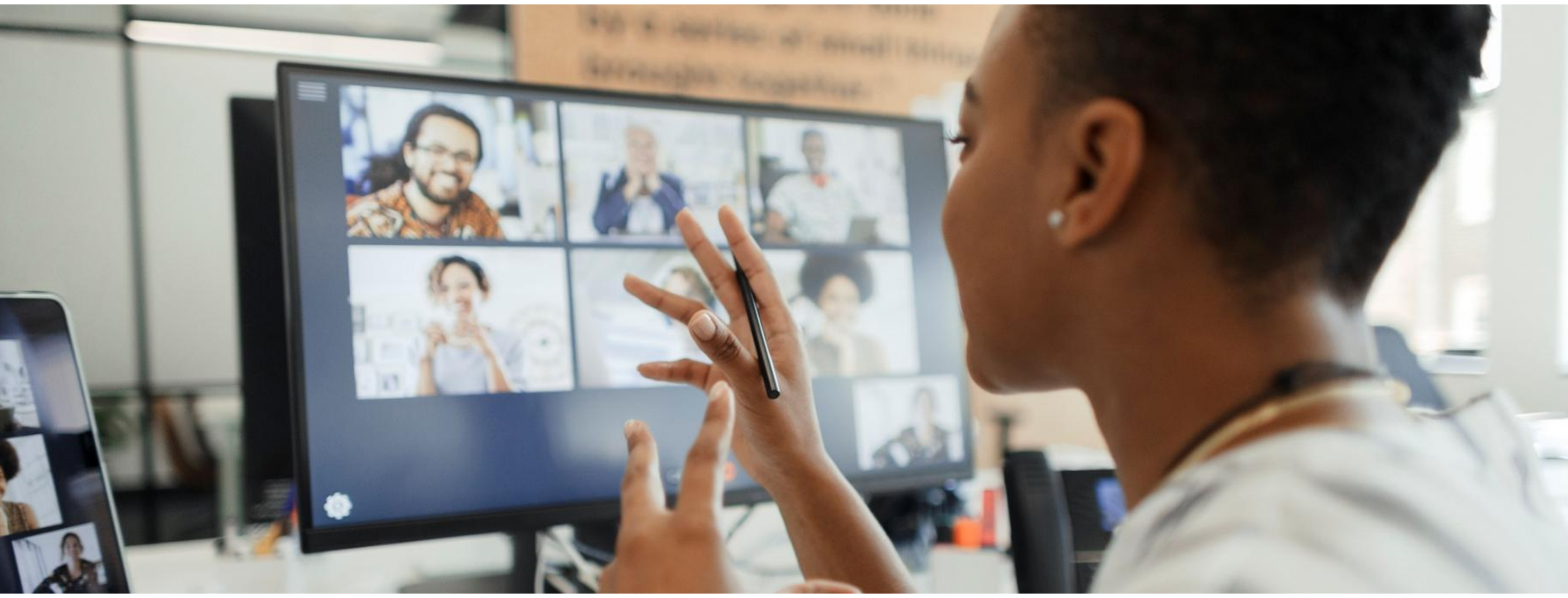
Bogota, Barranquilla
Cali, Medellin
Colombia
Tel +57 (604) 4242490
forvismazars.com/co



Newsletter

Labor Outsourcing: Main Changes Introduced by Decree 581 of 2026

The National Government issued Decree 581 of 2026, amending the Single Regulatory Decree of the Labor Sector (Decree 1072 of 2015) to implement the provisions introduced by Law 2466 of 2025 regarding labor outsourcing and labor intermediation.

Effective since June 13, 2026, the regulation introduces new definitions, establishes criteria to identify unlawful outsourcing and labor intermediation practices, regulates the use of Temporary Services Companies (ESTs), strengthens the inspection powers of the Ministry of Labor, and clarifies the preventive, corrective, and sanctioning measures applicable when hiring schemes infringe labor rights.

1. **The Enhanced Presumption of an Employment Relationship**
   The doctrinal cornerstone of the Decree lies in the protection afforded by the enhanced presumption of an employment relationship (Article 2.2.3.4.2). Under this provision, the performance of permanent activities—understood as those linked to the corporate purpose or ordinary course of business of the contracting company—through third-party gives rise to the legal presumption of the existence of a direct employment relationship with the beneficiary company.

As of the effective date of this regulation, the burden of proof shifts is reversed in both administrative and judicial proceedings. Pursuant to the regulation under review, the principal company must demonstrate the absence of subordination and the existence of objective market, technological, or commercial competitiveness reasons justifying the outsourcing arrangement, provided that such arrangement does not result in the de-laborization of the relationship or affect the individual or collective rights of the workers involved.

2. Matrix of Indicators of Ilegal Labor Outsourcing

The administrative authority shall assess the legitimacy of triangular arrangements through a comprehensive analysis based on two substantive evidentiary dimensions(Article 2.2.3.4.3):

a. Absence of a Specialized Productive Structure

A provider shall be deemed to be acting merely as a labor supplier (simple intermediary) if any of the following circumstances are established:

- The contractor or subcontractor does not own, hold usufruct rights over, or otherwise possess the civil or commercial contractual rights to the means of production, physical infrastructure, or technological resources essential for performing the contracted services.

- It lacks ownership of the licenses, permits, or software, or fails to demonstrate sufficient administrative and financial autonomy to assume the labor and indemnification liabilities arising from its personnel.

- The risks inherent in the operational execution of the services are assumed, either directly or indirectly, by the contracting or beneficiary company.

- There are partial or total overlaps in the management or governing structures of the client company and the provider company.

b. Concurrent Legal and Technical Subordination

The contractor's independence shall be rebutted if the assigned personnel are integrated into the beneficiary company's organizational structure through any of the following practices:

- The contracting company issues direct instructions, exercises operational control, or exercises regulatory or disciplinary authority over the personnel.

- The contracting company directly or indirectly determines working conditions, including schedules, shifts, work location, rest or vacation periods, or compensation structures.

- The client company directly provides work tools (including corporate email accounts, software licenses, or software) without the existence of a commercial subcontract justifying their use.

- Personnel substitution, whereby the beneficiary company terminates direct employment contracts and subsequently engages the same workers through contractor companies.

c. Restrictive Regime Applicable to Temporary Services Companies (EST) and Cooperatives (CTA)

The regulatory framework establishes strict limitations to prevent the misuse of exceptional arrangements to cover permanent operational needs:

- **Strictly Defined Temporary Assignments:** Temporary Services Companies (EST) are authorized to assign mission workers only under the circumstances provided in Article 77 of Law 50 of 1990 (occasional work, personnel replacement, or seasonal production or sales peaks). In the case of increased production, the maximum non-extendable assignment period shall be six (6) months, with a single extension for an additional equal period.
- **Prohibition of Successive Rotation:** Once the assignment period expires, if the objective cause giving rise to the service continues to exist within the user company, that company may neither extend the assignment nor engage a different EST to satisfy the same need. A violation of this restriction shall result in the user company being deemed the true direct employer and the EST being classified as an illegal intermediary.
- **Dissolution of Cooperatives and Pre-Cooperatives (CTA):** Cooperatives that engage in labor intermediation, or whose contracting arrangements with third parties divert their associative purpose toward the performance of permanent core business activities, shall be subject to mandatory dissolution and liquidation, together with the cancellation of their legal status.

d. Strengthening of Corrective Measures and the Sanctioning Regime

When the authorities determine that illegal labor outsourcing or labor intermediation practices exist, they may order corrective measures aimed at ending the violation of labor rights. Such measures may include employment formalization, the regularization of working conditions and social security contributions, the suspension or termination of irregular civil or commercial agreements, the implementation of compliance plans, or the temporary suspension of activities, as applicable.

Likewise, the Decree provides for the imposition of the sanctions established under the Colombian Labor Code and amends Decree 1072 of 2015 to authorize the Ministry of Labor to impose successive fines of up to five thousand (5,000) current legal monthly minimum wages for each violation, for as long as the violation persists, in the cases provided for under the applicable regulations.

What Do We Recommend to Companies?

Decree 581 of 2026 strengthens both administrative and judicial oversight of labor outsourcing and labor intermediation arrangements, particularly where such arrangements involve permanent activities or reveal elements of subordination vis-à-vis the beneficiary company. In this context, **it is advisable for companies to conduct a preventive review of their contracting models and, with the support of our firm, validate through an internal audit of their third-party agreements compliance with the technical, administrative, and financial autonomy requirements applicable to their service providers, adopting the contractual and operational adjustments necessary to mitigate the risk of a finding of an employment relationship, the imposition of corrective measures, or sanctions by the Ministry of Labor.**

Contact

Forvis Mazars in Colombia
Bogota
Calle 93 No. 15 – 40 Pisos 2 y 4

Barranquilla
Calle 77 # 59 - 35 Centro Empresarial Las Américas III Oficina 1315

Cali, Valle del Cauca
Calle 36 # 6A-65 - Oficina 1705 World Trade Center Pacific

Medellin, Antioquia
Calle 5 A # 39-131 Torre 4 Pisos 4 y 6 – Edificio Cofín

Tel +57 (604) 4242490

Andres Cortes Hernandez, International Partner Head of Tax & Legal
andres.cortes@forvismazars.com

Jaime Felipe Nieto, Labor and Immigration Partner
jaime.nieto@forvismazars.com

Forvis Mazars specializes in audit, accounting, consulting, financial advisory, tax and legal services. With presence in more than 100 countries and territories around the world, we draw on the expertise of more than 40,000 professionals worldwide to assist clients of all sizes at every stage of their development.

www.forvismazars.com/co