
*Supreme Court of Justice of the Nation declares the exclusion
of domestic workers from the mandatory regime
of the Mexican Social Security Institute to be unconstitutional*

On December 5 of this year, the Second Chamber of the Supreme Court of Justice of the Nation approved a draft resolution determining that it is unconstitutional for employers of domestic employees not to be obligated to register those employees with the Mexican Social Security Institute (IMSS).

According to the Social Security Law, currently domestic employees are subject to the voluntary regime of registration with IMSS. This means that their registration is optional, given the particular nature of their services, high turnover, etc.

The court argued that there is no constitutionally valid reason for both the Federal Labor Law and the Social Security Law to exclude domestic work from the mandatory social security regime.

Similarly, the Court's arguments specified that this provokes discrimination against domestic employees and especially women since, according to the National Statistics and Geography Institute (INEGI), it is primarily women who do domestic work (*9 out of 10 domestic workers are women*).

In this regard the Court also emphasized that domestic work has been carried out under inadequate conditions, extensive work days and low salaries, which is far from the concept of dignified work that the International Labor Organization has defined.

Finally, our highest court ordered that IMSS, within a reasonable period which may not exceed the first 6 months of 2019, implement a "pilot program" whose purpose is to design and execute a special social security regime for domestic workers that also delivers the necessary administrative guidelines to allow easy and fair compliance with the employer obligations. This is in order to avoid the administrative, accounting and tax complications that families as employers would have to assume.

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Sincerely,

Von Wobeser & Sierra, S.C.

Mexico City, December 21, 2018.