

Criterion Issued by the Instituto del Fondo Nacional de la Vivienda para los Trabajadores Regarding the Amendment to Article 29 of the INFONAVIT Law

On February 21, 2025, the Decree amending, adding and repealing several provisions of the National Workers' Housing Fund Institute Law ("INFONAVIT Law") and the Federal Labor Law, regarding socially-oriented housing (hereinafter, the "INFONAVIT Reform") was published in the Official Gazette of the Federation.

Since its publication, we have maintained that the INFONAVIT Reform is unconstitutional, particularly with respect to the amendment of Article 29 of the INFONAVIT Law, since it imposes an undue economic burden on employers by obliging them to cover, with their own resources, the loans granted by INFONAVIT to their workers during their absences or disability leaves.

Recently, INFONAVIT published a criterion on its official website establishing, among other things, that employers are not obligated to cover the amounts that could not be deducted from their employees in these cases.

Although this criterion has generated interpretations as to whether the problem of unconstitutionality derived from the INFONAVIT Reform has been resolved, we consider that the effect still exists. This is due to the fact that the INFONAVIT publication is a non-binding internal criterion, i.e., it is not mandatory, in addition to the fact that with its publication the content of the reformed Law is not modified.

Additionally, this criterion could be revoked at any time, allowing the authority to demand strict compliance with the Law and, thus, impose the aforementioned economic burden on the employers.

Consequently, we consider that the amparo trial continues to be the ideal legal remedy to challenge the unconstitutionality of the reform to Article 29 of the INFONAVIT Law, since this will allow employers to obtain a resolution, either from a Judge or from the authority itself when it renders its report within the proceeding, which will provide them with legal certainty regarding compliance with their obligations, thus avoiding a possible economic impact derived from the application of the INFONAVIT Reform.

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S I N C E R E L Y

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