

Costa Rica Supports Mandatory Vaccination Against COVID-19 at the Workplace

October 21, 2021

Vaccination against COVID-19 was established as mandatory in Costa Rica for all public sector employees, as well as for those private sector employees whose employers include, in their internal labor provisions, this vaccination as mandatory at their workplaces. This is the result of the publication of Executive Decree No. 43249-S, signed by the President of the Republic of Costa Rica and the Minister of Health, effective October 15, 2021. This Executive Decree also amends the Regulations to the National Vaccination Law.

The measure is encouraged given the importance of promoting safer public and private workplaces and the reduction of possibilities of interruption of services and work at workplaces as a result of possible infections.

This decision complements Executive Decree No. 42889-S published on March 11, 2021, which approved the obligation to apply the COVID-19 vaccine to employees of the Ministry of Health, the Costa Rican Social Security Administration, the National Insurance Institute, the Costa Rican Red Cross, and all employees of the public health sector, as well as the mandatory application of the vaccine to health personnel of the private sector who are in the same risk conditions as the public health sector personnel. This Executive Decree also amended article 18 of the National Vaccination Law, to include subsection 15, granting the COVID-19 vaccine the status of official vaccine in the universal basic public health scheme of Costa Rica.

On October 12, 2021, the Ministry of Labor issued a "General Criterion on Compulsory Vaccination against COVID-19, DAJ-OF-132-2021". This document states that, if a public or private sector employee for whom the employer has arranged the vaccination as mandatory at the workplace, manifestly, repeatedly, and unjustifiably refuses to be vaccinated, the employer can then proceed with a dismissal with cause of that employee. However, the procedure provided in the criterion must be implemented and must comply with, at least, the following guidelines:

- The introduction of this measure must be communicated to employees. Moreover, the employer must also train and raise awareness among its personnel, of the importance and need of the vaccine.
- The employer must have a mechanism to verify compliance with this measure, which allows the identification of employees who have not complied with the established.
- Once the employee's refusal to be vaccinated has been verified, the employer must issue a warning to the employee, for them to amend their behavior or file proof justifying the refusal to get vaccinated. The National Commission for Vaccination and Epidemiology has provided that a duly accredited medical contraindication is a valid cause of justification for the non-application of the Covid-19 vaccine.

To obtain legal advice in Costa Rica on Labor Law, regarding mandatory vaccination in private workplaces, do not hesitate to contact us.

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