

Informative Newsletter
**"Ley Constitucional de los Consejos Productivos de Trabajadoras y
Trabajadores"**
(Constitutional Law of the Productive Councils of Workers)

The purpose of this report is to raise awareness of the most relevant aspects of the content of the "*Ley Constitucional de los Consejos Productivos de Trabajadoras y Trabajadores*" (Constitutional Law of the Productive Councils of Workers), without referring to the legality or otherwise of such decree since it would be subject to other types of considerations.

The National Constituent Assembly proclaimed the Constitutional Law of the Workers Productive Councils, which was published in the Official Gazette No. 41,336 of February 6, 2018, and coming into force on the same date, except for the circumstances explained below.

The Law establishes the creation of Productive Workers Councils (PWC) in all public and private work entities located in the national territory. The Councils aim to manage the productive activity, distribution of goods and services of each working entity, help in the construction of the "socialist economic model" and protect the productive activities of the company from the inside.

The (PWC) are organizations supervised by the "*Ministerio del Poder Popular en materia del proceso social del trabajo*" (Ministry of Popular Power of Work as a Social Process). They are formed by a number of members ranging from 3 to 7 workers, who will be elected as spokespersons and who will have a term of 2 years in office with the possibility of being reelected. It should be noted that the Law requires that one of the spokespersons be a woman, another a young person of 15 years to 35 years old, and a militia worker. All these conditions can be met in one or more persons when elected. Those who exercise trust or management positions within the company, or any individual representing the employer, will not be able to be spokespersons.

The "*Ley Orgánica del Trabajo, Trabajadores y Trabajadas*" (LOTTT) (Organic Law of Labor and Workers) eliminated the figure of the worker of trust so it is unknown if in the implementation of this law with the aforementioned restriction will apply only to management employees or if under criteria that could be developed, workers who occupy certain positions or perform certain functions will be prevented from being elected as spokespersons, even if they are not of management.

Spokespersons may also be revoked after the expiration of half their term.

The (PWC) will be a "dynamic and flexible" organization, in which there should be at least one Council per working entity. The spokespersons will enjoy labor immobility from the moment they assume their duties until 6 months after the expiration of the term for which they were elected. The position of spokesperson is completely voluntary and therefore will not be able to hold extra or have a higher salary than the one obtained by her / his current position.

The PWC's main duty will be to inform the governing body about the guidelines, plans, and projects of the company in which they are established in relation to the policies of production, distribution and exchange of products and services. In order to achieve this purpose, the law grants them the attributions that are presented below in summarized form:

1. Know, evaluate and supervise the processes of production, supply, marketing and distribution of products and services.
2. Participate in the actions that allow boosting the production of products.
3. Inform the employer of the decisions adopted by the PWC.
4. Report any action that is contrary to the socioeconomic system.
5. Propose and execute the necessary preventive and corrective measures to avoid the illegitimate paralysis that may affect the production process.
6. Monitor and control the actions that may influence supply mechanisms.
7. Report to the competent bodies any action that could qualify as speculative resale of products.
8. Promote and encourage cooperation of workers for the improvement of productive activities and distribution lines.

For the performance of their duties, the PWC's may cooperate with other workers organizations such as unions, workers' councils or other organizations of the working class. The Law states that the PWC do not have the characteristics of a workers union organization, even when they can cooperate with other workers' organizations. Therefore, at least according to the Law, they will not be able to exercise powers that correspond to said organizations, nor will they prevent or affect the exercise of the rights of freedom of association and collective bargaining.

In the event that someone hinders the functions of the workers' production councils, or that the employer or their representative fails to comply with the guarantees imposed by said law, they will be sanctioned with 60 *Unidades Tributarias Sancionatorias (U.T.S.)* (Sanctioning Tax Units). If the employer incurs in the dismissal, transfer or impairment of a worker protected by the labor immobility established in this law, he will be sanctioned with 120 (UTS).

Sanctions will be imposed as indicated in the "*Ley Organica del Trabajo, Trabajadores y Trabajadoras*" (Organic Law of Labor and Workers).

The Law allows spokespersons the possibility to have a paid leave per month of up to 16 hours. They have the right to "confidential discussions" with the workers and free access to all the sites of the company, in order to preserve production in the work place.

The spokespersons can also report to the competent body any activity that in their opinion affects the production process and/or causes deviation or anything that has the purpose of hindering access to finished products or the improper use of raw materials or available resources.

The Law established a term of 90 continuous days, counted as of its publication in the Official Gazette, for the installation of at least one (PWC) for each work entity that does not have it, or for the renewal of those Councils that have been established in accordance with Decree No. 2,535, published in Official Gazette No. 41,026, of November 8, 2016. Therefore, it expired on May 5, 2018.