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USAID Strengthening Labor Justice CAFTA-DR Program Task Order No. DFD-I-03-04-00175-00

Quarterly Report

October 1 – December 31, 2009



Remodeled Santa Ana Labor Court

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This report was written by Management Sciences for Development, Inc. under the USAID Strengthening Labor Justice CAFTA-DR Program, Task Order No. DFD-I-03-04-00175-00, for review by the United States Agency for International Development.

Executive Summary

Component 1: Electronic Judiciary Management Systems

During this quarter, CAFTA-DR completed several activities to support implementation of the electronic case management system. In Guatemala, the Program developed and presented the proposed management model to the Guatemalan Supreme Court. The Program received authorization from the Guatemalan Supreme Court for additional labor courts to participate in the development of an electronic case management system, raising the total number of courts participating to eighteen

The Program also provided technical assistance to El Salvador, Costa Rica and Dominican Republic. In the Dominican Republic, the DR program designed screens and workflow charts that will be used to index cases. In El Salvador, project has been delayed in El Salvador, as the Salvadoran Supreme Court has not provided authorization to replicate the Pilot Court in additional jurisdictions. Despite this challenge, the CAFTA DR Program completed the development of baseline analysis for the Salvadoran EMCS. In Costa Rica, the Program developed a plan for clearing judicial backlog for the courts. Costa Rican judges have cleared 90% of backlogged cases and plan to clear the backlog by January 2010.

Component 2: Raising Professional Standards in the Labor Judiciary

This quarter, the Program worked closely with courts and law schools to provide legal training for judges and legal professionals. In December, the Program began a Degree Program on Legal Analysis for the Salvadorian Labor Public Defender's Office. The Program also signed an agreement with Salvadorian universities to offer a Masters Degree in Legal Studies. In Costa Rica, the Program assessed training needs for legal professionals. Next quarter the Program will begin developing workshops/certificate programs to address these needs.

Component 3: Procedural Streamlining

During this quarter, the Program collected user data at the Salvadorian *Defensa Pública Laboral*. This data will be used to stream procedures for processing plaintiff complaints in the court. The Program presented the CAFTA DR Program to 35 labor public defenders and senior officials. In Costa Rica, the Program drafted an agreement that would consolidate the conciliation processes at the *Ministerio de Trabajo y Previsión Social y Procuraduría General de la República*.

Activities planned for the following quarter:

- Dominican Republic: provide technical to assistance labor courts on judicial management
- Guatemala: provide technical assistance to labor courts to complete replication of the ECMS
- Guatemala: evaluate ECMS systems at the *Corte Suprema de Justicia* and *Centro de Documentación de la Corte de Constitucionalidad y Centro Nacional de Análisis y Documentación Judicial*
- Costa Rica: complete the plan to clear judicial backlog
- El Salvador: continue providing technical support to the *Defensa Pública Laboral*
- El Salvador: complete the Salvadoran EMCS
- El Salvador: initiate the second phase of the Masters Program in Legal Studies
- Costa Rica: draft curriculum reform for training programs

Component 1: Electronic Judiciary Management Systems

Result 1.1 Electronic case tracking and judicial management systems in 33 courts in five CAFTA-DR countries.

Electronic case tracking and judicial management systems allow courts to resolve cases faster and more efficiently. During the quarter CAFTA-DR completed a number of activities to support this component of the project in the CAFTA countries, with the exception of Honduras. Detailed below are specific activities by country.

1.1 Guatemala

CAFTA DR Program staff presented the project to the *Corte Suprema de Justicia* in Guatemala in November 2009. As a result, the Court authorized a timeline for replicating the pilot court project in sixteen Guatemalan labor courts.

October 2nd – 3rd, the Program conducted a workshop for judges and courthouse staff entitled “Developing a Labor Judicial Management Model for Oral Hearings.” The training focused on successes gained to date in Guatemala and presented a strategy to continue developing a model for using oral hearings for the *juzgados de primera instancia de trabajo y previsión social*.

During this quarter, the Project held meetings with the Guatemalan *Centro de Informática y Telecomunicaciones*, *Centros de Servicios Auxiliares de la Administración de Justicia Laboral* and *la Cámara de Amparos y Antejudicios* to develop an electronic notification system. The meetings discussed important issues such as improving the judicial management system and promoting electronic notifications. The following institutions will begin using this system: *Ministerio de Trabajo, inspección y Procuraduría de la Defensa del Trabajador, Instituto Guatemalteco de Seguridad Social, Procuraduría General de la Nación*. Law firms and labor unions will also use the system.

1.2 Costa Rica

The Program has completed 90% of the Plan to Clear Judicial Backlog in Goicoechea and expects to complete implementation in January 2010. The Program planned to clear 718 cases in three months. In three months, the backlog was lowered by 617 cases. Costa Rican Judges have committed to continue using the Plan until the backlog is cleared. The Judges will focus their efforts to clear cases from their dockets and the Program will postpone the assessment of organizational processes which was scheduled for February 2010. The Project will conduct a final assessment of the Plan in February 2010 ahead of schedule.

During this quarter, the Program developed recommendations to amend legislation to improve judicial management. The Program will begin drafting legislation based on these recommendations in January 2010. The Program also discussed procuring equipment and furniture for the Costa Rican courts. The Courts will contribute \$21,000 to install the equipment procured by the Program.

Progress on the development of judicial management systems in Costa Rica faced challenges caused by an internal dispute among Costa Rican judges. The Program recommended that the judges meet to resolve the dispute. The parties are developing a solution with support from USAID officials.

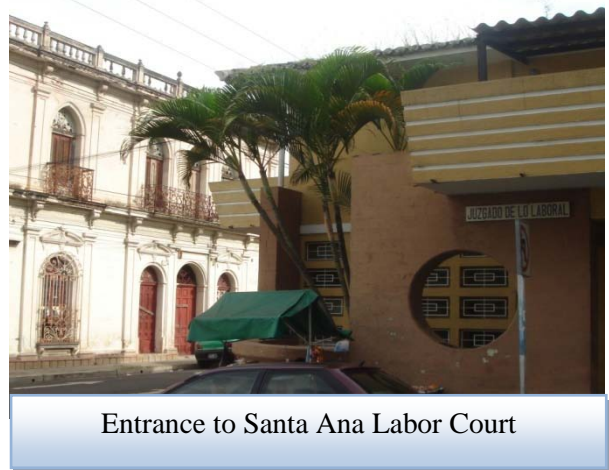
1.3 El Salvador

During the quarter, the Supreme Court requested that the Program sponsor a consultant to work in the CSJ to provide technical assistance to develop the management model and provide training on the PHP—the ECMS programming language selected by the Court. The Court will fund any further changes to the system. The Court also requested the Program provide technical assistance to procure computer equipment not provided by other donors.

This quarter, the Program requested authorization from the CSJ to collect baseline data from the Salvadorian labor courts. The Program prepared an online system, trained interns, presented a proposal on the baseline information to be collected and developed the corresponding timeline. Despite the Program's efforts the Court did not approve the collection of baseline data.

La Corte Suprema de Justicia (CSJ) delayed expansion of the Pilot court to eight other courts and chamber for at least six months. Judge Mirna Perla Jiménez, the Program's point of contact at Supreme Court, sent delegates to observe the construction at the Santa Ana Piolt Court. On October 16th, the court provided approval to complete renovations and upgrades.

In November 2009, Judge Mirna Perla and three advisors requested that the Program limit technical assistance to courts in San Miguel, Santa Ana and Santa Tecla. The remaining courts will be remodeled and upgraded through other donor projects. USAID officials will work directly with the Salvadorian courts to resolve this issue. This has caused an unexpected delay in Program implementation. The Program had expected to make significant progress on the baseline studies and corresponding updates to the courts' systems. Despite this setback, the program remains prepared to provide technical assistance to the Salvadorian courts.



Entrance to Santa Ana Labor Court

1.4 Dominican Republic

During this quarter, the Program continued its partnership with *Fundación Institucionalidad y Justicia* (FINJUS). Currently, the Program has designed a judicial management system for the Dominican courts based on a system developed for labor courts located in Santiago Los Cabelleros. The replication will be led by Judicial Management Specialist Altagracia Peguero. The Program will provide additional support to the Supreme Court of Justice next quarter. The Program also coordinated with the Supreme Court of Justice to develop a plan for procuring additional equipment for the courts.

1.5 Electronic Case Management Systems (ECMS)

The ECMS was originally designed for three countries (e.g. El Salvador, Honduras and Guatemala). In June, USAID extended the scope of this activity to include the Dominican Republic and Costa Rica. The Program has developed a fully operations ECMS for El Salvador and Guatemala. The Program began designs for an ECMS in Honduras—plans for implementation have been suspended due to instability in Honduras.

Costa Rica

Costa Rica began restructuring the *Megadespacho*, by dividing the court into private employment, public employment and social security courts, as suggested by the Program. The Program will adapt the ECMS for Public and Private Courts in Goicoechea once administrative procedures are restructured and management position profiles are defined. The *Corte Suprema de Justicia* will develop the ECMS for *las cortes de seguridad social*.

Dominican Republic

The Dominican Republic will adapt the current court ECMS, called Supremo Plus, for the labor courts. The process will begin in the second quarter of 2010, once procedures are adjusted and consolidated in Santiago and Santo Domingo.

El Salvador

During this quarter, the Program completed training sessions on the ECMS for seventeen staff members at the Santa Ana Pilot Court. The Program provided on-site training in October and conducted the remaining training sessions via teleconference and Virtual Private Network (VPN). The Santa Ana Court confirmed the completion of activities from Judge Ángela de Alberto. The Salvadorian courts have maintained the VPN and internet service as suggested by the Program staff.

Guatemala

At the direction of the Guatemalan Supreme Court, the ECMS has been installed at a Pilot Court. The Program began indexing cases which will be placed into a database and used for migration to the new system. The Program requested the *Corte Suprema de Justicia* approve an agreement to develop policies for using the system as well as require courts to use the system. The Program adjusted the system, based on feedback from the courts. Adjustments were also made to allow the system to be use to follow up on oral hearings that were video tapped. The Program modified the Pilot Court's video system, based on feedback the Court. The system will be functioning next quarter.

Result 1.2 Electronic case tracking and judicial management systems implemented in the Appeals Courts and Supreme Courts of Justice in at least three CAFTA-DR countries

1.6 Electronic Case Management Systems-Appeals Courts

Dominican Republic

During this quarter the Program received the database and source code from the *Centro de Documentación e Información Judicial Dominicana* (CENDIJD). The Program carried out an initial analysis of work flow at the CENDIJD. The Program finished a proposal for the legal analysis system's screen design and presented it to the members of the Center.

The Program expects that the system will be functioning in April 2010.

Guatemala

The Program has provided technical assistance to the Guatemalan *Corte Suprema de Justicia Centro Nacional de Análisis y Documentación Judicial* (CENDOJ) developing weekly legal bulletins from the *Corte de Constitucionalidad*. (See Annex 3) The Program has also engaged students from the *Universidad Rafael Landivar* to compile labor legislation at the CENDOJ.

The Program conducts a bi-monthly review of the jurisprudence classification system for labor cases used by the Guatemalan *Corte de Constitucionalidad* and CENDOJ. Program sponsored consultant, Diego Lopez, has created manuals for using the indexes and case classifications. In January, the Program will provide technical assistance to the President of the *Corte de Constitucionalidad* to assure that the process continues after the new President of the *Corte Suprema de Justicia* is appointed.



Legal Indexation System.

The new Supreme Court of Justice has begun classifying labor legislation and has requested an agreement with the Full Court which will guarantee a comprehensive publication of decisions. The agreement will also ensure that the Center uses the methodology proposed by the Program. In the next quarter, the Program will evaluate the courts' software and adapt the system based on the designed developed for the Dominican Republic.

Component 2: Raising Professional Standards in the Labor Judiciary

2.1 Masters Program

Result 2.1 Masters Program in Legal Studies designed and implemented in at least two CAFTA-DR countries

Guatemala

In Guatemala, the Program has approached authorities from the *Universidad de San Carlos* to approve and implement a Masters Program in Legal Studies. The Program will move forward with the Master's Program once USAID signs a Memorandum of Understanding with the the University.

The *Universidad Rafael Landivar* expressed interest in the Masters Program. The President of the Court extended an open invitation to several universities. In January the Program will evaluate the possibility of continuing with the Masters Program at the *Universidad de San Carlos* or moving it to a private institution.

El Salvador

In November, the Program drafted a Memorandum of Understanding for the Salvadorian universities which was signed on Novemeber 11th. The four universities which will participate in the Program's Master's in Legal Studies included: Universidad José Matías Delgado, Escuela Superior de Economía y Negocios and Universidad Católica de El .

In December, the Program and universities completed draft curricula and implementation plan for presentation to the *Ministerio de Educación* next quarter.

The Program has delayed plans to have the *Ministerio de Educación* sign a Memorandum of Understanding until after the draft curricula and implementation plans are developed.



University Officials and USAID sign an

2.2 Curriculum Reform

Result 2.2 Curricula reform for law programs in at least five universities in two countries

Nicaragua

The Program expects to begin implementation of activities for curriculum reform in Nicaragua and Costa Rica. The Program provided specialized courses and workshops on curricula reform *Instituto Nicaragüense de Estudios Humanísticos* (INEH).

Costa Rica

The Program will begin activities to initiate curriculum reform for legal professionals in Costa Rican next quarter.

2.3 Specialized Labor Law Programs

Result 2.3 Specialized labor law programs at the graduate level, designed and offered in at least five universities in two countries

El Salvador

The Program began activities under this result ahead of schedule. The Program will develop three specialized courses on labor law, constitutional law, sociology and administrative law in El Salvador for 69 labor public defenders from different parts of the country. The courses will be offered in the western, central and eastern sections of the country. The Program will coordinate with the *Universidad Politecnica* the university will offer the courses to the public at a later date.



On December 16th, the Program held a video-conference to explain the concepts of legal precedence to labor public defenders. As part of the training the participants received the document “El derecho de los jueces en América Latina: Historias, usos y técnicas.” Participants will use this text to develop guidelines for conducting legal analysis as part of the degree program. The Program will hold additional training sessions in the next quarter.

2.4 Lawyer Certification Program

Result 2.4 At least one legal reform to create a lawyer certification program elaborated and presented by a law association to the appropriate authorities for approval

In Costa Rica, *la defensa pública laboral* program will be implemented through the *Colegio de Abogados*. USAID has requested that this counterpart work exclusively with the PACT Project.

2.5 Legal Reforms to Improve Professional Standards

Result 2.5 At least one legal reform to elevate professional standards for lawyers, elaborated and presented by a law association to the appropriate authorities for approval.

This quarter, the Program provided technical assistance to strengthen law schools and improve professional standards in Costa Rica. The Program has provided technical assistance through Judicial Reform expert Evelyn Zamora. Ms. Zamora’s efforts have focused on defining skills, abilities and knowledge that judges need to efficiently decide cases. Ms. Zamora identified knowledge gaps and identified future training needs. Accordingly, the Program will use this information to modify its training programs in Costa Rica for judges next quarter.

The Program provided six workshops in Costa Rica this quarter. The workshops were held at the School (3), Law Association (1) and Goicoechea courts (2). At total of 47 legal professionals attended the workshops. MSD has completed 90% of activities for this result and expects to make final presentations on course provided to legal professionals to the Judicial School next quarter.

2.6 Judicial Laboratories

Result 2.6 Creation of judicial laboratories for court training in at least four CAFTA-DR countries

Guatemala

The Program plans to establish a judicial laboratory in Guatemala in January 2010. In November, the Program made contact with judicial authorities and selected a space for the laboratory. Currently, the Program is selecting an architect to design the laboratory.

Component 3: Procedural Streamlining

3.1 Alternative Dispute Resolution—Courts

Result 3.1 ADR systems or centers established to support new courts integrating at least three countries

El Salvador

In November, the Program provided technical support thorough Alternative Dispute Resolution Specialist, Julia Scandale. Ms. Scandale developed a schedule for improving the court’s ADR processes. The Supreme Court did not authorize the activities. Consequently, the Program refocused Ms. Scandale’s expertise to carry out similar activities in Guatemala.

Guatemala

The Program presented proposed timelines for improving conciliation with judges to the *Corte Suprema de Justicia*. The Program also invited 16 courts to participate in meetings on labor conciliation.

December 11th – 12th, the Program held a workshop on “Alternative Dispute Resolution and Strengthening Labor Conciliation” facilitated by Julia Scandale. The workshop provided information about onsite technical assistance that the Program will provide to sixteen Juzgados de Primera Instancia de Trabajo y Previsión Social.



Labor judges attend ADR workshop in Guatemala

The Program requested statistics from the *Corte Suprema* on conciliation. Specifically, the Program requested information on the number of conciliation agreements made and observations about conciliation hearings from courts. The data was complimented by follow up interviews with labor judges.

Costa Rica

The Program will provide technical assistance to reform Costa Rica’s judicial management model. The reforms will include: hearings, conciliation, requirements for technical defense and additional administrative and technological concepts. The Program is currently modifying its proposal on conciliation in order to redesign the model.

3.2 Alternative Dispute Resolution-Private Sector and Unions

Result 3.2 ADR systems or centers established in collaboration with the private sector and unions in at least two CAFTA-DR countries

Nicaragua

On October 20, 2009, representatives from PACT, USAID and the CAFTA Project Director agreed that PACT would establish a mediation center at *maquilas*, *Universidad Politécnica de Nicaragua* (UPOLI) and *Universidad Nacional Autónoma de Nicaragua* (UNAN-León).

3.3 Alternative Dispute Resolution—Universities and NGOs

Result 3.3.1 Technical assistance for universities and/or NGOs to conduct legal research related to labor law and provide training in ADR and oral hearings

In October, Legal Research Specialist Carlos Gregorio, visited Labor Observatory at the following sites:

Costa Rica: Ministry of Labor, State of the Nation, *Fundación para la Paz y la Democracia*

SCJ/Planning Office

Nicaragua: Universidad Paulo Freire, USAID/ Environmental Project

El Salvador: Human Rights Institute at Universidad Centroamericana/José Simeón Cañas

Guatemala

During this quarter, Program Chief of Party and USAID officials met with met with Gustavo García Fong, Director of the *Instituto de Investigaciones Jurídicas* at *la Universidad Rafael Landívar* to follow-up on the Labor Observatory. The Program also met with Andy Javalois, at the *Instituto*, to define strategies to consolidate the work being done with the Observatory.

Nicaragua

Two workshops were held for private universities to discuss the limits of labor conciliation. The first was held in Managua October 19 through October 20. The second workshop was held in Juigalpa October 22 through October 23; Julia Scandale facilitated both workshops.

On October 20, the Program, USAID and PACT decided that PACT would create an index on Inter-American jurisprudence for publication by the Observatory. The index was received electronically on November 11, 2009. After reviewing the documentation, USAID decided that the information could not be incorporated into the platform that MSD is designing because the analysis does not correspond with the Program's methodology.

3.4 Facilitate Legal Assistance

Result 3.3.2 Technical assistance for the Attorney General's Office in El Salvador to facilitate legal assistance and representation for workers

El Salvador

During this quarter MSD completed 100% the remodeling of the *Ministerio de Trabajo y Previsión Social* and *La Procuración General de la República*. The Acting General Attorney María Liliam Navarrete de Peraza approved blueprints and office layouts.

During this quarter the Attorney General's Office identified the data and reports required to generate modifications to the information systems. Upgrades and remodeling scheduled for the Attorney General's office will resume once the project budget has been realigned.

The CAFTA DR program has finished collecting data on case registration utilizing final year students from the *Universidad Tecnológica*. The students have collected 75% complete of the data required to complete this activity. During the next quarter, the Program expects to finish the proposal to improve customer service at the *La Unidad de Defensa de los Derechos del Trabajador de la Procuraduría General de la República*.

MSD completed introduction presentations for the Public Defenders December 1 - December 3, 2009. The topics discussed included: the application of the new Civil and Commercial Processing Code and identifying common challenges encountered by public defenders. The activity ended with a survey on organizational climate and a presentation by consultant Hector Quiñonez on a public defender's perspective during a trial.

3.5 Conflict Resolution

Result 3.4 At least two consensual legal reforms related to labor conflict resolution promoted through industry meetings with key actors

El Salvador

In November, the Program completed an preliminary agreement that would allow the Program to cross check information from the Ministry of Labor and Social Security and the Attorney General's Office. The new capability would allow both agencies to avoid repeating trials in both institutions and decrease difficulties for workers. The agreement, was drafted by staff from institutions and will be signed during the second quarter of 2010. A draft of the draft agreement is in located in Annex 2.

Next quarter, the Program expects to carry out a study will help it evaluate possible reforms which will be developed by Program specialist ADR Specialist consultant Eduardo Barrientos.

Dominican Republic

In January 2010, the Program expects to begin promoting legal reforms that will integrate alternative dispute resolution into the Dominican judicial process.



Team of public defenders and consultants discussing the main difficulties of legal nullity for the severance of union members and pregnant

ANNEX 1: TRAININGS FY10

LIST OF TRAINING ACTIVITIES OCTOBER-DECEMBER 2009														
Component	Result	Country	Dates	Name	Sr. Judges	Judges	Secretaries	Public Defenders	Lawyers	Judicial Authorities	Teachers	Union Members	Others	Subtotal
I	1	ES	Oct. 2 and 3	Workshop III: Building a Labor Management System Model for Oral Hearings	1	9	8				1			19
II	V	CR	Jan. 9	Needs Assessment for Training on Labor Issues					17					17
II	V	CR	Oct. 16	Needs Assessment for Training on Labor Issues					13					13
II	V	CR	Oct. 20	Needs Assessment for Training on Labor Issues					6					6
II	V	CR	Oct. 21	Needs Assessment for Training on Labor Issues					6					6
III	III	NI	Oct. 19, 20, 21 and 22	Limits to Labor Conciliation Workshop. Managua				1	2		31		4	38
III	III	NI	Oct. 23	Limits to Labor Conciliation Workshop. Juigalpa							24		1	25
II	II	CR	Oct. 23	Needs Assessment for Training on Labor Issues					9					9
I	I	ES	Oct. 30	Workshop with Union Members from the Santa Ana Pilot Court			4				2	11		17
II	V	CR	Nov. 4	Needs Assessment for Training on Labor Issues					7					7
I	I	CR	Nov. 6	Participatory Workshop with Labor Judges		22	2							24
III	III	GUA	Nov. 9	Legal Public Policy Degree Program – A comparative analysis		1			1				5	7

LIST OF TRAINING ACTIVITIES OCTOBER-DECEMBER 2009														
Component	Result	Country	Dates	Name	Sr. Judges	Judges	Secretaries	Public Defenders	Lawyers	Judicial Authorities	Teachers	Union Members	Others	Subtotal
I	I	ES	Nov. 7,14, 21 and 28	The New Labor Process in El Salvador			1		14	4			3	22
III	III	ES	Dec 1, 2 and 3	Workshop to Strengthen the Office of Public Defense for Labor Rights at the Attorney General's Office			7	42					4	53
III	I	GUA	Dec. 11 and 12	Workshop on Alternative Dispute Resolution and Strengthening Labor Conciliation	1	15	1						4	21
III	III	ES	Dec. 16	Legal Analysis of Public Defense				8					1	9
III	IV	ES	Dec. 19	Changes in the Civil and Commercial Processing Code and their Relation to Labor Law							14			14
				Subtotals	2	47	23	51	75	4	72	11	22	307

Note: Participants are only counted once.

ANNEX 2: CONCILIATION AGREEMENT PROPOSAL (EL SALVADOR)

CONVENIO DE COOPERACIÓN ENTRE EL MINISTERIO DE TRABAJO Y PREVISION SOCIAL Y LA PROCURADURIA GENERAL DE LA REPUBLICA PARA LA UNIFICACION DE CRITERIOS EN MATERIA DE CONCILIACION LABORAL

Nosotros la Señora Ministra de Trabajo y Previsión Social ----- y la Sra. Procuradora General de la República ----- hemos convenido celebrar el presente CONVENIO DE COOPERACIÓN ENTRE EL MINISTERIO DE TRABAJO Y PREVISION SOCIAL Y LA PROCURADURIA GENERAL DE LA REPUBLICA PARA LA UNIFICACION DE CRITERIOS EN MATERIA DE CONCILIACION LABORAL con el apoyo técnico del Programa de USAID para el Fortalecimiento de la Justicia Laboral para CAFTA-DR.

CONSIDERING

- I. Que las partes suscriben el presente acuerdo en el convencimiento de la necesidad de cooperación e intercambio recíprocos entre las instituciones, ya que con ello se alcanzan niveles de eficiencia y eficacia que en forma aislada no se logran. Adicionalmente, estos esfuerzos integrados permiten compartir en un contexto solidario, el compromiso con principios y valores de trascendental significación para nuestra comunidad, cual es el caso de la contribución al fortalecimiento del sector de Justicia Laboral salvadoreño, elemento esencial del Estado constitucional y democrático de derecho.
- II. Que la Constitución de la República en su artículos 49, 52 y concordantes, establece que el Estado deberá promover la Conciliación de manera que constituya un medio efectivo para la solución pacífica de los conflictos del trabajo, en el marco de la legalidad y la Justicia Social.
- III. Que ambas instituciones tienen a su cargo promover y ofrecer procesos de Conciliación Laboral conforme lo normado en la Ley de Organización y Funciones del Sector Trabajo y Previsión Social, en el artículo 8, incisos c y d, y artículo 22 y siguientes, asimismo, la Ley Orgánica de la Procuraduría General de la República, en sus artículos 12, incisos 1 y 2, y artículo 30 en relación a asistencia jurídica, incisos 1 y 2 del mencionado cuerpo legal y su reglamentación, artículos 18, 23 y siguientes sobre Conciliación Laboral.
- IV. Que con fecha dieciséis de Enero del año dos mil cuatro, la Procuraduría General de la República y el Ministerio de Trabajo y Previsión Social, celebraron un Convenio de Cooperación Técnica para Brindar Atención de Calidad al Público usuario de los Servicios de ambas instituciones.
- V. Que la Procuraduría General de la República y el Ministerio de Trabajo y Previsión Social pretenden contribuir a los planes de implementación que lleven a fortalecer el compromiso adoptado por el Estado salvadoreño para alcanzar los retos y recomendaciones plasmados en el Libro Blanco.
- VI. Considerando que ambas instituciones han trabajado arduamente en la difusión y aplicación de la Conciliación Laboral a nivel nacional en la convicción de fortalecer el acceso a la justicia de las y los trabajadores salvadoreños.

OBJETO

En razón de los considerandos mencionados, el presente Convenio tiene como objeto UNIFICAR CRITERIOS APLICABLES A LA CONCILIACIÓN LABORAL entre las instituciones que brindan el servicio conforme al marco normativo vigente, el Ministerio de Trabajo y Previsión Social y en la Procuraduría General de la República.

COMPROMISOS DE LAS PARTES

Las partes del presente convenio, el Ministerio de Trabajo y Previsión Social y la Procuraduría General de la República, ACUERDAN suscribir las siguientes cláusulas que regirán a todos los procesos de Conciliación Laboral que se realicen en las mencionadas instituciones:

PRIMERA: El presente convenio será de cooperación interinstitucional.

SEGUNDA: Las partes ejecutaran las acciones necesarias de colaboración y coordinación tendientes a proporcionar a los usuarios, trabajadores y empleadores, una atención de mejor calidad profesional, eficiente, respetuosa y en particular, las encaminadas a proporcionar asistencia técnica en los procedimientos relacionados con las vías alternas de resolución de conflictos.

TERCERA: Colaborarán de manera conjunta a fin de intercambiar y compartir información en relación a los procesos de conciliación laboral que se realicen en ambas instituciones a fin de crear una base de datos común.

CUARTA: Las partes acuerdan que la realización de la Conciliación Laboral en una de las instituciones dará por cumplida la etapa conciliatoria. No siendo necesario repetir el procedimiento. Esta información se explicitará formalmente en el acta.

La reiteración del proceso conciliatorio solo se realizará a solicitud expresa de cualquiera de las partes en conflicto.

QUINTA: Acuerdan en diseñar un modelo común de acta de cierre de la audiencia de conciliación laboral.

SEXTA: Conviene que en caso de llegar a un acuerdo en el proceso de Conciliación laboral se explicitará por escrito, con la firma de las partes, de sus abogados y del conciliador.

Del acuerdo alcanzado en la audiencia de Conciliación se entregará una copia sellada por la institución a cada una de las partes y el original permanecerá en la institución que brindó el servicio de conciliación para su archivo por el tiempo que se estime conveniente.

En caso de no llegar a acuerdo en la audiencia de conciliación las partes convienen que en el acta de cierre se omitirá toda información sobre los dichos, propuestas o manifestaciones de las partes. Se garantizará la confidencialidad de la información vertida durante el proceso a fin de promover el acercamiento de las partes.

El contenido del acta se limitará a manifestar día y hora de la audiencia, el reclamo de las partes, los datos de requirente y requerido, y de quienes asisten al proceso y cuál fue el resultado de la audiencia.

SÉPTIMA: Las partes trabajarán de manera conjunta a fin de establecer criterios de tipo administrativos referidos a determinar parámetros comunes susceptibles de negociación durante los procesos de conciliación laboral en el marco del derecho del Trabajo y la Constitución de la República.

OCTAVA: Se propenderá a unificar la formación de los conciliadores de ambas instituciones a fin de alcanzar estándares comunes de intervención que optimicen la calidad del servicio.

NOVENA: El Convenio entrará en vigencia a los treinta días de su firma, y las partes podrán finalizarlo y/o modificarlo por decisión mutua adoptada en cualquier tiempo.

DECIMA: Todo conflicto que surja de la ejecución e interpretación de este Convenio y todo aspecto no previsto taxativamente en las cláusulas que anteceden, será resuelto de común acuerdo entre las partes atendiendo y privilegiando el interés supremo de los administrados.

Firmamos el presente Convenio, por triplicado en la ciudad de San Salvador, Capital de la República de El Salvador, América Central, a los _____ días del mes de _____ del año dos mil nueve.

ANNEX 3 Jurisprudence Analys by Documentation Center (Centro de Documentación de la Corte De Constitucionalidad)

	Tema	Subtema	Sub-Tema	Expediente	Fecha	Fallo	Tipo de Procedimiento
Derecho Laboral Individual							
	Reinstalación						
		Por despido injustificado		296-87	23-3-88	Deniega	Apelación de Sentencia de Amparo
		Por despido injustificado		3413-2008	7-0-09	Otorga	Apelación de sentencia de amparo
		Por despido injustificado		126-92	1-12-92	Deniega	Apelación de sentencia de amparo
		Por despido injustificado		397-92	11-2-93	Deniega	Apelación de sentencia de amparo
		Por despido injustificado		272-93	22-2-93	Deniega	Apelación de sentencia de amparo
		Por despido injustificado		206-91	20-9-90	Deniega	Apelación de sentencia de amparo
		Por despido injustificado		458-92	4-2-93	Deniega	Apelación de sentencia de amparo
		Por despido injustificado		381-92	16-2-93	Otorga	Apelación de sentencia de amparo
		Por despido injustificado		326-93	3-12-93	Otorga	Apelación de sentencia de amparo
		Por despido injustificado		362-92	16-12-92	Otorga	Apelación de sentencia de amparo
		Por despido injustificado	El patrono no fue citado, oído ni vencido en juicio.	1724-2008	2-9-08	Sin lugar	Inconstitucionalidad en Caso concreto
		Por despido injustificado	Al patrono no se le notifico la resolución.	2252-2008	2-9-08	Sin lugar	Inconstitucionalidad en Caso concreto
		Por despido injustificado	El incumplimiento no tiene persecución penal según ley laboral.	844-2008	5-9-08	Sin lugar	Inconstitucionalidad en Caso concreto
		Por despido injustificado	El incumplimiento no tiene	2573-2008	26-9-08	Sin lugar	Inconstitucionalidad en Caso concreto