Colombian Employment Law Reform Proposal. A guide to Bill No. 367-2023(C) regarding individual and collective employment relationships.

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Colombian Employment Law Reform Proposal. A guide to Bill No. 367-2023(C) regarding individual and collective employment relationships.

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Summary

On March 16th, 2023 President Gustavo Petro submitted a Bill on the House of Representatives drafted by the Ministry of Labor.

The bill pretends to reform the entire system of rights, rules and prerogatives surrounding universe of workers' rights, obligations pertaining to employers and guarantees for unions (Ministry of Labor, 2023); as such, the following months will be full of expectation as to the extent of the changes that will come upon the employment relationship dynamics.

Since the reform is meant to be whole in its goal, it includes three kinds of legal dispositions: i) **Structural**, which encompasses the way we understand employment relationships at the core, cementing general principles applied in every case by authorities and the contracting parties themselves, ii) **Individual**, that issues specific rules surrounding contractual procedures between employers and workers, and iii) **Collective**, related mainly to the way Labor Unions and Employers interact with each other, with special emphasis on collective bargaining procedures.

While the actual reform has seventy six (76) different articles that individually modify to some extent the Colombian Employment Code, only those that are considered to be particularly reformist or powerful in its impact will be analyzed, as to keep the contents simpler.

On that regard, we seek to present this simple guide targeted at any worker or employer that operates in Colombia, particularly those of foreign origin, that doesn't necessarily understand Spanish at the technical level that these debates are being done in, to try and explain the changes proposed by the Government in a common manner.

STRUCTURAL CHANGES BROUGHT BY THE REFORM

Structural changes revolve around the way the Law configures employment relationships in general, which sets the roots in which any interaction between workers, unions, employers and even authorities should be built upon in the form of general principles and definitions; let us then take a look at these elements within the reform project:

A) TYPES OF EMPLOYMENT CONTRACTS

- *WHAT THE LAW CURRENTLY SAYS:*

Indefinite contracts are presumed unless a different type of contract was agreed upon, which would require certain additional formalities to be met; for instance, Fixed-Term contracts can be freely redacted, so long as it is in written form[2] (Colombian Congress, 1990), and even though there is a fixed term, that term can be prorogated as many times as the contracting parties want (Supreme Court of Justice, 2022).

The next type of employment contract is that which is tied to a particular service or project. These kinds of contracts are valid if their object is expressly detailed without any further formalities (Supreme Court of Justice, 2021), moreover, should its object remain too vague or unclear, it will be deemed indefinite for all purposes (Supreme Court of Justice, 2022).

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

First off, any employment contract will be legally indefinite, it will no longer be just a presumption for judicial purposes. Any other kind of employment contract will now be an exception to the rule, and in addition to the wills of the contracting parties, it will require legal justification[3].

The first major change brought about the reform, is that fixed-term contracts will no longer be able susceptible to indefinite prorogues, instead, their maximum legal limit will be of two (2) years, all prorogues included[4].

[2] Colombian Employment Code. Article 46.
[3] Bill No. 367-2023 (C). Article 4.
[4] Bill No. 367-2023 (C). Article 5 Numeral 1).

Likewise, contracts tied to specific services or projects must now be expressly in written form[5], in addition for the service or project to be definable in time units or concrete project goals.

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

All companies will have to start auditing their current employment contracts to include whatever formality is needed to continue having workers in temporal posts, such as those in fixed-term or by specific projects or services.

B) WORKERS WITH SPECIAL PROTECTION

- *WHAT THE LAW CURRENTLY SAYS:*

Companies cannot freely fire some kinds of workers, because they are considered to belong to particular groups that evoke a need for a certain degree of protection, in the form of State authorization before their contracts are terminated. These workers currently are[6]:

1. People with certified health issues which impair their ability to work[7]. (Colombian Congress, 1997).
2. Pregnant women, or spouses of pregnant women who aren't formally working[8]. (Colombian Congress, 2021).
3. Board members of Labor Unions, Founders of Unions and members of Union Complaint Commissions[9] (Colombian Congress, 2000).
4. People who are less than three (3) years away from complying with every requirement to retire with a pension (Constitutional Court, 2018).

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

First off, whereas these different kinds of workers have the same protection, albeit in different Laws or Rulings, the reform proposal pretends to unify all these sources in a single Law, in an attempt to equalize the sources of protection for all workers.

Furthermore, the Law classifies each kind of special protection according to which State entity will oversee keeping it, so that employers will need to obtain the following permits before firing any protected workers:

- Union board members, founders and members of Union Complaint Commissions – **JUDICIAL PERMIT.**

[5] Bill No. 367-2023 (C). Article 5 Numeral 2).
[6] Law 1010 of 2006 also contemplates limitations in regard to the termination of employment contracts of workers that submit lawsuits associated to employment harassment, however, since that particular protection stems from an objective situation, instead of a constitutional need to protect a specific kind of worker, it was not included in this analysis, or the Employment Reform Project, for that matter.
[7] Law 361 of 1997. Article. 26.
[8] Colombian Employment Code. Article 236.
[9] Colombian Employment Code. Article 406.

- Pregnant women and their spouses, people with health issues or disabilities, and those within three years or less from acquiring their retirement pension – **MINISTRY OF LABOR'S PERMIT[10].**

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

The Ministry of Labor will likely have to upgrade their permit-issuing capabilities to meet the increased demand of employers trying to formally terminate employment contracts from these groups. Employers should then brace for delays and difficulties obtaining authorizations.

C) DISCIPLINARY HEARINGS IN THE WORKPLACE

- *WHAT THE LAW CURRENTLY SAYS:*

All employers must have an Internal Guideline for the Workplace, which contains any proceedings pertaining the issuing of penalties against workers, but the stages and guarantees are mostly left to be decided by the employers themselves (Colombian Congress, 1951)[11].

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

All proceedings designed to issue penalties to workers must adhere to a few principles dictated directly by the Law: **i)** Dignity, **ii)** Presumption of Innocence, **iii)** Proportionality, **iv)** Right to present a defense and to counter the employer's proof, **v)** Probity, and **vi)** Good Faith.

Additionally, the protocol for issuing penalties must adhere to some basic steps: **i)** Communicating the start of an inquiry to the worker, **ii)** The formulation of charges against them, **iii)** The discovery of any evidence, **iv)** The declaration of a reasonable period for the worker to contest their charges, **v)** The issuing of an adequately motivated ruling, **vi)** With a reasonable penalty, and **vii)** A way for the worker to have the decision revised or appealed[12].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

Any companies without one of those steps already in their Guidelines will have to adjust it at once; moreover, it will be significantly harder to prove just causes to fire workers when they stem from subjective points of view, such as *"low performance".*

D) OUTSOURCING

- *WHAT THE LAW CURRENTLY SAYS:*

[10] Bill No. 367-2023 (C). Article 7.
[11] Colombian Employment Code. Article 108, Numeral 16).
[12] Bill No. 367-2023 (C). Article 11.

Outsourced companies will have to be totally independent from the contracting party, in terms of operative functions, contracting of their own workers and administrative decisions (Presidency of Colombia, 1965)[13]. Additionally, outsourced labors must adhere to a degree of technical criteria, which is defined by being support operations that generate no utilities to the Company, or suppliers of services that have a high specialization level (Supreme Court of Justice, 2023).

In this context, the contracting party will share responsibility with the Outsourced companies for any outstanding employment debt, so long as the outsourced workers do things related to the contracting party's main activities[14].

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

To start off, Outsourcing companies will have to comply with special regulation to function, acquiring a license which will be studied and issued by the Ministry of Labor.

Also, any outsourced worker will be having the same benefits and conditions that a worker of the contracting party would, even those that exceed the bare minimum of the Law, should it apply, such as Collective Bargaining Agreements.

Finally, contracting parties will share responsibility for outstanding employment debts with the Outsourced company, regardless of the kind of job done by the outsourced workers[15].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

Collective Bargaining Agreements will begin to have chapters dedicated to outsourced workers; Contracting Parties will have to be extra careful in doing background checks before hiring contractors, to ensure compliance, and Outsourcing Companies will need greater capital to operate.

The Ministry of Labor will likely also open a new line of penalties regarding the compliance of formal requisites when hiring Outsourcing Companies.

E) TEMP WORKERS

- *WHAT THE LAW CURRENTLY SAYS:*

Companies can hire temp workers to fill in for actual workers that are absent because of licenses or vacations, but also to complement increased production rates in case of temporary market surges, the latter in a span of six months that can be prolonged by another six months[16].

Since Temp Workers actually operate in the same elements that encompass the Company's main commercial activity, it's regarded as heavily regulated, as to avoid the usage of temp workers to shorten the span of actual direct workers. Therefore, the law regulates requisites that must be present in commercial contracts between contracting companies and temp

[13] Colombian Employment Code. Article 34.
[14] Colombian Employment Code. Article 34.
[15] Bill No. 367-2023 (C). Article 12.
[16] Law 50 of 1990. Article 77.

work providers[17], authorizations and licenses provided by the Ministry of Labor[18], special penalties for not complying with legal standards[19], among others.

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

Companies that try to have temp workers hired indefinitely by resetting contracting cycles, will have to assume legal obligations as direct employers, and the Temp Work Provider will be jointly liable for any amounts owed, acting as an intermediary.

At any rate, Temp Workers will be entitled to any benefits that the workers of the contracting company have, both legal and above the Law, such as extra benefits recognized by the contracting party to its workers, or collective bargaining agreements currently applying.

In addition to the fines that the Ministry of Labor could already impose upon companies that misuse temp work operations, the Law now expressly contemplates the possibility of revoking operation licenses for Temp Work Providers[20].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

The Ministry of Labor will begin to crackdown on irregular Temp and Contracting Companies; At the same time, Temp Workers are likely to increase their lawsuit rates, seeking to be awarded equal benefits or outright be declared workers of the Contracting Company.

F) INDEPENDENT CONTRACTORS

- *WHAT THE LAW CURRENTLY SAYS:*

When a single, individual person is a contractor, instead of an actual worker, then their activities must be totally autonomous and free from any kind of subordination, thus achieving full control of the contractor in terms of quantity, quality, and conditions in which the activity is executed (Supreme Court of Justice, 2023).

Since employment contracts are legally presumed[21], it will be the contracting parties' burden to prove the lack of subordination in case there is a judicial debate.

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

Independent Contractors will be outright forbidden to work in permanent activities of the contracting party, as such, any independent contractor that does work in a permanent activity shall be deemed employee for any legal purpose.

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

[17] Law 50 of 1990. Article 81.
[18] Law 50 of 1990, Articles 82 and 83.
[19] Law 50 of 1990. Article 93.
[20] Bill No. 367-2023 (C). Article 13.
[21] Colombian Employment Code. Article 24.

The Ministry of Labor will begin to crackdown on irregular Temp and Contracting Companies; At the same time, Temp Workers are likely to increase their lawsuit rates, seeking to be awarded equal benefits or outright be declared workers of the Contracting Company.

Independent contractors that submit and win lawsuits seeking the declaration of their status as workers, will be awarded overdue fees referencing their employment debts, which will have to be paid by the contracting party, that will be declared an actual employer[22].

G) APRRENTICESHIP CONTRACTS

- *WHAT THE LAW CURRENTLY SAYS:*

Apprenticeship contracts are targeted to students enrolled on higher education institutions, such as universities or a technical schools; students work for the Company, and in return, the Company makes it so they can learn the ropes of the trade and pays a small sustenance aid (SENA, 2021); that being said, while the contract is regulated by employment laws, it is not in itself an employment contract, but rather a special form of contract[23] (Colombian congress, 2002).

Apprentices are not generally thought to benefit from Collective Bargaining Agreements, since the objective of apprenticeship contracts is widely different from that of employees (Constitutional Court, 2004).

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

Apprentices will now earn an actual wage, which will be equal to a monthly minimum wage, plus whatever extra earnings are stipulated on Collective Bargaining Agreements.

Additionally, Apprenticeship Contracts will be fully considered to be Employment Contracts in its fixed-term kind[24], which will mean the full application of the Colombian Employment Code as far as legal obligations go.

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

Since any Company that has at least 15 workers is legally obligated to have apprentices[25], it's expected that the cost of each apprentice will skyrocket and will continue to raise as apprentices are included expressly on future Collective Bargaining Agreements. Also, the greater catalogue of legal obligations that have to be met with apprentices will likely mean that there will be more lawsuits from apprentices seeking to receive their full employment rights.

[22] Bill No. 367-2023 (C). Article 15.
[23] Law 789 of 2002. Article 30.
[24] Bill No. 367-2023 (C). Article 21.
[25] Law 789 of 2002. Article 32.

H) DELIVERY APP WORKERS AND COLLABORATIVE TECH

- *WHAT THE LAW CURRENTLY SAYS:*

Colombian Employment Law does not regulate work done specifically in tech apps and has been a spark for debate in the last few years; they are not usually considered workers by the tech companies themselves, and although they could try and sue for recognition as workers, there are no great precedents in rulings issued by the Supreme Court of Justice.

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

All app workers will now have formal Employment Contracts and the Law itself will define what a Delivery App and a Delivery App Worker is, as well as their obligations related to the affiliation in the General Social Security Systems.

Moreover, Delivery Apps that will act as employers will be any persons, both legal and natural, that operate or manage digital platforms to offer delivery services, and workers would be those natural persons that are subscribed to these platforms and bring the delivery service directly to the consumer.

The Ministry of Labor will now directly supervise Delivery Apps, through periodic mandatory reports, and to that end, all tech companies and delivery apps will now need to have human elements taking the decisions, rather than a mere algorithm[26].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

The Social Security System will suddenly have a wider base of affiliations, but tech companies and delivery apps will likely have costlier operations since all deliverymen and women will now be formal workers, leading to probable wide layoffs before the Law has any effect; lawsuits might increase on the short term.

I) RURAL AND AGRICULTURAL WORKERS

- *WHAT THE LAW CURRENTLY SAYS:*

The Law does not separate rural and urban workers, and thus, both kinds of employers and employees must abide the general rules set forth universally.

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

A special type of employment contract designed for workers in agricultural settings, with a special wage to pay salaries based on daily operations, called Agricultural Contract.

[26] Bill No. 367-2023 (C). Articles 22 through 28.

This contract will be characterized for only being susceptible to be applied in primary production chains, which are those related to the reaping of fruits directly with agricultural, foresting, horticultural or similar means, or rather, without any sort of industrial intervention.

This would logically mean that industrial agricultural settings are excluded from agricultural contracts. The Law would also apply a maximum term in which agricultural contracts can be executed, which is 27 weeks, after that, the contract will become an indefinite employment contract.

The daily amount owed to agricultural workers will be whatever the Unions negotiate on an industrial level, plus an extra 30% per day, that will cover the salary itself, as well as every legal benefit owed to the workers, except vacations and surcharges for overtime work[27].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

Labor Unions in agricultural industries will rush to include these wages in their collective bargaining agreements at an industrial level, which could lead to different daily wages posted for different types of agricultural work.

J) TECHNOLOGICAL INNOVATION OF PRODUCTION MEANS

- *WHAT THE LAW CURRENTLY SAYS:*

The Law issues no special rules if a Company is trying to replace human workers with machines in production lines. Except in cases of massive layoffs that would require authorization from the Ministry of Employment.

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

Labor Unions will have to be directly required before Companies are able to dispose of workers being replaced by technology; in any case, employees will have to be firstly moved to another area of the Company, at least 6 months before the proposed innovation takes place. Therefore, only if it is truly impossible for the Company to retain those workers, can they then apply for authorization to terminate the workers, which will be considered by the Ministry of Labor[28].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

Companies will, for the most part, try to avoid sudden changes caused by innovation, which might lead to a stalemate between the rights of workers, and expectations set forth by consumers on the markets.

K) DECARBONIZATION

- *WHAT THE LAW CURRENTLY SAYS:*

[27] Bill No. 367-2023 (C). Articles 29 and 30.
[28] Bill No. 367-2023 (C). Article 32.

There are no current legal disposition referring to the relation between employment and the progressive substitution of carbon-based industries such as mining.

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

Any companies in these industries will have to file for authorization of Shutdown Plans, which will include:

- List of workers, in detail.
- Ways to restructure employment processes for workers.
- Ways in which workers can be moved to other areas of the Company.
- Financing of an account which will guarantee the payment of social security for the workers, in the way negotiated with Labor Unions[29].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

These policies will be plausible depending on the way the Government executes their decarbonization plans; that link will define just how fast Companies will have to act and how close a general shutdown would be. In the short term, then companies will likely only produce generic shutdown plans, that will become increasingly more specific as this legislative and presidential term passes by.

L) MIGRANT WORKERS

- *WHAT THE LAW CURRENTLY SAYS:*

While the Law doesn't specifically say it, Rulings issued both by the Supreme Court of Justice (Supreme Court of Justice, 2022) and the Constitutional Court (Constitutional Court, 2020) extend employment rights to any migrant workers, no matter their migratory status.

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

Migrant Workers will have the same employment rights as anyone else, regardless of their migratory status.

Professional sports players will also have employment contracts directly with their clubs, leagues or federations, with no prejudice as to where in the world they come from[30].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

[29] Bill No. 367-2023 (C). Article 33.
[30] Bill No. 367-2023 (C). Articles 34 and 35.

As far as migrant workers go, Judges are already bound to recognize their rights in proceedings, but for it to be chiseled in the Law makes it safer for foreigners to work with dignity in Colombia.

Professional sports players are a constant debate, since their incorporation processes usually involve items not regulated directly by employment legislation, such as sales of exclusive player rights, so the Ministry of Labor will probably have to step in to issue rules regarding these specific employment contracts, for one part, and Employment Judges will create jurisprudence soon thereafter.

M) WORKPLACES FOR DISABLED WORKERS

- *WHAT THE LAW CURRENTLY SAYS:*

Employers have a general obligation to protect their workers[31], which would include taking steps to ensure a risk-free workplace for all workers, which would of course include those with special health conditions[32], but there are no specific rules on the Employment Code.

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

Employers will legally need to physically adjust their workplace environments to exclude any sort of discrimination for disabled workers[33].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

Since these adjustments will be subject to penalties from the Ministry of Labor if they are not met, it could lead to employers potentially trying to actively avoid hiring disabled people on the first place; those that are already hired, however, will gain a greater advantage on their own workplaces.

N) LIMITS TO THE EMPLOYER'S RIGHT OF SUBORDINATION

- *WHAT THE LAW CURRENTLY SAYS:*

Employers can direct the circumstances of employment in any way they see fit through subordination, limited only by the Law itself and the honor, dignity and legal rights of the workers[34].

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

[31] Colombian Employment Code. Article 56.
[32] Colombian Employment Code. Article 57, Numeral 2).
[33] Bill No. 367-2023 (C). Article 37.
[34] Colombian Employment Code. Article 23, Literal B).

Subordination will be expressly forbidden from using subjective criteria such as race, ethnicity, gender, sex, sexual preference, etc.; as a way of defining subordinated decisions regarding the workers[35]. Therefore, Employers will have burden of proof regarding the termination of contracts, both with and without just cause, where they will need to sustain that any terminations are not done because of subjective criteria[36].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

The biggest challenge will be to prove discriminatory intentions stemming from the employer's decisions; in any case, if terminations are involved, discriminatory motives will be presumed, so there's an expectation of an increase in lawsuits invoking discrimination in the termination procedure for both just causes and terminations without just cause.

O) DOMESTIC WORKERS

- *WHAT THE LAW CURRENTLY SAYS:*

Colombia has ratified the Domestic Workers Convention (No. 189)[37], which means that any domestic workers have the right to a dignified working environment including all legal benefits, respect for the workday limits, minimum wage, and affiliation in Social Security.

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

Any employment contracts with domestic workers will also have to be deposited in the Ministry of Labor, which will in turn act as a follow-up entity regarding their formalization and compliance of legal obligations[38].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

There will be greater control issued by the Ministry of Labor for these kinds of contracts even when the employer is a natural person; as for legal persons, there could be an increase of administrative fines issued for not complying with these new obligations.

INDIVIDUAL CHANGES BROUGHT BY THE REFORM

Conditions defined as individual in terms of Employment Contracts are those that apply to specific benefits and payments that arise from the relationship accorded between the employer and the worker itself. These benefits can therefore be directly required by the workers in an independent manner.

[35] Bill No. 367-2023 (C). Article 39.
[36] Bill No. 367-2023 (C). Article 10.
[37] Colombia adopted internally the Domestic Workers Convention No. 189 through its Law 1595 de 2012.
[38] Bill No. 367-2023 (C). Article 42.

A) WAGE ADJUSTMENT BASED ON INFLATION

- *WHAT THE LAW CURRENTLY SAYS:*

The Colombian Constitution protects the right to have a minimum vital income, that moves as circumstances change[39] (National Constituent Assembly, 1991) economically for people, to have a dignified life.

The Constitutional Court has argued that the manifestation of these principles manifest indeterminately, and thus apply to each person according to their circumstances, both to conserve that dignity and to be able to develop fully in a society, not just in the quantity of their income, but on the quality of life afforded by it as well (Constitutional Court, 2021); whereas the Supreme Court of Justice has determined that there is no actual Law that forces employers to adjust the wages of workers that earn above the minimum wage, and therefore, Employment Judges cannot issue rulings on that particular matter (Supreme Court of Justice, 2020).

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

All employers will have to adjust their workers' wages each year in the same amount as the former year's RPI as of December 31st if they earn above a minimum wage. If the adjustment is made later in the year, the amount will have to be retroactively paid as far back as January of each year[40].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

Workers' means of acquisition will be greatly protected through this measure, since the criteria for the adjustment is directly linked to inflation; companies that will have a harder time economically are those that usually make adjustments below inflation marks. This will, however, nullify rulings made by the Supreme Court, because the fact that an actual Law now dictates the obligation to adjust, will enable Employment Judges to issue rulings interpreting the Law in concrete cases.

B) SEVERANCE PAYMENTS TO WORKERS

- *WHAT THE LAW CURRENTLY SAYS:*

Employers must pay the following severance amounts to fired workers depending on their type of employment contract[41]:

- **IF THE CONTRACT IS INDEFINITE:**
  - If the worker makes less than 10 minimum wages per month:

[39] Colombian Constitution, Article 53.
[40] Bill No. 367-2023 (C). Article 70.
[41] Colombian Employment Code. Article 64.

- 30 days of salary for up to the first year of relationship, plus 20 days of salary for each consecutive year, or a proportional amount.

▪ If the worker makes 10 minimum wages or more per month:
- 20 days of salary for up to the first year of relationship, plus 15 days of salary for each consecutive year, or a proportional amount.

- **IF THE CONTRACT IS FIXED-TERM OR BY PROJECTS:** Whatever wages were left until the completion of the term, service or project, which in any case, can't be lower than 15 days worth of wages.

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES[42]:*

- **IF THE CONTRACT IS INDEFINITE:**

Indefinite contracts will be indemnified with 45 days of salary for up to the first year, plus 45 additional days for any consecutive years of work, or a proportional amount, regardless of the amount earned through monthly wages.

- **IF THE CONTRACT IS FIXED-TERM OR BY PROJECTS:**

Fixed-Term and those defined by projects or services will still be indemnified by the remaining wages until completion, so long as it's not less than 45 days of wages.

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

It will be significantly more expensive to terminate workers' contracts, meaning that the trial periods will be used more liberally to avoid having to pay severances. In any case, terminated workers will now have greater incentives to submit lawsuits seeking the declaration of terminations without just cause, requesting the payment of legal severances.

C) WORKDAY HOURS

- *WHAT THE LAW CURRENTLY SAYS:*

Daytime working hours go from 06:00AM through 09:00PM, and nighttime working hours go from 09:00PM through 06:00AM[43], the latter of which will have a 35% charge fee per hour if

[42] Bill No. 367-2023 (C). Article 8.
[43] Colombian Employment Code. Article 160.

it hasn't exceeded the maximum legal workday limit[44], or 75% if it indeed has exceeded such a limit[45].

The maximum weekly workday will be of 42 hours, which will be implemented gradually (Colombian Congress, 2021):

- By 2023, it will be 47 weekly hours.
- By 2024, it will be 46 weekly hours.
- By 2025, it will be 44 weekly hours.
- By 2026, it will be 42 weekly hours[46].

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

Nighttime working hours will run from 6:00PM through 6:00PM, raising it by 3 hours[47], all of which will have either the 35% or 75% surcharge per hour, depending on whether or not it's overtime or still within the workday.

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

As years go by, the nighttime work charge could be raised by adding an extra nighttime hour surcharge, given the reduction of weekly maximum hours. All in all, industries that require perpetual operation (Vigilance, security, medical workforce, etc.) will be costlier per worker during night shifts.

D) WEEKENDS AND HOLIDAYS

- *WHAT THE LAW CURRENTLY SAYS:*

Anyone that works on a Sunday or on a Holiday, will earn an extra charge like this[48]:

  - If those hours are **within the maximum weekly limits** in **daytime** hours: 75% of the worker's hourly value.
  - If they **are within the maximum weekly limit** but are done in **nighttime** hours: 110% of the worker's hourly value.
  - If they **exceed the maximum weekly limits**, in **daytime** hours: 100% of the worker's hourly value.
  - If they **exceed the maximum weekly limits**, in **nighttime** hours: 150% of the worker's hourly value.

[44] Colombian Employment Code. Article 168, Numeral 1).
[45] Colombian Employment Code. Article 168, Numeral 3).
[46] Law 2101 of 2021. Article 3.
[47] Bill No. 367-2023 (C). Article 16.
[48] Colombian Employment Code. Article 179.

Also, it should be noted that the following are legal holidays in Colombia: January 1st, January 6th, March 19th, May 1st, June 29th, July 20th, August 7th, August 15th, October 12th, November 1st, November 11th, December 8th, December 25th, Thursday and Friday of the Holy Week, Feast of the Ascension Corpus Christi and the Day of the Sacred Heart[49].

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

There will be a general increase of 25% on each hourly value worth of extra charges for workers on Sundays and holidays[50], leaving it like this:

- **Within the maximum weekly limits on Daytime: 100% of the hourly rate.**
- **Within the maximum weekly limits on Nighttime: 135% of the hourly rate.**
- **Exceeding the maximum weekly limits on Daytime: 125% of the hourly rate.**
- **Exceeding the maximum weekly limits on Nighttime: 175% of the hourly rate.**

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

Industries that require permanent and full coverage on shifts will be costlier, such as those in private security or costumer hotlines; even if extra workers are hired to cover individual weekly limits, there will still be a 25% increase on any workers that work on weekends and holidays, regardless of the fact that it's on overtime or within the workweek limits.

E) LICENSE FOR MENSTRUAL CRAMPS

- *WHAT THE LAW CURRENTLY SAYS:*

There are no legal licenses for women who have disabling or chronic menstrual pain, so Health Promoting Entities need to issue a general incapacitation license in these cases, if the entity's health professionals categorize it as a bad enough medical emergency or condition.

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

There will be a legal obligation for employers to allow paid leave to women who show signs of incapacitating menstrual cycles, dysmenorrhea or abdominal chronic pain, as long as there is a previous diagnosis[51].

[49] Colombian Employment Code. Article 177.
[50] Bill No. 367-2023 (C). Article 20.
[51] Bill No. 367-2023 (C). Article 36.

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

There will be a recognition of a condition that makes it harder for women to do their jobs as the medically valid reason that it is, without prejudice or undermining coming from employers; in any case, the Ministry of Labor will likely have to issue rules to validate these licenses.

F) PAID PATERNITY LEAVE

- *WHAT THE LAW CURRENTLY SAYS:*

Fathers get two (2) weeks of paid paternity leave (Colombian Congress, 2021) which shall be paid for by the employer at first, and then, the employer can charge back the amount paid to the Health Promoting Entity[52] (Administrative Department of Public Functions, 2012).

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

The number of weeks of paid paternity leave will begin to periodically raise, up to 12 weeks, like this[53]:

- 5 weeks of paid leave in 2023.
- 8 weeks of paid leave in 2024.
- 12 weeks of paid leave in 2025.

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

In the medium term, which is on the following three years, the Healthcare System might struggle to keep up with the demand of increased paid paternity leaves. However, this would redistribute the paternal roles and allow fathers to have bigger parts to play on their children's premature years, which is one of the legal functions of maternity and paternity leave.

COLLECTIVE CHANGES BROUGHT BY THE REFORM

In the context of interactions between Labor Unions and Employers, the Colombian Employment Code sets the foundation for legal procedures that must be observed to guarantee the correct application of Union Affiliation Rights, as well as Collective Bargaining in a serious, transparent manner; the employment reform seeks to further the scope of the legal protection afforded to workers and unions in general, to strengthen Labor Unions across all industries on the country.

[52] Law Decree 019 of 2012. Article 121.
[53] Bill No. 367-2023 (C). Article 43.

A) EXTENSIVE RIGHT OF AFFILIATION TO A UNION

- *WHAT THE LAW CURRENTLY SAYS:*

The only kind of population that expressly has no right to affiliate to Labor Unions are the members of the armed forces, such as Police, Navy, Army and Air Force[54]; on the other hand, independent contractors or people with civil or commercial ties can affiliate to Labor Unions, but their benefits of affiliation will be severely limited to those that aren't incompatible with the nature of the contract, for instance, they will not be able to access collective bargaining or Unions that aren't structured specifically to harbor independent contractors as members (Constitutional Court, 2020).

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

The right to affiliate Labor Unions will be fully and expressly extensive to any kind of independent contractor or similar figure that acts in accordance with civil or commercial law, and not necessarily just those originated on employment grounds[55].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

The wider interpretation of the right of affiliation will likely cause a strong need for the development of concrete rules of application, which will be a part of the Ministry of Employment's functions. Many Companies will then have to prepare for the inclusion of contractor benefits on their collective agreements, while consolidated Labor Unions simultaneously start to reform their by-laws to include contractors and their union fees.

B) LEGAL UNION PAID LEAVE

- *WHAT THE LAW CURRENTLY SAYS:*

Employers have a generic obligation to concede paid leave for workers to attend union-related events and duties[56], but the manner in which employers actually allow them is usually up to them, as it's stipulated on internal rules.

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

Unionized workers will have a right to, at least, two (2) hours for each affiliated worker, for two (2) Ordinary Assemblies per year of paid leave. [57].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

[54] Colombian Constitution, Article 39.
[55] Bill No. 367-2023 (C). Article 46.
[56] Colombian Employment Code. Article 57, Numeral 6)
[57] Bill No. 367-2023 (C). Article 47.

Companies with higher union affiliation rates will have to shoulder the financial burden of having four (4) yearly paid leave hours per affiliated worker; Labor Unions, however, will benefit and grow from the possibility of protected paid leaves to coordinate affairs of interest to the workers.

C) EXTENSIVE TYPES OF LABOR UNIONS

- *WHAT THE LAW CURRENTLY SAYS:*

There are four types of Labor Unions: i) **Company Unions**, in which workers of a specific company are affiliated, ii) **Industrial Unions**, where workers from different companies in a single supply chain or market are affiliated, iii) **Professional Unions**, where workers of different companies that have the same profession or position are affiliated and iv) **Miscellaneous Unions**, where their affiliation pool consists of all kinds of workers that operate in areas where no single company, industrial or professional union can be created because there are not enough people to meet their requisites[58].

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

The kinds of Labor Unions that can be created in Colombia will no longer be specifically Cpmpany, Industrial, Professional or Miscellaneous, but also any other kind of combination that workers choose[59].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

Labor Union By-Laws will be harder to pinpoint in reference to the Union's nature, as many will be very vague to affiliate as many kinds of workers as possible, leading to a probable explosion in by-law reforms, for one, and the creation of indeterminate Labor Unions, for the other part.

D) LABOR FEDERATION FACULTIES

- *WHAT THE LAW CURRENTLY SAYS:*

Labor Federations, which are composed from multiple Labor Unions, have the same functions and abilities that Labor Unions have, except for the possibility to assemble strikes[60].

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

[58] Colombian Employment Code. Article 355.
[59] Bill No. 367-2023 (C). Article 48.
[60] Colombian Employment Code. Article 417.

Labor Federations will have the exact same functions and abilities as Labor Unions[61], including of course, the possibility to assemble worker strikes.

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

Labor Federations will try to constitutionally protect their right to assemble worker strikes across all companies in which they have affiliated workers, which will in turn become a legal debate that will require additional regulation, regarding the rules and requirements for strikes assembled by Federations across multiple companies.

E) JUDICIAL PROTECTION FOR ANTI-UNION ACTIVITY

- *WHAT THE LAW CURRENTLY SAYS:*

There are no ordinary judicial means to protect anti-union activity set forth by companies, so the only way to protect unions and their affiliated workers is by submitting constitutional actions, which require a strict argumentation burden regarding the breach of the fundamental right to affiliate (Constitutional Court, 2017).

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

Labor Unions will be able to directly submit lawsuits against employers that incur on anti-union activity, in which Employment Judges will be able to summarily issue protection means through judicial rulings[62]

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

As there will now be ordinary means of judicial protection, Constitutional Actions will probably recede, and in turn, Employment Courts will be tasked with a greater number of lawsuits to rule out.

F) LEVELED COLLECTIVE BARGAINING AGREEMENTS

- *WHAT THE LAW CURRENTLY SAYS:*

The Colombian regulatory framework allows it to be collective negotiations at any level, which is supported by ILO Conventions (Supreme Court of Justice, 2021) however, there are currently no concrete rules or guidelines for there to be any collective bargaining agreements at levels greater than by Company, which is why there are seldom any negotiations done at those levels.

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

[61] Bill No. 367-2023 (C). Article 48.
[62] Bill No. 367-2023 (C). Article 53.

The Law will now expressly have a special chapter to define different negotiation levels, including by economic sector, business group, Company or any other level that the parties themselves come up with[63]; also, for any level of collective bargaining, Labor Unions will have to present a single, unified petitionary document, with a single negotiation committee resulting on a single Collective Bargaining Agreement that will be applied to all unions and their members[64].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

For one, the appliance of integral regulation for collective bargaining at different levels will incentivize the rallying of Labor Unions to achieve benefits with multiple Companies at once, which could be potentially beneficial for workers but detrimental to Companies that aren't consolidated yet on the markets and have fewer financial options than their competitors.

That being said, the compulsory participation of all Labor Unions on unified negotiations and petitions might spark constitutional debates regarding the democratic autonomy of each individual Labor Union that is protected, in those cases in which singular Labor Unions want to opt out of levelled negotiations.

G) AUTOMATIC EXTENSION OF COLLECTIVE BENEFITS TO WORKERS NOT AFFILIATED TO A LABOR UNION

- *WHAT THE LAW CURRENTLY SAYS:*

If the group of Labor Unions that are negotiating a collective bargaining agreement round up at least a third (1/3) of any given Company's total worker pool, then the resulting agreement's benefits will be extensible to every single company worker, regardless of whether or not they are actually unionized members[65], and in return, the Union will be able to collect fees from every worker of the Company, as long as they are being covered by the Collective Bargaining Agreement.

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

The cluster of workers that the group of Labor Unions must represent in order for the Collective Bargaining Agreement to be extensible to every worker of the Company will be lowered to a fifth (1/5) of the total workers for any given Company[66].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

There could be issues interpreting which existing Collective Bargaining Agreement will be applied to every worker, if more than one Labor Union has a member base of at least a fifth of total workers, making it so that Judicial Authorities end up having to resolve those

[63] Bill No. 367-2023 (C). Article 55.
[64] Bill No. 367-2023 (C). Article 58.
[65] Colombian Employment Code. Article 471.
[66] Bill No. 367-2023 (C). Article 56.

disputes at individual levels; moreover, Labor Unions that have lower affiliation rates will tend to disappear in favor of Unions that are closer to the 1/5 mark.

H) ELIMINATION OF COLLECTIVE BARGAINING PACTS

- *WHAT THE LAW CURRENTLY SAYS:*

While Collective Bargaining Agreements are agreed upon and have effects between employers and their Labor Unions, Collective Bargaining Pacts create benefits between employers and their non-affiliated workers, who in turn have to organize themselves without actually creating a Labor Union. The proceedings in both negotiations, Agreements and Pacts, have the same legal steps and requisites[67].

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

Collective Bargaining Pacts, or any sort of agreement made between employers and workers that are not affiliated to any Labor Union, will be strictly forbidden, and those that are already in place, will be able to finish their legal or contractual term, without possibility to be prorogued[68].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

The Constitutional Court, at one point or another, will have to issue a ruling determining whether it's unconstitutional to completely limit the right to collectively bargain for workers not affiliated with any Labor Unions, specially since that right is presently protected by the Constitution (Constitutional Court, 2007).

Aside from that legal particularity, workers will likely start to affiliate to Labor Unions at greater rates, since it will be the only way to raise employment benefits above the bare legal minimum.

I) NATURE OF THE RIGHT TO STRIKE

- *WHAT THE LAW CURRENTLY SAYS:*

The right to strike is constitutionally protected[69], however, it is **NOT** considered a fundamental right, unless its breach also affects directly either the fundamental right to work, or to affiliate with a Labor Union (Constitutional Court, 2000).

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

[67] Colombian Employment Code. Article 481.
[68] Bill No. 367-2023 (C). Article 56.
[69] Colombian Constitution, Article 56.

The right to strike will be a fundamental right, which will be guaranteed directly by the State in every way or form that it can be practiced in[70].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

Firstly, if a Law pretends to override the dispositions issued by the Constitutional Court regarding the fundamental nature of a constitutional right, then that Law will likely have to be billed in a different procedure, since it needs a statutory debate.

Aside from that, if the right to strike does become fundamental, then workers will be able to directly protect that right, without having to prove its link to the right to work or affiliate, in constitutional proceedings, which are faster and with less legal technicalities.

J) PARTIAL STRIKES ON MIMIMUM PUBLIC SERVICES

- *WHAT THE LAW CURRENTLY SAYS:*

Strikes are strictly forbidden in companies that operate in industries catalogued by the Law as minimum public services[71], which are: **i)** State public branches, **ii)** Terrestrial, maritime and aerial transportation, **iii)** Water treatment and electricity supply, **iv)** Telecommunication networks, **v)** Establishments that dedicate to beneficence, charity and social assistance, as long as they see to the needs of constitutionally protected communities, **vi)** Hygiene and cleaning services for the collective population, and **vii)** Export, refineries, transportation and distribution of petroleum and its derivatives, as long as they are destined to the fueling needs of the country.

That being said, the Supreme Court of Justice has admitted that even if it's a Company that operates in a minimum public service, strikes can be executed, as long as those workers that are essential to the continuance of the supply of that minimum public service can keep working, while the rest are striking (Supreme Court of Justice, 2020).

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

In all companies that operate in minimum public services, those workers that are considered essential for the continuance of operations that guarantee the supply of that public service to the population will have to be agreed upon by the employer and the Trade Union; should they fail to reach terms, the workers that will be allowed to continue working during the strike will be selected by an independent committee, whose characteristics will be defined by the Ministry of Labor through an administrative decree[72].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

[70] Bill No. 367-2023 (C). Article 61.
[71] Colombian Employment Code. Article 430.
[72] Bill No. 367-2023 (C). Article 62.

Whichever essential workers are defined by the parties in the first wave of collective bargaining agreements that end up in strikes, will likely become customary criteria for any companies that follow them.

In any case, both employers and trade Unions will likely lobby to incorporate representatives for each of them in the independent committee, in a sense to obtain some voice and vote in the definition of essential workers in minimum public services.

K) VOTING MAJORITIES FOR STRIKES

- *WHAT THE LAW CURRENTLY SAYS:*

Strikes need to be approved by the majority of the entire pool of workers on the Company, if the Labor Union does not affiliate, at least, a **HALF AND ONE** (**50%+1**) of the worker population; if a Labor Union indeed has within its members at least a half plus one of the entire worker pool, then only the Affiliated Members Assembly of the Labor Union has to approve the strike[73].

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

Strikes need to be approved by most of the entire pool of workers on the Company, if the Labor Union does not affiliate, at least, **A FIFTH** (**1/5**) of the worker population; if a Labor Union indeed has within its members at least a fifth of the entire worker pool, then only the Affiliated Members Assembly of the Labor Union must approve the strike[74].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

Workers that are not affiliated with Labor Unions will be impacted in their income by less than most of their peers, since strikes cause a suspension on the employment contracts. Also, since now more than a single Labor Union will be able to be considered a majority to vote for strikes, then a single company could have more frequent total strikes within the same period.

L) TIME LIMITS PERTAINING STRIKES

- *WHAT THE LAW CURRENTLY SAYS:*

Strikes can only begin within two (2) business days after it has been approved by the workers, and no longer that ten (10) business days in total[75]; should a strike be initiated in any other time frame, it can be declared illegal by an employment judge[76].

[73] Colombian Employment Code. Article 444.
[74] Bill No. 367-2023 (C). Article 64.
[75] Colombian Employment Code. Article 445, Numeral 1).
[76] Colombian Employment Code. Article 450, Literal E).

also, once a strike has begun, once it hits the 60-day mark, special mechanisms to resolve the dispute must be applied by the parties[77], as to not extend indefinitely the collective conflict.

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

Strikes will be available to start in any time after a two-business-day notice to the employer[78], the breaching of this period will no longer, however, enable the declaration of illegal strikes[79].

Strikes will be able to last indefinitely as long as the parties have not reached consent pertaining the Collective Bargaining Agreement[80].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

Even though the proposal presents a legal two-business-day notice for the employer, the elimination of time breaches as a criteria for illegal strikes makes it a disposition that will only serve to produce fines imposed by the Ministry of Labor, should they be unobserved; employers will be devoid of serious tools to debate the legality of certain strikes that can come up as abusive or irregular.

Workers will also be subject to longer suspension periods during long strikes, which can create grievous financial distress for individual workforce members.

M) ARBITRATION COURTS AS A VOLUNTARY STAGE ON THE CONFLICT

- *WHAT THE LAW CURRENTLY SAYS:*

Collective Conflicts cannot remain open indefinitely, which is why it's legitimate that the Law[81] eventually orders the conformation of an Arbitration Court to resolve the dispute between the Employer and the Labor Union, and that legal obligation to eventually have the conflict decided by arbiters is directly linked to constitutional values (Constitutional Court, 2012).

- *THE MINISTRY OF LABOR'S PROPOSED CHANGES:*

Once the negotiation term is over, and at any point during the strike, the parties can agree to summon an Arbitration Court to have the conflict resolver, but it requires express consent of both the employer and the Labor Union[82].

- *WHAT WILL PROBABLY HAPPEN IF THESE CHANGES MAKE IT AS LAWS:*

[77] Colombian Employment Code. Article 448, Numeral 4).
[78] Bill No. 367-2023 (C). Article 65.
[79] Bill No. 367-2023 (C). Article 68.
[80] Bill No. 367-2023 (C). Article 67.
[81] Colombian Employment Code. Article 448, Numeral 4)
[82] Bill No. 367-2023 (C). Article 69.

Making mandatory arbitration courts a voluntary mean of resolution will make strikes the primary way to have the collective conflict decided, which does not guarantee an objective measurement of arguments presented by both parties, but rather, concessions made on grounds of needing to resume operations. Which could turn up the tension in the negotiating table.

References

Administrative Department of Public Functions. (2012). Law Decree 019 of 2012. Official Diary 48.308.

Constitutional Court. Eighth Revision Court. (2018). Ruling T-325 of 2018. Issuing Magistrate Jose Fernando Reyes Cuartas.

Constitutional Court. Eighth Revision Court. (2020). Ruling T-535 of 2020. Issuing Magistrate Jose Fernando Reyes Cuartas.

Constitutional Court. Fifth Revision Court. (2021). Ruling T-130 of 2021. Issuing Magistrate Paola Andrea Meneses Mosquera.

Constitutional Court. First Revision Court. (2007). Ruling T-765 of 2007. Issuing Magistrate Jaime Araujo Renteria.

Constitutional Court. Ninth Revision Court. (2017). Ruling T-367 of 2017. Issuing Magistrate Jose Antonio Cepeda Amaris.

Constitutional Court. Third Revision Court. (2020). Ruling T-376 of 2020. Issuing Magistrate Luis Guillermo Guerrero Perez.

Constitutional Court. Full Court. (2000) Ruling C-797 of 2000. Issuing magistrate Antonio Barrera Carbonell.

Constitutional Court. Full Court. (2004) Ruling C-038 of 2004. Issuing magistrate Eduardo Montealegre Lynett.

Constitutional Court. Full Court. (2012) Ruling C-038 of 2004. Issuing magistrate Humberto Antonio Sierra Porto.

Colombian Congress. (1961). Colombian Employment Code. Official Diary 27.622

Colombian Congress. (1990). Law 50 of 1990. Official Diary 39.618.

Colombian Congress. (1997). Law 361 of 1997. Official Diary 42.978.

Colombian Congress. (2000). Law 584 of 2000. Official Diary 44.043.

Colombian Congress. (2002). Law 789 of 2002. Official Diary 45.046.

Colombian Congress. (2021). Law 2101 of 2021. Official Diary 51.736.

Colombian Congress. (2021). Law 2114 of 2021. Official Diary 51.750.

Ministry of Labor. (2023). Bill 367-2023 (C). Work for change. Employment Reform Project.

National Constituent Assembly. (1991). Colombian Constitution of 1991. Gazette No. 116 of July 20th, 1991.

Presidency of Colombia. (1965). Decree 2351 of 1965. Official Diary 31.754.

SENA. General Management. (2021). Cartilla Contrato de Aprendizaje y Regulacion de Cuota. Pp. 16.

Supreme Court of Justice. Employment Court. (2020). Ruling SL1680-2020. Issuing Magistrate Clara Cecilia Dueñas Quevedo.

Supreme Court of Justice. Employment Court. (2020). Ruling SL4260-2020. Issuing Magistrate Luis Benedicto Herrera Diaz.

Supreme Court of Justice. Employment Court. (2021). Voting Clarification for Ruling SL 462-2021. Issuing Magistrate Clara Cecilia Dueñas Quevedo.

Supreme Court of Justice. Employment Court. (2021). Ruling SL4870-2021. Issuing Magistrate Carlos Arturo Guarin Jurado.

Supreme Court of Justice. Employment Court. (2022) Ruling SL 1947-2022. Issuing Magistrate Ana Maria Muñoz Segura.

Supreme Court of Justice. Employment Court. (2022) Ruling SL 2717-2022. Issuing Magistrate Jorge Prada Sanchez.

Supreme Court of Justice. Employment Court. (2022) Ruling SL 2796-2022. Issuing Magistrate Omar Angel Mejia Amador.

Supreme Court of Justice. Employment Court. (2023) Ruling SL 017-2023. Issuing Magistrate Martin Emilio Beltran Quintero.

Supreme Court of Justice. Employment Court. (2023) Ruling SL 502-2023. Issuing Magistrate Giovanny Francisco Rodriguez Jimenez.