

Brazilian Labour Reform

Law n. 13,467/2017

José Carlos Wahle, Veirano Advogados, Ius Laboris Brazil

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Origins of Brazilian Labour Law

- Brazil is a peculiar country (or we like to think we are).
- European inspiration (not unfamiliar to you).
- 1943, Vargas' Labour Code was a leap forward:
 - ✓ Paid holidays,
 - ✓ 13 salaries/year,
 - ✓ Employee documents,
 - ✓ Contractual protection,
 - ✓ Labour Courts and...
 - ✓ Unions (with a political twist).

Current Scenario

- Constitution of 1988:
 - ✓ Several employment rights secured;
- Presidents since 1988: PMDB, PSDB and PT.
- Current polarization between left and right ideologies:
 - ✓ Not much difference in political actions/programmes.
- Discussions about labour law are affected, naturally.
- What defines the Brazilian worker?
 - ✓ Patronized or overprotected?
 - ✓ Courteous or over litigious?

Before the Reform: Protective System

- No change detrimental to employee:
 - ✓ Consent is irrelevant.
- Most favourable and inflexible provision.
- Settlements and general releases of relative value.
- Employees access to court free of costs:
 - ✓ No sanction for unsubstantiated claims.
- Roman law system & Obsolescence of Labour Code:
 - ✓ Gradually, Labour Courts went further than just interpreting the laws.

Labour Reform, the Elevator Speech

- Not fearing unpopularity, Temer approves labour reform.
- It is not the *ideal* but the possible reform:
 - ✓ And yet, Provisional Measure 808/2017
- Very little change in substance:
 - ✓ Untouchable constitutional rights,
- New mechanisms to manage workforce,
 - ✓ Flexibility through negotiation (individual/collective).
- Controversial aspects:
 - ✓ Judges and public attorneys expressed disapproval,
 - ✓ Litigation to be expected.

Most important items of the Reform

- New negotiable items: collective/ individual agreements.
- Working hours: control & set-off.
- Intermittent work (**new**).
- Vacation splitting.
- Remuneration & benefits: payroll costs.
- Workers Union: fees & CBAs:
 - ✓ What's to come?

Most important items of the Reform

- Termination by mutual consent (**new**).
- Mass dismissals (**new**).
- Arbitration (**new**).
- Litigation: court fees & penalty for frivolous litigation.
 - ✓ Immediate effect.
- Outsourcing: Laws 13,429 and 13,467/2017
 - ✓ Principal activity (**new**),
 - ✓ Specialization and consistency.

Questions?



Thank you!

José Carlos Wahle

Veirano Advogados

Av. Brigadeiro Faria Lima, 3.477 - 16º andar

04538-133 - São Paulo, SP – BRASIL

Tel.: + 55 (11) 2313-5700 - Fax: + 55 (11) 2313-5990

jose.wahle@veirano.com.br | www.veirano.com.br

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