

EDITORIAL

The New Labor Process in the Digital Age is the theme of the thematic dossier of this 5th issue of the TRT4 Judicial School Scientific Journal. The process as an instrument for the accomplishment of the material right, not as an end in itself but, as a principle that should prevail in all circumstances. The adoption of the digital process in the Judiciary has proven to be crucial in these pandemic times. However, it is always worth emphasizing that science must find its basis in people's essence. Thus, the technological advance in the judiciary must serve to promote the parties as subjects of rights, and not to turn them into mere numbers that serve to quantify statistical data.

This issue begins with an article dedicated to the study of the Labor Court competence (JT) in a changing world of work context. It deals with the Federal Supreme Court's (STF) decision that established the JT's incompetence to judge cases involving sales representatives. The text is incisive when pointing out the mistakes of the decision that confuses the employment relationship with the labor relationship, since the former is a genus that encompasses the species translated by the latter. The Constitutional Amendment (EC) no. 45/04 defined, in the new wording given to article 114 of the Federal Constitution (CF), that the Labor Court has jurisdiction to settle disputes arising from labor relations, even if not characterized by subordination. In a systematic interpretation, this is, after all, the meaning that can be deduced from the wording of art. 7 of the Federal Constitution, whose caput provides for **workers' rights**.

Because of the pandemic, questions regarding the reduction of wages, the extension of the workday, and even the suspension

of the contract, as indispensable measures to preserve jobs in times of economic crisis, have arisen. Provisional Measure (MP) no. 936/20, later converted into law, dealt with the issue, privileging individual agreements to the detriment of the jus-fundamental rule that conditions the salary reduction to collective bargaining. Due to a questioning with the STF about the violation of item IV of art. 7 of the CF, the infra-constitutional rule was supported by the Court in an injunction. The conflict between the reservation attached to the fundamental right to irreducible salary, individual adjustments, and the conflict with a possible collective rule opposed to what was established by the parties, is the subject of another text in this issue.

The workers' collective dismissals are object of attention of an article that highlights the individualistic treatment, without prior social dialogue, that the legislator gave to Law no. 13,467/17 by excluding the participation of the professional union. Recently, this view found support in a STF decision in ADI 6363, handed down due to the terms of the MP no. 936/20, which again excluded union participation in contractual alterations now caused by the Covid-19 pandemic. The article emphasizes the need for social dialogue, in line with international standards. The mass termination of employment relationships does not exclusively concern the interests of the employer and employee, but has social consequences. To know the reasons or causes for the dismissal is, after all, the concretion of the right to information. In this particular aspect, the article refers to a fact that causes a stir: the judgment of ADI 1625, which questions before the STF the suspension of the Brazilian government's ratification of the International Labor Organization (OIT) Convention 158, has been awaiting trial for 23 years!

Artificial intelligence is addressed in an article that deals with its use by the Public Authorities, especially the Judiciary. International standards and the Data Protection General Law (Law no. 13,709/18) are examined. According to the authors, this law does not adequately account for the problems that may arise with the use

of artificial intelligence in the process. A special legislation would be necessary, but, in its absence, the National Council of Justice (CNJ) establishes regulations regarding the electronic process. The discussion of how technology should be adopted is resumed, that is, to serve the individual, and not to make him vulnerable to attacks on his personality rights. Science and the essence of people is a binomial to be properly articulated, with the purpose of promoting the individuals and the communities' well-being.

Artificial intelligence is also the subject of another paper that discusses the human activity definition and dynamics of moderating content on social media platforms. The paradoxical invisibility of these workers leads to the need for greater transparency about their working conditions, not only as a way to ensure the ethical-legal vector of decent work, but also the very viability of the business model operated by such companies. The study is categorical in affirming that the digital revolution must care for the dignity of the human being, and not as a simple profit-inducing technique.

The unions legitimacy to act as procedural substitutes for the professional category is the object of one of the texts. Once the STF has overcome the controversy regarding the existence of the right to procedural substitution, there are still problems that have not been overcome in the field of the institute's practical use. The article focuses on recurring issues in this collective right, such as the amplitude of the substituted number, procedural difficulties in solving factual problems in the discovery phase, and the fact that the enforcement of such decisions addressed to a large number of procedurally substituted continues to be a source of legal controversy. It sustains the broad legitimacy of the unions to sue in court as procedural substitutes for the members of the category they represent, dealing with the collective rights defense in the broad sense as well as individual heterogeneous rights.

The social dimension sustainability in employment relations is dealt with in an article that highlights the negligence of employers

in this aspect, as well as their lack of criminal liability for work-related accidents that occur in the economic enterprises they run. Even though the CF ensures the right to a healthy and sustainable work environment, this has not been enough to effectively observe this constitutional guideline in workplaces and to reduce work accidents. The notorious inspection deficiencies by the Public Authorities and the legislative changes that make the norms that protect human labor more flexible aggravate this worrying scenario of impunity, which causes an increase in social security benefits financed by the resources of the whole society.

With the pandemic, telework is no longer an expectation for a distant future for countless workers. Its lacunae regulation goes back to its provision from articles 75-A to 75-E and the application of the rule of art. 62, also of the Consolidation of Labor Laws (CLT), which excludes the control of time. The absence of a legal rule on the right to disconnection opens a field to the limits of absence over the work time. With the reality we are currently experiencing, the need for this regulation is felt even more strongly. The shortcomings of MP no. 927/20, which has already expired, persisted. If advantageous, on the one hand, telework, on the other, creates problems, such as the confusion between private and professional life. The outbreak of mental illnesses that this kind of work seems to bring with it, in the face of targets and productivity demands, brings consequences that the courts will certainly have to face.

Remote work has once again brought up gender inequalities, challenging the JT to reduce them, which is analyzed in the last article of this 5th issue. Two aspects are focused on in the article: the (positive) standardizations related to home office in the JT and gender inequality. Telework makes room for the exacerbation of gender differences, once the inequality is not overcome with the care of domestic chores, still primarily the women's responsibility. The combination of these activities with home office accentuates the exhaustion that affects not only female workers in general, but also members of State careers, including in the

JT. The old invisibility of work, common in private segments, also reaches female public sector workers, requiring measures from the Public Power aimed at overcoming renewed inequalities between genders.

It is with great satisfaction that we conclude this 5th issue, dedicating special thanks to the articles writers who, even in the midst of the pandemic we are currently experiencing, have found time to develop their valuable studies and share their knowledge with us. Enjoy your reading!

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