



## Labor Agenda 2022

For this 2022, the “labor issues” remain at the center of the national agenda and this means that transcendental changes will be maintained in organizational and labor legal matters.

In this sense, we share the issues that are on the labor agenda this year and to which we will give timely follow-up, since they are integrated as priority issues for the Authorities in the matter:

### **Implementation of the subcontracting reform**

The subcontracting reform came into force in April 2021, giving companies until September of that same year to comply with the regularization based on the new legal

framework, and in the case of the public sector (Government) until January of this year. Hence, in this 2022 the inspections that determine if companies hire their workers in accordance with the Federal Labor Law will be consolidated.

The inspections will be presented under different scenarios and the Ministry of Labor has expanded its capacity significantly in order to be able to inspect a greater number of companies and in a more efficient way.

Fines are the highest ever allocated and may go up to 50,000 UMAs.

Currently a very important number of companies have modified their structures

to seek to comply with the provisions of the Federal Labor Law and other legal systems, however, in many sectors there are still doubts regarding compliance with the Law, such is the case of the Construction Industry, Companies of the Financial Sector among others.

### **Legitimations, time is reduced!**

Although the pandemic delayed the realization of the legitimations of the existing Collective Labor Agreements; the labor authorities have stated that they will promote in all ways the fulfillment of this new obligation established in the LFT and in the context of the trade agreement with the United States and Canada (T-MEC).

The unions that do not carry out this legitimation of collective labor agreement, will lose the administration with respect to them, since the Collective Agreements will be terminated automatically and the companies will be at the expense of whoever can claim the representation of their workers, highlighting that the unions that decide to claim such a situation will also have to comply with a series of new requirements within which the one of obtaining the constancy of representativity.

It is important to mention that in May 2023 the deadline to comply with this obligation ends, being that the Ministry of Labor reported in 2019 that the existence of 550,000 Collective Agreements was estimated, being that today from the records of the Ministry of Labor and Social Welfare, it is clear that there are approximately 1000 Collective Labor Agreements Legitimized so it is evident that the process is slow and this poses significant challenges for the authorities in this area as well as for the business sector.

### **USMCA and the labor chapter**

The United States maintains economic resources in Mexico to comply with the labor reform, especially in the sectors that are of interest to it such as automotive, aerospace, maquila or call centers. It also updated the Hotline for workers in Mexico to properly file complaints in case of violations of their rights to freedom of association and collective bargaining.

In July, the Labor Experts assigned by the United States Congress will present their second report on the process of implementing the labor reform in Mexico and compliance with the Labor Chapter within the USMCA, in such a way that it is not ruled out that there are new complaints in the commercial framework.

Companies in the aforementioned sectors and in general those that export their products to the United States and Canada must be closely aware of compliance with the obligations established by that chapter of the trade agreement, as well as the obligations on freedom of association established by the Federal Labor Law.

### **OCT, under the new conditions of the subcontracting reform**

In 2022 it will be the first time that the Profit Sharing (PTU) is calculated with the new formula incorporated in the Federal Labor Law (LFT) after the reform in the field of subcontracting, considering among other things the legal limit established in the Federal Labor Law and that expressly establishes that the payment of PTU may not exceed three months of salary of the worker or the average of the PTU received in the last three years, whichever is higher.

Undoubtedly, incurring non-payment can lead to fines and / or inspections by the Labor Authority or complaints by workers who are already part of the workforce and that could have serious consequences for companies.

### **Implementation of the new labor model**

In May, the third stage of the new labor model enters fully, with which the Conciliation and Arbitration Boards will further limit their activities, highlighting that they will continue to operate until all pending matters are resolved, but they will no longer receive new cases.

In this third stage, it corresponds to the entities with the highest economic activity and therefore the greatest conflict and stand out mainly: Mexico City, Jalisco and Nuevo León.

In this group are also: Chihuahua, Coahuila, Michoacán, Nayarit, Sinaloa, Sonora, Tamaulipas and Yucatán together with those mentioned in the previous paragraph.

### **Teleworking, new rules**

In the course of the first half of the year, the Ministry of Labor and Social Welfare must announce the Official Mexican Standard to regulate the safety and health conditions that must be observed in Telework, as promulgated in the LFT in January, and it is expected that they will address issues such as work accidents under this modality, the use of personal protective equipment, ergonomics and psychosocial risk factors, among others.

### **New discussions**

In addition to the processes that are underway of the labor reform, it is expected that the labor authorities will begin the discussion and analysis of the regulation that must be given on the new forms of work, such as those developed in the Digital Platforms.

To the previous one, they will add the regularization of workers in the agricultural export sectors, this in order to stop any type of complaint or denunciations coming from the trading partners of the United States and Canada.

Undoubtedly, the agenda in labor matters poses great challenges for this 2022, being that for us at Deloitte – Mowat it will be a privilege to be able to assist them in any of them.

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