

INTERNATIONAL NEWSLETTER - ARGENTINA

Key changes to employment law

Mercedes Balado Bevilacqua – Cecilia Acosta

The strike of the COVID-19 pandemic took the world by surprise in every area, changing our lives dramatically. Within this sudden modification, the universe of work was shaken. One of the main aspects that the pandemic triggered is the acceleration of digital development to adapt tasks to home office modality.

On March 19, 2020, through Urgent Decree (*Decreto de Necesidad y Urgencia* or "DNU") No. 297/2020 the Government established as first measure, the Mandatory, Social and Preventive Isolation ("the Isolation") for all the citizens of the Argentine Republic and for all those staying temporarily in the territory –which is still mandatory in certain areas-. Therefore, as has happened in most countries around the world, employers had to introduce home office and adapt their business drastically.

Considering that most people cannot attend their workplaces, it was noted that this new form of work has come to stay. Therefore, a Law establishing "Home Office Legal framework" (Law No. 27,555) was passed. This new legislation has been drafted and issued very fast, and its regulation from the Ministry of Labor is still pending.

The Home Office regime will come into force after ninety (90) days of termination of the Isolation period (currently, the Isolation was established up to December 20, 2020, but it is likely to be extended again and, therefore, Law 27,555 is not yet in force) but companies are preparing themselves in order to comply with the provisions established by this Law since home office has been proved to be an effective way of work.

Some of the most relevant aspects of this regulation are the following:

- Employees under the Home-Office regime are entitled to the right to disconnect during time-off and leave periods;
- Employees living with or taking care of children under thirteen (13) years old, disabled people, or elderly adults with special needs, duly evidenced, have the right to perform their tasks during compatible hours with their care tasks and/or to interrupt their working day;
- As high controversial point, we pointed out the so-called "reversibility", which implies employees' consent regarding Home-Office modality may be withdrawn at any time, and the employer is obliged to assign employees tasks in the offices again. In the event of an unjustified refusal, employees may consider themselves constructively dismissed, and claim the corresponding severance compensations;

Taking into consideration this, it is evident that the aim of this measure is to benefit the mental and physical health and promote the work-life balance. Also, within this new regulation, the employer's duty to provide a healthy working environment will need to be reflected at employees' home, which means that employers will need to provide appropriate working tools and efficient connectivity so that employees render services from home under efficient conditions.