



## SUNTRACS

Sindicato Único Nacional de Trabajadores  
de la Industria de la Construcción y Similares

# ¿ARBITRAJE O HUELGA?

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**A**s arbitration is considered a topic of national interest and in the last few days it is on the scene given the strike of SUNTRACS workers for almost a month and the mention of this means of conflict resolution as an alternative due to the stagnation of the negotiations, we want to share with you some elements about the figure of arbitration in the Panamanian labor legislation, in this case, limited to the differences or conflicts that may arise in the employment relationship.

The International Labor Organization (ILO) considers that arbitration "is a procedure for resolving disputes whereby the disputes are submitted to a neutral and independent third party so that the latter may resolve them in a final and binding manner for the parties. This resolution is called an "award" or "decision." In one way or another, arbitration occupies a place in most governmental systems for resolving labor disputes and, sometimes, it is also used voluntarily by the parties to the conflict. The procedure may be instituted within the framework of collective labor agreements, for the management of conflicts of rights under the agreement, as is commonly the case in the United States and Canada, or for the management of conflicts of interest, such as the case in other countries. "

The figure of arbitration as a means of conflict resolution is regulated by the Labor Code in force in our country and over the years many labor disputes have been resolved through labor arbitration. However, for some reason, it seems that, for the workers' sector, arbitration is not a figure that enjoys full acceptance or confidence. In labor matters, concluded the conciliation proceedings without the parties reach an agreement, the collective dispute will be submitted to arbitration in whole or in part in the following cases:

1. If both parties agree to submit to arbitration;
2. If the workers, before or during the strike, request arbitration;
3. If the collective conflict occurs in a public service company, such as communications and transport, gas, electricity and electric power, clean and supply and distribution of water to serve populations, among others. In this case, the resolution that decides to submit the dispute to arbitration will order the immediate suspension of the strike.
4. The General Directorate of Labor is empowered to decide that they must proceed to arbitration if the duration of the strike has seriously deteriorated the socioeconomic conditions of the inhabitants of the

region or the country.

Once the dispute has been submitted to the arbitration, the parties are granted a term of two (2) days to appoint their arbitrators, who may do so from the list that rests with the General Directorate of Labor or if it is not possible to designate it from the list. You can do freely.

The arbitrators appointed by parties will agree to appoint a third arbitrator, who will act as president of the Tribunal; However, if the parties don't reach an agreement, the Ministry of Labor will be responsible for designation. Members of the Arbitration Court can't be those who have legal impediments or who have directly or indirectly intervened on behalf of the parties in the stages of direct treatment or conciliation.

Once the Arbitral Tribunal has been constituted and within two days after the third arbitrator takes office, the Court will indicate the time and day to hear the parties, learn about the details of the conflict and receive the evidence it deems appropriate.

Although it is a process without formalities, the Court must guarantee the right of defense and equality to the parties, and within ten (10) business days following the hearing with the parties, the Arbitral Tribunal will issue the ruling, which denominates arbitral award, which has a normative nature and is equivalent to law between the parties, establishing the new labor relations.

As is public knowledge, the National Union of Construction Workers and Similar Workers (SUNTRACS) and the Panamanian Chamber of Construction (CAPAC) did not reach an agreement in the negotiation of the new Collective Labor Convention, which has motivated a strike in the construction sector, which will turn one month into the next few days. The question arises why SUNTRACS has not used the figure of arbitration as a means of solving labor disputes, which has transcended the limits or boundaries of SUNTRACS and CAPAC to become a strike that indirectly affects other sectors both formal and inform them about the economy.

With regard to the impact on the national economy, the newspaper La Prensa in the May 12 issue indicates that... The strike called by the National Union of Construction Workers and Similar Workers (SUNTRACS), for 25 days, has caused Miss valuable work hours. It is estimated that each worker has stopped working 144 hours during the strike. Beyond the lost days, the paralysis will bring sequels that surpass the punctual delivery of projects. They are about \$ 80 million in salary that workers have stopped receiving during the shutdown of activities, which translates into an important purchasing loss for more than 90 thousand families. The tentacles of this strike affect the construction companies, and also the transport sector, sale of food and meals, as well as the marketers and distributors of materials. Many companies linked to the sector have had to send their staff on vacation, and if the strike continues, engineers and technicians, with definite contracts, could be liquidated.

We all have the right to aspire to better working conditions, among which is the salary increase and when the negotiation of a collective labor agreement is presented, one of the most critical issues to negotiate are the economic clauses being the cherry on the cake.

Salary increase; However, on many occasions perspective is lost and we cling to a position without considering the effects that this may have on third parties.

The SUNTRACS has always been a union of radical positions that claims what it believes to be entitled no matter how, with large deployments of violence and sometimes even vandalism, mainly in the city of Panama.

But this time, probably due to their political aspirations in next electoral tournament, we have observed the non-existence of these characteristic features and, on the contrary, a tense calm has been experienced particularly in the city of Panama, where during the entire time of the The traffic jams have disappeared due to the lack of circulation of people directly or indirectly related to the construction sector and we presume that due to the decision of many to stay in their homes or with the minimum displacement required for fear of being caught

in the roads by demonstrators of SUNTRACS or infiltrators.

It is not a matter of perception, we are faced with an economic recession, despite the international organizations say that it is expected a growth of 5: 2% by 2018, but it is enough to see the signs of rented or sold or People complaining about the current situation, we can not cover the sun with our hands, there are alerts that tell us that things are not quite right. According to the statistics presented there has been a decrease in the construction industry and other sectors of the national economy.

According to the ILO, "one of the main justifications for forcing the parties involved in a labor dispute to use the dispute resolution mechanisms is to prevent labor action, particularly in view of the adverse social and economic effects that can arise. carry the rest of society.

The interest in maintaining harmony at work and protecting the rest of society from the negative effects of labor action is often reflected in an "obligation of peace". In the General Assembly, SUNTRACS approved to remain in the strike and not accept the proposal or invitation of the President of the Republic to submit the dispute to an arbitration, but for its part the CAPAC expressed its willingness to accept arbitration. Under these parameters, it is hoped that parties can find a middle ground that satisfies in some way the aspirations of the parties. At the time of writing, according to the media, on May 15, CAPAC and SUNTRACS presented new salary proposals. Entrepreneurs raise an increase of 12% in four years and the SUNTRACS requires an increase of 36% in four years, that is, each of the parties relaxed their position.

Time is running out and we see no light on the road, there is a lot to travel, I leave some questions or more reflections; (i) how long workers will receive \$ 50.00 per week to cover family expenses, (ii) SUNTRACS account with the necessary funds to meet these expenses, (iii) what will be the political cost that are willing to pay the leaders of SUNTRACS with political aspirations?

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