Labour & Employment 2019

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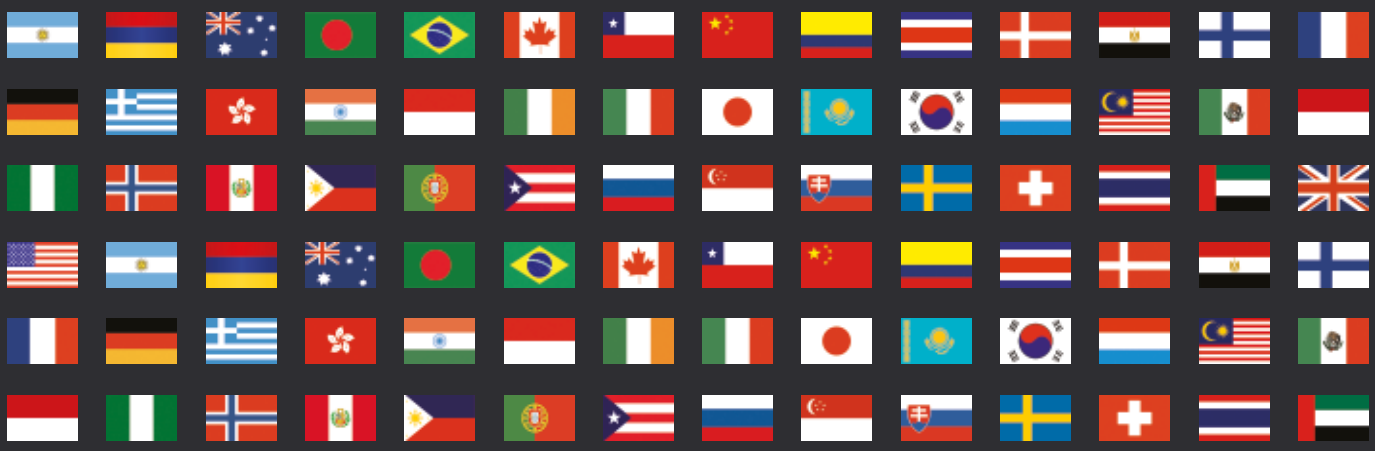

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LEGISLATION AND AGENCIES

Primary and secondary legislation

1 What are the main statutes and regulations relating to employment?

Labour and employment matters in Mexico are mainly regulated by article 123 of the Constitution of the United Mexican States (the Mexican Constitution) and the Federal Labour Code (FLC); however, the Social Security Law (SSL) and the National Housing Institute Law must also be carefully considered when analysing employment-related matters in Mexico.

Protected employee categories

2 Is there any law prohibiting discrimination or harassment in employment? If so, what categories are regulated under the law?

Yes. The FLC expressly prohibits discrimination in the workplace on the basis of ethnic origin, citizenship, gender, age, disability, social status, health conditions, religion, opinions, sexual preference, marital status or any other circumstance against human dignity; and prohibits sexual harassment in the workplace. Further, the Mexican Anti-Discrimination Law was enacted in March 2014 and while it does not have a direct impact on employers, it may come into play if an individual believes he or she has been discriminated against in an employment setting.

Enforcement agencies

3 What are the primary government agencies or other entities responsible for the enforcement of employment statutes and regulations?

Local and federal labour boards are the main labour and employment law enforcement agencies in Mexico. Labour boards function as trial courts and their awards may be appealed to federal courts. There are, however, other agencies in charge of supervising and enforcing compliance of specific employer obligations, mainly, the Employment and Social Prevention Secretariat, the Mexican Social Security Institute (IMSS), the National Housing Fund Institute (INFONAVIT) and the National Immigration Institute (INM).

WORKER REPRESENTATION

Legal basis

4 Is there any legislation mandating or allowing the establishment of employees' representatives in the workplace?

Yes. Mexican employers are required to establish committees formed by a combination of employer and employee representatives:

- the Safety and Hygiene Committee;
- if there are more than 50 employees, the Training Committee;
- the Profit Sharing Committee;
- the Seniority and Tenure Committee; and
- the Internal Work Regulations Committee.

Employer representatives are usually the head of human resources and another high-level administrative executive. Employee representatives can be any other company employees.

Powers of representatives

5 What are their powers?

The committees described in question 4 have limited authority. They have the power to negotiate and approve applicable employee handbooks, internal regulations or policies and their implementation procedures, as and when needed.

BACKGROUND INFORMATION ON APPLICANTS

Background checks

6 Are there any restrictions or prohibitions against background checks on applicants? Does it make a difference if an employer conducts its own checks or hires a third party?

Employers in Mexico are free to establish the necessary requirements for employment, including the submission of job applications asking for background and personal information so long as the information is relevant to the position. Notwithstanding the foregoing, as discussed in question 34, employers must comply with data privacy obligations under data privacy laws in Mexico.

Medical examinations

7 Are there any restrictions or prohibitions against requiring a medical examination as a condition of employment?

Except for pregnancy-related questions or examinations and, in general, any other type of discriminatory conduct, there are no restrictions on medical examinations under the FLC. Notwithstanding the foregoing, as

discussed in question 34, employers must comply with data privacy obligations under data privacy laws in Mexico.

Drug and alcohol testing

8 | Are there any restrictions or prohibitions against drug and alcohol testing of applicants?

No. Employment may be denied solely by reason of the applicant's refusal to take a drug and alcohol test; however, the employer must be mindful of its obligations to comply with data privacy laws in Mexico and avoid engaging in discriminatory conduct.

HIRING OF EMPLOYEES

Preference and discrimination

9 | Are there any legal requirements to give preference in hiring to, or not to discriminate against, particular people or groups of people?

Yes. Under equal circumstances, employers are required to give preference in hiring to:

- Mexicans over foreign nationals;
- employees with more seniority;
- individuals who are economically responsible for their families and whose employment is their sole source of income;
- individuals who completed the obligatory basic education;
- trained individuals;
- individuals with the skills and knowledge required for the job; and
- unionised employees.

See question 2 for a discussion on anti-discrimination obligations under Mexican law and question 15 for a more detailed discussion on preference in hiring Mexican employees.

10 | Must there be a written employment contract? If yes, what essential terms are required to be evidenced in writing?

The FLC provides that an employment agreement must be in writing.

However, an agreement's existence is not essential to the creation of an employment relationship and the lack of a written contract will not affect the employee's rights under the FLC. In the event of litigation, the absence of a written contract will be weighed against the employer by the labour boards and, as a result, the evidentiary burden to the employer will be increased.

Employment contracts must include at least the following information:

- name, nationality, age, gender, tax and personal identification numbers, and domicile of the employee and employer, as applicable;
- the term of employment (indefinite or for a specific project or period);
- indication of whether employment is subject to a trial period;
- the services to be rendered by the employee, as well as the position of employment;
- place or places where the services must be rendered;
- work schedule and number of hours worked throughout the week, with at least one weekly rest day;
- compensation;
- training programmes and requirements;
- fringe benefits payable to the employee; and
- any other condition of employment that is not contrary to the law.

11 | To what extent are fixed-term employment contracts permissible?

A fixed-term employment contract is permissible only if the nature of a particular task or service requires such employment or the employee is required to temporarily substitute for another employee.

Probationary period

12 | What is the maximum probationary period permitted by law?

Probationary periods may not exceed 180 days for employees performing leadership and management positions, or for technical or specialised professional work; or 30 days for base-level employees. Employment of trainees may not extend beyond 180 days for employees in leadership and management positions, or for technical or specialised professional work, or 90 days for base employees.

In no event may temporary employment be consecutive (eg, re-employ on a temporary basis after the expiry of a temporary employment) or last for more than one year.

Classification as contractor or employee

13 | What are the primary factors that distinguish an independent contractor from an employee?

Under the FLC, employment is presumed whenever an individual renders subordinated services to another person for remuneration, regardless of the legal origin of the relationship. In that sense, when analysing an independent contractor relationship as regards an employment relationship, labour boards undertake a detailed factual analysis and disregard the form given to the agreement. As a general matter, the two distinctive elements identified by labour boards as fundamental to a labour relationship are economic dependence, and subordination, understood as the authority of the employer to dictate the actions of the employee, and the employee's duty of obedience.

Temporary agency staffing

14 | Is there any legislation governing temporary staffing through recruitment agencies?

Hiring of personnel staffed through recruitment agencies (outsourcing) is permitted as long as it is limited to specialised jobs during a reasonable period, and for activities not similar to those carried out by other employees during the ordinary course of business of the employer. However, outsourcing services had been used for decades by employers in Mexico to avoid or mitigate the burden of certain mandatory benefits (eg, profit-sharing obligations). Recent reforms to the FLC and the SSL make outsourcing arrangements meant to avoid employment obligations or payment of benefits illegal. Companies using outsourcing arrangements to avoid employer obligations under the FLC could be subject to fines and penalties.

For an outsourcing agreement to be enforceable: the agreement should not cover all of the company's activities; the agreement should not cover employees with tasks equal or similar to the ones carried out by other company employees in the ordinary course of business; and the outsourced positions must be justified by the specialised nature of the jobs, such as work that requires a company to occasionally bring in a specialist. See question 11 discussing temporary employment.

FOREIGN WORKERS

Visas

15 | Are there any numerical limitations on short-term visas? Are visas available for employees transferring from one corporate entity in one jurisdiction to a related entity in another jurisdiction?

There are no numerical limitations on short-term visas or visas available for employees transferring from one corporate entity in one jurisdiction to a related entity in another jurisdiction. However, under the FLC and applicable Mexican immigration law, work visas are required for foreign individuals to work in Mexico and the employee base of Mexican employers must be made up of at least 90 per cent Mexican citizens. The exception to the general rule is that, with respect to technical and professional employees, employees have to be Mexican citizens, but foreign employees may be employed on a temporary basis if there are no Mexican employees available with the required skills for the position, in which case Mexican employees must be trained to permanently occupy that position. Mexican citizenship restrictions do not apply to chief executive officers, general managers or administrators. Further, an employer's doctors, where required, must be Mexican citizens.

Spouses

16 | Are spouses of authorised workers entitled to work?

To the extent the spouse is granted a visa as an economic dependant of the employee holding the 'primary' work visa, that spouse will not be allowed to work in Mexico unless a change in migratory status is obtained from the INM.

General rules

17 | What are the rules for employing foreign workers and what are the sanctions for employing a foreign worker that does not have a right to work in the jurisdiction?

See question 15. From an immigration law perspective, penalties imposed by the INM vary depending on several factors (eg, recurrence) and may range from nominal fines to deportation of the applicable employee. In addition, the employer also risks being 'red flagged' by the INM and may face enhanced scrutiny when petitioning work visas in the future from the INM. Under the FLC, violators may face fines of up to 2,500 times the minimum wage.

Resident labour market test

18 | Is a labour market test required as a precursor to a short or long-term visa?

No labour market test is required as a precursor to a short or long-term visa; however, while denials are unusual, immigration officers have ample authority to grant or deny short or long-term visas based on evidence presented and the in-person interview. See question 15 in connection with the percentage requirement of Mexican citizens under the FLC.

TERMS OF EMPLOYMENT

Working hours

19 | Are there any restrictions or limitations on working hours and may an employee opt out of such restrictions or limitations?

There are restrictions on working hours and shifts, and the FLC does not allow waiving or opting out of those provisions. Maximum work shifts are divided into three: day shift – 6am to 8pm with a 48-hour maximum; night shift – 8pm to 6am with a 42-hour maximum; and mixed shift – with a 45-hour maximum. In addition, the maximum overtime that employees can be required to work is three hours per day, three days per week. That is, the maximum overtime permitted by the FLC per week, in the aggregate, is nine hours.

Overtime pay

20 | What categories of workers are entitled to overtime pay and how is it calculated?

All employees are entitled to payment of overtime, regardless of their positions or any other qualification. Overtime is paid at a 100 per cent premium for the first nine hours of overtime per week and at a 200 per cent premium for any additional hours.

21 | Can employees contractually waive the right to overtime pay?

No, employees cannot contractually waive the right to overtime, and any agreement to that effect would be deemed null and void by labour boards.

Vacation and holidays

22 | Is there any legislation establishing the right to annual vacation and holidays?

The FLC establishes the following mandatory vacation time for all employees: seven days of mandatory holiday per year, in addition to the presidential inauguration day every six years, and election day; and six paid vacation days for the first year of employment, with two more days added each additional year of employment until the fifth year of employment; thereafter, employees are entitled to two additional days for every five years of service.

Further, the FLC sets forth the following dates as mandatory holidays: 1 January of every year (New Year's Day); the first Monday of February of every year (Constitution Day); the third Monday of March of every year (President Benito Juarez Day); 1 May of every year (Labour Day); 16 September of every year (Independence Day); the third Monday of November of every year (Revolution Day); 1 December of every sixth year (Presidential Election Day); and 25 December (Christmas Day).

Sick leave and sick pay

23 | Is there any legislation establishing the right to sick leave or sick pay?

Yes. The FLC and the SSL establish the right to sick leave and sick pay. However, there is no annual entitlement for these concepts. Employers are required to register their employees with the IMSS. In the event sick leave is needed, an employee is required to obtain a certificate from the IMSS describing the type of illness or injury suffered by the employee and the length of the applicable sick leave. It is the IMSS that decides whether sick leave is warranted, as well as the amount to be paid to an employee during the illness or injury. The IMSS pays this amount directly to the employee, and the employer is not obliged to pay the employee's salary during the justified sick leave period.

Leave of absence

24 | In what circumstances may an employee take a leave of absence? What is the maximum duration of such leave and does an employee receive pay during the leave?

Under the SSL and the FLC, employees are entitled to: up to 52 weeks of leave (which may be extended for an additional 52 weeks) in connection

with a temporary incapacity (as declared by the IMSS); and permanent leave in connection with permanent incapacity. In addition, the FLC provides that if the incapacity is the result of a non-employment related risk and it prevents the employee from performing his or her duties, the employer may terminate the employment with cause, but the employee will be entitled to a mandatory severance payment equal to one month's salary and 12 days of wages per year of employment. The employee may request that the employer, if possible, provide employment in another position that is appropriate to the employee's disability in lieu of termination.

Maternity leave is separately regulated by the FLC and the SSL. So long as the mother has contributed to the IMSS at least 30 weeks in the previous 12 months, then she has the right to a 12-week paid maternity leave, during which she will be entitled to receive full wages for 42 days (six weeks) before childbirth and 42 days (six weeks) after. Under certain circumstances, it is possible for the employee to transfer four of the six pre-delivery maternity leave weeks to the post-delivery period.

Mandatory employee benefits

25 | What employee benefits are prescribed by law?

The FLC establishes the following mandatory benefits for all employees:

- seven days of mandatory holiday per year, in addition to the presidential inauguration day every six years and election day;
- six paid vacation days for the first year of employment, with two more days added each additional year of employment until the fifth year of employment; thereafter, employees are entitled to two additional days for every five years of service;
- a vacation premium equal to 25 per cent of their daily base salary for each day of vacation used;
- a year-end bonus of at least 15 days' salary; and
- participation in the distribution of 10 per cent of the pre-tax profits of the employer. Employers may contractually grant other benefits to their employees, which are commonly known as 'extra-legal benefits'.

Part-time and fixed-term employees

26 | Are there any special rules relating to part-time or fixed-term employees?

Part-time employees are entitled to the same benefits as full-time employees.

Public disclosures

27 | Must employers publish information on pay or other details about employees or the general workforce?

No, as a general matter there is no obligation under Mexican law for employers to make information on employees' (including executives') remuneration available to the public. That said, the FLC does set forth anti-discrimination provisions intended to safeguard equal opportunity principles and, therefore, prevent discriminatory behaviour (including with respect to payment) based on ethnic origin, gender, age, disability, social condition, religion, opinions, sexual preference, pregnancy, civil status or similar factors.

POST-EMPLOYMENT RESTRICTIVE COVENANTS

Validity and enforceability

28 | To what extent are post-termination covenants not to compete, solicit or deal valid and enforceable?

Non-compete arrangements on individuals are generally unenforceable under Mexican law, as they are perceived by courts to limit an individual's constitutional rights to employment and to exercise a profession. That said, the Mexican Supreme Court has ruled that under very limited circumstances (eg, where there is proportionate compensation, and limitation of time and geographic scope), non-compete agreements may be enforceable. The enforceability of non-compete and no-solicitation arrangements in Mexico must be carefully analysed on a case-by-case basis. Notwithstanding the foregoing, confidentiality arrangements (whether included in the employment agreement itself or in a post-termination arrangement) can restrict employees from disclosing or using confidential information, even after the employment relationship has ended. An employee's breach of this agreement or clause can result in civil and criminal liability.

Post-employment payments

29 | Must an employer continue to pay the former employee while they are subject to post-employment restrictive covenants?

See question 28.

LIABILITY FOR ACTS OF EMPLOYEES

Extent of liability

30 | In which circumstances may an employer be held liable for the acts or conduct of its employees?

As a general matter, an employer is liable for damages caused by its employees to third parties in the course of the employee's employment.

TAXATION OF EMPLOYEES

Applicable taxes

31 | What employment-related taxes are prescribed by law?

Any income related to employment, including the mandatory annual profit-sharing distributions and any income derived as a consequence of termination of employment, will be subject to taxation. Payroll tax, income tax and social security contributions are the employment-related taxes prescribed by law; however, employers are also required to contribute to INFONAVIT and an employee retirement savings fund. All contributions are calculated based on the employee's salary, up to certain maximum levels.

EMPLOYEE-CREATED IP

Ownership rights

32 | Is there any legislation addressing the parties' rights with respect to employee inventions?

The general rule under the FLC about employee-created intellectual property (IP) is that the employer owns the IP on any invention developed by its employees, provided that the development of the invention was within the scope of the employment relationship. If the employment agreement is silent regarding ownership of work product, but it establishes that research or improvement of the employer's processes are within the scope of employment, then the rightful holder is the employer.

Notwithstanding the foregoing, if an employee's invention benefits the employer in such way that the employee's wage is not proportional to the benefit received by the employer, the employee has the right to receive additional compensation. The parties must agree on the amount of the additional compensation, and in the absence of agreement, the labour boards will decide. In all other instances (eg, inventions developed by an employee without the proper provisions in the employment agreement, even if using the employer's resources), the proprietary rights associated with the invention belong to the employee; the employer only has a right of first refusal if the employee decides to assign applicable IP rights (eg, to file the patent or design application or the corresponding patents, design registrations or patents or design applications).

As to work product that is susceptible to copyright, the employer will only be entitled to be acknowledged as the copyright holder if there was an individual employment agreement in writing with the employee. Further, that employment agreement must specifically state that all economic rights related to the copyrighted work product belong to the employer; otherwise, the default rule is that 50 per cent of the economic rights belong to the employer and 50 per cent to the employee. If there is no written employment agreement, or if it is silent about copyright ownership, then the employee will be entitled to all economic rights. The exception to this rule is copyright on software developed by an employee as part of his or her work duties, where in the absence of a written employment agreement or if an employment agreement is silent in connection with copyright ownership, the work product (software) belongs to the employer.

Trade secrets and confidential information

33 Is there any legislation protecting trade secrets and other confidential business information?

Yes. The FLC provides that the disclosure of trade secrets and confidential information is a cause for termination of employment. In addition, the Mexican Intellectual Property Law includes several provisions protecting trade secrets and business information, including an obligation on the part of employees to maintain the confidentiality of information or trade secrets and the imposition of penalties to employers that hire employees for the purpose of obtaining trade secrets.

DATA PROTECTION

Rules and obligations

34 Is there any legislation protecting employee privacy or personnel data? If so, what are an employer's obligations under the legislation?

Yes. The Federal Law on the Protection of Personal Data in Possession of Private Parties (the Privacy Act) protects employee privacy and personal data by, among other matters, requiring employers that intend to collect, use, disclose or store personal data of employees and personnel to provide a privacy notice including, at the very least, the following elements:

- identity and domicile of the data controller;
- purpose of the data processing;
- the option and means offered to the data owners (employees and other personnel) to limit the use or disclosure of personal data;
- the means for data owners to exercise the data owner rights in accordance with the Privacy Act;
- the type of data transfers intended to be made, if any;
- the procedures and means by which the data controller will notify the data owners of changes to the privacy notice; and
- when applicable, an indication that sensitive personal data will be processed. Personal data may then be processed but only for the purposes described and permitted under that notice.

Except for limited exceptions, the employees, as data owners, have the right to: request access to their personal data and the applicable privacy notice; request the correction of personal data when it is inaccurate, incomplete or outdated; request the deletion of personal data from a database; and decline the request of a data controller to process their personal data.

Express consent for storage, use or transmittal is necessary when handling sensitive personal information (eg, race, ethnicity, health-related information, genetic information, religion, sexual, political, moral or philosophical preferences, union affiliation – in general, any information that could lead to discriminatory conduct). If the information is not considered sensitive personal information, the employer may rely on implied consent.

BUSINESS TRANSFERS

Employee protections

35 Is there any legislation to protect employees in the event of a business transfer?

Yes. A business transfer is not a cause for termination of employees under Mexican law.

With respect to asset sales, the FLC incorporates the concept of 'employer substitution'. Under this concept, if an asset deal involves assets that are essential for the business operation, an employer substitution occurs automatically for all employees. On the other hand, if only certain assets are transferred, the employees whose jobs are related to those assets may be subject to an employer substitution. When an employer substitution is triggered, the transferred employees' employment (eg, seniority, benefits) continues as if the transfer had not occurred, and the seller and purchaser remain jointly liable for all employment obligations (including social security obligations) relating to the transferred employees for six months following the employer substitution notice.

TERMINATION OF EMPLOYMENT

Grounds for termination

36 May an employer dismiss an employee for any reason or must there be 'cause'? How is cause defined under the applicable statute or regulation?

Employees may only be terminated for 'cause'. The FLC includes the following list of 15 events that constitute cause:

- use of false documentation to secure employment (applicable only within the first 30 days of service);
- dishonest or violent behaviour on the job;
- dishonest or violent behaviour against co-workers that disrupts work discipline;
- threatening, insulting or abusing the employer or his or her family, unless provoked or acting in self-defence;
- intentionally damaging the employer's property;
- negligently causing serious damage to the employer's property;
- carelessly compromising safety in the workplace;
- immoral behaviour in the workplace (including harassing or sexually harassing any individual in the workplace);
- disclosure of trade secrets or confidential information;
- more than three unjustified absences in a 30-day period;
- disobeying the employer without justification;

- failure to follow safety procedures;
- reporting to work under the influence of alcohol or non-prescription drugs;
- prison sentence that makes it impossible for the employment relationship to continue or failure to deliver documents required by law to provide the employee's services; and
- the commission of any other acts of similar severity.

Notice

37 | Must notice of termination be given prior to dismissal? May an employer provide pay in lieu of notice?

A notice of termination is not required for terminations without cause. In the case of terminations for cause, employers are required to provide a written notice describing the conduct that triggered the termination and the date on which the conduct occurred or notify the applicable labour board in writing of the cause of termination within five days of the date of termination. No payment in lieu of a termination notice is allowed under the FLC.

38 | In which circumstances may an employer dismiss an employee without notice or payment in lieu of notice?

As discussed in question 36, employees may not be terminated unless there is cause.

Severance pay

39 | Is there any legislation establishing the right to severance pay upon termination of employment? How is severance pay calculated?

Yes. The FLC establishes the right to severance pay upon termination of employment without cause, but no severance pay is applicable to terminations with cause. As a general rule, in the event of a termination without cause, the employee is entitled to accrued wages and benefits, three months of integrated salary and a seniority premium of 12 days of salary for each year of service (capped at twice the minimum salary). In addition, an employee dismissed without cause is entitled to claim his or her reinstatement. If an employee prevails in a lawsuit for wrongful dismissal, in addition to the employee's reinstatement, the employer will be liable for back pay from the date of the dismissal, with a one-year cap (plus a 2 per cent monthly surcharge thereafter). The employer may avoid reinstatement by making an additional severance payment for an amount equivalent to 20 days of integrated salary per year of employment.

Procedure

40 | Are there any procedural requirements for dismissing an employee?

In the case of terminations with cause, a written notice of termination is required. If notice is not delivered, the termination will be deemed to be without cause.

Employee protections

41 | In what circumstances are employees protected from dismissal?

As discussed in question 36, employment in Mexico is protected as a general matter and an employee may only be terminated for 'cause' as defined by the FLC.

Mass terminations and collective dismissals

42 | Are there special rules for mass terminations or collective dismissals?

Yes, depending on the cause of the reduction in force, the employer may need authorisation from the applicable labour board; however, reductions in force must be carefully analysed, as the request for authorisation is often burdensome and impractical. Direct negotiation with the employees and unions is customarily recommended.

Class and collective actions

43 | Are class or collective actions allowed or may employees only assert labour and employment claims on an individual basis?

The FLC recognises employees' right of association to defend a common interest. Class or collective actions are generally filed by unions. Employment-based claims, outside of union-related claims, are filed on an individual basis.

Mandatory retirement age

44 | Does the law in your jurisdiction allow employers to impose a mandatory retirement age? If so, at what age and under what limitations?

No.

DISPUTE RESOLUTION

Arbitration

45 | May the parties agree to private arbitration of employment disputes?

No; employment disputes must be heard by the labour board and any agreement to the contrary is null and void.

Employee waiver of rights

46 | May an employee agree to waive statutory and contractual rights to potential employment claims?

The rights and benefits afforded by the FLC are of public interest and, therefore, may not be waived; however, upon termination of employment, the employer and employee may enter into a full waiver and release agreement that must be signed in front of, and authorised by, the applicable labour board. That waiver and release is generally accompanied by the payment of a settlement or severance amount, which includes – among other things – accrued wages and benefits.

Limitation period

47 | What are the limitation periods for bringing employment claims?

The general limitation period for bringing employment claims is one year. However, some types of claims have different limitation periods:

- an employer's right to file a claim and terminate the employment with cause expires one month after the employer becomes aware of the cause for termination;
- an employee's right to file a claim of termination of employment without cause expires two months after his or her date of termination;
- an employee's right to file a claim for unpaid amounts related to employment disabilities expires two years after the date when the employee disability is determined; and

- the right to request that the labour board enforce a labour resolution or settlement expires two years after the date that the labour board notifies the respective party of the resolution or settlement.

UPDATE AND TRENDS

Emerging trends

48 Are there any emerging trends or hot topics in labour and employment regulation in your jurisdiction?

On 22 December 2018, a bill reforming the Federal Labour Law was introduced in Mexico's house of representatives by the parliamentary group Morena, the political party that is currently controlling the house and is affiliated with President Andrés Manuel López Obrador (AMLO). The bill follows the changes made in February 2017 to Mexico's judicial system in the labour and employment space and, among other things, intends to reinforce the principles of freedom of association and collective bargaining negotiation by imposing a pre-requirement of employee affiliation for unions to be able to enter into collective bargaining agreements with employers; and the mandatory review of collective bargaining agreements every four years in order to verify that these agreements truly represent the interests of the employees. While the enactment of such a bill remains uncertain, AMLO's administration seems to be generally supportive of such actions. If this bill is enacted as initially introduced, the practical implications would be, on the one hand, that protective bargaining agreements (commonly used in Mexico and entered into by employers with unions known as 'white unions') could be challenged more frequently by active – and aggressive – unions. On the other hand, such amendments would also have the (presumably unintended) effect of limiting the ability of active – and aggressive – unions to file frivolous claims intended to blackmail employers with no protective bargaining agreements, forcing those employers to enter into collective bargaining agreements with active unions even when no employee affiliation actually exists.

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