

Telework and Inclusion of People With Disabilities

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Since 1991, Brazilian companies that have more than 100 employees are required to meet a quota for employment of people with disabilities. The quota percentage varies depending on the number of employees: up to 200 employees, 2%; from 201 to 500, 3%; from 501 to 1000, 4%; 1001 or more, 5%.

The legislation does not give employers alternatives, incentives, or other forms of assistance for hiring PWD, unlike other countries with similar systems. For example, some countries offer subsidies so that companies can adapt their workplace or offer training to candidates, or grant reductions in social security contributions, among other means of promoting inclusion in the workforce.

The criteria for application of the quota is limited to the number of employees, and does not take into consideration the company's revenues, its business (including particular features such as seasonal work or work that exposes employees to hazardous conditions), or the company's location (and difficulties in accessing the company's establishment, whether urban or rural).

The legislation also provides that workers with disabilities can only be dismissed from employment after a PWD has been hired to replace them. Reasoning along this line, Brazil's highest court in employment and labor law matters, the Superior Labor Appeals Court (TST – Tribunal Superior do Trabalho), has taken the position that employers can be required to reinstate a worker with disabilities who has been dismissed, if the employer did not hire a PWD to replace the dismissed worker, and does not meet the legal quota.

In practice, even 30 years after the legislation came into force, many employers do not meet the hiring quota, and some pay high fines as a result. In many cases, the reason they give for not meeting the quota is the lack of candidates with the qualifications required for the work or positions available. Another significant barrier to hire PWD is the lack of accessibility in Brazilian cities.

Countless cities do not have accessible streets and sidewalks, or public transportation and public and private buildings that meet accessibility standards. Because of the lack of accessibility, companies commonly hold positions open for candidates with disabilities for years, and have real problems in meeting quotas. It is also common for candidates to refuse positions because of difficulties in using public transportation to get to work, or because of the state of the streets and sidewalks where the company is located.

Since removing architectural barriers requires action by both private entities and government authorities, and so is a problem that cannot be easily solved

in the short term, the possibility of hiring PWD for distance working jobs was an option even before the covid-19 pandemic.

Nonetheless, even though remote work was possible in Brazil before the Employment Law Reform in November 2017, it had been little used and in the case of persons with disability, presented the risk of isolating employees with disabilities from the rest of the workforce, which would operate contrary to the idea of inclusion.

The covid-19 pandemic, however, upset various paradigms as to the workplace and productivity. The experiment in remote work forced on many organizations has shown that there are gains for both employers and employees. One unquestionable gain for employees is the possibility of working from home, with effective interaction and integration with work colleagues. The various tools for electronic communications have proved that remote work no longer means social isolation for teleworkers, and the possibility of working away from the employer's establishment has become one means of overcoming the architectural and accessibility barriers that contribute to the difficulties of including persons with disabilities in the workforce.

In short, remote and hybrid working arrangements can be thought of as alternatives that facilitate hiring persons with disabilities, who will work under the same model as other employees (when the employer has adopted distance working, either fully or partially), or who will be able to opt for such arrangements, if they are viable for both employee and employer.

The idea is certainly not to keep people with disabilities away from physical workplaces, or to relieve governments and employers of their obligation to make cities and public and private spaces accessible. Instead, these alternatives are an opportunity to act now to include more PWD in the workforce, by taking advantage of remote work arrangements that look like they are here to stay, even after the end of the covid-19 pandemic.

*****This article can be found in the e-book "[Current Employment Issues: the end of the pandemic and new ways of working](#)". Click here to read the whole content.***

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