



Newsletter

Challenges for the business sector in light of the new preventive measures of the Ministry of Labor

We share an analysis of the recent Decree draft that would regulate the procedure and scope of the preventive measures applicable by Labor Inspectors. This initiative seeks to strengthen the function of inspection, surveillance, and control to prevent the consummation or aggravation of violations of fundamental rights in the labor sphere. Unlike the traditional sanctioning proceedings previously known to and applied by the Ministry of Labor, these measures are precautionary and preferential in nature, which implies that they must be executed immediately and temporarily in the face of imminent risks that the administrative authority considers to constitute a possible irreparable harm to workers.

Under this new regulatory framework, the Ministry of Labor, through its inspectors, would acquire the authority to issue orders of immediate execution in situations that, in their judgment, involve violence or discrimination.

Among the proposed powers are the suspension of activities in the presence of safety risks, the relocation of personnel, and the separation of alleged aggressors in cases of workplace harassment or sexual harassment. Likewise, inspectors could order the suspension of procedures related to mass

voluntary separation or of acts that affect the freedom of trade union association. It is imperative to bear in mind that, although a motion for reconsideration may be filed against these orders, it would be granted with devolutive effect, which means that the filing thereof does not suspend the obligation of immediate compliance with the measure.

Failure to comply with these provisions would entail severe consequences, including the imposition of consecutive fines for non-compliance and the possible temporary suspension of the company's operations.

From a critical perspective, we observe with concern that the draft grants an exceptionally broad and discretionary power to labor inspectors. By allowing administrative authorities to issue measures subject to immediate execution and with devolutive effect on sensitive aspects of business operations, the expansion of these powers could lead to arbitrary decisions that impact productivity, without the mediation of a prior and robust evidentiary process, thereby transferring to the employer a disproportionate operational and legal burden.

For the foregoing reasons, from Forvis Mazars, we recommend as of now conducting an exhaustive review of mandatory protocols and policies, to ensure that they are effective and not merely documentary. Sound preventive management is the best tool to mitigate exposure to the administrative interventions that this decree seeks to formalize.

Finally, it is important to clarify that this document is currently in the draft decree stage; therefore, we will be monitoring the progress of this initiative and will duly inform about its official publication and definitive entry into force.

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