



Constitutionality of the increase in the vacation period

On August 14, 2024, the Second Chamber of the Supreme Court of Justice of the Nation confirmed the constitutionality of the 2022 reform that increased the annual paid vacation period from six to twelve days for employees with more than one year of service. This decision was based on the reform meeting the requirements for foundation and motivation of legislative acts and respecting the principle of non-retroactivity of the law.

The controversy arose from the challenge to the reform of articles 76 and 78 of the Federal Labor Law (FLL), enacted on December 27, 2022, and published in the Official Gazette of the Federation. The complainant argued the unconstitutionality of article 76 of the FLL and the second transitional article of the reform executive order.

In its ruling, the Second Chamber determined that the reform meets the requirement of foundation

since the Union Congress has the authority to legislate labor matters. Although Article 123, section A, does not explicitly refer to workers, the legislators' intention is that the right to adequate rest should be developed in secondary legislation. Furthermore, during the legislative procedure, various reasons were expressed that led the legislators to adopt such a reform, thus fulfilling the motivation requirement.

Regarding the principle of non-retroactivity, the second transitional article of the executive order does not affect acquired rights, as employers do not have an immutable right to the vacation terms agreed upon at a certain point in a labor contract, nor does it modify legal consequences determined according to previous legislation that cannot be changed due to advancements in the protection of workers' rights.

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