

Legal Shots

PROBATIONARY PERIOD

The law now establishes the presumption of the probationary period's exclusion if the employer does not inform the employee of the probationary period's duration and conditions. There is also a reinforcement of the circumstances that may lead to unlawful termination as a result of termination during the probationary period.

The law now establishes the presumption that probationary period is excluded whenever the employer fails to inform the employee of the respective terms and conditions.

These changes impact on the parties freedom to freely terminate employment.

Also, the employer now only has 7 days following the start of the contract to provide the information, as opposed to the previous 60 days.

Another relevant aspect is the qualification of a contract termination as unlawful if it constitutes an "abuse of law". However, the abusive nature of the termination can only be decided by the judicial courts. Employees looking for first-time employment and the long-term unemployed now benefit from a reduced or eliminated probationary period, depending on whether the duration of the previous fixed-term employment contract, entered into with a different employer, was equal to or greater than 90 days.

Finally, the probationary period of professional trainees with a positive assessment may also benefit from a reduction if they continue to perform the same activity for a different employer; reduction will apply depending on whether the traineeship has lasted 90 days or more, respectively over the previous 12 months.

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