



MACHADO
ASSOCIADOS

LABOR & EMPLOYMENT

2025 Review and 2026 Insights

December 15th, 2025



2025 Review and 2026 Insights

In an increasingly complex legal environment, court rulings and regulatory changes have a concrete daily impact on costs, reputation, and people-management strategy. Accordingly, monitoring and understanding the legislative and judicial agenda has become crucial and strategic for companies and institutions to measure, with greater precision, the main contingencies that may affect their businesses and operations.

In this special newsletter, divided into two topics, we bring together the key legal developments of 2025 in corporate labor and social security matters - from the higher to the regional courts, as well as relevant legislative and administrative trends - highlighting what is already producing immediate effects on corporate routines and what is signaling risks and opportunities on the horizon for 2026.



We hope that this guide, far from being exhaustive, offers a practical and executive read to support legal, HR, labor-relations, and ESG departments in making safer decisions, preventing liabilities, and building work environments aligned with current compliance, governance, and corporate social responsibility requirements.

2025

Strong Consolidation of Precedents and Increased Predictability of Rulings

At the Federal Supreme Court (“STF”), the year’s hallmark was the consolidation of understandings that have been shaping litigation and contracting models. The Court continued to apply, rigorously, the logic already established under general repercussion regarding **outsourcing and indirect hiring (Theme 725)**, reaffirming that outsourcing is lawful at any stage of economic activity and that structures involving independent contractors (“PJ”) are not illegal by nature.



Legal risk increasingly ceases to be about the “model” adopted and instead concerns how it is implemented—the “evidence of fraud” (where there are direct subordination, personal service, and typical employee integration) is ever more relevant to whether an employment relationship may be recognized. The robust absence of such evidence of fraud has led the STF to repeatedly overturn decisions by the Regional Labor Courts (“TRTs”) that conflict with this approach, reinforcing the requirement for hiring parties to maintain documentary governance and invest in organizational culture to demonstrate autonomy in their relationships with service providers.

Still at STF, issues relating to labor enforcement gained prominence, particularly regarding the impossibility of including/holding liable companies within the same economic group at the enforcement stage if they did not participate in the evidentiary phase (Theme 1232), and regarding the burden of proof about oversight of outsourced contracts involving the Public Administration (Theme 1118).

The conclusion of these cases will have significant repercussions on corporate reorganizations, asset guarantees, and the management of public-sector contracts.



On the social security front, STF again addressed sensitive points of the Social Security Reform (Constitutional Amendment 103/2019), such as special retirement rules and the calculation criteria for disability benefits—issues that may affect employers' civil liability

for benefits paid by Social Security and later recovered through recourse actions, signaling an indirect trend of **increased financial risk for sectors with greater exposure to hazardous activities.**



At the Superior Labor Court (“TST”), 2025 was a year of accelerated harmonization. The Court intensified the establishment of binding theses in repetitive appeals, consolidating understandings on:



**WORKING
HOURS**



OVERTIME



BREAKS



**PAY-RELATED
SPILLOVER EFFECTS**



LIABILITY



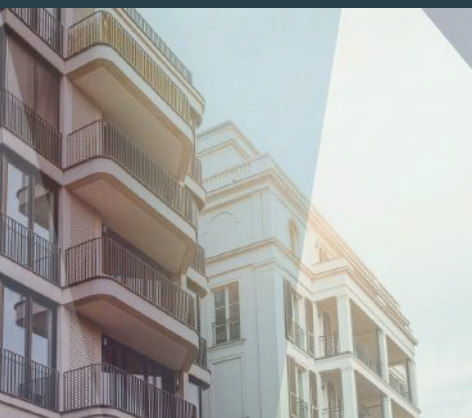
ENFORCEMENT



**MORAL DAMAGE AND
WORKPLACE HARRASMENT**

This concentrated production of precedents has increased litigation predictability and shifted judicial disputes to a more technical axis: the party that prevails is the one able to demonstrate stronger factual adherence to the applicable thesis. For companies, this means two things at once—clearer defense opportunities when there is compliance with case law and, on the other hand, greater risk when internal policies and operational practices do not align with the consolidated decision-making standard.

In the Higher Labor Courts (“TRTs”), although regional variations continue to exist in the assessment of evidence (especially on issues such as harassment, collective moral damages, contractual fraud, and mass litigation), the predominant trend was **faster alignment with STF and TST precedents**. In practical terms, the regional landscape became less “dispersed” in legal theory and more varied in evidentiary evaluation—reinforcing the importance of a national risk matrix with local adjustments for documentation, training, and witness management.



Several decisions were issued by the TRTs to limit labor enforcement against third parties, especially involving purchasers of real estate later subject to seizure, with such decisions benefiting good-faith acquisitions.

Social Security Funding on Payroll

The Brazilian Federal Revenue Service (“RFB”) began **allowing the offsetting of social security contributions without the need to amend the administrative filing when the credit right arises from a final, unappealable court decision (RFB Normative Instruction 2,272/2025)**, thus dispensing, for example, with the amendment of eSocial system as a prior requirement to use the social security credit when judicially acknowledged.



Conversely to the taxpayer, RFB **prohibits the offsetting of credits relating to third-party social security contributions** (i.e., not the company’s own), regardless of whether the intended offset would occur in cases of undue payment or payment in excess of what is owed (Consultation Solution 135/2025), reaffirming that offsetting between debits and credits of social security and non-social-security taxes is only possible, reciprocally, if both have an assessment period after the implementation of eSocial system and are owed by the same taxpayer (i.e., not third-party contributions).

Legislative Trend

The National Congress maintained in 2025 a modernization agenda, without a single major reform, but with several fronts whose effects will carry into 2026. The labor agenda revolved around improvements to **telework**, **work on digital platforms**, **working-time flexibility through collective bargaining**, and discussions on **work on Sundays and holidays**, as well as initiatives related to **care policies and parental leave**.



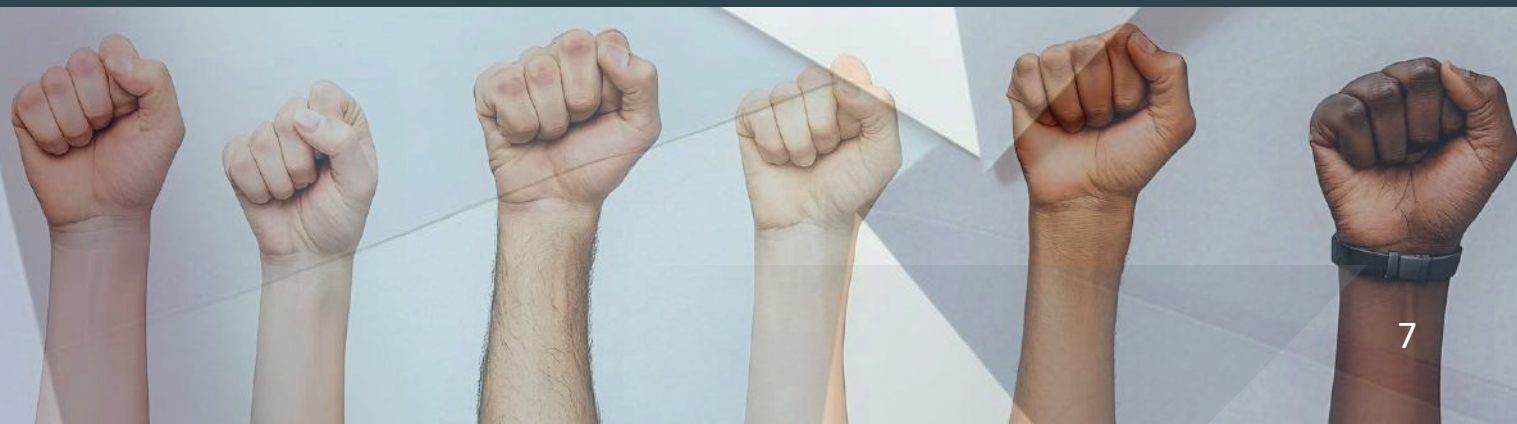
Some highlights on the legislative front were advances in the processing of numerous Bills dealing, for example, with **union matters** (employees' right to object to union contributions—**PL 1663/2023**) and **pay-related matters** (improvement of rules for payroll-deducted loans to employees—**Law 15,179/2025 and Decree 12,564/2025**).

CONGRESS AND THE FEDERAL EXECUTIVE ALSO GAVE MAJOR EMPHASIS TO **DIVERSITY, EQUITY, AND INCLUSION** (“DE&I”) AGENDAS, WITH PROGRESS ON BILLS AND THE ENACTMENT OF NORMATIVE ACTS IN THE FOLLOWING AREAS:



Gender Equity

- ▲ Encouraging the entry of women over 50 into the labor market (**PL 375/2023**)
- ▲ Formalization of the National Plan for Equal Pay between Women and Men (**Joint Ordinance 2/2025, Ministry of Women**)
- ▲ Reservation of a minimum percentage (8%) for hiring women victims of domestic violence in public bids (**Decree 12,516/2025**)
- ▲ Reservation of 30% of seats for full members of Boards of Directors of state-owned companies for women (**PL 1246/2021**)
- ▲ Extension of maternity leave and maternity benefit to the mother or baby when hospitalized for more than two weeks due to childbirth-related complications (**PL 386/2023**)





People with Disabilities (PCD)

- ▲ Obligation for employers to ensure accessible and inclusive work environments, with a telework option (**PL 340/2025**)
- ▲ Promotion of employment and entrepreneurship opportunities for PCD (**PL 3607/2024**)
- ▲ Guaranteeing the PCD the option of reduced working hours, without loss of pay, provided a technical evaluation demonstrates the need to reduce time (**PL 3290/2023**)
- ▲ Obligation to disregard unhealthy or dangerous activities when applying the PCD hiring quota in public administration bids (**PL 2175/2025**)





Working Conditions and Work Environment

Combating Forced / Slavery-Like Labor (**Legislative Decree 177/2025**), through approval of the Optional Protocol to Convention No. 29 of the International Labor Organization

Combating Child Labor among Traditional Peoples and Communities (**SIT/MTE Recommendation 1/2025**)

Expanding the civil and labor liability of employers who maintain work routines in establishments interdicted or works embargoed by labor inspection (**PL 5648/2023**)

Gradual extension (until 2031) of paternity leave from the current 5 to 30 days (**PL 3935/2008**)



2026

Agenda and Trends

From a legal standpoint, expectations for 2026 point to the concentration of debates and regulations along specific major axes.

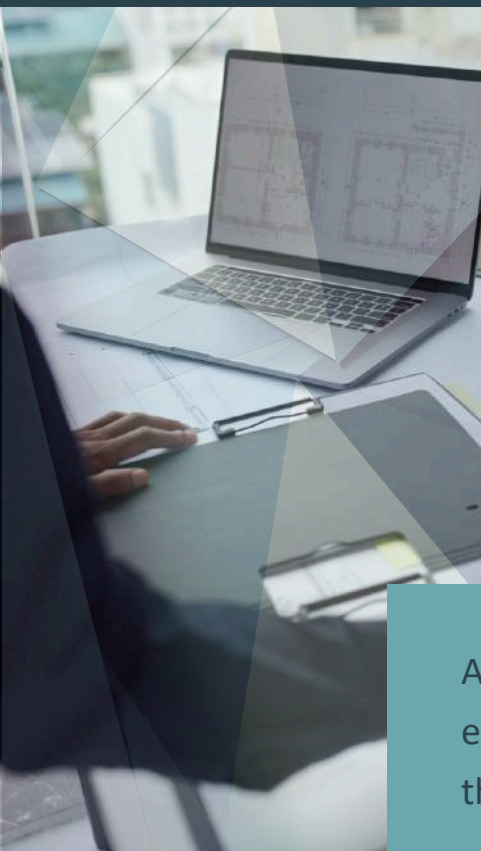


At STF, discussions on **employment status in digital platforms (Theme 1291)**, criteria for **algorithmic subordination**, boundaries between **legitimate independent contracting and fraud (Theme 1389)**, as well as developments in Themes related to economic group and outsourcing in the Public Sector, are expected to gain traction (or reach conclusion).

At TST, the trend is for continued production of binding precedents, with likely focus on **hybrid and digital working hours, non-pecuniary damages** (with a growing interface with the Data Protection Law), **harassment and discrimination**, and further reinforcement of **collective bargaining**.



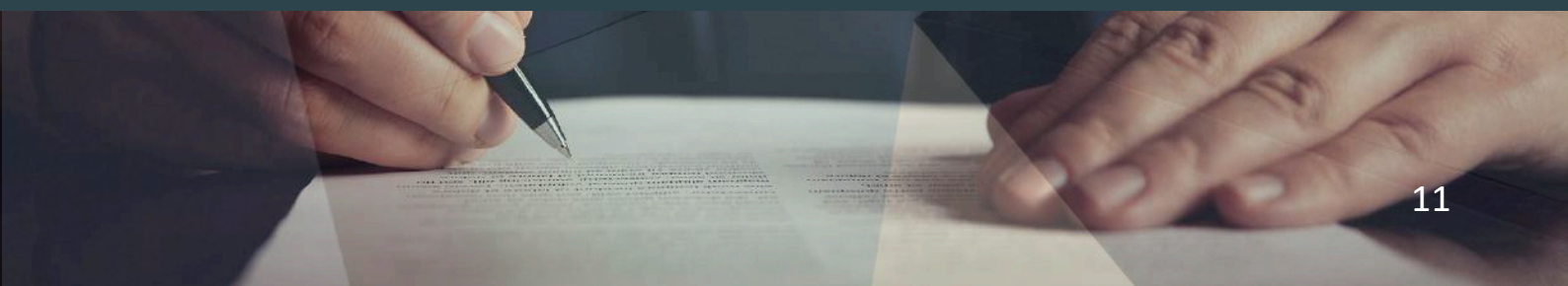
In the National Congress, it appears that **regulation of platform-based work** and new adjustments to **telework**—especially those related to mental health, ergonomics, technology cost allocation, and the right to disconnect—will occupy the center of the debate.



With respect to **working time**, MTE Ordinance 1066/2025 postponed to March 1, 2026 the obligation for employers to negotiate with unions the work of their employees **on holidays**. This postponement, which was not the first, primarily benefits the **commerce and services sectors**, which were exempt from entering into collective agreements on this front in 2025.

An increase in debates in the National Congress is also expected regarding the **end of the 6x1 work schedule** and the **reduction of the constitutional 44-hour workweek**.

From an **occupational health and safety perspective**, **Regulatory Standard No. 01 of the Ministry of Labor and Employment (“MTE”)** will produce full effects starting on May 26, 2026, requiring employers to adjust their Risk Management Programs (“PGR”) to the new rules involving **psychosocial risks**, especially the mapping and development of contingency/mitigation plans for situations that result in employees’ mental and behavioral health problems arising from **harassment, chronic stress, anxiety, depression, burnout, disorders**, among others, under penalty of inspection citations and fines.





Conclusion

It is highly advisable that companies and institutions intensify, as soon as possible, practical review protocols of their highest-risk areas to reflect greater compliance with legislative developments, as well as calibrate their litigation strategies and defenses to binding precedents, prioritizing factual adherence and qualified evidence during the evidentiary stage.

TO LEARN MORE, PLEASE CONTACT US.



ANDRÉ BLOTTA LAZA

ABL@machadoassociados.com.br



São Paulo

Av. Brig. Faria Lima, 1656 – 11th floor 01451-918 – São Paulo – SP
Tel: +55 11 3819 4855 | Fax: +55 11 3819 5322

Rio de Janeiro

Avenida Rio Branco, 181 – Room 3304 20040-918 – Rio de Janeiro – RJ
Tel: +55 21 3550 3000 | Fax: +55 21 3550 1510

Brasília

SHS. Quadra 06, Conjunto A – Bloco A
Room 808, Complexo Brasil XXI 70316-100 – Brasília – DF
Tel: +55 61 3039 8082