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EY LAW Flash

Labor reforms in Mexico



In Mexico, 2023 was marked by a succession of labor reforms that impacted employee conditions considerably. Key reforms comprised an increase in vacation days, adoption of ILO Convention 190, legitimization of collective bargaining agreements, issuance of Teleworking standard NOM-037, revision of the work-related illnesses chart, and escalation of the minimum wage. Several critical labor reforms also remain pending.

Vacation Reform:

The reform of vacation benefits, enacted in December 2022, elevated the basic allowance of vacation days for Mexican employees from six to twelve days upon completion of their initial work-year. Coming into effect from January 1st, 2023, this policy ensures Mexican employees receive greater opportunities for relaxation and leisure.

Due to this reform, companies had to make the following adjustments:

- ▶ Updating internal vacation policies, collective bargaining agreements, internal work regulations and individual employment agreements.

Convention 190 of ILO:

- ▶ Convention 190 of the International Labor Organization (ILO), approved in 2019, establishes a legal framework to prevent and eliminate violence and harassment in the employment world. In 2023, Mexico endorsed this Convention in 2023, marking it as the pioneering Latin American country to undertake this initiative.

To fulfill these mandates, employers must undertake the ensuing steps:

- ▶ Adopt a violence and harassment prevention policy: this policy must set out principles and guidelines to prevent workplace violence and harassment.
- ▶ Implement prevention measures: these measures may include training of employees, creation of complaint channels and monitoring of working conditions.
- ▶ Investigate allegations of violence and harassment: investigations should be impartial and transparent.
- ▶ Sanction cases of violence and harassment: sanctions should be commensurate with the seriousness of the offense.
- ▶ Train employees on violence and harassment.
- ▶ Establish confidential reporting channels.

Legitimization of Collective Bargaining Agreements:

- ▶ As of July 31 of this year, the extended timeframe given for the legitimization of registered collective bargaining agreements (CBAs) concluded.
- ▶ A key aim of the modifications to the Constitution and the Federal Labor Law (FLL) was to bring democratic principles to union activity in Mexico. The Ministry of Labor and Social Welfare (STPS) estimated that 85% of the approximately 139,000 registered CBAs were employer-protected. By the end of September 30,505 collective bargaining agreements had been legitimized, representing 30% of CBAs. Over 100,000 collective bargaining agreements were deemed ineffective as union members voted against legitimization or, in certain instances, unions opted to let the contract expire

Teleworking NOM-037:

- ▶ The NOM-037, which entered into force as of December 5, 2023, establishes new obligations for employers and employees, and a new dynamic for implementing this form of work. For instance, teleworkers' work locations must adhere to safety and health regulations, and employees are now required to notify their companies prior to any workspace relocation.

With the entry into force of this standard, companies that have employees under this work modality must implement the following documents:

- ▶ Telework policy: this policy should establish the general guidelines for the implementation of telework in the company. It should include information on the requirements for employees, the responsibilities of the companies and the procedures for the attention of accidents and occupational diseases.
- ▶ Evaluation of occupational risks: this assessment should identify the occupational risks associated with telework, considering the physical, psychological, and social factors. It should be performed before starting telework, and should be updated periodically.
- ▶ Prevention plan: this plan should establish the prevention measures for the occupational risks identified in the risk assessment. It should include actions for the provision of personal protective equipment, the development of training programs and the creation of health and safety policies.
- ▶ Training program: this program should train employees on the occupational hazards associated with teleworking, as well as on prevention measures.
- ▶ Registration of accidents and occupational diseases: this record should document accidents and occupational diseases that occur to employees performing telework.

Work-related illnesses chart:

- ▶ The revised chart of work-related illnesses was published after five decades without any alterations in this field.
- ▶ Mental disorders such as stress, anxiety, depression and insomnia are recognized for the first time as diseases that develop as a result of work. Types of cancers were also expanded from four to thirty and women's diseases such as endometriosis were included.
- ▶ This amendment was a milestone in the labor agenda given the recognition of new ailments and because it included the obligation for the STPS to publish the Catalog of Valuation Certificates. This tool will assist medical professionals in diagnosing these diseases, and both the table and certificates will be reviewed every five years.

With these changes, new obligations have arisen for employers who must now consider a wider range of occupational diseases. Some of the new obligations are:

- ▶ Updating the Occupational Disease Registry: employers must update their registries to include the new occupational diseases listed in the table.
- ▶ Training and Education: employers may need to provide additional training to employees to educate them about the new occupational diseases included.
- ▶ Prevention Measures: with the addition of new diseases to the table, companies may need to implement new prevention measures in the workplace.
- ▶ Compliance with Occupational Health Standards: companies should ensure compliance with all standards that apply to the new diseases included in the table.

Minimum Salary Increase:

- ▶ In the Northern Border Free Zone (ZLFN) both the general minimum wage and the professional minimum wages will be increased with \$41.26 pesos in MIR (independent recovery amount), with an additional 6% increase.
- ▶ In the rest of the country, the general minimum wage will be increased with \$27.40 pesos in MIR, with an additional 6% increase.

Consequently, the general minimum wages as of January 2024 will be as follows:

- ▶ General Minimum Wage (ZLFN) \$374.89 General Minimum Wage Rest of the Country \$248.93.

Pending Labor Reforms in Mexico

▶ Increase on Christmas Bonus

In Mexico, the Christmas bonus is a mandatory labor benefit granted to employees each year, based on the Federal Labor Law (FLL). However, since its inclusion in the FLL in 1970, over 50 years ago, this benefit has not been updated.

Recently, there has been an initiative to double the Christmas bonus for some employees in the country. If this initiative is approved it would mark a milestone in Mexican labor legislation, benefiting millions of employees throughout the country.

The Christmas bonus is an important benefit for employees, since it allows them to have an extra income to cover their basic needs during the Christmas season. The doubling of the Christmas bonus would mean a significant increase in the purchasing power of employees, which would contribute to improving their quality of life.

▶ Reduction of the working day

One of the most important pending reforms is the reduction of the working day from 48 to 40 hours per week.

Reducing the working day would be an important benefit for employees, as it would allow them to have more free time to rest, study or engage in other activities. It could also help reduce stress and work fatigue, which could improve employee productivity.

Federal deputies have outlined an updated roadmap for the reform to reduce working hours. According to this new planning, the second series of discussion forums will be held from January to February 2024. The goal is to have proposals for amendments to the ruling finalized and ready for discussion by March of that same year.

► **Chair Law**

Last Tuesday, December 12, the Labor Commission approved an initiative known as the "Chair Law". This proposal focuses on supporting employees who, due to the nature of their work, must stand for most of their workday without the opportunity to sit down. This includes professionals such as police officers, security guards, waiters, and cashiers, among others.

Senator Patricia Mercado from Movimiento Ciudadano (MC) party is responsible for this proposal, through which she seeks to ensure that those employees who must perform their workday standing up have the opportunity to rest adequately. Its objective is to establish longer rest periods to guarantee the health and well-being of all employees who perform their duties standing up.

► **Seniority Premium**

Senator Cristobal Arias Solis presented an initiative to increase the seniority premium and decrease the time required for employees to have access to it. The senator's proposal proposes to increase the payment of this benefit from 12 to 20 days of salary for each year of service rendered. Additionally, it seeks to reduce the period required to be eligible for this benefit, lowering it from 15 to 12 years of continuous service.

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