



The labor reform contained in Emergency Executive Order No. 70 of 2023 is truly challenging, and deals with key institutions in a new model of industrial relations with significant impactful changes.

In principle, the rule became effective from December 29, 2023, eight (8) days after its publication.

However, during the summer judicial recess the Labor Court issued an interlocutory judgment in the matter of CGT v the Executive on interlocutory proceedings (January 2, 2024), overruling the Lower Court rejection of the injunction seeking suspension of the effective term of the Labor Chapter in EO No. 70/2023 until a final judgment is issued. Therefore, according to this decision, which will be appealed by the National State, the abovementioned chapter is suspended until the matter is decided on its merits. The State challenges the jurisdiction of the Labor Court to hear this claim because when the State is a party to the proceedings, the matter must be heard by the Federal Administrative Contentious Court.

In any case, the goals of the Labor Chapter of the Emergency Executive Order are varied, different and progressive, namely: reduce distortive labor costs; simplify procedures; **gain more freedom of hiring by eliminating limitations and obstacles**; encourage registered employment and combat off-the-books work; **discourage judicial litigation by repealing the fines in the National Employment Act [Ley Nacional de Empleo]**; promote the comprehensive renewal of archaic and

anachronistic collective bargaining agreements by limiting the ultra-activity principle; **give more freedom of choice to employees to decide whether they want to join or not the respective union** and to opt for dues withholdings or not; improve legislation under employment law; **give employees the freedom to choose the group health plan offered by unions or a private health insurance coverage**; reorient rights under the Telework Act [Ley de Teletrabajo]; preserve statutory severance pay; **offer a dynamic workday** and a modern distribution of working hours and rest breaks; **combat wildcat strikes** and any extortive protest actions coupled with physical violence against people and goods or things; no strikes allowed involving essential services, whose interruption causes irreparable injury to businesses and the economy in general, and many others.

For the time being, it changes the entire backbone of labor and employment law, and introduces a number of changes that encourage hiring by eliminating limitations that in the past twelve (12) years did not promote registered employment; it remains stuck at 6.3 jobs.

For sure, CGT is really worried. That is why they announced a general strike scheduled for January 24. Their concerns are the funds collected through union dues and the so-called "solidarity contribution", and other mandatory benefits that provide funds to unions, group health plans or mutual and cooperative associations.

According to the legislation currently in force, employees can freely choose whether to join, not to join or leave the union that represents them, and whether to pay union dues. However, the solidarity contribution is an agreement between the signatory parties to the collective bargaining agreement, i.e. the business organization and the union, whereby a fee is withheld from non-members' paychecks.

To this end, employers also act as withholding agents, ensuring payment of union dues and employees have no other choice but to accept the agreed terms. With Emergency Executive Order No. 70, employees must give their express consent to signal acceptance or rejection of dues withholding. If they choose to reject it, the employer could not withhold.

Unions allege that non-members do not make any union contributions but profit from pay scales, working conditions and other benefits. Experts in constitutional law almost unanimously assert that the solidarity contributions violate Article 14

bis of the National Constitution, and specific ILO conventions, which guarantee employees' individual freedom of association.

Strictly speaking, this model follows the French system. In 2008 France amended its collective bargaining law, and added the direct representation of workers to the negotiating unit, in addition to shop stewards and unions, in particular when it was imperative to negotiate contributions to unions. The outcome: union membership fell from 39 to 8.5% in five years, and no further compulsory deductions from workers' paychecks have ever been agreed again.

Freedom of choice with regard to group health plans, which were already included under the administration of former President Menem and can now include private health insurance companies, promotes competition based on services and benefits.

The measures against wildcat strikes, the decision to consider participation in **blockades and occupation protests as a serious breach, or impairing access to the workplace for those employees who do not want to join the strike action, or any damage to people or company property**, definitely ratifies what had been enshrined in a Praetorian way.

In other words, the reform of Emergency Executive Order No. 70 in relation to labor matters proposes changes that are in line with the National Constitution (Article 14 bis and related provisions) with the majority case law, and also in line with the claims of citizens in general, who demand changes within a system where freedom can prevail and much-needed legal certainty is finally consolidated.