

LABOR AGENDA
2026

FORMS OF HIRING



CONTRACTING VIA LEGAL ENTITY ("PEJOTIZAÇÃO")

THEME 1389 (STF) | APPEAL 1532603 | REPORTING JUSTICE: GILMAR MENDES

SUBJECT

Lawfulness of hiring a worker as an independent contractor or as a legal entity for the provision of services, and the *burden of proof* regarding allegations of fraudulent contracting.

STATUS

General repercussion recognized, with nationwide suspension of labor lawsuits since April 2025. A public hearing was held in October 2025. The case is pending judgment by the Federal Supreme Court (STF), with no date scheduled.

EFFECTS

The final decision will be binding across the Judiciary, with significant impacts on companies and workers.



OUTSOURCING

THEME 29 (TST) | REPORTING JUSTICE: ALEXANDRE LUIZ RAMOS

TOPIC

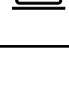
Possibility of recognizing an employment relationship between outsourced workers and the contracting company in cases of *fraud*, thereby declining to apply, by *distinction*, the STF's binding precedents (ADPF 324 and Themes 725 and 739).

STATUS

Repetitive Appeal Incident (IRR 1848300-31.2003.5.09.0011) filed, with referral to the Full Bench and determination to suspend appeals on the topic since March 2025. Judgment by the Superior Labor Court (TST) is pending, with no date scheduled.

EFFECTS

The final decision will have binding effect across the entire Labor Judiciary.

PLATFORM-BASED
WORK RELATIONSHIPS

THEME 1291 (STF) | APPEAL 1446336 | REPORTING JUSTICE: EDSON FACHIN

SUBJECT

Recognition of an employment relationship between app based drivers and the digital platform operator.

STATUS

General repercussion recognized in March 2024. Oral arguments were presented in October 2025. Judgment by the STF is pending, with no date scheduled.

EFFECTS

The final ruling will have binding effect nationwide, with significant impacts on digital platform business models and thousands of ongoing cases.



ASSISTANCE CONTRIBUTION

THEME 935 (STF) | APPEAL 1018459 | REPORTING JUSTICE GILMAR MENDES

TOPIC

Unconstitutionality of union fees imposed on employees who are not union members.

BINDING PRECEDENT ESTABLISHED IN 2025

"It is constitutional to establish, by collective agreement or convention, union fees to be imposed on all employees in the category, even if they are not unionized, provided that the right to oppose is guaranteed."

LIMITS CLARIFIED IN THE MOTION FOR CLARIFICATION
(NOVEMBER 2025)

- No retroactive collection** for periods in which the STF had ruled such union fees to non-union members unconstitutional.
- No interference by third parties** (unions or employers) in the employees' free exercise of the right to opt out.
- The amount of the union fee must be **reasonable, proportional** and **compatible** with the economic capacity of the category.

The year 2026 will mark the practical implementation and consolidation of the STF's ruling. Collective bargaining agreements and union practices will need to reflect the final decision, especially regarding the rules governing the opt-out process, in order to reduce exposure to litigation and challenges by unions and employees.

SYSTEM OF BINDING
PRECEDENTS OF TST

In 2025, the Superior Labor Court (TST) strengthened its system of binding precedents through repetitive appeals, establishing mandatory theses for all Labor Courts, aiming to standardize rulings, reduce litigation, and speed up case processing.



WHAT TO EXPECT IN 2026?

- Expansion of the precedent system and creation of new binding theses.
- Stricter enforcement of TST precedents by lower courts, including:
 - higher rates of rejection of appeals challenging settled matters;
 - greater predictability of case outcomes, supporting strategic litigation planning and settlement initiatives.

Corporate compliance impacts:
Companies must review practices and policies to ensure alignment with binding precedents and avoid liability for non-compliance.



TOPICS TO FOLLOW IN 2026:

- Theme 26:** Piercing the corporate veil of companies under judicial reorganization and continuing enforcement against their partners in the Labor Courts.
- Theme 28:** Validity of collective bargaining clauses allowing employers to offset "trust-position bonuses" against overtime awarded when bank employees' trust positions are invalidated+87 (Art. 224, § 2, CLT).
- Theme 29:** Recognition of an employment relationship between the outsourced worker relationship with the contracting company in cases of fraud, not applying, by distinction, the binding precedent of STF (ADPF 324 and Themes 725 and 739).
- Theme 35:** Whether damages and enforcement should be limited to the amounts assigned to each claim in the initial complaint (art. 840, § 1, CLT), for lawsuits filed after Law 13,467/2017.
- Theme 112:** Validity of collective rules establishing direct financial contribution by companies to the professional union.
- Theme 210:** Use of a 40% higher salary as the standard for determining whether an employee qualifies for a position of trust (Art. 62, II, CLT).
- Theme 300:** Validity of collective rules that exempt employers from tracking the working hours of external workers (art. 62, I, CLT), given the possibility of indirect control of working hours.

CHECK HERE THE COMPLETE LIST OF ISSUES AFFECTED AT THE TST AND THAT MAY BE ADJUDICATED IN 2026

LABOR REGULATIONS THAT WILL
COME INTO FORCE IN 2026NR-1
INCLUSION OF PSYCHOSOCIAL RISKS

Psychosocial risks are now expressly incorporated into occupational health and safety rules. These requirements will take effect on **May 25, 2026**, creating an immediate need for companies to update their prevention programs and strengthen their mental-health management policies. This is a key opportunity to anticipate risks, avoid liabilities, and align internal practices with the new regulatory standards.

WORK ON SUNDAYS AND PUBLIC
HOLIDAYS IN RETAIL

MTE ORDINANCE 3.665/2023

Beginning **March 1, 2026**, retail businesses may only require work on Sundays and public holidays through collective bargaining (industry agreement or direct negotiation between company and union), reinforcing Law No. 10,101/2000 and eliminating previous automatic authorizations.

PAT
CHANGES INTRODUCED BY
DECREE 12,712/2025

- End of exclusive arrangements and mandatory adoption of open systems**, with full interoperability between cards and terminals, requiring contract reviews and technology adaptations.
- Caps on fees and transfer deadlines** (merchant discount rate 3.6%, interchange fee 2%, transfers within 15 days), impacting negotiations with service operators.
- Prohibition on use for non-food services:** PAT funds may not be used for gyms, courses, health plans, leisure, beauty services, credit, etc.
- Increased oversight**, with the risk of fines and loss of tax incentives.

New rules will gradually take effect, starting in **February 2026**.

HAZARD PAY FOR
MOTORCYCLISTS

ORDINANCE 2,021/2025

Annex V of NR-16 (Hazardous Activities and Operations) classifies work performed with motorcycles on public roads - used to transport goods or passengers - as hazardous. The rule will enter into force on **April 7, 2026**.

LABOR LEGISLATIVE
AGENDA FOR 2026

END OF THE 6x1 WORK SCHEDULE (PEC 8/2025 AND PEC 148/2015)

Both proposals aim to end the 6x1 work schedule and reduce the weekly working hours, but they differ in how this would be implemented:

- PEC 8/2025 proposes a four-day workweek, with full salary maintained. It is at the early stage of review in the Chamber of Deputies and is awaiting analysis by the Constitution and Justice Committee (CCJ).
- PEC 148/2015 establishes a gradual reduction in the weekly working hours: from 44 to 40 hours in the first year, followed by yearly reductions of 1 hour until reaching 36 hours, guaranteeing two consecutive days of rest. It was approved by the CCJ in December 2025 and is now awaiting a vote in the Senate.

EXTENSION OF PATERNITY LEAVE (BILL 3.935/08)

The purpose is to gradually expand, starting in 2027, the paternity-leave period established in the Constitution, until it reaches a total of 20 days, as well as to create paternity pay as a social-security benefit. It provides for job stability, the possibility of splitting the leave, and extension of the benefit in cases of adoption, legal guardianship, and the mother's death. It proposes increasing the leave period for cases of children with disabilities, and suspending the benefit in situations of domestic violence or abandonment.

The bill was approved by the Chamber of Deputies in November 2025 and is awaiting a vote in the Senate

APP-BASED WORK (BILL 12/2024)

The bill regulates the work of individual drivers who provide private transportation services through digital platforms. The bill creates the category of "self-employed platform worker," which is different from employees governed by the Labor Code (CLT), traditional independent contractors, and service providers operating as legal entities — with express prohibition on hiring under the MEI (micro-entrepreneur) model. The proposal sets minimum rights, such as limits on working hours, minimum pay and social-security coverage for these workers.

The bill is awaiting a vote in the Chamber of Deputies. Other bills addressing similar or related issues, such as Bills 152/2025 and 2479/2025, also remain under review in the Chamber's committees.