



NEWSLETTER



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UPDATE ON PATERNITY LEAVE IN THE DOMINICAN REPUBLIC

On October 24, 2023, the Constitutional Court of the Dominican Republic ("TCRD", for its Spanish acronym) announced that it will soon issue a ruling through which it decides an action of unconstitutionality filed on October 4 November 2020 against the final part of Article 54 of the Dominican Labor Code, which provides that the employer is obliged to grant male employees or fathers two days in the event of delivery of the wife or duly registered partner in the company.

In this sense, the TCRD advanced in its release that in the decision to be issued in this regard:

- (i) it accepts the aforementioned action of unconstitutionality for violating the right to equality, the principle of reasonableness, family rights and the principle of best interest of the child, set forth in Articles 39, 40.15, 55 and 56 of the Dominican Constitution respectively; and,
- (ii) defers the effects of the declaration of unconstitutionality and urges the National Congress, within a period of no more than two (2) years, counted from the notification of the ruling, to review the final part of article 54 of the Labor Code of the Dominican Republic ("LC"), regarding the time of paternity leave recognized for all workers, with the purpose of establishing a new duration that is more in line with the principles of equality and reasonableness, and which must be progressively adjusted, as socioeconomic circumstances allow, until a leave period that truly and effectively guarantees the exercise of responsible parenthood under conditions of gender equality is reached.

In view of the above, in order to understand what will happen from the moment the aforementioned decision is issued, it is necessary to clarify that (i) this does not mean that the two-day paternity leave currently provided for in the LC is automatically eliminated, but that the decision will take effect in two years, with the objective that (ii) in those two years the National Congress legislates on the matter. Therefore, (iii) all employers must continue to grant paternity leave of two days to their employees as provided in the Labor Code.

It is necessary to note that the maternity leave period in the Dominican Republic is fourteen (14) weeks. However, although the TCRD bases its decision on the principle of equality, it does not necessarily imply that paternity leave is to be granted to men in the same way as to women.

Finally, we highlight that although there is currently a draft bill to increase the time of paternity leave to 10 days, for the moment we must wait for the full decision to be issued and for the Legislator to effectively regulate in this regard, based on of the principles of equality and reasonableness, as urged by the TC, and taking into account the best uses and practices of other jurisdictions with legislation more in line with new times.

For more information and updates in the matter, please do not hesitate to contact us.