

# GMS Flash Alert

2024-245 | December 10, 2024

## Colombia – Court Rules on Foreign Nationals Participating in Colombia’s Pension Subsystem

The Colombian Supreme Court (*Corte Suprema de Justicia de Colombia*), in its ruling number SL1591 from June 2024,<sup>1</sup> has established a new precedent in respect of the affiliation of foreign nationals to the Colombian Social Security system, more specifically their affiliation to the pension subsystem.

In this *GMS Flash Alert*, we present some background and the main modifications.

### WHY THIS MATTERS

Due to the significance of this ruling, Colombian companies will need to enhance their due diligence when bringing foreign national employees to Colombia – or hiring them in Colombia – in order to be in compliance. This may entail additional administrative steps for employers of foreign nationals coming to (or already in) Colombia and could mean additional costs.

### Judicial Precedent-Setting Ruling on Affiliation of Foreign Nationals to Social Security System in Colombia: Pension Subsystem

A Supreme Court ruling from June 2024 has established a new precedent in the affiliation of foreign nationals to the Colombian social security system, more specifically pertaining to affiliation to the country’s pension subsystem.

### LAW 100 OF 1993 and LAW 2381 OF 2024: Regulation of the Social Security System in Colombia

Colombian labor law allows foreign nationals who, by virtue of a labor contract, were required to remain in Colombia and are covered by the pension system in their country of origin, to voluntarily affiliate to the Colombian general pension system. This means that affiliation to the pension subsystem in Colombia is not mandatory for foreign nationals, as long as they maintain pension coverage in their country of origin.

## Supreme Court Ruling: SL1591-2024

Since affiliation to the Colombian pension system is voluntary for foreign nationals who are covered by the pension system of their country of origin, foreign employees usually come to work in Colombia with a pension insurance policy that generally covers necessary risks. However, in June, the Colombian Supreme Court of Justice established that the pension insurance policy will only be allowed if it provides the employee with pension insurance that covers the risks of old age, disability, and death (risks covered by the Colombian pension system).

The employer must provide or verify the policy of its foreign employee, which must cover old age, disability, and death. If such risks are not covered, the employer must affiliate the employee to the Colombian pension subsystem.

### KPMG INSIGHTS

This unprecedented ruling may engender questions about implications for employers and their foreign employees. Such questions, as well as concerns over what next steps need to be taken in order to be in compliance, should be directed to your usual tax and social security provider or to a member of the labor team with KPMG in Colombia (see the Contacts section).

## FOOTNOTE:

1 See (in Spanish) Corte Suprema de Justicia: [SL1591-2024.pdf](#).

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## Contact us

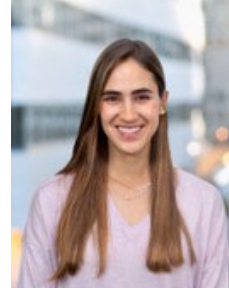
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**The information contained in this newsletter was submitted by the KPMG International member firm in Colombia.**

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