ministry of Labor; while when referring to companies that work with toxic carcinogenic substances, they must comply with a minimum of preventive medicine activities, regulated by the Ministry of Labor. Turning to the topic of micro and small companies with a high accident rate or classified as high risk, they will receive support in strengthening promotion and risk prevention activities in these companies to avoid any unwanted event that may cause damage or loss related to the security and health at work. It is maintained in these companies and institutions, public or private that have ten [10] or more workers at their service, are obliged to form a Committee of Medicine, Hygiene and Industrial Safety, whose organization and operation will be in accordance with the standards of the resolution that regulates them.

Next, the activities that must be carried out by the entities of the General System of Occupational Risks and the distribution of the contributions that are made for each activity, to achieve the goals related to risk management, where 5% will be used for the execution of basic activities regular promotion, prevention and risk control scheduled in accordance with risk management indicators in companies; while 3% will go to the labor risk fund. It is hereby stated that the Occupational Risk Administrators may not displace human resources or finance activities that, according to the law, correspond to the employer, although they may propose plans and programs to be developed with the companies that they will present to the Ministry of Labor. While the object of the labor risk fund is identified, they originate with article 22 of law 776/2002 by article 88 of decree law 1295/94, which indicates that said fund can be used for studies, prevention and investigation of accidents at work and occupational diseases, bonus and economic incentive.

Sanctions

Article thirteen that modifies article 91 of decree law 1295/1994 indicates the sanctions that the company has for not complying with the safety and health regulations at work, it is awarded a fine of (500) current legal minimum wages according to the seriousness of the infraction and prior compliance with the due process for the professional risk fund, it is also taken into account that if the inconsistencies persist, the establishment may also be closed for 120 days or permanently, to carry out said fines provided for in the law, criteria such as the degree of culpability, putting the life or integrity of the person at risk, recidivism of the offending conduct, the degree of collaboration of the offender with the investigation will be taken into account. The labor inspectors of the Territorial Directorates of the Ministry of Labor of the country will be competent to order the sanctions, fines and even the definitive closure of the company for violation of the norm that puts the personal safety of the workers at risk. The measure also establishes that employers must report occupational accidents and illnesses within 2 business days both to the EPS, ARL and to the Territorial Directorates of the Ministry of Labor. Thus, the decree states that depending on the severity there will be an immediate ban on work in the company from 3 to 10 business days; and from 10 to 30 calendar days, when they incur again in any fact that is punishable.

Mention is made of the mandatory quality assurance system in the general occupational risk system, where compliance with the standards of the quality assurance system will be verified through visits made by the general risk system, these visits will be carried out by the Ministry of Labor or suitable third parties authorized by it, taking as priorities those companies with the highest accident rate and deaths, the model used is similar to the one already applied by the health quality assurance system, implemented in the first instance by the Ministry of Health and social protection to health service providers throughout the country.

The provision of the occupational risk system for the agents of interest that are part of the mandatory quality assurance system ratifies the obligation of the Ministry of Labor to carry out visits for the purpose of verification and monitoring of the minimum quality standards that are established. they will be assigning each actor of the general system of labor risks, for this, the national government will be able to carry out visits through its collaborators or through third parties; the costs will be assumed 50% by the Occupational Risk Administrator to which the employer is affiliated and 50% by the Occupational Risk Fund.

Recounting the related decree, it is evident that it has consigned aspects consecrated in the quality management system such as (accessibility, opportunity, security, relevance and continuity); components of the quality assurance system of the general occupational risk system, its objective, powers, sanctions and validity of a similar nature to those already established in regulations such as decree 1011 of 2006 and similar predecessors that promoted the model of the quality assurance system, quality in for Colombia in its beginnings and predecessors such as the initial resolution of the quality assurance system in health services.

This System has the following components: system of minimum standards, audit for the improvement of the quality of care in Occupational Health and Labor Risks, accreditation system, information system for quality that through the Ministry of Health and Social Protection indicates as a progressive model of the standards that are included in the components of the Quality System, which for this matter has been adapted and adjusted, with the objective of reducing the risks in the care of workers. This allows evaluating and

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monitoring the quality of Occupational Health and Safety services, to achieve the objectives of the General System of Occupational Risks and thus improve the health and working conditions of Colombians, assimilating the Mandatory Quality Assurance System. That defines quality characteristics such as accessibility (receiving care without restrictions or obstacles), timeliness (receiving care when needed), safety (with the least possible risk), relevance (receiving what is required) and continuity (sequence logic of the services that the client requires) consolidated in the structure of the System. The actions carried out by the System are aimed at improving the results of care in Occupational Safety and Health and Occupational Risks, focused on improving working and health conditions, which go beyond verifying the existence of structure or process documentation.

Emphasis is placed on the characteristics of the quality assurance system of the general occupational risk system [11], in which the actions developed by the system aimed at improving the results of occupational health and safety care are highlighted. and labor risks maintaining a documented procedure, as a prerequisite for the achievement of results, with characteristics such as the possibility for workers and employers to use the occupational health and safety services that guarantee accessibility in the system, the possibility that it has workers and employers to receive the services, as well as that these are provided without setbacks that put their health at risk [12]. In the same way, the safety characteristic, understood as the set of structural elements, processes, instruments and methodologies, based on scientifically proven evidence, which tend to minimize the risk of suffering an adverse event in the processes of promoting safety and health in the job; related to relevance as the way in which events related to risk are handled, has a direct impact on the execution of occupational health and safety services that workers require, according to the nature and degree of danger of their occupational risks, through a logical sequence of activities, based on scientific knowledge, without dilations that affect the effectiveness of said services in their phases2. Four components are cited to develop, as the first component the system of minimum standards, which are mandatory standards that providers must reach and comply satisfactorily [13]; the audit for the improvement of the quality of care in safety and health at work and occupational risks, based on a systematic and continuous evaluation mechanism to verify the scope of quality standards by the service provider [14], as well as accreditation, where compliance with higher levels of quality is demonstrated and evaluated, which is articulated with the last component, the quality information system, which is implemented in order to stimulate competition for quality and knowledge of this process for clients.

The inspection that the financial superintendence must apply to the occupational risk administrators is specified, where it complies with the terms and regulations of the payments of economic benefits, in addition, the territorial directorates of the Ministry of Labor will file the complaints to the financial superintendence, related with non-payment, indicating these economic benefits that the worker is entitled to in the event of an accident or professional illness, was specified in the modification of article 42 of Law 100 of 1993, which says that the regional and national disability qualification boards are agencies of the security systems and that these members of these boards will be governed by the law, in addition to the fact that the Ministry of Labor will organize each (6) months of entry into force of the law of the general risk system.

The fees that must be paid in advance to the regional disability qualification boards by the pension fund administrator if the qualification is of common origin and, of labor origin, will be paid by the occupational risk administrator, with the provision dealt with in decree 1352 of 2013 where it is indicated that effectively the disability qualification boards [15]. They will receive in advance from the applicant the equivalent of a current legal monthly minimum wage established for the year and without prejudice to the number of pathologies that occur or must be evaluated. The foregoing is also related to the provisions to be fulfilled by the applicant, who is sanctioned by the territorial directorates of the Ministry of Labor when the advance payment is not made.

It was specified about the first instance in the qualification of invalidity, being the responsibility of the regional boards and if there is controversy in this regard, the second instance must go to the national board. It is also found that Law 100 argues about the purpose of the General Pension System to guarantee the population protection against contingencies arising from old age, disability and death [16].

Referring to article 43 of Law 100 of the general comprehensive social security system, in its third chapter and in accordance with the provisions of the new standard of the general risk system, the modification of the Impediments, challenges and sanctions of the Regional Boards is established. and National, indicating that its members will be individuals who exercise a public function, they may not have any relationship, nor carry out activities related to the qualification of the origin and degree of loss of labor capacity or administrative or commercial tasks in the Security System Administrative Entities Social Integral, nor with its management entities, its members, do not have the character of servants, public, do not earn salaries, or social benefits and are only entitled to the fees established by the Ministry of Labor, in addition they will not remain more than two periods continuous in office; will be subject to the regime of impediments applicable to the Judges of the

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Republic, in accordance with the provisions of II the Code of Civil Procedure and its processing will be carried out in accordance with article 30 of the Contentious-Administrative Code [17].

Referring to the supervision, inspection and control of the Qualification Boards, it is the responsibility of the Ministry of Labor, which will implement an Annual Plan of Visits for the supervision, inspection and administrative, operational and financial management control of the Disability Qualification Boards, whose objective is to optimize and streamline the evaluation process carried out by the disability assessment boards in occupational risks in Colombia, the Ministry of Labor issued a decree that clearly establishes the administrative and financial management of these work units, which from the issuance of decree 1353 of 2013, they will be attached to the Ministry of Labor [18].

In relation to the Occupational Health of the Teachers, the disability qualification manual and table of occupational diseases will be established for teachers affiliated with said fund. Likewise, the implementation of occupational health programs, joint safety and health at work committees [19], promotion and prevention activities, and epidemiological surveillance systems are established. The adoption and implementation of the foregoing will in no way affect the special health exception regime that, in accordance with article 279 of Law 100 of 1993, is in force for those affiliated with the National Fund for Social Benefits of Teachers.

Benefits

Addressing the issue of pension allowances and other benefits in the general professional risk system, Decree 1295 of 1994 also states that all members of the general professional risk system who, under the terms of this decree, suffer an accident or professional illness you will have the right to have this general system provide you with assistance services. The Ministry of Health and Regulatory Protection within a period of six (6) months counted from the entry into force of the Occupational Risk Law, enshrined in the respective resolution [20], the procedure that must at least include requirements, experience, national and departmental coverage that it will recognize and renew the occupational health license for university professors specializing in health; Analyzing resolution 1016, it is specified that the occupational health program will be evaluated by the company at least every six months and readjusted every year, this last provision is still in force for the management systems for safety and health at work.

In relation to the ARL labor risk administrators, they will pay the EPS health promotion entities economic assistance. If the risk manager does not pay within the stipulated periods, it must recognize interest on arrears in favor of the EPS, in order to interrupt the prescription of the collection account, the presentation of the request for reimbursement, as long as the requirements indicated in the regulation are met. It should be understood that the regulations of the Ministry of Health and Social Protection would be defining in the first instance the respective collection or recovery maneuvers, the previous procedures are valid and will allow the respective claims to be made for up to 5 years, from the qualification of disability by the regional board. or national, as the case may be; or the dates of delivery of the account if it meets the respective requirements. The term will be reduced to 3 years in the case of subsidy claims for temporary disability claims, taking the generation of the ruling as the starting date.

With respect to the characteristics of the system, that the expansion will have previous technical and financial studies that help to financially support the general system of occupational risks. It must be understood that this system must be functional and financially viable in its execution and respective coverage.

On the obligations of the employer, that the rules are governed by current regulations. Understood that in order to train the worker, the employer must provide sufficient means for this provision to be fulfilled in the space, time and logistics required, including teleworking as a new modality; the obligations of the worker and, the rules of the company's safety management system and all these obligations of the worker are defined by the regulations of the new occupational health and safety system, where Telework is also a new way of labor organization, consisting of the performance of paid activities or the provision of services to third parties using information and communication technologies-ICTs, as support, for contact between the worker and the company, without requiring the physical presence of the worker on a site job specific. The person linked to this type of employment who performs work activities through information and communication technologies outside the company to which he provides his services. Another of the purposes of Telework is to link the most needy population, for which the Ministry of Social Protection will formulate a public policy for the incorporation of the vulnerable population into telework (people with disabilities, population in a situation of forced displacement, population in a situation of geographic isolation, female heads of household, population in prison, people with life threats), which will provide opportunities for inclusion and improvements in quality of life. Of these, among others, complying with occupational safety and health provisions stands out, as well as participating in the promotion and prevention activities of the ARLs, the above also applicable to teleworking activities.

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It is possible to infer that for the national health institute as scientific-technical authority, 1% of the resources of the Occupational Risk Fund will be allocated, which are 3% of the total contributions of the system, will be allocated for this purpose, In addition, it will be assigned to this institution the coordination and execution of scientific research policies in occupational health as well as the participation of all the actors of the system and of all the research institutions for the development of the projects according to the lines of research established as owners and problems with the highest incidence and prevalence in the health of workers. In this order of ideas, the institute should be taken as an active participant in research activities in the order of safety and health at work in Colombia.

The Ministry of Labor seeks, through the promulgation of the aforementioned Law on Occupational Risks, which seeks to protect all Colombian workers against accidents and illnesses (such as work-related situations) that are generated within work activities and to set clear rules for workers, employers and system administrators. Being the main purpose for generation of more and better employment, decent and quality work for all, the law is in tune with this goal, by including new responsibilities for employers, from the organization and execution of the occupational health and safety management system. Among the main improvements is the inclusion of mandatory coverage in risks employment for independents or contractors. In accordance with the norm that establishes the sanctions, the Republic of Colombia and the Minister of Labor established the amounts of the sanctions for infractions that will be applied for causes of death of the worker, recidivism, obstruction of the investigative action, use of fraudulent means that hide the violation, the degree of prudence and diligence with which the rules have been applied. Also due to the absence of promotion and prevention activities, failure to comply with the recommendations made by the Occupational Risk Administrators (ARL) or the Ministry of Labor, among others. The sanctions for companies will depend on their size, whether it is a micro, small, medium or large company, as well as the number of workers and the value of their assets. For example, a microenterprise with up to 10 workers, with assets of less than $322 million that fails to comply with occupational health regulations such as an accident that causes the death of the worker, will be sanctioned from $13 to $15 million.

The increase in the value of sanctions for non-compliance with regulations, related to civil liability that undertakes the search for compensation of people who have been directly harmed by illegal conduct, those who have suffered in their flesh or in their assets the consequences of the crime, or of the administrative infraction, or simply of the imprudence of others, which requires the participation and understanding of the components of the law, where the economic reparation takes place.

When mentioning the work accident and occupational disease report, whose omission in these reports affects the calculation of the Disabling Injury Index (ILI) or the evaluation of the Management System for safety and health at work, the employers or contractors will be credited and user companies, to fines of up to one thousand (1,000) legal monthly minimum wages in force. The cause of underreporting is the scant recognition of the importance of the problem by companies and workers, especially in work-related illnesses [21], which by their nature require a long time for signs and symptoms to appear. In a study conducted on deaths from work-related illnesses, he points out that these are 10 times more than those caused by work accidents (a rate of 5.3 per 100,000 inhabitants is reported in the US) [22].

The foregoing would also affect companies that "make up" the indicators and data on accidents by not generating the event report and turning it into a restricted activity. This situation is understood in terms of the registration of occupational accidents and diseases, which has been recognized as a problem in most countries [23], due to deficiencies in the information systems and insufficient coordination between the different work organizations and health [24]. Developed countries are not exempt from this problem; The United States of America (USA) Bureau of Labor Statistics reports that, of all accidents and illnesses, approximately 10% are not recorded and the days of work lost due to injuries and illnesses in these cases are approximately 25%.

The resources of the system must always be used to financially support the benefits of the General System of Occupational Risks, which will not be subject to any type of tax; being the Special Commission of Labor Inspectors in the Matter of Labor Risks and the National System of Labor Inspectors, enshrined in Law 1610 of 2013 and whose objective is the aspects of labor inspections and labor formalization agreements, whose role consists of the processing of the visits and the respective decisions based on a prioritization scale and the quality of the decisions, in addition to the decentralized level of the Inspection, Surveillance and Control System (IVC), "that is, the 34 territorial directorates of the Ministry of Labor Throughout the country, it currently has 533 inspectors, who until October of last year carried out 3,270 preventive assistance and 918 improvement agreements, which concluded in solutions in favor of the workers and avoided punitive actions". The object is the formalization and generation of employment, in addition to the generation of incentives for formalization in the initial stages of business creation; increasing profits

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and decreasing training costs. For small companies: with less than 50 workers and total assets below the 5,000 legal monthly minimum wages in force, with the start of economic activity in the Chamber of Commerce, independently and that previously operated as an informal company. Applied to two types of employment informality:

1. Informality for subsistence: It is that which is characterized by the exercise of an activity outside the legally constituted parameters, by an individual, family or social nucleus in order to guarantee their vital minimum.
2. Informality with accumulation capacity: It is a manifestation of informal work that does not necessarily represent low productivity.

Saw, Relevant Regulations

In the labor context, a special treaty appeared on how to prevent and solve situations of harm due to workplace harassment, where the object is to define, prevent, correct and punish the various forms of aggression, mistreatment, humiliation, inconsiderate and offensive treatment and in In general, any outrage against human dignity that is exerted on those who carry out their economic activities in the context of a private or public employment relationship. Especially protecting work in decent and fair conditions, freedom, privacy, honor and mental health of workers, employees, harmony between those who share the same work environment and the good atmosphere in the company. It will not apply in the field of civil and/or commercial relations derived from contracts for the provision of services in which there is no relationship of hierarchy or subordination. Nor does it apply to administrative contracting." It is pointed out that this law, originated in 2006, is intended to prevent workplace harassment or any persistent and demonstrable conduct exercised on an employee, worker by an employer, a boss or hierarchical superior. immediate or mediate, a co-worker or a subordinate, aimed at instilling fear, intimidation, terror and anguish, to cause labor damage, generate demotivation at work, or induce the resignation of the same in its different modalities such as reiteration or evident arbitrariness to infer the purpose of inducing the resignation of the employee or worker, through disqualification, excessive workload and permanent changes in schedule that may cause labor demotivation; another of the punishable conducts of this law is differential treatment for reasons of race, gender, family or national origin, religious creed, political preference or social situation or that lacks any reasonability from the labor point of view, along with hindering the performance of the work or making it more burdensome or delaying it to the detriment of the worker or employee. They constitute actions of labor obstruction, among others, the deprivation, concealment or disablement of supplies, documents or instruments for the work, the destruction or loss of information, the concealment of correspondence, electronic messages, the assignment of functions to the disregard of the worker or putting the integrity and safety of the worker at risk through orders or assignment of functions without complying with the minimum protection and safety requirements for the worker. Identified workplace harassment as a latent concern in the different economic sectors and an internal group of companies is necessary for the operationalization of the needs distributed between representatives of the employer and employees, in an effort to prevent workplace harassment that contributes to protecting employees, employees against psychosocial risks that affect health (Martínez Alcántara, S and Hernández Sánchez A, 2005). due to conditions such as mobbing or burnout in the workplace, requiring the formation of these from 2 representatives of the employer and 2 of the workers with their respective substitutes, leaving it to the consideration of the companies to expand this number without affecting the equality between the parties. Workers must secretly, freely, spontaneously and authentically elect their representatives, by vote and public scrutiny, while employers can assign them directly. This committee will be elected for periods of 2 years and must meet ordinarily every 3 months and will meet with half plus one of its members and extraordinarily when cases arise that deserve to be addressed immediately. Likewise, they must create their own regulations where the functions of each member and all the guidelines required for their proper functioning are established. The members of the committee may not be elected if 6 months before their appointment they received a complaint of workplace harassment or have been victims of workplace harassment, thus obtaining normative tools so that the coexistence committees play an important role within an organization and its management has an impact, which will translate into positive results in the work environment and the well-being of workers. Its success will also depend on its members having attitudinal and behavioral skills that identify their constituents, as well as assertive communication skills that allow them to adequately address a conflict.

Another of the advances in social security is constituted by the Law of Protection Mechanism for the Unemployed MPC or Unemployment Insurance, this includes the possibility that whoever takes advantage of it additionally receives an economic contribution, which is conditional on the unemployed person having made contributions volunteers to their layoffs, in addition to guaranteeing the unemployed for six months the contribution to health, pension and family subsidy, it allows them to access intermediation services and training in basic and labor skills and training for work certified in quality. Affiliation to the MPC is mandatory for all employees affiliated with the Family Compensation Funds, except for full-wage workers and independent workers, for whom affiliation will be voluntary. According to the new

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provision, dependent or independent workers who meet the requirement of contributions to Family Compensation Funds will receive a benefit, which will consist of contributions to the Health and Pensions System, calculated on a current legal minimum wage, related to the new and necessary regulations on safety and health at work, it is recommended to review the agreements with the entities where academic internships are carried out for students who develop activities that feed the corporate purpose of the organization where they carry out activities, thus promoting knowledge of the conditions in which the obligations imposed in which they are carried out according to what is stated in the regulations will be developed and assumed, this of a necessary product and prior agreement with the companies, in order to guarantee the affiliation and payment of the contributions of the students, together with the acquisition of duties towards the aforementioned.

In all work or when performing a task, negative alterations can always occur in the human body through accidents or the health of the worker, that is why the decree was created, the special list of occupational diseases, which has been renewed and modified by which It has the regulated one with respective modification and the purpose of reducing occupational risks and preferably preventing them. This standard deals with diseases in the work area and defines as occupational disease those contracted as a result of carrying out these work activities, in this law there are more specified diseases and it is renewed understanding the occupational diseases as the cause of the decrease of the worker's capacity at the time of performing their tasks, that is, there is a decrease in work productivity, which can cause losses to the company. The reason for creating the list is to prevent and reduce risks so that there are no accidents or events that can give rise to these diseases and thus increase the effectiveness of the company's productivity and mitigate costs, expresses about the diseases that occurs in the area and/or activity carried out at work. An occupational disease has been defined as one contracted as a result of exposure to risk factors inherent to the work activity or the environment in which the worker has been forced to work, it being understood that the present table of occupational diseases is intended to: the analysis of risks and/or work environment to determine what diseases can occur at the time of carrying out a mandate or the activity corresponding to their work. In other words, it helps to detect the risks that arise, facilitating the prevention of occupational diseases and determining the medical diagnosis in workers already affected by it. However, in some cases in which the disease is not present in the table, but it is shown that it is a consequence of work, the relationship of chance (cause-effect) occurs. That is, the chance relationship tries to determine the causes and consequences of the risk generated by the disease, in order to give proof and proof of it. On the other hand, economic and assistance benefits are presented for those people who, due to occupational illness, whether they are in the table or not, but with their respective investigations are considered to have been a consequence of their work activity, are entitled to benefits, economic and assistance given by the ARL (Occupational Risk Administrations).

It must be taken into account that the decree that adopted the Table of Occupational Illnesses is the first table to provide information on this, in addition to being the basis of decree 1477/2014. Well, this decree discloses 42 diseases caused by work activity. In the first instance, it reveals what the occupational diseases are, they specify which activities and work environment are the ones that cause each one of these and also which are the risk factors that intervene. However, in the year 2009 of July 7 in decree 2566 it is confirmed that stress is an occupational disease. The decree in question is the only one specific with details of the diseases by means of two tables. That is, it is divided into sections I and II, in the first section it has:

- Occupational diseases corresponding to the risk factor that generates them (causative agents)

The second section has:

- Direct occupational diseases.
- Occupational diseases classified by groups or categories.

Through Decree 1047 of 2014 issued by the Ministry of Labor and Resolution 2634 of 2014 issued by the Ministry of Health and Social Protection, the necessary measures are established to guarantee taxi drivers affiliation to the system, with these measures adjustments are made to the Integrated Contribution Settlement Form and two subtypes of contributor are created with which drivers of public service of individual automotive land transport of passengers in taxi vehicles will be identified, the subtype of contributor with which the payment of contributions to health, pension and labor risks (emphasizing that driving is classified as the highest level of risk) with which contributions to health and labor risks must be made and contributions to pensions must not be made. It must be borne in mind that the taxi driver may relate as a special contributor and will not be obliged to contribute a pension if he meets conditions such as being a contributor with 50 years of age or older, if he is a woman, or 55 years or more if he is a man and never has contributed to the General Pension System, if he already enjoys an Old-Age pension, if he is a contributor who has received substitute compensation for balances or refund of contributions, Contributor with fulfilled requirements for pension, contributor belonging to an exception regime (for example: Armed Forces, National Police, Ecopetrol, Teachers).

Another of the relevant events operated by the Ministry of Labor is related to the modification of the Safety Regulations for protection against falls from work at heights, having the

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function of applying intervention measures to all employers, companies, contractors, subcontractors and workers of all the economic activities of the formal and informal sectors of the economy, that develop work at heights with danger of falls in all work where there is a risk of falling 1.50 m or more above a lower level, having as input the risk analysis that The coordinator of work at heights or the person in charge of the occupational health program currently called the Occupational Health and Safety Management System (SG-SST) of the company that identifies dangerous conditions that may affect the worker at the time of an accident. Fall, such as areas with obstacles, dangerous edges, projecting elements, points, energy systems gazed, moving machines, among others. Even at heights lower than those established by the safety standard, in accordance with this, the employer who has workers who perform work tasks at heights with risk of falls must at least carry out occupational medical evaluations and the management and content of occupational medical records. in accordance with what is established, including the necessary measures for the identification, evaluation and control of the risks associated with working at heights, individually by company or collectively for companies that work on the same work, coverage of fall risk conditions in work at heights, through control measures aimed at prevention collectively, before implementing individual fall protection measures and in no case, may work at heights be carried out without the established control measures adopting compensatory and effective security measures, when the execution of a particular job requiring the temporary removal of any collective fall prevention device, ensuring that fall protection systems and equipment meet regulatory requirements, such as the provision of a work at heights coordinator, of authorized workers at the required level and if necessary, a security assistant as appropriate to the task to be performed with the provision of equipment, training and retraining, including the time to receive the latter two, at no cost to the worker.

Important projections in the provisions of the Colombian Ministry of Labor are the technical formats to guide and direct the both public and private sectors, employers or employers' organizations, workers, workers' organizations, those responsible for safety and health protection on construction sites. of construction and infrastructure that contributes to prevent, and control the labor risks typical of excavation activities, this has as a special task to be applied in construction and infrastructure works, they are associated with a large number of risks that cause very serious incidents and accidents and even deadly; of this in importance due to the unfavorable statistics for those affected already recognized by activities such as work at height, confined spaces and dangerous energies, the most dangerous so far among the economic sectors [25]. The guide seeks to direct the training of competent personnel who will inspect the excavation, the adjacent areas and the protection systems every day before starting work, as needed during the working day and after it rains. Advise on precautions to be taken and ensure that all vehicles are kept a safe distance from the excavation. Make sure ladders and other means of exiting the trench are positioned so that ladders are never more than 25 feet from workers in the trench. The Competent Person should remove workers from the excavation at any signs that the situation could lead to a cave-in, such as water pooling in the trench or problems with protection systems. (The competent person must also take action against other types of risks such as falling objects and dangerous atmospheres). Watch for other types of risks that can occur due to trench work, such as falls from the edges, drilling hazards, or toxic or combustible gases. Put in place and enforce procedures to ensure work is not allowed in unprotected trenches. Workers working in trenches or excavations face a risk of death if they enter an unprotected trench and its walls collapse. However, the risks associated with trenching and excavation work are preventable and well identified. OSHA's Standard for Excavation and Trenching, outlining precautions necessary for safe excavation [26].

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