Right to disconnect

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We live in a world where it is entirely possible to be connected to the internet 24 hours a day. It's never been easier to communicate with anyone anywhere on the planet, anytime. News circulates in real time and spreads at great speed. The numerous digital tools currently available allowed the maintenance of work during the Covid-19 pandemic for some sectors of the economy. Commonplace to say that we are facing a new reality, post-pandemic, notably in the world of work.

In this simple context to be visualized, being available for work, at any time, is no longer an exception. And new challenges can also be listed.

One of the most talked about is the right to disconnect, that is, the right to leisure, rest, breaks without work, and, consequently, the employer's duty not to allow employees to have unrestricted access to digital tools and stay at home. provision for longer than the contracted period.

Although the discussion is not new (including legislation in some countries), it has become even more relevant at the present time, when there are a significant number of employees, around the world, working remotely or, at least, in hybrid regimes.

Without going into the challenges of companies that have employees everywhere, that is, living side by side in different jurisdictions and time zones, remotely, the fact is that there is a huge challenge to find the best way to coexist between the impossibility of real control of the working hours of those who work remotely and, on the other hand, ensure that such employees do not work longer than the 8 hours allowed by law and do not become exhausted to the point of illness.

How to encourage or force employees to disconnect and not stay online during rest days and hours, especially those not subject to control?

Strictly speaking, the right to disconnection of employees subject to working hours control is already contemplated, to the extent that, by complying with the legislation and granting intra -day and inter-day breaks , not allowing the performance of more than two overtime hours per day, the employer automatically honors the right to disconnect.

On the other hand, senior executives, outside employees with no means of control, and teleworkers (who meet legal requirements to be excluded from control) present a challenge to employers.

And, truth be told, countries that have laws that provide for the right to disconnect show great difficulty in regulating and making this right enforceable. First, because the freedom of such employees makes it difficult to know to what degree they are actually connected, and at what times. Secondly, because these are employees who, due to the nature of the positions they occupy, do not allow simplistic measures, such as restricting access to telematic means (a measure that may be feasible for other types of employees).

Thus, guaranteeing the so-called right to disconnect is a task that seems to walk intrinsically with the company's cultural issues, which can, through training, increasingly guide and demand that its employees find ways to limit the time available to work and dedicate the other part of their days to family, leisure, rest, etc.

The topic deserves serious reflection, as it impacts on several fronts, including the health of employees, which has been affected by new technologies and the lack of boundaries between professional and personal lives.

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