

HOW HAS THE WORKPLACE LANDSCAPE CHANGED IN ARGENTINA DUE TO THE PANDEMIC OF COVID-19?

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INTRODUCTION

Latin and South America are still in a stage behind in terms of COVID-19 spread if we compare them to Europe and United States of America, so this continent had the chance to analyze the consequences of COVID-19 ahead of time. In this sense, countries took different measures in terms to face this pandemic.

ARGENTINA OVERVIEW

Argentine Government decided to establish a mandatory and strict isolation very soon (on March 20, 2020), and is still under this regime, with a relative flexibilization in provinces where the impact of COVID-19 has not been significant.

This is not the case of Buenos Aires, where the most relevant focus of the pandemic and risks continue due to the considerable number of residents and the existence of poor neighborhoods, where it is not possible to comply with social distance and hygiene conditions.

One of the most relevant and first measures taken by the Government to avoid the spread of COVID-19 was to waive from the duty of attendance to the workplace to all employees that are not considered “essential” based on the kind of services rendered, together with those included within the “risk group”.

The main impact of those measures is related to the way and perspective in which “home-office” is seen: it is not considered anymore as a simple benefit for employees, but instead, it has become the only possible manner to perform tasks and keep on with the companies businesses during the isolation, provided that the type of activity allows so. Therefore, home office has become a great tool for companies.

Specifically, Resolution N° 297/2020, issued by the Ministry of Labor (*Ministerio de Trabajo, Empleo y Seguridad Social*-“MTEySS”-), establishes that employees whose normal tasks may be carried out remotely must agree in good faith with their employer the conditions to render services from their home.

In addition, Resolution No. 21/2020 issued by the Labor Risks Superintendent (*Superintendencia de Riesgos de Trabajo* - “SRT-”) establishes that employers who allow their employees to work from their home, within the framework of the health emergency, must

inform the corresponding Labor Risks Insurer (*Aseguradora de Riesgos del Trabajo* -“ART”-), the following:

1. List of employees who will be rendering services under a home office regime (name, last name, labor identification code (*Código Único de Identificación Laboral* -“CUIL”-);
2. Address where the tasks will be carried out;
3. Employee’s working day (number of days and hours per week).

Notwithstanding the previously mentioned regulation issued within the context of the emergency caused by the COVID-19, home-office regime is characterized by the lack of specific regulation in Argentina. Only Resolution No. 595/2013 (issued by the MTEySS), addressed this matter by creating the Program for the Promotion of Remote Work Employment (*Programa de Promoción del Empleo en Teletrabajo*, - “PROPET”-). The aim of the PROPET is to promote, control and simplify the application of home-office.

Even though employers have the right to implement home-office regime, where possible, in order to guarantee the continuation of the business, they must also comply with the duty of safety within the workplace in case employees are allowed to come back to work.

In addition, employer’s safety duty encompasses the compliance with safety and hygiene standards and the necessary measures to avoid damages on the employees’ physical health.

In this sense, the Labor Health authority has renewed the health and safety protocols and, therefore, new protocols will be in place within the employer's duty of safety and prevention, including rearranging the offices in order to respect the social distancing, cleaning and disinfection supplies, face masks, gloves, among others.

Also, as part of these preventive measures, employers may reasonably request health tests before entering the workplace, such as temperature tests, which was not usually implemented before the pandemic.

## CONCLUSION

Government authorities, employers and unions are facing a challenge to balance measures in a context of economic and social emergency caused by the pandemic and the protective nature of local labor regulations.

The pandemic of COVID-19 has evidenced the need of updating and adjusting legislation to the new labor scenario since there still are some aspects that must be ruled in order to protect employee’s health without jeopardizing the company’s business and with the aim of preventing the loss of work positions.

Not only the new modalities of rendering services (increase of home-office) will be changed but also the workplace structure will have to be modified accordingly in order to guarantee all preventive measures have been taken within the compliance of the duty of safety on head of the employers.

These are challenging times worldwide, but specially in countries of this continent where economic resources are totally different than those of the countries that already has suffered the devastating consequences of the COVID-19.