



# INFORMATIVE BULLETIN ABOUT CORONAVIRUS

24 | APRIL | 2020

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## LABOR AND IMMIGRATION LAW

### Circular 033 of 2020 of Ministry of Labor

On April 17, 2020, the Ministry of Labor issued Circular 033 of 2020, which sets out additional measures for employment protection, considering that the mandatory isolation measures were extended until 00:00 hours on April 27, 2020.

The additional measures indicated by the Ministry of Labor are the following:

1. Compensable paid leave: It consists on the possibility to agree with the employee on a paid leaves with compensation mechanisms, such as the possibility to work additional hours or shifts after the paid leave, in order to recover the time of the leave.
2. Modification of working hours and salary: Employers and employees may agree to change contractual conditions such as working hours, salary, functions or workload.

It will be possible to apply section 50 of the Labor Code, which allows for the revision of employment agreements, and therefore salary reductions may be agreed upon as long as the legal minimum wage is guaranteed. Under no circumstances may an employee waive his or her labor rights.

3. Modification or suspension of extralegal benefits: The employer and the employee may temporarily agree to suspend the recognition of extralegal benefits. Likewise, the possibility of carrying out transactions in labor matters that do not affect certain and indisputable labor rights is recalled.
4. Agreement on benefits set out in a collective agreement: The Ministry of Labor proposes two scenarios to achieve alternatives for managing the economic crisis, restoring normality and protecting jobs:

That employers and unions, as well as non-unionized workers, may develop scenarios for social dialogue that allow the implementation of extra-collective agreements, in order to find solutions for the management of the crisis.

To apply Section 480 of the Labor Code which establishes the possibility of revising collective agreements when unpredictable and serious disruptions to economic normality occur.

The Ministry of Labor reiterates that these measures are additional to those proposed in Circular 021 of March 17, 2020.





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## Resolution 1296 of 2020 of Ministry of Foreign Affairs

On April 21, 2020, the Ministry of Foreign Affairs issued Resolution No. 1296 establishing measures as to visa application processes and the suspension of some legal terms. Below you will find the main aspects to consider:

1. The foreigners that are currently within Colombia territory can apply for a visa through the online platform of the Ministry of foreign Affairs in Bogotá.
2. During the state of emergency declared by the Colombian Government, the following restrictions will apply:
  - For the holders of a Visitor Visa (Type V) it is not allowed to modify their visa category. Therefore they will only be allowed to apply for the same type of visa.
  - The foreigners that are currently abroad, are not allowed to apply for a Colombian visa.

The Colombian Consulates are not authorized to process visa applications.

3. During the state of emergency declared by the Colombian Government, the following temporary measures will apply:
  - For foreigners abroad, the validity of current visas will be suspended if they are holders of the following visa categories: i) Type V to provide temporary services; ii) Type V granted due to intra-corporate transfer of personnel; and, iii) for all Migrant Visas (Type M).
  - For those foreigners currently abroad, the maximum term of absence from Colombia considered as a cause of anticipated termination of a Type M and Resident (Type R) visas will be suspended.
  - The legal terms for the stamping of visas in the passport will be also suspended.





## INFRAESTRUCTURE

### Resolution 285 of 2020

By which the Ministry of Transport suspends administrative, disciplinary and coercive collection processes, and some procedures of the Vice Ministry of Transport, considering the declaration of the economic, social and ecological emergency caused by COVID-19.

- The terms for some actions carried out by the Vice Ministry of Transport are suspended as a consequence of the emergency, until the health emergency is overcome: (i) direction of transit and transport, (ii) Comprehensive Replenishment Group of Vehicles, (iii) procedures by the Transportation Branch, (iv) procedures by the Traffic Branch, and (v) procedures before the Territorial Directorates.
- The procedures associated with the Single National Transit Registry - RUNT that require biometric validation by means of a physical or electronic fingerprint are suspended during the time of the emergency or until another validation mechanism is implemented.
- The terms of the following procedures that are carried out before the National Single Registry of Traffic - RUNT and the National Automotive Registry (RNA) are suspended: (i) validity of driving proficiency certificates for instructors, (ii) procedures of the automotive fleet of cargo referred to in Resolution 5304 of 2019, standardization and IVACREI the registration of cargo and passenger vehicles, (iii) registration transfer process, (iv) account filing process (v) guarantee registration in the RNGM, by the RUNT.
- The terms of all administrative processes of coercive collection by the Group of Coercive Jurisdiction of the Legal Advisory Office are suspended.
- The terms are suspended in all disciplinary actions by the Internal Disciplinary Control Group of the General Secretariat (first instance) and the Office of the Minister of Transport (second instance).
- The suspended terms and procedures will resume from the business day following the overcoming of the Health Emergency. The actions that must be resolved in the terms set by other administrative, control or judicial authorities must be addressed within the established terms.
- During the term of the ordered suspension, the terms of expiration, prescription or firmness



established in the Law that regulates the matter will not count.

Source: [Ministerio de Transporte](#)

## Announcement from the Colombian Chamber of Infrastructure

The Colombian Chamber of Infrastructure - CCI announces that more than 900 infrastructure projects that were suspended corresponding to the road line (707), public space (202) and others included between airports, water and basic sanitation, rail and river corridors, among others; they are getting prepared with the entry into force of Decree 531 of 2020 and thanks to the work carried out by this entity in conjunction with the National Government.

The safety protocols will be attended by the civil works sector in accordance with the provisions of Joint Circular 003 of April 8, 2020 of the Ministry of Health and Social Protection and the Ministry of Transport, which contains more than 70 items that must have consider construction companies, auditors and that are part of the value chain.

The CCI assures that reactivating the works is to continue the development of projects whose investment exceeds 34 billion pesos, of which 77% correspond to projects of the national order and 23% projects are headed by regional and municipal entities; u contributes to job creation in the country.

Source: [Cámara Colombiana de Infraestructura](#)

## External Circular No. 002 of 2020

The National Roads Institute –INVIAS informs contractors about the progressive reactivation of contractual activities during the health emergency in the Contracts for Works, Inspection, Consulting, Agreements and Inter-administrative Contracts in charge of the Institute, and about the biosafety measures to be taken in accordance with the provisions of the Biosafety Protocol of March 23 and the Joint Circular No. 03 of 2020:

### Measures to be adopted in Work, Audit and Consultant Contracts

- Regarding contracts with total suspension of activities, the respective contract must be resumed on the date provided for that purpose as established in the current audit manual, in order to reactivate progressively and immediately the execution of all the activities provided for in the respective contractual scope, prior compliance and verification by the audit.
- Regarding contracts with partial suspension of activities, the execution of activities that were partially suspended should be reactivated progressively and immediately, after compliance and verification by the auditor.
- The contractor or consultant together with the auditor and with the accompaniment of the executing unit, must identify the status of the contracts as of March 24, 2020, indicating their percentage of physical progress and financial progress, in order to analyze and determine the impact of the measures adopted to date.
- The supply chain for the execution of the work or consulting must be reviewed, as well as the availability or not of resources for the execution of the work or activity, materials and supplies, machinery and equipment, personnel on site and other aspects according to the contractual typology, in order to timely manage their economic reactivation and guarantee their provision.

### Action plan to reactivate the works or activities

- Within 5 days from the date of resumption of activities, the contractor must present the "Plan for the Reactivation of Work or Activities", which will form an integral part of the documents of the respective contract and will include the evaluation and analysis that ensures that develop the planned activities to be carried out during the time of the measurement, indicating the amount of resources available per job front, and other particular aspects for consulting contracts, as appropriate.
- Contractors and auditors must verify the conditions of mobility of personnel, supplies and



machinery necessary to guarantee activities in public works or compliance with the consultancy.

## Biosecurity protocol

- With the "Work Reactivation Plan", the Biosafety Protocol must be attached, for approval of the audit or supervision with the accompaniment of the Institute, in accordance with the requirements established in Circular 003 of April 8, 2020 of the Ministry of Health and Social Protection, Ministry of Labor and Ministry of Transport.
- Contractors, auditors and consultants must coordinate with the respective Occupational Risk Administrators what is necessary to comply with the promotion and prevention measures that have been ordered by the National Government.
- It is noted that the reactivation of the execution of works or activities is not authorized, until the auditor issues the respective favorable concept that includes the verification of such requirements.
- In the event of non-compliance by the contractor or consultant, the controller and / or supervisor must immediately report to the INVIAS in order to adopt the measures established in the contract or in the law.
- For all purposes, once the work or consultancy contract is resumed on the date set for this

purpose, the terms for the presentation of the "Work or Activities Reactivation Plan" will begin to count.

- The INVIAS will provide the support for the inter-institutional coordination that is necessary for the progressive reactivation of the works and in the event that the conditions required for the aforementioned reactivation are not met, for reasons beyond the control of the contractor, audit and / or supervision, depending on the case, it will leave a motivated record and will communicate it to the INVIAS.

## Control and follow up

- It is the responsibility of each executing unit and the audits or supervision of the projects, to control and follow up on each of the measures mentioned in this document.
- In the reports corresponding to each project, the level of compliance with each of the measures and the proposed reactivation plans will be indicated, as well as the identification of additional risk factors and possible improvement measures for biosecurity conditions in the construction sites.
- The audit or supervision according to the case, must inform in a timely manner, the cases of contagion (if they occur) and the follow-up carried out maintaining the Biosecurity conditions.

Source: [INVIAS](#)







## NATURAL RESOURCES, ENVIRONMENTAL AND ENERGY LAW

### Hydrocarbon exploration would not be restricted during the national health emergency

Through Circular 4009 of April 12, 2020 from the Vice Ministry of Energy (the "Circular"), said Vice Ministry issued some considerations to clarify, without modification, the application of Article 3 of Decree 531 of April 08, 2020 (the "Decree"), which contains the guarantees for the mandatory isolation measure, and made special pronouncements on the exceptions to the restriction on free movement for the Energy sector (including those related to hydrocarbons, biofuels, and electrical energy).

With the aforementioned, numerals 13 and 28 of article 3 of the Decree (referred to below) were addressed, which refer to the exceptions for carrying out strictly necessary activities:

- (i) of the public servants and contractors of the State that to attend the health emergency due to the Coronavirus COVID-19 and guarantee the operation of the essential services of the State (article 13) and
- (ii) to guarantee the operation, maintenance, storage and supply of: (a) the provision of domiciliary public services; (b) of the logistics chain for the production, supply, import, and export of hydrocarbons, liquid fuels,

biofuels, natural gas, Liquefied Petroleum Gas - LPG; (c) the logistics chain for the production, supply, import, export and supply of minerals and (d) Internet and telephone service.

With regard to number 28, the Circular indicates that all activities and personnel related to continuity in the provision of public services associated with the Energy sector, including the production chain necessary for its proper provision, as well as the chain are considered included. of inputs and supplies.

It is worth noting that the Vice Ministry, in relation to numeral 28, indicates that said exhaustive list of activities includes, among others and in a summarized way, all types of transportation of supplies and essential personnel and any activity, including port services and importation. of products and equipment, to guarantee:

- (i) The provision of the domiciliary public service of electrical energy (which includes the activities of generation, interconnection, transformation, transmission, distribution, commercialization of energy and electrical operations);
- (ii) Continuity in the operation of services associated with the hydrocarbon sector;





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(iii) The transfer of personnel, supplies, raw materials, and infrastructure necessary for the operation of the services associated with the hydrocarbon sector, which include the following:

1. Natural Gas Service;
2. Compressed Natural Gas Service (GNC);
3. Liquefied Natural Gas Service (GNL), Liquefied Petroleum Gas Service (GLP);
4. The refining and distribution of liquid fuels, biofuels and their mixtures, that is, Diesel, Gasoline Jet, Avgas, LPG, Naphtha diluent, fuel alcohol and biodiesel;
5. The exploration and production of hydrocarbons;
6. The transfer and transportation of employees and contractors of companies providing services to the hydrocarbon sector;
7. The transportation of crude oil and diluents;
8. The transport and distribution of raw materials for biofuel production, such as glycerins;
9. The transportation and distribution of lubricants; and

10. The transportation and distribution of petrochemical products such as: i) aromatic solvents: Benzene, Toluene, Xylene and PGR and; ii) Aliphatic solvents: Solvents 1, 2 and 3 and Varsol (Solvent 4). The transport and distribution of industrial products such as Asphalt, Sulfur, Sulfuric Acid, Fuel Oil and Oil Coke.

(iv) The activities necessary to maintain the infrastructure of the logistics chain agents, inputs, supplies for production, supply, import, export and supply of hydrocarbons, liquid fuels, biofuels, natural gas and liquefied petroleum gas - LPG.

Thus, despite the fact that the Decree does not expressly indicate the activity of hydrocarbon exploration is part of the excepted activities -and, therefore, allowed during this time-, the Vice Ministry, through this Circular, clarifies that the exploration is included within this regime of exceptions.

[You can consult in this link the norms that have been issued related to Natural Resources, Environmental and Energy Law in Colombia.](#)

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## Telecommunication Sector

### National Government measures for the television industry

In the framework of the health emergency caused by COVID-19, the National Government has taken multiple measures that directly impact the television industry. In this regard, Decree 464 of March 23, 2020 declared the television service as an essential public service, so that its provision will not be interrupted during the validity of the state of emergency.

Furthermore, the Joint Circular of the Ministry of Commerce and the Ministry of Technology, issued on April 11, enables the transit of the necessary personnel to guarantee the operation and maintenance of television services.

Likewise, the Presidency tried to lighten the burdens of national and regional channels in terms of the grid of national contents that they must have at certain times, due to the impossibility of making productions as a result of social distancing measures. Such measure is contained in Decree 516 of April 4, 2020, which modifies Law 182 of 1995, especially article 33. The new norm indicates that in the programming grid of national channels it passes from having an obligation to have with 70% of national productions, only requiring 20% in the strip from 7:00 pm to 10:30 pm (the most relevant).

However, the change affects the other time slots, since in most of them the national content required is reduced to 20% in spaces where 55% to 40% of national content was required.

Decree 516 of 2020 has been rejected by the actors union, who affirm that it affects the production of national content and, in addition, eliminates a potential source of income for actors who cannot work at this time. Faced with this last point, the actors make reference to the fact that Law 1403 of 2010 contemplates that artists and interpreters of audiovisual works have the right to receive an equitable remuneration for the public communication of the works in which they participate, therefore reducing the national content distribution requirements would affect your income.

Finally, and as part of the measures to guarantee adequate access to information during the pandemic, Resolution 5951 of March 26, 2020 was issued, authorizing providers of telecommunications service networks to prioritize internet traffic to guarantee user access to content or applications related to health services, government pages and the public sector, the development of work activities, education and the exercise of fundamental rights. As part of this rule, at the end of article 4, video on demand services are obliged to

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prioritize the transmission of content in standard definition, limiting the transmission of content in high definition or higher.

As can be seen, the Government has focused its efforts on guaranteeing the provision of the service and the sustainability of the operators. Notwithstanding the foregoing, part of the same sector requests additional measures to protect artists, a fundamental part of this industry.

 [Content](#)

