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“DILIGITE JUSTITIAM QUI JUDICATIS TERRAM.” “Ye who judge the earth, give diligent love to justice”



COVID-19.
by Fermín Aramburu

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On December 31st, 2019, the authorities of the city of Wuhan, in the province of Hubei, China, reported the presence of 27 cases of an Acute Respiratory Syndrome of unknown origin, establishing a possible connection with a local seafood and animal market. It was not until January 7th, 2020, that the Chinese's authorities reported the presence of a new virus named Coronavirus COVID-19; which now has spread worldwide.

“Currently, Mexico has entered the phase of local transmission, resulting in a total amount to more than five thousand cases infected and more than three hundred deaths, as to this date. This has led the Federal and local Governments to enact measures that seek the prevention and contention of the virus”.

According to the statements issued by the Managing Director of the World Health Organization (“WHO”), the risk has escalated in such a way that the spread of this disease has risen to the degree of a pandemic. It has thus become essential to seek coordination at an international level to be able to contain this threat that attempts against global health.

The WHO has stated that to this date there are more than two million people infected and more than one hundred thousand deaths worldwide related to the virus. Therefore, the WHO has made a callout to countries all over the world to seeks to counter this threat as soon as possible in order to prevent this disease from taking more lives.

Currently, Mexico has entered the phase of local transmission, resulting in a total amount to more than five thousand cases infected and more than three hundred deaths, as to this date. This has led the Federal and local Governments to enact measures that seek the prevention and contention of the virus. This measure has been taken pursuant to Article 4 of the Political Constitution of the United Mexican States (“Constitution”) which comprises the right to health of all Mexicans.

In order to achieve such goal, Article 73, section XVI of the Constitution, envisions the creation of the General Health Council, which reports to the President of the Republic and which will have the character of a sanitary authority with regulatory, advisory and executive functions. The aforementioned article provides for the obligation of the Secretary of Health to immediately issue all necessary preventive measures in the event of epidemics or danger arising from exotic diseases within the country.

The Council referred to in the previous paragraph was established in a permanent session on March 19th, 2020 to analyze the country's situation with regard to this disease, and on March 23rd that the Council published within the Official Gazette of the Federation the agreement by means of which the disease COVID-19 is considered as a serious disease of priority attention.

Derived from the foregoing, there is the possibility for the Executive Branch to declare a state of emergency. The authority to declare a state of emergency is granted within articles 181, 182, 183 and 184 of the General Health Law, which state the following:

Article 183 establishes that it will be the Executive Branch who will have the power to declare

extraordinary actions in matters of public health.

Article 183.- In the cases referred to in the preceding articles, the Federal Executive may declare, by decree, the threatened region or regions that are subject, for the necessary time, to extraordinary action in matters of general health.

When the causes that have given rise to the declaration that a region is subject to extraordinary action in general health matters have disappeared, the Federal Executive will issue a decree declaring said action finished.

The attributions of this action are established in article 184 (“CPEUM”) which establishes:

Article 184.- The extraordinary action in general health matters will be exercised by the Ministry of Health, which must integrate and keep permanently trained and updated special brigades that will act under its direction and responsibility and will control the following attributions:

I. To entrust the federal, state and municipal authorities, as well as the professionals, technicians and auxiliaries of the disciplines for health, to carry out the activities that they deem necessary and to obtain the participation of individuals for this purpose;

II. Dictate sanitary measures related to meetings of people, entry and exit of them in the populations and with the special hygienic regimes that must be implemented, as appropriate;

III. Regulate land, sea and air traffic, as well as freely dispose of all state-owned and public service means of transportation, whatever the legal regime to which the latter are subject;

IV. Free and priority use of telephone, telegraph and postal services, as well as radio and television transmissions, and

V. Others determined by the Ministry itself.

It is through this action that the authority can seek control the spread of certain risk to public health. This control would generate legal effects that to a greater or lesser extent affect the legal sphere of individuals.

On March 30 the Council published by decree, within the Official Gazette of the Federation, state of emergency by force majeure by COVID-19.

It is important to highlight that this extraordinary public health action may trigger legal implications in labor matters.

Among the implications in labor matters are those established in article 132 sections XIX and XIX BIS of the Federal Labor Law, which indicates that it is the employer’s obligation in cases of an epidemic, to provide workers with prophylactic medications, and to comply with all actions determined by the health authorities.

In addition to the above, it is important to mention that in the same way this law provides that if a

health contingency emergency is enacted, labor relations may be suspended, in accordance with the provisions of article 42 bis.

Article 42 Bis. In the cases in which the competent authorities issue a declaration of health contingency, in accordance with the applicable provisions, which implies the suspension of the labors, the provisions of article 429, section IV of this Law shall be followed.

On the other hand, article 429, section IV states:

*Article 429.- In the cases indicated in article 427, the following rules shall be observed:
(...)*

VI. In the case of section VII, the employer will not require the approval or authorization of the Court and will be obliged to pay their workers compensation equivalent to one day of the current general minimum wage, for each day the suspension lasts, without exceeding one month.

And section VII of article 427 of states that:

*Article 427.- .- The causes of temporary suspension of labor relations in a company or establishment are:
(...)*

VII. The suspension of labors declared by the competent health authority, in cases of health contingency.

The suspension must be in accordance with the provisions established on NOM-030-STPS-2009, which regulates Preventive Health and Safety Services at Work-Functions and Activities, by means of which it is expected that in all work centers, to establish the necessary actions for the attention of any emergency and health contingency in the workplace.

These articles establishes that in the event that a health contingency is decreed, labor relations will be suspended during that time, and employers, without the need of prior authorization from a Court, must pay his workers the equivalent of one day of minimum wage in force for each day the suspension lasts, without exceeding one month.

We can conclude that, in accordance with the terms provide under the publications of the General Health Counsel, it is inconclusive weather or not labor relations in Mexico are being affected due to the fact that such publication is vague and does not expressly provide that labor relations are subject to its terms. Moreover, the terms of such publication can be interpreted either wat, meaning that, there is no clear position as to whether labor relationships are affected or not. This is of course quite regrettable given the current situation of the country and ultimately, if leaves workers and employers in a state of defenselessness.

The SAT will return balances in favor in 3 days for the contingency of the Covid-19.

The Tax Administration Service (SAT) will expedite the return of balances in favor of taxes resulting from the 2019 Annual Declaration for the coronavirus pandemic, this was reported by the Attorney General's Office for the Defense of Taxpayers (Prodecon). Prodecon also reported that it has requested the Treasury to issue a general rule extending the deadline for filing the annual declaration of both legal persons and natural persons. www.eleconomista.com.mx/sectorfinanciero/El-SAT-devolvera-saldos-a-favor-en-3-dias-por-la-contingencia-del-Covid-19-20200324-0082.html 24/03/2020.

IMF and World Bank call for suspension of debt payments from poor countries.

The World Bank and the International Monetary Fund (IMF) on Wednesday urged bilateral creditors to offer immediate relief to the world's poorest countries, which face the consequences from the rapid spread of the coronavirus. In a joint statement, the institutions called on official bilateral creditors to immediately suspend debt payments to countries of the International Development Association (IDA), which includes a quarter of the world's population and two-thirds of the population. world living in extreme poverty. IDA is the World Bank entity that provides support to the 76 poorest countries, of which 39 are in Africa. Likewise, the IMF and the WB asked the G20 to put them in charge of this evaluation task to make the list of countries with unsustainable debt, and to work on a restructuring. www.eleconomista.com.mx/internacionales/FMI-y-Banco-Mundial-piden-suspension-de-pagos-de-deuda-de-paises-pobres-20200325-0051.html 25/03/2020.

'Phase 2' kicks off with more than 400 coronavirus infections in Mexico.

The pressure forced the Mexican authorities to decree phase 2 of the coronavirus health contingency (COVID-19), which until Tuesday morning registered 19 percent of local transmissions, thus beginning the first stage of Plan DN- III-E, as well as the measures implemented by the federation to counter the economic crisis. Before the start of this phase, the Andrés Manuel López Obrador administration signed two decrees that were reflected in the evening edition of the Official Gazette of the Federation, which establish the preventive measures that the public, private and social sectors must put into practice. During the morning report, the Ministry of Health declared that Mexico would enter a new phase, just 12 hours after denying it and a week earlier than expected. [/www.elfinanciero.com.mx/nacional/arranca-fase-2-con-mas-de-400-contagios-de-coronavirus-en-mexico](http://www.elfinanciero.com.mx/nacional/arranca-fase-2-con-mas-de-400-contagios-de-coronavirus-en-mexico) 25/03/2020.

Coronavirus puts 200,000 jobs in Mexico's hotel sector at risk.

The coronavirus crisis puts 200,000 jobs in the Mexican hotel sector at risk and has already caused the closure of 153 establishments, the Mexican Association of Hotels and Motels (AMHM) reported in a statement on Wednesday. The organization, which groups 100 hotelier subsidiaries and more than 4,000 lodging establishments nationwide, noted that beach destinations have only a hotel occupancy of between 10% and 15%, while destinations such as Oaxaca and Mérida only have 5%. For the next three weeks, the association reported a cancellation rate of 100% in destinations such as Puebla, Nuevo León and Acapulco, as well as one of up to 90% in Cancun, Tabasco and Huatulco. www.cndh.org.mx/sites/default/files/documentos/2020-01/COMUNICADO-014-2020.pdf 26/03/2020.

AMLO asks G20 to control the sale of medicines and the closure of borders.

President Andres Manuel López Obrador asked the countries, members of G20 that the UN controls everything related to medicines and equipment to face the COVID-19, as there is a lack of both in order to endure the pandemic. He attended the extraordinary summit G20 in a videoconference, where he stated, what Mexico is doing to face the pandemic of the coronavirus and the economic measures to overcome the situation. www.eluniversal.com.mx/nacion/amlo-solicita-g20-controlar-venta-de-medicamentos-y-no-cerrar-fronteras 26/03/2020.

Mexico, a step ahead of Europe in the face of a coronavirus pandemic: WHO.

The representative of the World Health Organization (WHO) in Mexico, Cristian Morales, approves and applauded the measures taken by the Mexican government to contain Covid-19 and said that declaring phase 2 of the contingency was a timely decision, unlike what European countries did. Morales pointed out that the first thing is to address the public health problem, but also the economic impact in a country with "as many inequalities as Mexico has"; we must think about all those people who live daily and need to go out to work, not so much in big companies. www.milenio.com/ciencia-y-salud/mexico-paso-europa-pandemia-covid-19-oms 26/03/2020.

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