

Labornet No. 1538 | "Employment Claims – Adjustment Mechanism for Judgment Awards"

Dear All,

The High Court of Justice of the Autonomous City of Buenos Aires Upholds the Constitutionality of Section 55 of Law 27802

In "Souto, María Laura v. Banco Hipotecario S.A. et al. re: Employment Termination" (Case File No. TSJ 91605/2025-0, petition for review of denied constitutional appeal (labor), Judgment dated November 18, 2026), the High Court of Justice of the Autonomous City of Buenos Aires ruled on the constitutionality of Section 55 of Law 27802, establishing a specific adjustment mechanism for pending employment claims for which no final judgment has been issued when the law took effect.

The Majority Opinion

In a majority decision, the Court rejected the constitutional challenge to Section 55 and upheld the adjustment mechanism enacted by Congress.

The key arguments supporting the majority opinion included:

- The existence of a specific, temporary mechanism for pending lawsuits does not, in itself, violate the principle of equal protection, as it stems from a particular regulatory, economic, and judicial context.
- Applying the new framework to ongoing proceedings does not automatically infringe upon vested rights as the ancillary components of the claim have not yet been determined in a final judgment.

- The 67% minimum floor set by the law is intended as a safeguard for employees, based on the reasonableness standards set forth by the Argentine Supreme Court in re "Vizzoti".
- Declaring a statute unconstitutional requires proof of concrete and sufficient harm; merely alleging a potential reduction in the value of the claim is not enough.

Consequently, the Court invalidated the adjustment standard applied by the Court of Appeals, and ordered the application of the mechanism set forth in Section 55.

The Dissenting Opinion

Justices Luis Francisco Lozano and Alicia E. C. Ruiz dissented, arguing that Section 55 is unconstitutional because it violates the principles of equal protection, property rights, and employee protection.

They found that the borrowing rate set by the Argentine Central Bank (BCRA) fails to adequately offset the effects of late payment in an inflationary context and hurts employees who filed legal actions before the law was enacted, placing them at a disadvantage as compared to other creditors.

Additionally, they challenged the retroactive application of the law to already accrued interest, and advocated for the Default Interest Rate set by the Argentine Central Bank.

This ruling sets a significant judicial precedent to defend corporate interests in pending labor litigation, as it validates the adjustment mechanism under Section 55 of Law 27802.

Specifically, it allows companies to request the application of these legal parameters in cases falling within its timeframe, directly impacting the assessment of contingent liabilities and the calculation of potentially adverse judgments.

However, it is worth noting that this is a decision by the High Court of the City of Buenos Aires, and its scope does not, on its own, guarantee a uniform approach across all courts nationwide.

Conclusion: This decision sets a favorable precedent for the application of Section 55 of Law 27802, and provides an important institutional benchmark for the ongoing judicial debate regarding the adjustment of employment claims in pending proceedings.

Reference: High Court of the Autonomous City of Buenos Aires (TSJ), Registry No. 4501/2026, judgment dated November 18, 2026, in Banco Hipotecario S.A. v. Souto, María Laura.

Please feel free to contact us for further information.

Best regards,

Leading **Law Firm - de Diego & Asociados** [These reports are prepared by the Senior Consulting Team, a sophisticated team of lawyers specialized in labor and employment law, with more than 40 years of solid experience serving clients with the latest trends, carefully selecting topics for Human Resources executives.]

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