

International Labour and Employment Compliance Handbook



the global voice of
the legal profession

Edited by Salvador del Rey and Robert J. Mignin

Labour and Employment Compliance in Mexico

Second Edition

Oscar De La Vega Gómez
Monica Schiaffino



Wolters Kluwer
Law & Business

International Bar Association

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International Bar Association

The Global Voice of the Legal Profession

The International Bar Association (IBA), established in 1947, is the world's leading organization of international legal practitioners, bar associations and law societies. The IBA influences the development of international law reform and shapes the future of the legal profession throughout the world. It has a membership of over 40,000 individual lawyers and almost 200 bar associations and law societies spanning all continents. It has considerable expertise in providing assistance to the global legal community.

Grouped into two divisions – the Legal Practice Division and the Public and Professional Interest Division – the IBA covers all practice areas and professional interests, providing members with access to leading experts and up-to-date information. Through the various committees of the divisions, the IBA enables an interchange of information and views among its members as to laws, practices and professional responsibilities relating to the practice of business law around the globe. Additionally, the IBA's high-quality publications and world-class conferences provide unrivalled professional development and network-building opportunities for international legal practitioners and professional associates.

The IBA's Bar Issues Commission provides an invaluable forum for IBA member organisations to discuss all matters relating to law at an international level.

The IBA's Human Rights Institute (IBAHRI) works across the Association, to promote, protect and enforce human rights under a just rule of law, and to preserve the independence of the judiciary and the legal profession worldwide.

Other institutions established by the IBA include the Southern Africa Litigation Centre and the International Legal Assistance Consortium.

Employment and Industrial Relations Law Committee

The aims of the committee are to develop and exchange knowledge of employment and industrial relations law and practice. Members support each other through the provision of innovative ideas and practical assistance on day-to-day issues. In addition, through its journal and through presentations, conferences, the committee ensures the dissemination of up-to-date law and practice in this highly important business area.

International Bar Association Global Employment Institute

The IBA Global Employment Institute (IBA GEI) was formed in early 2010 for the purpose of developing for multinationals and worldwide institutions a global and strategic approach to the key legal issues in the human resources and human capital fields.

Drawing on the resources and expertise of the IBA membership, the IBA GEI will provide a unique contribution in the field of employment, discrimination and immigration law, on a diverse range of global issues, to private and public organizations throughout the world. The IBA GEI is designed to enhance the management, performance and productivity of these organizations and help achieve best practice in their human capital and management functions from a strategic perspective.

The IBA GEI will become the leading voice and authority on global HR issues by virtue of having a number of the world's leading labour and employment practitioners in its ranks, and the support and resource of the world's largest association of international lawyers.

Further information

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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 international 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 was intended to be a practical guide by providing a general overview of key labor and employment issues in multiple jurisdictions. Each chapter was 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.

The first edition of this new Handbook included nineteen (19) different 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 country reports 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. Finally, we want to also express our gratitude to Cuatrecasas, Gonçalves Pereira, and Baker & McKenzie LLP for their valuable assistance in the coordination and organization of this project. Our warmest thanks to each of them.

ABOUT THE INTERNATIONAL LABOUR AND EMPLOYMENT COMPLIANCE HANDBOOK

Because of the success of the Handbook, Wolters Kluwer Law & Business decided to publish each country report also as a separate book to give a choice in obtaining the information. We hope this new format will be a helpful and useful resource just like the Handbook. Both formats are available in print and online.

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March 2013

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Practice Areas

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International Employment Law Employee Benefits

Overview

Oscar De la Vega's focus is in the area of legal labor consulting and social security law. He has provided legal services (consulting and litigation) to major multinational companies. In addition, he has developed and implemented successful strategies in collective labor law.

Oscar has written several articles which have been published in international publications such as *Who's Who Legal, Practical Law Company* (PLC) and *Getting the Deal Through*. He has also been recognized and highly recommended by these international publications as one of the leading lawyers in the field in Mexico.

He frequently speaks at events organized by diverse local and international associations such as the Accountants Bar Association, Council of Maquila Industry, International Bar Association, and the XBHR Global Forum for Cross-Border, among others. Additionally, Oscar has been a speaker on labor law at the Universidad Iberoamericana (Mexico) and the

MEXICO

Center for Research and Economic Education (Centro de Investigación y Enseñanza Económica, CIDE).

Before becoming a managing shareholder of Littler, De la Vega y Conde, Oscar De la Vega was at a leading law firm in Mexico for 32 years, where he was a partner and the head of the Labor, Social Security and Immigration Department. He also served on the firm's Executive Committee.

Professional and Community Affiliations

- Member, Mexican Bar Association
- Vice president, Labor and Employment Committee - International Bar Association (IBA)
- President, Human Capital Committee - Mexican Institute of Finance Executives (IMEF)
- Member, Labor Commission – Employer's Confederation of Mexican Republic (COPARMEX)

Recognition

- Named, Labour and Employment - Chambers Latin America

Education

LL.B./J.D., Universidad Iberoamericana, 1983, *With Honors*

Languages

Spanish

English

Publications

'Making a difference for entrepreneurs – Mexico', *Doing Business*, The World Bank Group, 2011 'Labour and Employment Benefits: Mexico', Practical Law Company, 2011

'Reforming through difficult times – Mexico', *Doing Business*, The World Bank Group, 2010 'Mexico', *Doing Business*, The World Bank Group, 2008-2009

'How to reform – Mexico', *Doing Business*, The World Bank Group, 2007

'Creating jobs – Mexico', *Doing Business*, The World Bank Group, 2006

'Rule of Law Index', The World Justice Project

'How to Deal with Expatriates', International Bar Association

'An Outline of Mexican Labor Law', *Labor Law Journal*, Washington D.C.

'Labor Arbitration in Mexico', *Central America's Labor and Commercial Arbitration*, American Lawyer Association

Press

'De la Vega sets out plans for Littler in Mexico', 5 January 2012

Events & Speaking Engagements

'International Assignment of Employees: Issues and Challenges', *Annual Conference, International Bar Association, Dubai, UAE*, 31 October 2011

Books & Book Chapter

- *Labour & Employment, Mexico*, Getting the Deal Through, Law Business Research Ltd., contributing author, London

UK, 2007-2011

- *Restrictive Covenants and Trade Secrets in Employment Law*, contributing author, BNA and American Bar

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- *International Labour and Employment Compliance Handbook*, coauthor: Monica Schiaffino, Kluwer Law

International BV, Netherlands, 2010

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Business Restructuring

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- Hiring, Performance Management and Termination
- Policies, Procedures and Handbooks
- Training - Compliance, Ethics, Leadership
- International Employment Law
- Executive compensation

Overview

Monica Schiaffino has been practicing labor law for over a decade and is an experienced litigator. She has extensive experience with implementation of pension plans; coordinating and implementing labor structures dealing with expatriates; employee and business transfers; internal labor regulations and compliance; employee handbooks, policies and employment contracts; incentive plans; confidentiality agreements; conducting due diligence; and labor restructuring and collective bargaining agreements.

Monica has co-authored several important articles, which have appeared in various renowned publications, and she frequently speaks at labor law conferences. She has participated as coordinator in the preparation of several handbooks regarding individual and collective dismissals in the Americas for Ius Laboris and was the Americas Regional Coordinator of such Alliance for almost two years.

Prior to joining Littler, De la Vega y Conde, she was a consultant and litigator at two other major law firms in Mexico.

Professional and Community Affiliations

- Funding member, The Labor Group of The Queretaro Chapter of the Asociacion Nacional de Abogados de Empresa (ANADE)
- Member, Asociacion de Ejecutivos de Relaciones Industriales (AERIAC)

Recognition

- Named, Management - Labour & Employment Law, Who's Who Legal
- Named, Lawer of the Year 2014, Best Lawyers

Education

J.D., Centro de Estudios de Actualizacion en Derecho, 2007 B.A., Universidad Nacional Autonoma de Mexico, 2004, *With Honors*

Languages

Spanish
English

Publications

‘Making a difference for entrepreneurs – Mexico’, *Doing Business*, The World Bank Group, 2011 ‘Labour and Employment Benefits: Mexico’, Practical Law Company, 2011

‘Reforming through difficult times – Mexico’, *Doing Business*, The World Bank Group, 2010 ‘Rule of Law Index’, The World Justice Project, 2010 and 2011

‘Mexico’, *Doing Business*, The World Bank Group, 2008-2009

‘How to reform – Mexico’, *Doing Business*, The World Bank Group, 2007

‘Creating jobs – Mexico’, *Doing Business*, The World Bank Group, 2006

‘How to Deal with Expatriates’, International Bar Association

Events & Speaking Engagements

‘Pension dynamics in Latin America’, *World Pension Summit, Amsterdam, NL*, 4 November 2011

‘Ageing, how does the world deal with this challenge?!’, *World Pension Summit, Amsterdam, NL*, 3 November 2011

‘Pensions in an ageing world: A Global Comparison’, *World Pension Summit, Amsterdam, NL*, 2 November 2011

‘Critical Changes to the Labor Landscape in Latin America and the Implications for U.S. Employers’, *Littler Mendelson, Dallas, TX*, 4 April 2013

‘La Reforma A La Ley Federal Del Trabajo De Mexico’, *Littler Mendelson Webinar*, 8 February 2013

‘The Mexico Federal Labor Law Reform’, *Littler Mendelson Webinar*, 5 February 2013

‘Preventing Workplace Harassment in a Global Workforce’, *Global Employer Institute, Littler Mendelson, Washington D.C.*, 8 November 2012

‘Mergers, Acquisitions and Other Transfers of Business: Due Diligence and other Employment Law Challenges for Multinational Employers’, *Littler Mendelson Webinar*, 24 October 2012

‘North American Law on Anti-Corruption, Cross-Border Enforcement and Discovery Issues International, Business/Corporate & Intellectual Property sections’, *San Diego County Bar Association* 23 October 2012

‘Anti-Corruption - Local Legislative Developments and Coordinated Global Compliance Enforcement: The New Challenges for Global

MEXICO

Employers', *The 2012 Executive Employer®® Conference*, Littler Mendelson, Scottsdale, AZ, 10 May 2012

Books & Book Chapters

- *Labour & Employment, Mexico*, Getting the Deal Through, Law Business Research Ltd., contributing author, London UK, 2007–2011
- *International Labour and Employment Compliance Handbook*, co-author: Oscar De La Vega, Kluwer Law International BV, Netherlands, 2010
- *Restrictive Covenants and Trade Secrets in Employment Law*, contributing author, BNA and American Bar Association
- *The 2012 Global Employer: Highlights of Littler's Fifth Annual Global Employer Institute*, contributing author, Littler Report
- *Mexico's Labor Law Reform: A Step in the Right Direction*, contributing author, Thomson Reuters' Latin American Law & Business Report

Table of Contents

1.	Legal Framework: Employment Laws in Mexico	1
2.	Contracts of Employment	3
2.1.	Overview	3
2.2.	Written Employment Contracts	3
2.3.	Oral Contracts	5
2.4.	Employee Handbooks	5
2.5.	Job Description	6
2.6.	Offer Letters	6
2.7.	Checklist of Do's and Don'ts	7
3.	Recruiting, Interviewing, Screening and Hiring Employees	7
3.1.	Overview	7
3.2.	Recruiting	7
3.3.	Employment Applications	8
3.4.	Pre-employment Inquiries	8
3.5.	Pre-employment Tests and Examinations	8
3.6.	Background, Reference, and Credit Checks	9
3.7.	Interviewing	9
3.8.	Hiring Procedures	9
3.9.	Fines and Penalties	10
3.10.	Checklist of Do's and Don'ts	10
4.	Managing Performance/Conduct	10
4.1.	Overview	10
4.2.	Coaching and Counselling	11
4.3.	Written Evaluations	11
4.4.	Warnings and Suspensions	11
4.5.	Checklist of Do's and Don'ts	11
5.	Termination of Employees For Performance or Disciplinary Reasons	12
5.1.	Overview	12

TABLE OF CONTENTS

5.2.	Separation/Severance Payment	12
5.3.	Fines and Penalties	13
5.4.	Checklist of Do's and Don'ts	15
6.	Layoffs, Reductions in Force, and/or Redundancies as a Result of Job Eliminations or Other Restructuring	15
6.1.	Overview	15
6.2.	Reductions in Force/Layoffs/Job Eliminations	16
6.3.	Fines and Penalties	17
6.4.	Checklist of Do's and Don'ts	17
7.	Labour and Employment Law Ramifications Upon Acquisition or Sale of a Business	17
7.1.	Overview	17
7.2.	Acquisition of a Business (Transfer of Assets)	18
7.3.	Transfer of assets Checklist	21
7.4.	Sale of a Business (No Transfer of Assets)	21
7.5.	Sale Checklist	22
8.	Use of Alternative Workforces: Independent Contractors, Contract Employees, And Temporary or Leased Workers	22
8.1.	Overview	22
8.2.	Independent Contractor	23
a.	Definition	23
b.	Creating the Relationship	23
c.	Compensation	23
d.	Other terms and conditions	24
8.3.	Contract Workers	24
8.4.	Leased Workers	24
8.5.	Checklist of Do's and Don'ts	25
9.	Obligation to Bargain Collectively With Trade Unions: Employees' Right to Strike and a Company's Right to Continue Business Operations	25
9.1.	Overview of Unions' Right to Organize	25
9.2.	Right of Employees to Join Unions	26
9.3.	How Employees Select Unions	26
9.4.	Pre-Election Campaigning	27
9.5.	Unfair Labour Practices	27
9.6.	Relocation of Work/Shutdown of Business	27
9.7.	Checklist of Do's and Don'ts	28
10.	Working Conditions: Hours of Work and Payment of Wages: By Statute Or Collective Agreements	28
10.1.	Overview of Wage and Hours Laws	28
10.2.	Minimum Wage	28