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The Labor Reform in Mexico.

by Edgar Bezares.

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"DILIGITE JUSTITIAM QUI JUDICATIS TERRAM." "Ye who judge the earth, give diligent love to justice"

The Labor Reform in Mexico.

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Labor law all around the world is one of the most sensitive disciplines because it can generate more disagreement or more well-being in society in a generalized way, because life quality and population's perception of protection from their state depend on the labor policies legally established.

The national economy of a country depends to a large extent on the national labor policy, the more protectionist the labor laws are towards the workers, the less conformity the private initiative will have with them and, therefore, there will be less investment and sources of work; the more lax they are, the more attractive the country will be for investors. So, the core aspect of this discipline is finding the middle ground to have both a working and satisfied population and a healthy private investment that generates enough jobs.

In Mexico, the current Federal Labor Law entered into force on April 1, 1970 and since then, until recently, there had been few reforms - at least substantial - that it had undergone.

The first substantive reforms underwent by this law date from November 30, 2012 and were very controversial because, by virtue of them, outsourcing (subcontracting) was legalized, the possibility of establishing labor relations subject to a trial period of up to 180 days was established and the amount of the back or unpaid wages was limited to a maximum of 12 months. This reform was too controversial, because it was notoriously favorable to the business sector, allowing to injure workers' labor stability rights.

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Likewise, in February 2017 the reforms to the Political Constitution of the country were approved, which allowed the creation of Labor Courts of the Judicial Power that will issue judgments and not awards and, in addition, the creation of an obligatory conciliatory instance prior to trial before Conciliation Centers for the parties that have to initiate a labor trial. Also, the freedom of union negotiation is guaranteed, and rules are established for collective representation of workers.

However, this last reform was only at a constitutional level, so that, to give it due fulfillment, it should materialize in the reform of the secondary law, that is, the Federal Labor Law, so, after having followed the corresponding legislative process, on the first of May 2019 was published in the Official Journal of the Federation the decree of reforms, additions and derogation to various precepts of the aforementioned law.

The main aspects of this reform are detailed in the following paragraphs.

- 1.- The most notorious aspect of the reform is, of course, the creation of the Labor Courts that will replace the anachronistic and dysfunctional Conciliation and Arbitration Boards.

Derived from this is that there will be labor judges who will direct the procedure and resolve labor disputes that are submitted to their jurisdiction. For this, both the Organic Law of the Federal Judicial Branch and the organic laws corresponding to the judicial powers of each state must be modified, in order to incorporate labor courts into them and define the powers of the officers who will integrate them, because, before the reform that occupies us, the Conciliation and Arbitration Boards were incorporated into the federal and local executive power and not the judiciary.

- 2.- Since labor justice has been left out of the administrative sphere, the Federal Center for Labor Conciliation and Registration¹ is created, which will carry out two main functions: the first, in a forced phase prior to trial, the conciliation of federal labor disputes and, the second, to act as the only registry authority in the country that will keep a record of union associations and collective agreements, both federal and local.

It is important to emphasize that each state of the Republic must create its own Conciliation Center for labor disputes of a local nature, since the conciliatory attribution was delegated to each entity, in the case of the same.

- 3.- By virtue of the creation of labor courts, a new ordinary labor procedure was also created to settle most of the disputes between workers and employers, as long as they do not have a special procedure in the law itself.

This new procedure is preeminently oral and begins with the filing of the labor lawsuit. After being summoned, the defendant gives an answer to it and, after there is replications and counter-replies in writing, a preliminary hearing is held; in which the litigation is established, and the judge admits the evidence of the litigants. These evidences will be carried out in a "trial hearing" in which the evidence will be released, and oral arguments will be formulated. Within a maximum period of 5 days after that hearing, the judge will issue a final judgment, which will be final.

Undoubtedly, if this reform to the procedure is duly applied, the processing of proceedings will be considerably streamlined, since various issues of the labor process prior to the reform that generate a number of dilatory techniques for the litigants have been suppressed and, in turn, unnecessary bureaucratic procedures that hinder the judgments will be reduced.

In addition to the ordinary procedure, the law provides for a special procedure that is shorter than the ordinary one because the preliminary hearing is not held in it. This procedure applies in particular cases such as, among others, those related to inhuman working days, employment contracts and social security conflicts.

- 4.- Among other outstanding aspects of this reform, it can be mentioned that with it the work of domestic employees is regulated with greater precision and rigor, giving them, upon fulfilling certain requirements, the opportunity to be incorporated into social security and allowing their unionization
- 5.- Finally, as regards collective labor law, trade unions are required to have an effective representation of their union members for the acts they carry out, mainly for the strike site, for which they must have the secret vote of at least 30% of workers, having to obtain the evidence of union representativeness, without which their acts will be considered illegal and inadmissible when filing the corresponding action.

"...a new ordinary labor procedure was also created to settle most of the disputes between workers and employers..."

In general terms, apart from the operational problems that may exist when applying the reforms to the Federal Labor Law, I can affirm that it generates good expectations and should be received with optimism, since procedures are expedited before the labor courts and, in turn, the correct division of public powers is preserved by assigning to the judicial branch the resolution of worker-employer disputes. However, we will have to wait for its factual implementation, which will be in a maximum period of three years for the states and four years for the federal level, to be able to know how it will operate in reality.

1.- Centro Federal de Conciliación y Registro Laboral

CNDH concern for aggravation of environmental conditions in the Metropolitan Area of the Valley of Mexico.

CNDH (*Comisión Nacional de Derechos Humanos*) urges federal, state and municipal authorities to adopt with urgency the necessary and pertinent measures to safeguard the health of the people, especially of minors and elderly people and those who because of their health condition, adverse environmental conditions may give them a differentiated impact on their fundamental rights. Likewise, it underscores the obligation of the authorities to inform the population in a timely manner about the state that keeps air quality and the possible negative effects on health. http://www.cndh.org.mx/sites/all/doc/Comunicados/2019/Com_2019_150.pdf 21/05/2019.

Donald Trump supporters build the first private border Wall.

A group of Donald Trump supporters, We Build the Wall, began the construction of the first private border wall in the Mexico-U.S. border last weekend. The 800 meters long steel fence was built in the border with Ciudad Juárez, Chihuahua, since it's one of the most popular entries among migrants, mainly from Central America. The co-owner of the land where the wall is being built, Jeff Allen, said that this was the way of saying to the US Congress that they are worthless and that they were going to build the wall by themselves. We Build the Wall has raised over \$22 million USD through its GoFundMe campaign. <https://www.eluniversal.com.mx/english/donald-trump-supporters-build-first-private-border-wall> 28/05/2019.

Mexico raises over \$28 million MXN after auctioning cars owned by criminals.

The Management Service and Property Disposal Department (SAE) auctioned 82 vehicles owned by criminals and sold 65 of them. The money raised will be used to provide aid to the Santos Reyes Yucuná and Santa María Tlahuitoltepec municipalities in Oaxaca. Among the vehicles auctioned the cheapest was a Volkswagen 1990 that was sold for \$65,000 MXN and the most expensive vehicle was a Ford Shelby F150 sold for \$1,900,000 MXN. <https://www.eluniversal.com.mx/english/mexico-raises-over-mxn-28-million-after-auctioning-cars-owned-criminals> 28/05/2019.

Mexico climbs a position in the global competitiveness index.

Breaking down its four main pillars, Mexico climbed from position 35 to position 28 in economic performance; in government efficiency advanced from 54 to 52; in business efficiency it fell from 48 to 49, and in infrastructure fell from 55 to 57. The index measures the competitiveness of 63 countries based on 340 criteria. <https://www.economista.com.mx/empresas/Mexico-escala-una-posicion-en-el-indice-de-competitividad-mundial--20190529-0061.html> 28/05/2019.

Mexico joins Spotlight Initiative against femicide.

In 2018, Mexico registered an average of 9 daily femicides, according to the National Human Rights Commission (CNDH), which is why President Andrés Manuel López Obrador and representatives of the United Nations and the European Union launched the Spotlight Initiative, to take care of this illicit. In a conference, the president said that his administration is committed to seeking greater participation of women in different areas of public life and guaranteeing the safety of this sector. The president of the National Commission to Prevent and Eradicate Violence Against Women (CONAVIM), María Candelaria Ochoa, announced that the objective of the Spotlight Initiative (promoted by the UN and the European Union) is to prevent, address and punish aggressions against women and girls. In this way, Mexico will have 11.8 million dollars as a resource of this international initiative to develop actions in Naucalpan and Ecatepec, in the State of Mexico; in Ciudad Juárez, Chihuahua, and in Chilpancingo, Guerrero, sites with high rates of hate crimes. <https://www.excelsior.com.mx/nacional/se-suma-mexico-a-iniciativa-spotlight-contra-femicidios/1315563> 29/05/2019.

Altos Hornos de Mexico bank accounts are unfrozen.

The business bank accounts of Altos Hornos de Mexico SA, (AHMSA), have already been defrosted and therefore the company can continue working without any problem, assured the President of the Republic, Andrés Manuel López Obrador, who explained that in this case there is nothing personal nor is there political persecution. Questioned about the arrest warrants against the former director of Altos Hornos de México, Alonso Ancira Elizondo, and the former director general of Petróleos Mexicanos (Pemex), Emilio Ricardo Lozoya Austin, said he does not know either of the two and that these were investigations that they were coming from time ago, they just continue. The federal executive acknowledged that yesterday Coahuila lawmakers sought concern about the impact that the eventual closure of the plant in Monclova would have. The question was whether legally the proper business accounts could be separated from those of the director who is indicated as presumed guilty of some illicit acts, to which the head of the Financial Intelligence Unit of the Ministry of Finance and Public Credit (SHCP), Santiago Nieto Castillo, said at the time that the company's accounts had already been defrosted, so it can continue working without any problem. <https://www.excelsior.com.mx/nacional/descongelan-cuentas-de-altos-hornos-de-mexico/1315573> 29/05/2019.

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