



MAX PLANCK INSTITUTE  
FOR SOCIAL LAW AND SOCIAL POLICY

# Social Law Reports

Gabriela Mendizábal Bermúdez

## **Social Security in Mexico**

Reported Period: 2020

Cite as: Social Law Report No. 2/2021

© Max Planck Institute for Social Law and Social Policy, Munich 2021

Department of Foreign and International Social Law

All rights reserved.

ISSN 2366-7893

Max Planck Institute for Social Law and Social Policy

Amalienstrasse 33, D-80799 Munich, Germany

Tel.: +49 (0)89 38602-0

Fax: +49 (0)89 38602-490

E-mail: [info@mpisoc.mpg.de](mailto:info@mpisoc.mpg.de)

<http://www.mpisoc.mpg.de>

## CONTENT OVERVIEW

<b>1. INTRODUCTION .....</b>	<b>1</b>
<b>2. ECONOMIC, POLITICAL AND SOCIAL SITUATION in 2020 .....</b>	<b>2</b>
2.1. ECONOMY .....	2
2.2. LABOR.....	3
2.3. POVERTY .....	4
2.4. SOCIAL POLICY MEASURES DUE TO THE PANDEMIC .....	5
<b>3. EVOLUTION OF SOCIAL PROTECTION SCHEMES .....</b>	<b>7</b>
3.1. OLD-AGE SCHEMES .....	7
3.1.1. REFORM OF THE RETIREMENT SAVINGS SCHEME (SAR) .....	7
3.1.2. NEW CAP FOR ADMINISTRATION FEES .....	10
3.1.3. CASE LAW ON REPAYMENT OF CONTRIBUTIONS TO FOREIGN WORKERS.....	11
3.2. HEALTH CARE PROVISION AND SICKNESS BENEFITS .....	12
3.2.1. COVID-19 AND HEALTH .....	12
3.2.2. IMPLEMENTATION OF THE BASIC CATALOG OF MEDICINES.....	12
3.3. FAMILY BENEFITS: CHILDCARE SERVICES FOR CHILDREN OF WORKING PARENTS.....	13
3.4. HEALTH PROTECTION AND PREVENTION OF PSYCHOSOCIAL RISKS AT THE WORKPLACE.....	13
3.5. HOUSING .....	14
3.6. SOCIAL ASSISTANCE.....	15
3.6.1. CREATION OF THE COMMUNITY HEALTH AND WELLNESS PROGRAM .....	15
3.6.2. WELL-BEING PROGRAM FOR PERSONS IN EMERGENCY SITUATIONS.....	16
3.6.3. ELIMINATED SOCIAL ASSISTANCE PROGRAMS .....	16
<b>4. ORGANIZATIONAL REFORMS.....</b>	<b>17</b>
<b>5. JUDICIAL PROTECTION OF FUNDAMENTAL SOCIAL RIGHTS OF PENSIONERS ....</b>	<b>18</b>
<b>6. INTERNATIONAL SOCIAL SECURITY .....</b>	<b>19</b>
6.1. NEW FREE TRADE AGREEMENT BETWEEN MEXICO, THE USA AND CANADA .....	19
6.2. REGISTRATION OF THE ILO DOMESTIC WORKERS CONVENTION, 2011 (No. 189) .....	20
<b>7. References .....</b>	<b>21</b>
7.1. MONOGRAPHS.....	21
7.2. ARTICLES.....	21
7.3. DIGITAL REFERENCES.....	23
<b>8. ANNEXES IN SPANISH LANGUAGE.....</b>	<b>27</b>
8.1. SUPREME COURT RULINGS DISCUSSED (IN ORDER OF APPEARANCE).....	27
8.2. LEGISLATION.....	29

## LIST OF ABBREVIATIONS

AFORE	Administradora de Fondos para el Retiro
BANXICO	Banco de México
BBVA	Banco Bilbao Vizcaya Argentaria
CEPAL	Comisión Económica para América Latina y el Caribe
CONASAMI	Consejo Nacional de Salarios Mínimos
CONEVAL	Consejo Nacional de Evaluación de la Política de Desarrollo Social
CONSAR	Comisión Nacional del Sistema de Ahorro para el Retiro
COVID-19	Enfermedad ocasionada por el virus SARS-CoV2
DOF	Diario Oficial de la Federación
EAP	Economically Active Population
ECLAC	Economic Commission for Latin America and the Caribbean
FMI/IMF	Fondo Monetario Internacional/ International Monetary Fund
GDP	Gross Domestic Product
IMSS	Instituto Mexicano del Seguro Social
INEGI	Instituto Nacional de Estadística y Geografía
INFONAVIT	Instituto del Fondo Nacional de la Vivienda para los Trabajadores
ISSSTE	Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado
LFT	Ley Federal de Trabajo
LISSTE	Ley del Instituto Seguridad y Servicios Sociales de los Trabajadores del Estado
LSS	Ley del Seguro Social
NAFTA	North America Free Trade Agreement
SAR	Sistema de Ahorro para el Retiro
SARS-CoV2	Virus de la gran familia de los coronavirus

SCJN ----- Suprema Corte de Justicia de la Nación

STPS ----- Secretaría de Trabajo y Prevención Social

UMA ----- Unidad de Medida y Actualización

USMCA ----- US-Mexico-Canada Agreement on trade

----- (Acuerdo comercial Estados Unidos-México-Canadá)

USD ----- US Dollars

## 1. INTRODUCTION

Without a doubt, 2020 was marked worldwide by the effects of the pandemic caused by the SARS-CoV2 virus. Social law was not spared from these developments, and in the Mexican case, on the one hand, there was regrettably a lack of leadership that left workers and their families with an almost non-existent labor and social security policy to benefit them, as well as a lack of support for employers. On the other hand, the Mexican government promoted changes in health care policy to provide universal coverage in case of infection with the virus. This poses a major challenge to Mexico, given that it has an insured population of 81.3 million people,<sup>1</sup> while 48.8 million receive health services only through social assistance.<sup>2</sup> Nonetheless, by the end of 2020, the country had lost 128,771 inhabitants to COVID-19 and its infection rate had reached 1,186 per 100,000 inhabitants.<sup>3</sup>

Aside from the pandemic issue, four important events stand out: a pension reform, the establishment of labor courts, the entry into force of the USMCA, and a reform approved to regulate telework which takes effect on 12 January 2021.<sup>4</sup>

1. Pension reform. The reform reduced contribution requirements for old age pensions, old-age severance pensions, and retirement pensions from 1250 to 750 weeks, while employer contributions are gradually increased from 5.15% to 13.87% as of 2023 and until 2030. Despite the cut in the number of contribution weeks and the employer contribution increase until 2023, workers will not have to pay increased contributions to social security. While this measure will allow more workers to gain immediate access to a pension as of 2021, it remains unclear how the necessary resources will be obtained to finance these pensions.<sup>5</sup>
2. The Conciliation and Arbitration Boards have been eliminated to give way to the new Labor Courts and the agency in charge of conciliations (Centro Federal de Conciliación y Registro Laboral).

---

<sup>1</sup> Presidencia de la República, *Segundo Informe de Gobierno 2020*, Gobierno de México, Mexico, 2020, p. 241, at: <https://presidente.gob.mx/wpcontent/uploads/2020/09/PRESIDENTE%20AMLO%20INFORME%20DE%20GOBIERNO%202019-2020.pdf>, accessed on 7 January 2021.

<sup>2</sup> *Ibidem*, p. 242.

<sup>3</sup> Gobierno de México, *COVID-19 México*, Gobierno de México, Mexico, 2021, at: <https://datos.covid-19.conacyt.mx/>, accessed on 11 January 2021.

<sup>4</sup> Diario Oficial de la Federación, *DECRETO por el que se reforma el artículo 311 y se adiciona el capítulo XII Bis de la Ley Federal del Trabajo, en materia de Teletrabajo*, DOF, Mexico, 2021, at: [http://dof.gob.mx/nota\\_detalle.php?codigo=5609683&fecha=11/01/2021](http://dof.gob.mx/nota_detalle.php?codigo=5609683&fecha=11/01/2021), accessed on 13 January 2021.

<sup>5</sup> Gaceta parlamentaria p. 11.

3. The "United States-Mexico-Canada Agreement" (USMCA). On 21 January 2020, the Decree approving the Protocol amending the USMCA was published in the Federal Official Gazette. The treaty does not include a specific section on social security, but it does include one on labor, which aims to "guarantee the effective implementation of internationally recognized labor rights", as well as "promote transparency and the involvement of civil society in the application of labor legislation."<sup>6</sup>
4. Lastly, on 8 December 2020, the Chamber of Deputies approved the Decree on telework reforming the Federal Labor Law, which now contains a specific chapter regulating telework in Mexico. Some of the highlights of this reform are: the definition of telework; special obligations for employers to provide tools and resources to the worker to perform labor-related activities; special obligations for workers such as the custody and safekeeping of the supplies provided by the employer; guarantee of the right to privacy; and an ensured change in mode of operation from face-to-face to telework; among others. It should be mentioned that although this ruling was approved by the legislative congress in 2020, it was published and came into effect only in January 2021.<sup>7</sup>

## 2. ECONOMIC, POLITICAL AND SOCIAL SITUATION IN 2020

### 2.1. Economy

The economic outlook in the country for 2020 turned out negative, mainly due to the consequences caused by the COVID-19 pandemic around the world. The International Monetary Fund (IMF) estimated that the gross domestic product (GDP) per capita in Mexico fell by 9.9% in 2020.<sup>8</sup> It also stated that the value generated by economic activities in Mexico will not compensate for population growth. Meanwhile, in its "Trade and Development Report 2020", the United Nations Conference on Trade and Development projected that Mexico would have the second worst GDP performance in Latin America (after Argentina), registering a 10% drop in 2020.<sup>9</sup>

Even so, it should be noted that the main source of income for the Mexican economy comes from remittances flowing into the country, mostly from migrant workers in the

---

<sup>6</sup> Chapter 23 of the USMCA.

<sup>7</sup> Diario Oficial de la Federación, *op. cit.*

<sup>8</sup> Cf. International Monetary Fund, *Informes de perspectivas de la economía mundial octubre de 2020*, IMF, United States of America, 2020, at: <https://www.imf.org/es/Publications/WEO/Issues/2020/09/30/world-economic-outlook-october-2020>, accessed on 5 January 2021.

<sup>9</sup> Cf. United Nations, *Informe sobre el comercio y el desarrollo 2020 de la pandemia mundial a la prosperidad para todos: evitar otra década perdida*, UN, Switzerland, 2020, p. 11, at: <https://www.onu.org.mx/presentacion-del-informe-2020-sobre-comercio-y-desarrollo-de-la-unctad/>, accessed on 4 January 2021.

United States of America and Canada. In 2020, remittances reached a new record, generating an income of \$860 billion Mexican pesos (\$39.5 billion USD), reflecting an 8.4% increase over 2019.<sup>10</sup> Based on the above, remittances to Mexico have continued to grow over the last five years, as shown in the following table:

### Remittances to Mexico in the last five years

Year	Amount
2020	\$39.50 billion USD
2019	\$35.46 billion USD
2018	\$33.48 billion USD
2017	\$28.60 billion USD
2016	\$26.97 billion USD

Source: Prepared by the author based on the Yearbook of Migration and Remittances Mexico for 2016, 2017, 2018, 2019 and 2020 compiled by BBVA Research.

## 2.2. Labor

Labor statistics in Mexico for 2020 were not encouraging, largely due to Covid-19 and its repercussions in this area. Data provided by the Bank of Mexico (BANXICO) report that 10 million informal jobs and two million formal jobs were lost due to the crisis caused by the pandemic.<sup>11</sup> In its most recent National Survey on Employment and Occupation for the third quarter of 2020, the National Institute of Statistics and Geography (INEGI) reports that the Economically Active Population (EAP) for that period in the country was 53.8 million people, which is 3.6 million less than that in the same period of 2019. The employed population represented 94.9% of the EAP; that is, people who worked in the week prior to the interview or who did not work but had a labor relationship with the economic unit for which they work,<sup>12</sup> while the EAP without employment was 2.7 million people.<sup>13</sup> The division of the workforce by sex was made up of 33.5 million men versus 20.3 million women.

<sup>10</sup> Cf. BBVA, *BBVA México: En 2020, las remesas alcanzarán los 39,500 millones de dólares pese a la pandemia*, BBVA, Mexico, 2020, at: <https://www.bbva.com/es/mx/bbva-mexico-estima-que-en-2020-las-remesas-alcanzaran-los-39500-mdd-8-4-pese-a-la-pandemia/>, accessed on 4 January 2021.

<sup>11</sup> Banxico, *Cambios estructurales en el mercado laboral*, Banco de México, 2020, at: <https://www.banxico.org.mx/publicaciones-y-prensa/presentaciones/%7B03A31AC2-D1CD-C0CA-955B-B8AEFE71AFAB%7D.pdf>, accessed on 11 January 2021.

<sup>12</sup> Instituto Nacional de Estadística y Geografía, *Resultados de la encuesta nacional de ocupación y empleo. nueva edición (ENOEN) cifras durante el tercer trimestre de 2020*, INEGI, Mexico, 2020, at: [https://www.inegi.org.mx/contenidos/programas/enoe/15ymas/doc/enoe\\_n\\_notas\\_tecnicas\\_trim3.pdf](https://www.inegi.org.mx/contenidos/programas/enoe/15ymas/doc/enoe_n_notas_tecnicas_trim3.pdf), accessed on 4 January 2021.

<sup>13</sup> *Idem*.



The informal working population in this period was 27.7 million people, which means that more than 60% of the working population is in the informal economy.<sup>14</sup>

### 2.3. Poverty

In its last poverty measurement of 2018, the National Council for the Evaluation of Social Development Policy (CONEVAL), in its capacity as a decentralized public body of the Federal Public Administration in charge of generating objective information on the situation of social policy and poverty in Mexico,<sup>15</sup> reported that 61.1 million Mexicans were living in poverty and 21 million in extreme poverty.<sup>16</sup> It also established the income lines to be used to measure poverty, the data for which are as follows as of December 2020: Extreme Income Poverty Line, which is equivalent to an income below the cost of the basic food basket per person per month: \$1,206.24 (\$60.13 USD)<sup>17</sup> in rural areas and \$1,676.11 (\$83.55 USD) in urban areas;<sup>18</sup> and the Income Poverty Line, which is equivalent to an income below the total cost of the basic food and non-food baskets per person per month, which was \$2,153.82 (\$107.36 USD) in rural areas and \$3,295.73 (\$164.29 USD) in urban areas.<sup>19</sup>

It is worth noting that the national minimum wage was increased by 15% and set at \$141.70 pesos (\$7.06 USD) per day, i.e. \$4,251 pesos (\$211.91 USD) per month for 2021.<sup>20</sup>

Meanwhile, in its "Special Report COVID-19 No. 5. Addressing the growing impact of COVID-19 with a view to reactivation with equality: new projections", ECLAC has predicted that the economic crisis resulting from the pandemic will leave millions of people in poverty and Mexico will be one of the Latin American countries with the

---

<sup>14</sup> *Idem*.

<sup>15</sup> Consejo Nacional de Evaluación de la Política de Desarrollo Social, *¿Quiénes somos?*, CONEVAL, Mexico, 2020, at: <https://www.coneval.org.mx/quienessomos/Paginas/Quienes-Somos.aspx>, accessed on 4 January 2021.

<sup>16</sup> Cf. Consejo Nacional de Evaluación de la Política de Desarrollo Social, *Medición de la pobreza*, CONEVAL, Mexico, 2020, at: <https://www.coneval.org.mx/Medicion/Paginas/Pobrezalncio.aspx>, accessed on 5 January 2021.

<sup>17</sup> The exchange rate used for this report is \$20.06 Mexican pesos = 1 USD, data from the Bank of Mexico on 11 January 2021, available at: Banco de México, Tipo de cambio, Mexico, Banco de México, 2021, <https://www.banxico.org.mx/tipocamb/main.do?page=tip&idioma=sp>.

<sup>18</sup> Consejo Nacional de Evaluación de la Política de Desarrollo Social, *Evolución de las líneas de pobreza por ingresos*, CONEVAL, Mexico, 2020, at: <https://www.coneval.org.mx/Medicion/MP/Paginas/Lineas-de-bienestar-y-canasta-basica.aspx>, accessed on 4 January 2021.

<sup>19</sup> *Idem*.

<sup>20</sup> Comisión Nacional de Salarios Mínimos, *Acuerda CONASAMI incremento del salario mínimo del 15% para 2021*, Gobierno de México, Mexico, 2020, at: <https://www.gob.mx/conasami/prensa/acuerda-conasami-incremento-del-salario-minimo-del-15-para-2021-259690>, accessed on 11 January 2021.

highest rate of poverty increase.<sup>21</sup> It points out that Mexico currently has the third fastest growing poor population in Latin America; the percentage of Mexicans living in poverty will go from 41.9% in 2019 to 49.5% by 2020 while extreme poverty will rise from 11.1% to 17.4%.<sup>22</sup>

## 2.4. Social Policy Measures Due to the Pandemic

All governments in the world have tried to tackle the problems caused by the pandemic, which has led to various measures in different fields: health, economy, labor, public security, and others, ranging from administrative agreements to laws in the field of social law. In this context, the following measures stand out in Mexico:

### a) On labor issues

- Health emergency declaration. On 30 March 2020<sup>23</sup>, an agreement issued by the General Health Council was published, declaring the pandemic of the disease caused by the SARS-CoV2 virus (COVID-19) a public health emergency due to force majeure, which gave rise to legal uncertainty in labor matters. This is due to the fact that Articles 42 Bis, 427 Section VII, and 429 Section IV of the Federal Labor Law,<sup>24</sup> regarding the suspension of labor relations, do not contemplate a public health emergency, but a declaration of public health contingency, which has different legal consequences.

This had the negative impact of preventing employers from legally suspending labor relations with their workers, which led to an increase in dismissals and other irregular measures (vacations without pay, salary cuts, etc.).

---

<sup>21</sup> Comisión Económica para América Latina y el Caribe, *Enfrentar los efectos cada vez mayores del COVID-19 para una reactivación con igualdad: nuevas proyecciones*, CEPAL, 2020, p. 5. at: [https://repositorio.cepal.org/bitstream/handle/11362/45782/4/S2000471\\_es.pdf](https://repositorio.cepal.org/bitstream/handle/11362/45782/4/S2000471_es.pdf), accessed on 4 January 2021.

<sup>22</sup> It should be noted that the poverty figures reported for Mexico by ECLAC are lower than the national figures determined by CONEVAL. This is owing to the instrument used to measure poverty since CONEVAL quantifies poverty by taking into consideration at least the following indicators: current income per capita; average educational lag in the household; access to health services; access to social security; housing and quality space; access to basic housing services; access to food; degree of social cohesion; degree of accessibility to paved roads. Meanwhile ECLAC has a different approach to poverty measurement by identifying poor households as those whose income is lower than the value of a poverty line. This estimate reflects the value of goods and services required to meet basic needs.

<sup>23</sup> Diario Oficial de la Federación, *Acuerdo por el que se declara como emergencia sanitaria por causa de fuerza mayor, a la epidemia de enfermedad generada por el virus SARS-CoV2 (COVID-19)*, DOF, Mexico, 2020, at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5590745&fecha=30/03/2020#:~:text=Primero.-,Se%20declara%20como%20emergencia%20sanitaria%20por%20causa%20de%20fuerza%20mayor,prevista%20en%20el%20numeral%20anterior](https://www.dof.gob.mx/nota_detalle.php?codigo=5590745&fecha=30/03/2020#:~:text=Primero.-,Se%20declara%20como%20emergencia%20sanitaria%20por%20causa%20de%20fuerza%20mayor,prevista%20en%20el%20numeral%20anterior), accessed on 7 January 2021.

<sup>24</sup> Ley Federal del Trabajo.

- Telework. On 1 April 2020, the Ministry of Labor and Social Security issued a guide for the implementation of telework in workplaces within the framework of actions to address COVID-19,<sup>25</sup> for information purposes only. In this guide, a series of recommendations are established for both the employer and workers who introduce teleworking modalities in their workplaces, as an effort to assist them with this transition while respecting the rights and obligations of both parties.

b) On social security issues

- Health care. On 13 April 2020, the "All Together Against COVID-19" agreement was signed between the Mexican government and the National Association of Private Hospitals and the Mexican Consortium of Hospitals so that beneficiaries of the public health system could receive medical and hospital care unrelated to COVID-19 in private hospitals. The purpose of this measure was to ensure that public health institutions give priority to the care of COVID-19 patients and prevent overcrowding.<sup>26</sup>
- COVID-19 as an occupational hazard. On 29 July 2020, the agreement of the Technical Council of the Mexican Social Security Institute recognizing COVID-19 as an occupational hazard for workers during the public health contingency period was published in the Federal Official Gazette. The agreement gives workers diagnosed with COVID-19 in connection with the performance of essential activities the possibility to claim temporary incapacity before the IMSS that will allow them to justify work absences in terms of sick leave during their recovery period, as well as ensure economic and in-kind benefits provided to workers and their beneficiaries on grounds of an occupational hazard and not just of general illness.<sup>27</sup>

---

<sup>25</sup> Secretaría de Trabajo y Previsión Social, *Guía para implementar el teletrabajo en los centros de trabajo en el marco de las acciones para enfrentar el COVID-19*. STPS, Mexico, 2020, at: <https://www.gob.mx/cms/uploads/attachment/file/543661/INTRODUCCION.pdf>, accessed on 7 January 2021.

<sup>26</sup> Gobierno de México, *Convenio con hospitales privados ¡Todos juntos contra el COVID-19!*, Mexico, 2020, at: <https://www.gob.mx/issste/es/articulos/convenio-con-hospitales-privados?idiom=es>, accessed on 7 January 2021.

<sup>27</sup> Diario Oficial de la Federación, *ACUERDO ACDO.AS2.HCT.240620/173.P.DPES, dictado por el H. Consejo Técnico en sesión ordinaria el día 24 de junio de 2020, por el que se autorizan estrategias para prorrogar las prestaciones en especie y/o en dinero a los asegurados con incapacidad temporal para el trabajo que lleguen a término de ley y a los beneficiarios hijos incapacitados que cumplen 16 años, así como reconocimiento de la enfermedad COVID-19 como riesgo de trabajo en trabajadores IMSS, durante el periodo de contingencia.*, Secretaría de Gobernación, Mexico, 2020, at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5597452&fecha=29/07/2020](https://www.dof.gob.mx/nota_detalle.php?codigo=5597452&fecha=29/07/2020), accessed on 7 January 2021.

- Social security benefits in lieu of unemployment insurance. The Mexican Social Security Institute announced in July that people who lost their jobs during the public health emergency could apply for a Partial Unemployment Withdrawal. This withdrawal is a procedure whereby workers can make a partial withdrawal from their individual retirement accounts in case of unemployment.<sup>28</sup>
- Social programs. As a measure to address the economic effects on the Mexican population, President Andrés Manuel López Obrador ordered that the beneficiaries of the Well-Being Program for Older Adults, a social program that gives a pension to people aged 65 or older in Mexico, as well as the Benito Juárez Scholarship<sup>29</sup> program that grants scholarships to students in elementary, middle and higher education, receive a two-month advance on their pensions and scholarships.<sup>30</sup> These advances were repeated twice during 2020.

### 3. EVOLUTION OF SOCIAL PROTECTION SCHEMES

#### 3.1. Old-Age Schemes

##### 3.1.1. Reform of the Retirement Savings Scheme (SAR)

On 9 December 2020, the draft decree amending, adding and repealing 19 articles of the Social Security Law plus transitory articles was approved in an almost historic and somewhat controversial event since it was passed on the same day by the Chamber of Deputies with 441 votes in favor, 13 against and 6 abstentions<sup>31</sup> and by the Senate with 95 votes in favor and none against.<sup>32</sup>

---

<sup>28</sup> Instituto Mexicano del Seguro Social, *Personas que perdieron su empleo durante emergencia sanitaria pueden tramitar Retiro Parcial por Desempleo: IMSS*, IMSS, Mexico, 2020, at: <http://www.imss.gob.mx/prensa/archivo/202006/368>, accessed on 7 January 2021.

<sup>29</sup> Secretaría de Trabajo y Previsión Social, *Becas para el Bienestar Benito Juárez | Conferencias sobre Programas del Bienestar*, Gobierno de México, Mexico, 2020, at: <https://www.gob.mx/stps/articulos/becas-para-el-bienestar-benito-juarez-conferencias-bienestar>, accessed on 11 January 2021.

<sup>30</sup> Gobierno de México, *Adultos mayores recibirán bimestre adelantado de pensión, anuncia presidente; programas sociales se fortalecerán ante COVID-19*, Gobierno de México, Mexico, 2020, at: <https://presidente.gob.mx/adultos-mayores-recibiran-bimestre-adelantado-de-pension-anuncia-presidente-programas-sociales-se-fortaleceran-ante-covid-19/>, accessed on 7 January 2021.

<sup>31</sup> Cámara de Diputados, *Servicio de la Gaceta Parlamentaria, Votaciones del primer periodo ordinario del tercer año de la LXIV Legislatura*, Cámara de Diputados, Mexico, 2020, at: [http://gaceta.diputados.gob.mx/Gaceta/Votaciones/64/vot64\\_a3primero.html](http://gaceta.diputados.gob.mx/Gaceta/Votaciones/64/vot64_a3primero.html), accessed on 10 January 2021.

<sup>32</sup> Senado de la República, *Gaceta del Senado, miércoles 09 de diciembre de 2020 Gaceta: LXIV/3PPO-72*, Senado de la República, Mexico, 2020, at: [https://www.senado.gob.mx/64/gaceta\\_del\\_senado/2020\\_12\\_09/2757#418](https://www.senado.gob.mx/64/gaceta_del_senado/2020_12_09/2757#418), accessed on 11 January 2021.

Among the reforms that became effective on 1 January 2021 are the following:

a) Reduced access requirements and modification of guaranteed pension amount

As of 2021, the requirements to access the guaranteed pension for old age at age 65, for advanced age retirement at the age of 60, and retirement are reduced from 1250 to 750 weeks of contributions as a minimum; the required number of weeks of contributions will be increased by 25 weeks per year, until reaching 1000 weeks in 2031 (Article 170 LSS and the 4<sup>th</sup> transitory article of the LSS). Employees will maintain the possibility of retirement before reaching 60 years of age (advanced age retirement), and 65 years (old age retirement), as long as the pension calculated in the annuity system is greater than 30% of the guaranteed pension.

The guaranteed pension<sup>33</sup> amount changes from \$3,289.34<sup>34</sup> pesos (\$163.97 USD) for all beneficiaries in 2020 to establish a flexible parameter of minimum and maximum amounts, with a minimum of \$2,622.00 pesos (\$130.70 USD) and a maximum of \$8,241.00 pesos (\$410.81 USD) as of 2021. To calculate the amounts, the average base salary of contribution, the number of weeks of contribution and the age of the worker at the time of requesting the pension must be taken into account, based on the table contained in Article 170 of the Social Security Law.

Prior to the reform, the amount of the guaranteed pension was set with reference to the general minimum wage and the reform calls for it to be calculated based on Measurement and Updating Units (UMA) which are "the economic reference in pesos to determine the amount of payment of the obligations and cases contemplated in federal and state laws, as well as in the legal provisions emanating from all of the above,"<sup>35</sup> equivalent to \$86.88 pesos per day (\$4.33 USD) for 2020 and \$89.62 pesos per day (\$4.46 USD) for 2021<sup>36</sup> while the general minimum wage is \$141.70 pesos per day (\$7.06 USD). However, in 2019 the Supreme Court of Justice ruled that the daily rate for the payment of a pension based on UMAs cannot be applied, but should be based on

---

<sup>33</sup> The guaranteed pension is that which the State assures to those who meet the requirements established in the corresponding law within the privatized individual capitalization pension system.

<sup>34</sup> For 2020, the guaranteed pension granted by the IMSS was \$163.97 USD. The guaranteed pension is updated annually in accordance with the National Consumer Price Index. Comisión Nacional del Sistema de Ahorro para el Retiro, Pensión por Régimen 97, CONASAMI, Mexico, 2020, at: <https://www.gob.mx/consar/articulos/por-regimen-de-97#:~:text=Para%202020%20la%20Pensi%C3%B3n%20Garantizada,necesitas%20para%20realizar%20este%20retiro%3F>, accessed on 11 January 2021. The exchange rate used for this report is \$20.06 Mexican pesos = 1 USD, data from the Bank of Mexico on 11 January 2021, available at: Banco de México, Tipo de cambio, Mexico, Banco de México, 2021, <https://www.banxico.org.mx/tipocamb/main.do?page=tip&idioma=sp>.

<sup>35</sup> Instituto Nacional de Estadística y Geografía, UMA, INEGI, Mexico, 2021, at: <https://www.inegi.org.mx/temas/uma/>, accessed on 11 January 2021.

<sup>36</sup> *Idem*.

the minimum wage, which means that the legal reform contravenes a criterion of the judiciary.

b) Pension diversification

Prior to the reform, Article 157 of the LSS stated that insured persons could avail themselves of two types of individual accounts to enjoy an advanced age retirement pension: life annuity and programmed withdrawals. Before the reform, these were exclusive of each other, but with the amendment, insured persons are now allowed to choose one or both options, as long as the amount of life annuity is greater than the minimum provided for in Article 170 of the LSS.

c) Pension financing

Pensions are financed on a tripartite basis. The reform makes no changes to the percentage of workers' contributions.

In the case of pensions paid through the advanced age retirement and the old-age retirement insurance branch, the reform does modify employer contributions, starting from the current fixed rate of 3.15% – which is taken as the minimum base – and fluctuating up to 11.875%.

As of 1 January 2023, the fixed contributions of employers will increase progressively until 2030 (second transitory article of the LSS).

Similarly, the repeal of the third section that establishes the contributions made by the State to the advanced age retirement and old-age pension insurance, corresponding to 7.43% of the total employer contributions, is delayed until the end of 2022. This means that State contributions will go down and the cost of the reform will be borne by the employers.

Only in the retirement branch of Insurance, the employer's contribution will remain at 2% of the worker's salary subject to contributions (Article 168 of the LSS), i.e., the amount of the employer's contribution remains unchanged. To be entitled to a retirement pension the insured person must have accumulated at least 1000 weeks of contributions and be deprived of paid work; further, the pension calculated according to the resources of the annuity system must be 30% higher than the minimum guaranteed pension.<sup>37</sup>

---

<sup>37</sup> Instituto Mexicano del Seguro Social, *Solicitud de Pensión de Retiro*, IMSS, Mexico, 2019, <http://www.imss.gob.mx/tramites/imss01018>, accessed on 25 January 2021.

As can be seen, by not increasing employers' contributions in the case of retirement pensions, workers will have to continue contributing more funds to raise the amount needed to retire. It should be clarified that pensioners under this modality represent only 27% of the total IMSS pensioners<sup>38</sup> and only insureds with the highest salaries subject to contributions are able to draw a retirement pension.

Lastly, pursuant to Articles 172, 172 A and 302, in addition to the fifth, sixth and seventh transitory articles, the Ministry of Finance and Public Credit may review the Mexican Social Security Institute procedures used to verify the information provided by the Institute, which in theory provides greater control over the institution.

### 3.1.2. New Cap for Administration Fees

On 16 December 2020<sup>39</sup>, Article 37 of the Retirement Savings Systems Law was amended to stipulate that the fees charged by retirement fund administrators (AFOREs) for managing and administering the retirement funds in workers' individual accounts in order to generate returns<sup>40</sup> will be capped.

This means that commissions can no longer exceed a maximum limit to be established by the Board of Directors of the National Commission of the Retirement Savings System (CONSAR),<sup>41</sup> using the arithmetic average of the commissions charged in the defined contribution systems of the United States of America, Colombia, and Chile as a benchmark.<sup>42</sup>

The above is significant considering that the commissions charged in Mexico depend on the growth of funds, in contrast to those charged in Chile and Colombia, which depend on the growth of salaries and employment.<sup>43</sup>

---

<sup>38</sup> Instituto Mexicano del Seguro Social, *Consulta dinámica (CUBOS)*, IMSS, Mexico, 2021, at: <http://www.imss.gob.mx/conoce-al-imss/cubos>, accessed on 25 January 2021.

<sup>39</sup> Diario Oficial de la Federación, *DECRETO por el que se reforman, adicionan y derogan diversas disposiciones de la Ley del Seguro Social y de la Ley de los Sistemas de Ahorro para el Retiro*, DOF, Mexico, 2020, at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5607729&fecha=16/12/2020](https://www.dof.gob.mx/nota_detalle.php?codigo=5607729&fecha=16/12/2020), accessed on 11 January 2021.

<sup>40</sup> Comisión Nacional del Sistema de Ahorro para el Retiro, *Las AFORE solo cobran una comisión*, Gobierno de México, Mexico, 2020, at: <https://www.gob.mx/consar/articulos/las-afore-solo-cobran-una-comision>, accessed on 8 January 2021.

<sup>41</sup> This is the body that establishes the rules for the operation of the Retirement Savings System (SAR). Comisión Nacional del Sistema de Ahorro para el Retiro, *Qué hacemos*, CONSAR, Mexico, 2020, at: <https://www.gob.mx/consar/que-hacemos>, accessed on 11 January 2021.

<sup>42</sup> Comisión Nacional del Sistema de Ahorro para el Retiro, *Qué hacemos*, CONSAR, Mexico, 2020, at: <https://www.gob.mx/consar/que-hacemos>, accessed on 8 January 2021.

<sup>43</sup> Cf. El Ceo, *Afores que han bajado mas su comisión y cómo les afecta la reforma*, El Ceo, Mexico, 2020, at: <https://elceo.com/economia/afores-que-han-bajado-mas-su-comision-y-como-les-afecta-la-reforma/>, accessed on 8 January 2021.

Moreover, the Mexican market is made up of 10 AFOREs and each one charged different commissions. Hence, the reform has a direct impact on the maximum amount they charge, now in view of the upward or downward adjustments of commissions in the United States, Colombia, and Chile.<sup>44</sup>

### 3.1.3. Case Law on Repayment of Contributions to Foreign Workers

Due to several lawsuits filed by foreign workers<sup>45</sup> for the refunding of contributions made in their AFORE individual accounts, arguing their return to their country of origin, in November 2020 the Supreme Court of Justice (SCJN)<sup>46</sup> established case law stating that foreign workers have the right to be returned the funds accumulated in their individual accounts paid into their AFORE, as well as the contributions made in the housing subaccount, when foreign workers return definitively to their country of origin. Therefore, it is not necessary for them to comply with the general requirements established by law for their refund, such as being 60 years of age or older and having made contributions for the number of weeks specified in the Social Security law.

The SCJN mentions that the principle of equality between national and foreign workers prevails in the applicable laws on the matter. However, in the case of foreign workers, differential treatment must be given to achieve substantive equality since the foreign worker has worked in Mexico and part of their assets are found in the resources accumulated in resources invested in its individual AFORE account. In order to establish substantive equality, it is necessary to eliminate the disadvantaging conditions that affect foreigners in cases where they go back to reside in their country of origin for good. Since they are unable to comply with the requirements set forth in the corresponding laws, they cannot obtain a refund of their contributions. In order to guarantee *de facto* and not *de jure* equality, foreign workers should not be treated in the same way as nationals since this creates an obstacle that prevents them from truly and effectively enjoying the proceeds of their individual accounts – unlike Mexican workers who, by residing in the country on a continuous basis, will have the opportunity to continue contributing and will eventually have received these funds according to the requirements of the applicable laws.<sup>47</sup>

---

<sup>44</sup> *Idem*.

<sup>45</sup> Some similar lawsuits were filed before the Seventh Collegiate Labor Court of the First Circuit when deciding direct *amparo* DT.-1124/2015, and the one submitted by the Twelfth Collegiate Labor Court of the First Circuit when deciding direct *amparo* DT.-668/2019.

<sup>46</sup> Tesis: PC.I.L. J/67 L (10a.).



## 3.2. Health Care Provision and Sickness Benefits

### 3.2.1. COVID-19 and Health

The collegiate courts issued case law by the reiteration of criteria<sup>48</sup> to the effect that the State, as the employer in public health care institutions, must guarantee the appropriate and necessary measures to health care personnel who work in hospitals and are exposed to the SARS-CoV2 virus so as not to endanger their lives in the performance of their duties.

This case law emerges from the fact that IMSS health care workers have filed several *amparo* proceedings<sup>49</sup> against the Institute for its refusal to provide them with sufficient and quality medical equipment to perform their work and safely treat patients arriving at the hospital with symptoms of or infected with the SARS-CoV2 virus, since the Social Security Institute did not have the necessary supplies to protect its workers from exposure to the virus.

### 3.2.2. Implementation of the Basic Catalog of Medicines

Social insurance in Mexico currently adheres to the regulations that establish a list of essential medicines which physicians must resort to for prescriptions when treating insured persons. This year, the National Supreme Court of Justice issued a surprising ruling regarding a beneficiary of the IMSS who filed an *amparo* proceeding requesting the free supply of a medication prescribed by a physician who was not a member of the IMSS, and which moreover was not included in the List and Catalog of Essential Health Sector Supplies regulated by the General Health Law.

The Supreme Court established that the Social Security Institution must compare the medicines included in the List or the National Compendium of Health Supplies or in its own institutional catalogues. If this analysis concludes that the requested medicine is the best treatment for the complainant-patient, the Institution must provide it immediately. Otherwise, it must notify the patient so that he or she can decide on the treatment, with prior knowledge of the analysis carried out.<sup>50</sup>

This opens the door for legal action to certify whether the medicines requested by a beneficiary through an *amparo* proceeding are therapeutically more effective, safer and

---

<sup>48</sup> Tesis: XVII.1o.P.A. J/31 K (10a.)

<sup>49</sup> Complaints 79/2020, 80/2020, 82/2020, 87/2020, 107/2020, presented in the First Collegiate Court in Criminal and Administrative Matters of the Seventeenth Circuit (Primer Tribunal Colegiado en Materias Penal y Administrativa del Décimo Séptimo Circuito).

<sup>50</sup> Tesis: 2a./J. 40/2020 (10a.); contradiction of Tesis 517/2019 (regarding different criteria among other courts).

more efficient for the patient's condition and, if necessary, to expand the list of essential medicines.

### 3.3. Family Benefits: Childcare Services for Children of Working Parents

Significant progress towards gender equality in social security benefits was reached on 1 October 2020 with the amendment of Articles 201 and 205 of the Social Security Law on childcare insurance. This reform replaced the words "man" or "woman" with "working person"<sup>51</sup> to refer to those entitled to childcare insurance benefits for their children. It should be clarified that prior to this, this law discriminated against men,<sup>52</sup> who could only access this right in the event of widowhood, divorce or when they have received custody by court order.<sup>53</sup> This change seeks equal treatment for workers to exercise the right to childcare for their children under 4 years of age.

### 3.4. Health Protection and Prevention of Psychosocial Risks at the Workplace

On 23 October 2019, the Official Mexican Standard NOM-035-STPS-2018 on the prevention of psychosocial risks at the workplace came into force.

In the first stage, the employer had to comply with the following: the psychosocial risk prevention policy had to be disseminated; employers in workplaces with between 16 and 50 workers had to identify and analyze psychosocial risk factors (Reference Guide II); and those with more than 50 workers had to identify and analyze psychosocial risk factors, as well as additionally evaluate the organizational climate with a representative sample (Reference Guide III); further, various control measures had to be implemented.<sup>54</sup>

The second stage began on 23 October 2020, whereby workplaces whose evaluations indicated the need to adopt control actions must implement a program to address

---

<sup>51</sup> Diario Oficial de la Federación, DECRETO por el que se reforman los artículos 201, primer párrafo y 205, primer párrafo de la Ley del Seguro Social.

<sup>52</sup> Initiative with draft decree that reforms the articles 201 y 205 of the LSS, at: [http://sil.gobernacion.gob.mx/Archivos/Documentos/2019/02/asun\\_3809565\\_20190207\\_1549476168.pdf](http://sil.gobernacion.gob.mx/Archivos/Documentos/2019/02/asun_3809565_20190207_1549476168.pdf), accessed on 12 January 2021.

<sup>53</sup> Ruiz Ramírez, José Manuel, *Acceso a las guarderías y género*, Suprema Corte de Justicia de la Nación, Mexico, at: [https://www.scjn.gob.mx/sites/default/files/derechos\\_humanos/articulosdh/documentos/2016-12/ACCESO%20A%20LAS%20GUARDER%3%8DAS.pdf](https://www.scjn.gob.mx/sites/default/files/derechos_humanos/articulosdh/documentos/2016-12/ACCESO%20A%20LAS%20GUARDER%3%8DAS.pdf), accessed on 12 January 2021.

<sup>54</sup> Diario Oficial de la Federación, *Norma Oficial Mexicana NOM-035-STPS-2018, Factores de riesgo psicosocial en el trabajo - Identificación, análisis y prevención*. DOF: 23/10/2018, DOF, 2018, Mexico, at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5541828&fecha=23/10/2018](https://www.dof.gob.mx/nota_detalle.php?codigo=5541828&fecha=23/10/2018), accessed on 7 January 2021.

psychosocial risk factors in order to create a favorable organizational climate and prevent acts of workplace violence.<sup>55</sup>

This program must include work areas and/or workers subject to it, types of actions and control measures, completion deadlines, progress control of the implementation and subsequent evaluation. This provision applies to workplaces with more than 15 workers.<sup>56</sup>

Printed or electronic evidence shall be kept for at least one year from the date of production and may be based on verification, document review, records or interviews to be presented at the inspection or verification visit (as appropriate) of the respective labor authority.<sup>57</sup>

### 3.5. Housing

An unusual benefit for social insurance is housing, to which private sector workers insured with the IMSS are entitled through INFONAVIT, and to which federal public servants have the right through the ISSSTE.

This benefit, which originally consisted of selling social housing, built by the social security institutions themselves to workers at below-market prices and granting loans to purchase private housing, has undergone some reforms over the years and in 2020, these changes consisted of:

1) The creation of the *ConstruYo* program. This program began operating on 31 August 2020 and is run by the INFONAVIT in the states of Baja California, Chiapas, Nayarit, Oaxaca, Yucatan and the Metropolitan Area of the Valley of Mexico.<sup>58</sup> Depending on the worker's needs, it is granted in three cases: for minor repairs to the worker's home, for the worker to build or remodel their own home, and for a construction company of the worker's choice to build or remodel a home. (It should be noted that in the first two cases an inspection will be carried out, and in the last case the construction company is directly responsible to the INFONAVIT).

---

<sup>55</sup> *Idem.*

<sup>56</sup> *Idem.*

<sup>57</sup> *Idem.*

<sup>58</sup> INFONAVIT, *ConstruYO*, INFONAVIT, Mexico, 2020, at: [https://portalmx.infonavit.org.mx/wps/portal/infonavit.web/trabajadores/construYO!/ut/p/z1/jzBND4lwDIZ\\_DVfaicHpDQkOP2LUuIC7GDA4SIAZmPL3RT2ZCNJbm-dp8xYEhCDK6JHJSGeqjPK2Pwn7bDNE3x2TLTu4Fu53RzJfl\\_ryQSCNzCiiGyOLUB9is7CW3rTjTVinIAY4mNHOTjM7wFE\\_oAxBvpSkDwD\\_CK-O\\_ICoTMVfz5p1PGFpUgquSaVEll3qt2nGp9q2cGGtg0jSmVknliXIRh4C8IVbWG8JuEW8F5iNmuCGj9BCcS0vg!/dz/d5/L2dBISevZ0FBIS9nQSEh/](https://portalmx.infonavit.org.mx/wps/portal/infonavit.web/trabajadores/construYO!/ut/p/z1/jzBND4lwDIZ_DVfaicHpDQkOP2LUuIC7GDA4SIAZmPL3RT2ZCNJbm-dp8xYEhCDK6JHJSGeqjPK2Pwn7bDNE3x2TLTu4Fu53RzJfl_ryQSCNzCiiGyOLUB9is7CW3rTjTVinIAY4mNHOTjM7wFE_oAxBvpSkDwD_CK-O_ICoTMVfz5p1PGFpUgquSaVEll3qt2nGp9q2cGGtg0jSmVknliXIRh4C8IVbWG8JuEW8F5iNmuCGj9BCcS0vg!/dz/d5/L2dBISevZ0FBIS9nQSEh/), accessed on 12 January 2021.

2) On 16 December 2020, the INFONAVIT Law<sup>59</sup> and the ISSSTE Law<sup>60</sup> were amended to include loans to workers in order for them to acquire land to build their own housing as one of the benefits of both institutes.<sup>61</sup>

3) The contributions of IMSS-insured workers are deposited in an individual account managed by an AFORE. This account is in turn divided into 3 subaccounts, one of which holds the contributions for housing insurance. In this respect, Article 37 of the INFONAVIT Law stated that the right to use the funds in this subaccount (by the worker or their beneficiaries) would lapse in favor of the INVONAVIT after 10 years<sup>62</sup> once this right was enforceable. The amendment of this article creates a procedure by which the INFONAVIT could use the funds in the subaccounts. It also states that one year before the expiration of the term indicated (10 years), INFONAVIT shall inform the worker or beneficiaries of the time that has elapsed to claim this right. The notification will be left to the discretion of said institute. Once the aforementioned term has ended, the INFONAVIT can create a financial reserve with these funds.

The workers' right to claim the amounts of the housing subaccount is protected by means of a claims mechanism before the Institute (yet to be defined) even after the 10 years have elapsed.

### 3.6. Social Assistance

#### 3.6.1. Creation of the Community Health and Wellness Program

Pursuant to the provisions of Article 29 and Annex 25 of the Federal Expenditure Budget for the 2020 Tax Year,<sup>63</sup> the Community Health and Wellness Program has been created. According to its rules of operation,<sup>64</sup> this program aims to strengthen the health of people and community well-being in highly marginalized and deprived areas by

---

<sup>59</sup>Articles 41, first paragraph; 42, Section II, subparagraphs a), b), c) and d); 43 Bis, third paragraph; 47, second, fourth and fifth paragraphs; 48; 49, first and second paragraph; and 50 were changed; and a subparagraph d) was added to Article 3, Section II; and a subparagraph e) and a second paragraph were added to Article 42, Section II.

<sup>60</sup> Articles 167, third paragraph; 176, third paragraph; 179, first paragraph and 181 were amended; and a subparagraph d) was added to Article 169, Section I; and a second paragraph was added to Article 178 in the Law of the Institute for Security and Social Services for State Workers.

<sup>61</sup> Land is understood to be the land upon which the worker intends to build.

<sup>62</sup> Diario Oficial de la Federación, 16 de diciembre de 2020, Derecho por el que se reforma el artículo 37 de la Ley del Instituto del Fondo Nacional de la Vivienda para los Trabajadores.

<sup>63</sup> Cámara de Diputados del H. Congreso de la Unión, *Presupuesto de Egresos de la Federación para el ejercicio Fiscal 2020*, Diario Oficial de la Federación, Mexico, at: [http://www.diputados.gob.mx/LeyesBiblio/abro/pef\\_2020/PEF\\_2020\\_abro.pdf](http://www.diputados.gob.mx/LeyesBiblio/abro/pef_2020/PEF_2020_abro.pdf), accessed on 7 January 2021.

<sup>64</sup> Oficial de la Federación, *Acuerdo por el que se emiten las Reglas de Operación del Programa de Salud y Bienestar Comunitario, para el ejercicio fiscal 2020*, Mexico. at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5583027&fecha=28/12/2019](https://www.dof.gob.mx/nota_detalle.php?codigo=5583027&fecha=28/12/2019), accessed on 7 January 2021.

encouraging healthy lifestyles. It focuses on a collective approach of health promotion by furthering the right to participate in an organized manner. The ultimate aim is to modify and improve the social circumstances that limit the holistic development of individuals and communities.

This program finances projects that meet the requirements set forth and are approved under the rules of operation with an economic grant of up to \$600,000.00 pesos (\$29,910 USD) to strengthen one or more aspects of health and community wellbeing, which may include training, social or productive projects, as well as other materials and actions required to reach the objectives outlined by the program. If the proposal exceeds the maximum amount indicated, an exception can be made provided that the justification so warrants.

### **3.6.2. Well-Being Program for Persons in Emergency Situations**

The former social assistance program "Well-Being for Persons in Social or Natural Emergencies" has been renamed "Well-Being for Persons in Social and Natural Emergency Situations."<sup>65</sup> This program is intended to address the needs of people, primarily children, adolescents, older adults, persons with disabilities, indigenous and Afro-Mexican people, in places affected by social and natural catastrophes by delivering cash or in-kind assistance at the site where the social or natural emergency occurs in order to mitigate the negative impact on the sphere of people's social rights. Cash benefits are provided through bank cards and/or checks or by the means established by the Ministry of Welfare and are equivalent to one Measurement and Updating Unit (UMA) per month, which for 2021 is \$2,724.45 pesos (\$135.81 USD).<sup>66</sup>

### **3.6.3. Eliminated Social Assistance Programs**

Lastly, it should be mentioned that certain important programs were eliminated in 2020, such as the 3 x 1 Program for Migrants and the Social Co-Investment Program.<sup>67</sup> The current administration felt that other social programs already fulfilled the same objective as these two programs, so these were unnecessary. Moreover, the largest

---

<sup>65</sup> Diario Oficial de la Federación, *Acuerdo por el que se emiten los Lineamientos de Operación del Programa para el Bienestar de las Personas en Emergencia Social o Natural para el ejercicio fiscal 2020*, DOF, Mexico, 2020, at: [https://www.gob.mx/cms/uploads/attachment/file/578546/Lineamientos\\_Emergencia\\_Social.pdf](https://www.gob.mx/cms/uploads/attachment/file/578546/Lineamientos_Emergencia_Social.pdf), accessed on 7 January 2021.

<sup>66</sup> Instituto Nacional de Estadística y Geografía, *UMA*, INEGI, Mexico, 2021, at: <https://www.inegi.org.mx/temas/uma/>, accessed on 7 January 2021.

<sup>67</sup> Consejo Nacional de Evaluación de la Política de Desarrollo Social, *Inventario CONEVAL de Programas y Acciones Federales de Desarrollo Social 2019-2020. Presentación y Análisis*, CONEVAL, Mexico, 2020, p. 35. at: <https://www.coneval.org.mx/evaluacion/ipfe/Paginas/default.aspx>, accessed on 7 January 2021.

amount of financial resources is allocated to newly created programs that serve vulnerable groups, primarily young people who neither study nor work and older adults.

The 3 x 1 Program for Migrants was a Mexican government program, which began under the former Ministry of Social Development, now Ministry of Welfare. It sponsored migrants' initiatives involving social infrastructure projects or community services, as well as community, family or individual productive projects that contributed to the development of their communities of origin, with contributions from federal, state and municipal governments, as well as from migrant clubs or organizations located abroad.<sup>68</sup>

Meanwhile, the Social Co-Investment Program has been designed to empower social actors by sponsoring co-investment projects between the government and said actors to assist the population in situations of poverty, exclusion, marginalization, disability, gender inequality or vulnerability.<sup>69</sup>

#### 4. ORGANIZATIONAL REFORMS

Conciliation and Arbitration Boards have been abolished to make way to the new Labor Courts and the agency in charge of conciliations. These courts are also authorized to settle social security disputes between employers and workers.

The main differences between the former Boards and the new Labor Courts are:

- The specialized Labor Courts depend directly on the Judiciary and not on the Executive Branch, as the Conciliation and Arbitration Boards used to be administratively organized.
- The Boards used to be tripartite<sup>70</sup> to resolve labor disputes between workers and employers. Now they have become one-person labor courts where a judge will rule on disputes.
- Instead of the Boards issuing awards, final resolutions or judgments will be issued by Labor Courts (of the Federal Conciliation and Arbitration Court of State Employees and their counterparts in the states).

---

<sup>68</sup> Secretaría de Desarrollo Social, *Programa 3x1 para Migrantes*, Mexico, at: [http://www.sedesol.gob.mx/work/models/SEDESOL/Transparencia/TransparenciaFocalizada/Programas\\_Sociales/pdf/3x1\\_p ara\\_migrantes.pdf](http://www.sedesol.gob.mx/work/models/SEDESOL/Transparencia/TransparenciaFocalizada/Programas_Sociales/pdf/3x1_p ara_migrantes.pdf), accessed on 7 January 2021.

<sup>69</sup> Secretaría de Desarrollo Social, *Programa de Coinversión Social*, Mexico, at: [http://www.sedesol.gob.mx/work/models/SEDESOL/Transparencia/TransparenciaFocalizada/Programas\\_Sociales/pdf/coinve rsion\\_social.pdf](http://www.sedesol.gob.mx/work/models/SEDESOL/Transparencia/TransparenciaFocalizada/Programas_Sociales/pdf/coinve rsion_social.pdf), accessed on 7 January 2021.

<sup>70</sup> Gobierno de México, *¿qué hacemos?*, Gobierno de México, Mexico, 2020, at: <https://www.gob.mx/jfca/que-hacemos>, accessed on 7 January 2021.

The new model was launched at the federal level on 18 November 2020<sup>71</sup> with the first stage of specialized Labor Courts under the Judiciary in the states of Campeche, Chiapas, Durango, State of Mexico, San Luis Potosí, Tabasco, Zacatecas and Hidalgo.<sup>72</sup>

## 5. JUDICIAL PROTECTION OF FUNDAMENTAL SOCIAL RIGHTS OF PENSIONERS

In 2020, the Supreme Court of Justice issued two rulings that arose from *amparo* proceedings<sup>73</sup> which established criteria that contribute to consolidating the interpretation of the right to a subsistence minimum.

The first one refers to case law<sup>74</sup> originating from an *amparo* proceeding filed by a pensioner of the State of Morelos government against an act of authority by the State of Morelos Congress, which issued a decree revoking the pensioner's pension without guaranteeing him the right to a hearing established in the Mexican Constitution and violating his right to the subsistence minimum by taking away his pension.

The second came about through an isolated ruling issued by the Collegiate Circuit Courts as a result of an *amparo* proceeding filed by a group of retirees who sued the Institute of Security and Social Services of the Workers of the Government and Municipalities of the State of Baja California for failure to pay their pensions.<sup>75</sup>

The main arguments in both cases that reinforce the right to the subsistence minimum were that failure to guarantee the payment of the pension of both retirees and the pensioner violates the right to the subsistence minimum since the economic income received through the pension enables people to buy the goods and services that allows them to meet that subsistence minimum established in the Constitution.

---

<sup>71</sup> Secretaría del Trabajo y Previsión Social, Listos para iniciar la reforma laboral, demostraremos a la ciudadanía que el cambio va en serio: Luisa Alcalde, Gobierno de México, Mexico, 2020, at: <https://www.gob.mx/stps/prensa/listos-para-iniciar-la-reforma-laboral-demostraremos-a-la-ciudadania-que-el-cambio-va-en-serio-luisa-alcalde>, accessed on 7 January 2021.

<sup>72</sup> Secretaría del Trabajo y Previsión Social, *Arranca la segunda etapa de implementación de la Reforma Laboral*, Gobierno de México, Mexico, 2020, at: <https://www.gob.mx/stps/prensa/arranca-la-segunda-etapa-de-implementacion-de-la-reforma-laboral>, accessed on 7 January 2021.

<sup>73</sup> Amparo en revisión 309/2019. Tercer Tribunal Colegiado del Décimo Quinto Circuito; Queja 225/2019 Segundo Tribunal Colegiado en Materias Penal y Administrativa del Décimo Octavo Circuito.

<sup>74</sup> Tesis: PC.XVIII.P.A. J/7 A (10a.).

<sup>75</sup> Tesis: XV.3o.9 A (10a.).

## 6. INTERNATIONAL SOCIAL SECURITY

### 6.1. New Free Trade Agreement between Mexico, the USA and Canada

On 1 July 2020, the new trade agreement called the "United States-Mexico-Canada Agreement on trade" (USMCA), also known as the North American Free Trade Agreement (NAFTA) became effective, making it possible to address the new needs and realities of trade among the participating countries.

Some of the new features of the USMCA are particularly noteworthy in the area of social law:

1. The USMCA is made up of 34 chapters<sup>76</sup> and its key labor-related aspects are found in Chapter 23 of the treaty, in which the parties essentially undertake to adopt and implement in their domestic legislation the rights established in the 1998 ILO Declaration on Fundamental Principles and Rights at Work, which includes, inter alia, the elimination of all forms of forced or compulsory labor, including child labor, and the prohibition of importing goods produced under these conditions.<sup>77</sup>

2. While the NAFTA established prohibitions on discrimination with respect to suppliers<sup>78</sup> or tendering procedures,<sup>79</sup> the USMCA also incorporates specific commitments to protect workers from gender discrimination, recognizing the goal of eliminating discrimination in employment and occupation, and supporting the goal of promoting women's equality in the workplace by protecting them against discrimination on the basis of sex, (including sexual harassment), pregnancy, sexual orientation, gender identity, etc.<sup>80</sup>

3. On the other hand, the USMCA discusses the protection of migrant workers, stating that they must be protected under the labor laws of the countries, whether they are nationals or non-nationals,<sup>81</sup> thereby establishing protection mechanisms to defend

---

<sup>76</sup> Gobierno Mexicano, *Tratado entre los Estados Unidos Mexicanos, los Estados Unidos de América y Canadá*, Gobierno de México, Mexico, 2020, at: <https://www.gob.mx/t-mec/acciones-y-programas/textos-finales-del-tratado-entre-mexico-estados-unidos-y-canada-t-mec-202730?state=published>, accessed on 25 January 2021.

<sup>77</sup> Chapter 23, Article 23.6 of the Agreement between the United States of America, the United Mexican States and Canada

<sup>78</sup> Article 1003 of the North American Free Trade Agreement

<sup>79</sup> Article 1008 of the North American Free Trade Agreement

<sup>80</sup> Chapter 23, Article 23.9. of the Agreement between the United States of America, the United Mexican States and Canada

<sup>81</sup> Chapter 23, Article 23.8. of the Agreement between the United States of America, the United Mexican States and Canada



their rights. Despite the above, it does not include measures in favor of the free movement of workers.

## **6.2. Registration of the ILO Domestic Workers Convention, 2011 (No. 189)**

On 3 July 2020, the Domestic Workers Convention, 2011, (No. 189) was registered with the Director General of the International Labour Organization (ILO).<sup>82</sup> The corresponding decree had been previously published on 20 January in the Federal Official Gazette. The formal registration of Convention 189 marks the beginning of the countdown to its entry into force, which in twelve months' time, will have constitutional status.<sup>83</sup> Article 14 of this Convention establishes that domestic workers must enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection, including with respect to maternity, which means that reforms to the Federal Labor Law will most likely take place in 2021.<sup>84</sup>

---

<sup>82</sup> ILO, *México y el Convenio 189 de la OIT*, 2020, at: <https://www.onu.org.mx/wp-content/uploads/2020/07/M%C3%A9xico-y-el-Convenio-189-de-la-OIT.pdf>, accessed on 16 December 2021.

<sup>83</sup> Cf. Noticias UN, *México salda su deuda histórica con los 2,3 millones de trabajadoras domésticas al ratificar el “Convenio 189”*, 2020, at: <https://news.un.org/es/story/2020/07/1477151>, accessed on 14 December 2021.

<sup>84</sup> ILO, C189 – Domestic Workers Convention, 2011 (No. 189), Article 14, at: [https://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C189](https://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189), accessed on 25 January 2021.

## 7. REFERENCES

### 7.1. Monographs

- Batres, Guadarrama, Martí, De políticas sociales a derechos sociales: la transformación, México, Porrúa México, Primera Edición, 2020.
- Carbonell, Miguel, Legislación sobre seguridad social (IMSS e ISSSTE), Tercera edición, Editorial Tirant lo Branch, 2020.
- Cazares García, Gustavo, Seguridad social de los trabajadores del Estado, México, Porrúa México, Primera Edición, 2020.
- Mendizábal Bermúdez, Gabriela, Derecho internacional de la seguridad social, México, Porrúa México, Primera Edición, 2020.

### 7.2. Articles

- Aguirre Quezada, Juan Pablo, Informalidad en México. Desafíos para la cobertura en pensiones y vulnerabilidad social. Revista pluralidad y consenso del Instituto Belisario Domínguez, Senado de la República, México, año 10, núm. 45, julio-septiembre 2020, pp. 76-77. At: <http://revista.ibd.senado.gob.mx/index.php/PluralidadyConsenso/article/viewFile/691/651>
- Alanís Gutiérrez, Teresa Lizeth, Soto Esquivel, Roberto, sistema de pensiones en México. Una burbuja a punto de estallar, Revista ola financiera, vol. 13, no. 35, enero-abril 2020. At: [http://www.olafinanciera.unam.mx/new\\_web/35/pdfs/PDF35/AlanisSotoOlaFinanciera35.pdf](http://www.olafinanciera.unam.mx/new_web/35/pdfs/PDF35/AlanisSotoOlaFinanciera35.pdf)
- Arteaga Nivio, Tania, Las pensiones por muerte no profesional, su discrepancia con la finalidad de la seguridad social y la protección de los medios de subsistencia, Divulgare boletín científico de la escuela superior de Actopan, vol. 7, no. 13, p. 1-0, 2020. At: <https://repository.uaeh.edu.mx/revistas/index.php/divulgare/article/view/5247/6760>
- Atlenco Ibarra, Quetzalli, Financiamiento para la vejez de los jóvenes mexicanos, Revista población y desarrollo ISSN-L 2076-054X, vol. 26, no. 51, 2020. At: <https://revistascientificas.una.py/ojs/index.php/rp/article/view/1021>
- Cárdenas López, Próspero, El régimen de seguridad social de los empleados públicos en México. Antecedentes históricos, Revista alegaos, vol. 1, no. 22, p. 125-132, Universidad Autónoma Metropolitana, 2020. At: <http://revistastmp.azc.uam.mx/alegatos/index.php/ra/article/view/1061>
- Centro de Estudios de las Finanzas Públicas, Aspectos relevantes de la reforma al sistema de ahorro para el retiro (SAR), Cámara de diputados LXIV Legislatura, nota informativa, 11 de diciembre de 2020. At: <https://www.cefp.gob.mx/publicaciones/nota/2020/notacefp0902020.pdf>

- Clavellina Miller, José y Meneses Chico, Jorge Samuel, Reforma al sistema de pensiones en México 2020, serie cuaderno de investigación en finanzas públicas, Biblioteca Digital del Senado de la Republica, Instituto Belisario Domínguez, octubre, 2020. At: [http://bibliodigitalibd.senado.gob.mx/bitstream/handle/123456789/5027/1%20Publicacion%20reforma\\_pensiones%20f.pdf?sequence=1&isAllowed=y](http://bibliodigitalibd.senado.gob.mx/bitstream/handle/123456789/5027/1%20Publicacion%20reforma_pensiones%20f.pdf?sequence=1&isAllowed=y)
- Chevez Ruiz, Zamarripa y Cia, S.C, IMSS Certificado de Incapacidad Temporal Digital y otros, Flash informativo seguridad social, México, 2020. At: [https://www.chevez.com/upload/files\\_html/FlashSS\\_2020-11.html](https://www.chevez.com/upload/files_html/FlashSS_2020-11.html)
- Llanes Castillo, Arturo, Cervantes López, Miriam Janet, Peña Maldonado, Alma Alicia, Cruz Casados, Jaime, Maternidad en la legislación mexicana: Una visión desde los derechos laborales de la mujer, Revista de ciencias sociales, Dialnet, vol. 26, no. 1, p. 51-60, 2020. At: <https://dialnet.unirioja.es/servlet/articulo?codigo=7384405>
- Mendizábal Bermúdez, Gabriela, CARICOM y la protección social de los trabajadores migrantes regionales, Revista latinoamericana de derecho social, no. 31, p. 3-27, julio- diciembre de 2020. At: <https://revistas.juridicas.unam.mx/index.php/derecho-social/article/view/14861>
- Morales Ramírez, María Ascensión, La unidad de medida y actualización (UMA) y la seguridad social como derecho humano, Revista de la facultad de derecho de México, Universidad Nacional Autónoma de México, vol. 70, no. 276-1, 2020. At: <http://www.revistas.unam.mx/index.php/rfdm/article/view/75124>
- Morales Ramírez, María Ascensión, Riesgos de trabajo en México: desigual protección y acceso a la justicia, Revista prospectiva jurídica, vol. 10 núm. 20, Universidad Nacional Autónoma de México, publicado el 2 de septiembre de 2020. At: <https://prospectivajuridica.uaemex.mx/article/view/15217>
- Morales Ramírez, María Ascensión, la reforma a las pensiones de México ¿Es progresista?. Revista cielo laboral, 2020, núm. 9. At: [http://www.cielolaboral.com/wp-content/uploads/2020/10/morales\\_noticias\\_cielo\\_n9\\_2020.pdf](http://www.cielolaboral.com/wp-content/uploads/2020/10/morales_noticias_cielo_n9_2020.pdf)
- Morales Ramírez, María Ascensión, La seguridad social en la reforma laboral: fomento de la informalidad y desarticulación del derecho de acceso a la justicia, Revista latinoamericana de derecho social, no. 31, p. 175- 199, julio- diciembre de 2020. At: <https://revistas.juridicas.unam.mx/index.php/derecho-social/article/view/14867>
- Ramírez Reyes, Gibran, ¿cómo enfrentar la crisis del sistema de pensiones en México? La propuesta de la Conferencia Interamericana de Seguridad Social, Revista pluralidad y consenso, vol. 10, no. 45, p. 40-49, 2020. At: <http://www.revista.ibd.senado.gob.mx/index.php/PluralidadyConsenso/article/viewFile/687/647>

Tavera Ramírez, Flor de María, Hernández Silva Virginia, Derecho humano a la seguridad social en México, ¿se cumple con el seguro popular?, Revista red internacional de investigadores en competitividad, vol. 12, 2020. At: <https://www.riico.net/index.php/riico/article/view/1576>

### 7.3. Digital References

Banxico, *Cambios estructurales en el mercado laboral*, Banco de México, 2020, at: <https://www.banxico.org.mx/publicaciones-y-prensa/presentaciones/%7B03A31AC2-D1CD-C0CA-955B-B8AEFE71AFAB%7D.pdf>

BBVA, *BBVA México: En 2020, las remesas alcanzarán los 39,500 millones de dólares pese a la pandemia*, BBVA, México, 2020, at: <https://www.bbva.com/es/mx/bbva-mexico-estima-que-en-2020-las-remesas-alcanzaran-los-39500-mdd-8-4-pese-a-la-pandemia/>

Cámara de Diputados del H. Congreso de la Unión, *Presupuesto de Egresos de la Federación para el ejercicio Fiscal 2020*, Diario Oficial de la Federación, México, at: [http://www.diputados.gob.mx/LeyesBiblio/abro/pef\\_2020/PEF\\_2020\\_abro.pdf](http://www.diputados.gob.mx/LeyesBiblio/abro/pef_2020/PEF_2020_abro.pdf)

Cámara de Diputados, *Servicio de la Gaceta Parlamentaria, Votaciones del primer periodo ordinario del tercer año de la LXIV Legislatura*, Cámara de Diputados, México, 2020, at: [http://gaceta.diputados.gob.mx/Gaceta/Votaciones/64/vot64\\_a3primero.html](http://gaceta.diputados.gob.mx/Gaceta/Votaciones/64/vot64_a3primero.html)

Comisión Económica para América Latina y el Caribe, *Enfrentar los efectos cada vez mayores del COVID-19 para una reactivación con igualdad: nuevas proyecciones*, CEPAL, 2020, p. 5, at: [https://repositorio.cepal.org/bitstream/handle/11362/45782/4/S2000471\\_es.pdf](https://repositorio.cepal.org/bitstream/handle/11362/45782/4/S2000471_es.pdf)

Comisión Nacional de Salarios Mínimos, *Acuerda CONASAMI incremento del salario mínimo del 15% para 2021*, Gobierno de México, México, 2020, at: <https://www.gob.mx/conasami/prensa/acuerda-conasami-incremento-del-salario-minimo-del-15-para-2021-259690>

Comisión Nacional del Sistema de Ahorro para el Retiro, *Las AFORE solo cobran una comisión*, Gobierno de México, México, 2020, at: <https://www.gob.mx/consar/articulos/las-afore-solo-cobran-una-comisiont>

Comisión Nacional del Sistema de Ahorro para el Retiro, *Pensión por Régimen 97, CONASAMI*, México, 2020, at: <https://www.gob.mx/consar/articulos/por-regimen-de-97#:~:text=Para%202020%20la%20Pensi%C3%B3n%20Garantizada,necesitas%20para%20realizar%20este%20retiro%3F>

Comisión Nacional del Sistema de Ahorro para el Retiro, *Qué hacemos*, CONSAR, México, 2020, at: <https://www.gob.mx/consar/que-hacemos>

- Comisión Nacional del Sistema de Ahorro para el Retiro, *Qué hacemos*, CONSAR, México, 2020, at: <https://www.gob.mx/consar/que-hacemos>
- Consejo Nacional de Evaluación de la Política de Desarrollo Social, *¿Quiénes somos?*, CONEVAL, México, 2020, at: <https://www.coneval.org.mx/quienessomos/Paginas/Quienes-Somos.aspx>
- Consejo Nacional de Evaluación de la Política de Desarrollo Social, *Medición de la pobreza*, CONEVAL, México, 2020, at: <https://www.coneval.org.mx/Medicion/Paginas/Pobrezalncio.aspx>
- Consejo Nacional de Evaluación de la Política de Desarrollo Social, *Evolución de las líneas de pobreza por ingresos*, CONEVAL, México, 2020, at: <https://www.coneval.org.mx/Medicion/MP/Paginas/Lineas-de-bienestar-y-cantabasica.aspx>
- Consejo Nacional de Evaluación de la Política de Desarrollo Social, *Inventario CONEVAL de Programas y Acciones Federales de Desarrollo Social 2019-2020. Presentación y Análisis*, CONEVAL, México, 2020, p. 35, at: <https://www.coneval.org.mx/evaluacion/ipfe/Paginas/default.aspx>
- El Ceo, *Afores que han bajado mas su comisión y cómo les afecta la reforma*, El Ceo, México, 2020, at: <https://elceo.com/economia/afores-que-han-bajado-mas-su-comision-y-como-les-afecta-la-reforma/>
- Fondo Monetario Internacional, *Informes de perspectivas de la economía mundial octubre de 2020*, FMI, Estados Unidos de América, 2020, at: <https://www.imf.org/es/Publications/WEO/Issues/2020/09/30/world-economic-outlook-october-2020>
- Gobierno de México, *¿qué hacemos?*, Gobierno de México, México, 2020, at: <https://www.gob.mx/jfca/que-hacemos>
- Gobierno de México, *Adultos mayores recibirán bimestre adelantado de pensión, anuncia presidente; programas sociales se fortalecerán ante COVID-19*, Gobierno de México, México, 2020, at: <https://presidente.gob.mx/adultos-mayores-recibiran-bimestre-adelantado-de-pension-anuncia-presidente-programas-sociales-se-fortaleceran-ante-covid-19/>
- Gobierno de México, *Convenio con hospitales privados ¡Todos juntos contra el COVID-19!*, México, 2020, at: <https://www.gob.mx/issste/es/articulos/convenio-con-hospitales-privados?idiom=es>
- Gobierno de México, *Covid-19 México*, Gobierno de México, México, 2021, at: <https://datos.covid-19.conacyt.mx/>
- Gobierno Mexicano, *Tratado entre los Estados Unidos Mexicanos, los Estados Unidos de América y Canadá*, Gobierno de México, México, 2020, at: <https://www.gob.mx/t-mec/acciones-y-programas/textos-finales-del-tratado-entre-mexico-estados-unidos-y-canada-t-mec-202730?state=published>

- INFONAVIT, *ConstruYO*, INFONAVIT, México, 2020, at: <https://portalmx.infonavit.org.mx/wps/portal/infonavit.web/trabajadores/construYO!/ut/p/z1/jZBND4lwDI Z DVfaicHpDQkOP2LUuIC7GDA4SIAZmPL3RT2ZCNJbm-dp8xYEhCDK6JHJSGeqj PK2Pwn7bDNE3x2TLTu4Fu53RzJlfl ryQSCNzCiiGyOLUB9is7CW3rTjTVinIAY4mNH OTjM7wFE oAxBvpSkDwD CK-O ICoTMVfz5p1PGFpUgguSaVEll3qt2nGp9q2 cGGtg0jSmVknliXIRh4C8lVbWG8JuEW8F5iNmuCGj9BCcS0vg!/dz/d5/L2dBISEvZ0FBIS9nQSEh/>
- Iniciativa con proyecto de decreto que reforma los artículos 201 y 205 de la Ley del Seguro Social, at: [http://sil.gobernacion.gob.mx/Archivos/Documentos/2019/02/asun\\_3809565\\_20190207\\_1549476168.pdf](http://sil.gobernacion.gob.mx/Archivos/Documentos/2019/02/asun_3809565_20190207_1549476168.pdf)
- Instituto Mexicano del Seguro Social, *Consulta dinámica (CUBOS)*, IMSS, México, 2021, at: <http://www.imss.gob.mx/conoce-al-imss/cubos>
- Instituto Mexicano del Seguro Social, *Personas que perdieron su empleo durante emergencia sanitaria pueden tramitar Retiro Parcial por Desempleo: IMSS*, IMSS, México, 2020, at: <http://www.imss.gob.mx/prensa/archivo/202006/368>
- Instituto Mexicano del Seguro Social, *Solicitud de Pensión de Retiro*, IMSS, México, 2019, at: <http://www.imss.gob.mx/tramites/imss01018>
- Instituto Nacional de Estadística y Geografía, *Resultados de la encuesta nacional de ocupación y empleo. nueva edición (ENOEN) cifras durante el tercer trimestre de 2020*, INEGI, México, 2020, at: [https://www.inegi.org.mx/contenidos/programas/enoe/15ymas/doc/enoe\\_n\\_notia\\_tecnica\\_trim3.pdf](https://www.inegi.org.mx/contenidos/programas/enoe/15ymas/doc/enoe_n_notia_tecnica_trim3.pdf)
- Instituto Nacional de Estadística y Geografía, *UMA*, INEGI, México, 2021, at: <https://www.inegi.org.mx/temas/uma/>
- Instituto Nacional de Estadística y Geografía, *UMA*, INEGI, México, 2021, at: <https://www.inegi.org.mx/temas/uma/>
- Noticias ONU, *México salda su deuda histórica con los 2,3 millones de trabajadoras domésticas al ratificar el "Convenio 189"*, 2020, at: <https://news.un.org/es/story/2020/07/147715>
- Oficial de la Federación, *Acuerdo por el que se emiten las Reglas de Operación del Programa de Salud y Bienestar Comunitario, para el ejercicio fiscal 2020*, México, at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5583027&fecha=28/12/2019](https://www.dof.gob.mx/nota_detalle.php?codigo=5583027&fecha=28/12/2019)
- OIT, C189 - Convenio sobre las trabajadoras y los trabajadores domésticos, 2011 (núm. 189), Artículo 14, at: [https://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C189](https://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189)
- OIT, *México y el Convenio 189 de la OIT*, 2020, at: <https://www.onu.org.mx/wp-content/uploads/2020/07/M%C3%A9xico-y-el-Convenio-189-de-la-OIT.pdf>

- Organización de las Naciones Unidas, *Informe sobre el comercio y el desarrollo 2020 de la pandemia mundial a la prosperidad para todos: evitar otra década perdida*, ONU, Suiza, 2020, at: <https://www.onu.org.mx/presentacion-del-informe-2020-sobre-comercio-y-desarrollo-de-la-unctad/>
- Presidencia de la República, *Segundo Informe de Gobierno 2020*, Gobierno de México, México, 2020, p. 241, at: <https://presidente.gob.mx/wp-content/uploads/2020/09/PRESIDENTE%20AMLO%20INFORME%20DE%20GOBIERNO%202019-2020.pdf>
- Ruiz Ramírez, José Manuel, *Acceso a las guarderías y género*, Suprema Corte de Justicia de la Nación, México, at: <https://www.scjn.gob.mx/sites/default/files/derechos-humanos/articulosdh/documentos/2016-12/ACCESO%20A%20LAS%20GUARDER%C3%8DAS.pdf>
- Secretaría de Desarrollo Social, *Programa 3x1 para Migrantes*, México, at: <http://www.sedesol.gob.mx/work/models/SEDESOL/Transparencia/TransparenciaFocalizada/Programas Sociales/pdf/3x1 para migrantes.pdf>
- Secretaría de Desarrollo Social, *Programa de Coinversión Social*, México, at: <http://www.sedesol.gob.mx/work/models/SEDESOL/Transparencia/TransparenciaFocalizada/Programas Sociales/pdf/coinversion social.pdf>
- Secretaría de Trabajo y Previsión Social, *Becas para el Bienestar Benito Juárez | Conferencias sobre Programas del Bienestar*, Gobierno de México, México, 2020, at: <https://www.gob.mx/stps/articulos/becas-para-el-bienestar-benito-juarez-conferencias-bienestar>
- Secretaría de Trabajo y Previsión Social, *Guía para implementar el teletrabajo en los centros de trabajo en el marco de las acciones para enfrentar el COVID-19*. STPS, México, 2020, at: <https://www.gob.mx/cms/uploads/attachment/file/543661/INTRODUCCIO N.pdf>
- Secretaría del Trabajo y Previsión Social, *Arranca la segunda etapa de implementación de la Reforma Laboral*, Gobierno de México, México, 2020, at: <https://www.gob.mx/stps/prensa/arranca-la-segunda-etapa-de-implementacion-de-la-reforma-laboral>
- Secretaría del Trabajo y Previsión Social, *Listos para iniciar la reforma laboral, demostraremos a la ciudadanía que el cambio va en serio*: Luisa Alcalde, Gobierno de México, México, 2020, at: <https://www.gob.mx/stps/prensa/listos-para-iniciar-la-reforma-laboral-demostraremos-a-la-ciudadania-que-el-cambio-va-en-serio-luisa-alcalde>
- Senado de la República, *Gaceta del Senado, miércoles 09 de diciembre de 2020 Gaceta: LXIV/3PPO-72*, Senado de la República, México, 2020, at: [https://www.senado.gob.mx/64/gaceta\\_del\\_senado/2020\\_12\\_09/2757#418](https://www.senado.gob.mx/64/gaceta_del_senado/2020_12_09/2757#418)

## 8. ANNEXES IN SPANISH LANGUAGE

### 8.1. Supreme Court Rulings Discussed (in Order of Appearance)

TRABAJADORES EXTRANJEROS. TIENEN DERECHO A LA DEVOLUCIÓN DE LOS RECURSOS ACUMULADOS EN SU CUENTA INDIVIDUAL DEPOSITADA EN LA ADMINISTRADORA DE FONDOS PARA EL RETIRO (AFORE), ASÍ COMO DE LAS APORTACIONES AL FONDO DE LA SUBCUENTA DE VIVIENDA, CUANDO VUELVAN EN FORMA DEFINITIVA A SU PAÍS DE ORIGEN, SIN QUE LES SEAN EXIGIBLES LOS REQUISITOS PREVISTOS EN LA LEY. El Pleno en Materia de Trabajo del Primer Circuito considera que el monto acumulado de los recursos en las subcuentas de retiro, cesantía en edad avanzada y vejez, así como vivienda, debe ser entregado –con arreglo en la normatividad internacional que resulte aplicable–, a los trabajadores extranjeros que regresen a residir a su país de origen en forma definitiva, con el fin de salvaguardar plenamente su derecho a la seguridad social y garantizar el goce real de los beneficios sociales que adquirieron con su trabajo en nuestro país.

Tesis: PC.I.L. J/67 L (10a.), Gaceta de Seminario Judicial de la Federación, Décima época, primera sala, libro 80, noviembre 2020, tomo II, p. 1813.

VIRUS SARS-COV2 (COVID-19). AL CONSTITUIR SU BROTE UNA EMERGENCIA DE SALUD PÚBLICA DE IMPORTANCIA INTERNACIONAL, AMERITA EL ESTABLECIMIENTO DE MEDIDAS PREVENTIVAS URGENTES PARA LA PROTECCIÓN DEL PERSONAL QUE PRESTA SUS SERVICIOS EN LOS HOSPITALES PÚBLICOS Y ESTÁ EXPUESTO AL CONTAGIO. La Organización Mundial de la Salud declaró al brote del virus SARS-CoV2 (COVID-19) una emergencia de salud pública de importancia internacional y, posteriormente, una pandemia, derivado del incremento en el número de casos existentes en los países que los han confirmado. Así, dicha situación tan grave amerita el establecimiento de medidas preventivas urgentes, principalmente en relación con las personas que tienen mayor riesgo, como lo son los adultos mayores y aquellas que tengan afectaciones de salud, pero también para la protección del personal que presta sus servicios en algún hospital público y está expuesto al contagio del virus mencionado.

Tesis: XVII.1o.P.A. J/31 K (10a.) Gaceta de Seminario Judicial de la Federación, Décima época, Tribunales Colegiados de Circuito, octubre, 2020.

SUSPENSIÓN PROVISIONAL. DEBE OTORGARSE PARA QUE LA INSTITUCIÓN RESPONSABLE, DE INMEDIATO, ANALICE Y CERTIFIQUE EL MEJOR MEDICAMENTO PARA EL PADECIMIENTO DEL QUEJOSO, EN COMPARACIÓN CON LOS MEDICAMENTOS PREVISTOS EN EL CUADRO BÁSICO O COMPENDIO NACIONAL DE INSUMOS PARA LA SALUD. La Segunda Sala de la Suprema Corte de Justicia de la Nación decide que el Juez de Distrito debe conceder la suspensión provisional para el efecto de que los médicos de la Institución responsable, de inmediato, revisen la solicitud del promovente y



certifiquen si el medicamento es el de mayor eficacia terapéutica, seguridad y eficiencia para el padecimiento del quejoso, comparado con otras alternativas que sí están incluidas en el Cuadro Básico o Compendio Nacional de Insumos para la Salud o en sus propios catálogos institucionales, y si la conclusión de ese análisis es que el medicamento solicitado es el mejor tratamiento para el paciente-quejoso, la Institución debe otorgarlo de inmediato, y para ello debe realizar los trámites correspondientes; de no ser así, comunicará su dictamen al paciente para que éste decida, de manera informada, sobre su tratamiento, en el entendido que de subsistir la controversia, ésta sólo podrá decidirse en la resolución sobre la suspensión definitiva o el fondo del amparo, según sea el caso.

Tesis: 2a./J. 40/2020 (10a.) Gaceta de Seminario Judicial de la Federación, Décima época, primera sala, libro 79, octubre, 2020, tomo I, p. 974, Suspensión provisional. debe otorgarse para que la institución responsable, de inmediato, analice y certifique el mejor medicamento para el padecimiento del quejoso, en comparación con los medicamentos previstos en el cuadro básico o compendio nacional de insumos para la salud.

SUSPENSIÓN PROVISIONAL EN EL JUICIO DE AMPARO. PROCEDE CONCEDERLA CONTRA LOS EFECTOS DEL DECRETO EXPEDIDO POR EL CONGRESO DEL ESTADO DE MORELOS A TRAVÉS DEL CUAL ABROGA UN DIVERSO DECRETO PENSIONARIO. El decreto que emite el Congreso del Estado de Morelos en favor de una persona que reúne los requisitos exigidos por la ley para obtener una pensión por jubilación, vejez, cesantía en edad avanzada o viudez, aun cuando formalmente constituye un acto legislativo, materialmente es un acto de carácter administrativo, pues no cuenta con las características de generalidad, impersonalidad y abstracción propios de las leyes o reglamentos, ya que su ámbito de aplicación es reducido al sujeto al que va destinado. En estas condiciones, el decreto expedido por dicho órgano legislativo a través del cual abroga un diverso decreto pensionario, es susceptible de suspenderse en sus efectos, pues a través de la apariencia del buen derecho, válidamente puede hacerse un asomo anticipado a su constitucionalidad, de modo que si no existió derecho de audiencia previa para el beneficiario del indicado decreto, ese acto abrogatorio permite apreciar una posible violación al artículo 14 constitucional. De ahí que procede conceder la suspensión provisional en el juicio de amparo contra los efectos del decreto expedido por el Congreso del Estado a través del cual abroga un diverso decreto pensionario, pues la afectación o perjuicio que ocasiona el acto y sus consecuencias a la esfera jurídica del quejoso, restringen el derecho a recibir su pensión, aunado a que las prestaciones de seguridad social constituyen medidas positivas que tienden a dotar de contenido el derecho al mínimo vital previsto en el orden constitucional.

Tesis: PC.XVIII.P.A. J/7 A (10a.) Gaceta de Seminario Judicial de la Federación, Décima época, Pleno, libro 75, febrero, 2020, tomo II, p. 1866, Suspensión provisional en el juicio

de amparo. procede concederla contra los efectos del decreto expedido por el congreso del estado de Morelos a través del cual abroga un diverso decreto pensionario.

**PENSIÓN JUBILATORIA. LA OMISIÓN RECURRENTE DE PAGARLA OPORTUNAMENTE VIOLA LOS DERECHOS HUMANOS A LA DIGNIDAD, AL MÍNIMO VITAL Y A LA SEGURIDAD SOCIAL DE LOS JUBILADOS.**

Ante la problemática social que origina el retraso injustificado del pago de las pensiones a los jubilados, corresponde al Estado asegurar la satisfacción de las necesidades básicas de todos sus ciudadanos, en el caso, el derecho que conforme al artículo 123, apartado B, fracción XI, inciso a), de la Constitución Política de los Estados Unidos Mexicanos adquirieron aquéllos después de laborar por el tiempo señalado por la ley, a recibir el pago de una pensión, el cual debe ser realizado en tiempo, porque sólo así se puede garantizar una subsistencia digna. Por tanto, cuando se omite pagar oportunamente una pensión jubilatoria en forma recurrente, se violan los derechos humanos a la dignidad y al mínimo vital de los jubilados, ya que aquélla comprende la satisfacción de las necesidades básicas para que ese retiro sea digno. Asimismo, se transgrede el derecho humano a la seguridad social, del que deriva el pago de la pensión, por la necesidad de garantizar la continuidad en tiempo y forma legal del pago de la pensión, como obligación del Estado mediante el ente asegurador de las prestaciones de seguridad social, derivado del derecho de los pensionados a recibir una protección especial por su condición de integrantes de un grupo en situación de vulnerabilidad, integrado por sujetos que ordinariamente tienen la presunción de subsistir económicamente de lo que reciben mensualmente por concepto de pensión.

Tesis: XV.3o.9 A (10a.) Gaceta de Seminario Judicial de la Federación, Décima época, Tribunales Colegiados de Circuito, libro 75, febrero, 2020, tomo III, p. 2361, Pensión jubilatoria. la omisión recurrente de pagarla oportunamente viola los derechos humanos a la dignidad, al mínimo vital y a la seguridad social de los jubilados.

## **8.2. Legislation**

Diario Oficial de la Federación, 16 de diciembre de 2020, Derecho por el que se reforma el artículo 37 de la Ley del Instituto del Fondo Nacional de la Vivienda para los Trabajadores.

Diario Oficial de la Federación, *ACUERDO ACDO.AS2.HCT.240620/173.P.DPES, dictado por el H. Consejo Técnico en sesión ordinaria el día 24 de junio de 2020, por el que se autorizan estrategias para prorrogar las prestaciones en especie y/o en dinero a los asegurados con incapacidad temporal para el trabajo que lleguen a término de ley y a los beneficiarios hijos incapacitados que cumplen 16 años, así como reconocimiento de la enfermedad COVID-19 como riesgo de trabajo en trabajadores IMSS, durante el periodo de contingencia.*, Secretaría de Gobernación, México,

2020, at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5597452&fecha=29/07/2020](https://www.dof.gob.mx/nota_detalle.php?codigo=5597452&fecha=29/07/2020)

Diario Oficial de la Federación, *Acuerdo por el que se declara como emergencia sanitaria por causa de fuerza mayor, a la epidemia de enfermedad generada por el virus SARS-CoV2 (COVID-19)*, DOF, México, 2020, at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5590745&fecha=30/03/2020#:~:text=Primero.-,Se%20declara%20como%20emergencia%20sanitaria%20por%20causa%20de%20fuerza%20mayor,prevista%20en%20el%20numeral%20anterior](https://www.dof.gob.mx/nota_detalle.php?codigo=5590745&fecha=30/03/2020#:~:text=Primero.-,Se%20declara%20como%20emergencia%20sanitaria%20por%20causa%20de%20fuerza%20mayor,prevista%20en%20el%20numeral%20anterior)

Diario Oficial de la Federación, *Acuerdo por el que se emiten los Lineamientos de Operación del Programa para el Bienestar de las Personas en Emergencia Social o Natural para el ejercicio fiscal 2020*, DOF, México, 2020, at: [https://www.gob.mx/cms/uploads/attachment/file/578546/Lineamientos\\_Emergencia\\_Social.pdf](https://www.gob.mx/cms/uploads/attachment/file/578546/Lineamientos_Emergencia_Social.pdf)

Diario Oficial de la Federación, *DECRETO por el que se reforma el artículo 311 y se adiciona el capítulo XII Bis de la Ley Federal del Trabajo, en materia de Teletrabajo*, DOF, México, 2021, at: [http://dof.gob.mx/nota\\_detalle.php?codigo=5609683&fecha=11/01/2021](http://dof.gob.mx/nota_detalle.php?codigo=5609683&fecha=11/01/2021)

Diario Oficial de la Federación, *DECRETO por el que se reforman los artículos 201, primer párrafo y 205, primer párrafo de la Ley del Seguro Social*.

Diario Oficial de la Federación, *DECRETO por el que se reforman, adicionan y derogan diversas disposiciones de la Ley del Seguro Social y de la Ley de los Sistemas de Ahorro para el Retiro*, DOF, México, 2020, at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5607729&fecha=16/12/2020](https://www.dof.gob.mx/nota_detalle.php?codigo=5607729&fecha=16/12/2020)

Diario Oficial de la Federación, *Norma Oficial Mexicana NOM-035-STPS-2018, Factores de riesgo psicosocial en el trabajo- Identificación, análisis y prevención*. DOF: 23/10/2018, DOF, 2018, México, at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5541828&fecha=23/10/2018](https://www.dof.gob.mx/nota_detalle.php?codigo=5541828&fecha=23/10/2018)

Prof. Dr. Gabriela Mendizábal Bermúdez  
Facultad de Derecho y Ciencias Sociales  
Universidad Autónoma del Estado de Morelos  
Cuernavaca, Morelos, México

---