



**EMPLOYMENT LAW
AREA**

**EMPLOYMENT IMPLICATIONS IN
THE FACE OF THE GLOBAL PANDEMIC
COVID-19**

March 27, 2020

The world of work is deeply affected by the global pandemic of COVID-19. Economic and social disruptions threaten the long-term livelihoods and well-being of millions of people.

There are different phases through which a health crisis such as the one we are currently experiencing is dealt with, including: i) Preventive phase or scenario 1 and 2) Declaration of Health Contingency or scenario 2 and iii) Conclusion of Health Contingency.

Each of these scenarios implies different rights and obligations for employers and workers. The following is a reference to the legal implications of scenarios 1 and 2, which are currently being experienced in Mexico.

In accordance with the provisions of the “*Ley Federal de Trabajo*” (Federal Employment Law), article 427 determines the causes for the temporary suspension of labor relations in a company or establishment, which are described below:

I. Force majeure or fortuitous event not attributable to the employer, or his physical or mental incapacity or death, which produces as a necessary, immediate and direct consequence, the suspension of work;

(...)

VII. The suspension of work or jobs, declared by the competent health authority, in cases of health contingency.

Article 428 of the the “*Ley Federal de Trabajo*” (Federal Employment Law) continues to mention that the suspension will be taken into account according to the rank of the workers, so that those with less seniority in the company will be suspended in the first place.

In the cases indicated above, if it is a matter of the assumption described in section I, the employer or his representative shall give notice of the suspension to the Court, so that the latter may approve or disapprove it. The Court, upon sanctioning or authorizing the suspension, shall set the compensation to be paid to the workers, taking into consideration different factors; in the understanding that it may not exceed one month's salary.

On the other hand, in the case of suspension despite the declaration of the health authority, in cases of health contingency, the employer will not require the approval or authorization of the Court and will be obliged to pay its workers compensation equivalent to one day's general minimum wage in force, for each day of the suspension, which may not exceed one month.

In order to be able to suspend the employment obligation, being obliged as an employer to pay the general minimum wage in force, with a maximum temporary period of one month, it is necessary for the authority to make a Declaration of Health Contingency.

In view of the foregoing, in order to be able to suspend the employer obligation without prior notice to the Court, a Declaration of Health Contingency is necessary.

However, in accordance with the recommendations made by the International Labour Organization, workers and employers are urged to establish a flexible and productive social dialogue, through which the use of tools that can help mitigate the potential damage that could be caused by an economic and labour market crisis can be established.

If you require additional information, please contact one of the telephone numbers below:



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