

International Labour and Employment Compliance Handbook

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Edited by Salvador del Rey and Robert J. Mignin

Labour and Employment Compliance in Brazil

Second Edition

Sólon de Almeida Cunha
Jorge Gonzaga Matsumoto
Murilo Caldeira Germiniani



Wolters Kluwer
Law & Business

International Bar Association

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About the International Labour and Employment Compliance Handbook

From 1976 through 1988, the International Bar Association and Kluwer Law International published the groundbreaking International Handbook on Contracts of Employment. This Handbook provided one of the first global overviews of the law of the employment relationship.

Since publishing the first edition, globalization of business has created an increased demand for knowledge of labor and employment laws throughout the world. Therefore, along with Kluwer, we decided to publish an updated Handbook which we have titled the International Labour and Employment Compliance Handbook.

This new Handbook is intended to be a practical guide by providing a general overview of key labor and employment issues in multiple jurisdictions. Each chapter is written so that it is easy to understand by lawyers and non-lawyers alike. Each country author has also followed a standard outline to assist readers in analysing employment issues in each country.

For the first edition of this new Handbook, we have included nineteen (19) different countries. In future editions, we will add new countries.

This Handbook would not have been possible without the help and assistance of many people. Most importantly, the individual country authors are all distinguished legal practitioners who spent considerable time drafting and revising their chapters to meet difficult deadlines. We thank each of them. Our friends at Kluwer, especially Ewa Szkatula, have done a wonderful job in keeping the editors and the authors on schedule. We are also indebted to Ginny Faber who has helped edit each chapter. Finally, we want to also express our gratitude to Elisabet Calzada and Sandra Peris of Cuatrecasas, Gonçalves Pereira, and Meagan C. LeGear and Rhonda Jones of Baker & McKenzie LLP in Chicago for their valuable assistance in the coordination and organization of each of the chapters. Our warmest thanks to each of them.

ABOUT THE INTERNATIONAL LABOUR AND EMPLOYMENT COMPLIANCE HANDBOOK

We hope this Handbook will be a helpful and useful resource. We look forward to input and suggestions for future editions of the Handbook.

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Legal Compliance in Brazil

1. LEGAL FRAMEWORK: EMPLOYMENT LAWS

In Brazil, employment and labor relations are governed mainly by the Brazilian Federal Constitution, the Brazilian Labor Law (“Consolidação das Leis do Trabalho – CLT”), Brazilian social security laws and regulations, normative rules and regulations issued by the Brazilian Labor and Employment Ministry, collective bargaining agreements executed between the unions representing employers and the labor unions representing employees, and other employment- and labor-related laws (hereinafter collectively referred to as “Brazilian employment and labor laws”).

Brazilian Federal Constitution establishes fundamental labor and employment rights for rural and urban employees. In particular, its Article 7 lists the basic labor and employment rights that must be guaranteed to employees. Among such basic rights, there are, for example, protection against salary reduction and discrimination due to gender, age, race and marital status.

Brazilian Labor Law not only regulates the basic rights granted by the Brazilian Federal Constitution, but also encompasses a wide array of rights and obligations that must be observed by employees and employers during the term of the employment relationship and at its termination, such as the right to paid annual vacations plus an annual vacation bonus, overtime premium, maternity and paternity leaves, mandatory severance payments, meal breaks, etc.

Also, Brazilian Labor Law governs the filing of labor lawsuits and administrative proceedings before Brazilian labor courts by employees, labor authorities and employers, and, together with the normative rules and regulations issued by the Brazilian Labor and Employment Ministry, addresses specific rules regarding health and safety in the workplace.