

# Mexico Overhauls Federal Labor Law in Workers' Favor

**International Labor and Employment Law** on **May 10, 2019**

## **Mexico Overhauls Federal Labor Law in Workers' Favor**

On May 1, 2019, International Workers' Day, Mexico published amendments to its Federal Labor Law in the Federal Official Gazette and secured the right of Mexican workers to organize and enter into collective bargaining agreements. The Mexican Senate voted 120 to 0 to pass the Labor Reform Decree, which will regulate amendments made to Mexico's Federal Constitution in February 2017.<sup>[1]</sup> The Decree also ensures Mexico's compliance with Convention No. 98 of the International Labor Organization and memorializes the labor reforms that President Andrés Manuel López Obrador promised to implement when he negotiated the United States – Mexico – Canada Agreement ("USMCA") in November of 2018.<sup>[2]</sup>

### **Workers' Rights**

The Decree outlines Mexican workers' right to engage in collective bargaining and to organize and join a union. The right to freely organize is coupled with union members' right to a personal, free and secret vote. Importantly, the Decree states that workers may not be forced to join a union. These changes are major. They are meant to alter the fabric of Mexican labor relations by creating independent unions and workplaces free from coercion, discrimination and violence.

Prior to these changes, Mexican unions were largely controlled by companies. For decades, Mexican workers did not have the right to organize freely, there were no democratic elections, and labor contracts were negotiated with little input from workers. Companies often entered into “protection agreements” by recognizing unions and signing contracts, creating “white unions” or “protection unions” that represented the interests of the companies, not the workers. Now, the law requires proof that a union represents the majority of workers and that those workers consent to any proposed union contracts. Before entering into a collective bargaining agreement, a union must prove that it represents the interest of the workers it represents by obtaining a certificate of representation from the federal conciliation entity created by the Decree. The same certificate will be necessary in order for a strike to begin.

With respect to workers’ voting rights, the personal, free and secret vote of workers is required before a collective bargaining agreement is concluded, for the election of union leadership, and the resolution of inter-union conflicts. Union representatives must secure at least 30% of the vote of workers participating in the election process. These new voting mechanisms are meant to ensure the eradication of “protection unions” from Mexico’s labor landscape.

### **Labor Justice Reform**

The Decree also includes major changes to Mexico’s labor justice system. State and federal labor courts, resolving labor disputes as a part of the judiciary, will replace current Conciliation and Arbitration Boards. Conciliatory efforts must now take place in a single, mandatory hearing before a matter reaches a labor court. The Federal Conciliation and Labor Registration Center will preside over these conciliatory procedures and register labor organizations, union contracts and internal work rules. State-level conciliation centers will only preside over conciliation procedures. Changes to the labor justice system will be implemented within the next three years.

### **USMCA**

The Mexican Senate passed the Decree before its close of session in anticipation of the American Senate reviewing these changes within the context of USMCA. Annex 23-A of USMCA requires Mexico to pass and implement certain labor reforms, essentially bringing Mexican labor law in line with U.S. labor law. Mexico has now passed the Decree, but the U.S. has made clear that it will not ratify USMCA unless Mexico can show that it will implement these changes.

### **Impact on Employers**

These changes are likely to engender a global effect given the potential for independent unionization to lead to pay raises and other company concessions in a country where the minimum wage is currently around \$5 USD.

Employers with a workforce presence in Mexico should revisit existing labor relations policies and prepare for a significant increase in independent unionization. Employers should also review any existing union contracts to ensure compliance with the Decree's mandates.

Most immediately, the Decree requires certain human resources changes. Employers must:

- Provide employees with an opportunity, in their individual contracts, to designate a beneficiary who will receive payment of their salary and accrued benefits in case of death or disappearance.
- Provide employees access to all information concerning their income and deductions, including pay stubs, whether in printed form or by other means. (Online Digital Tax Receipts may replace printed pay stubs.)
- Implement policies and protocols addressing the prevention of gender discrimination, violence and sexual harassment and the elimination of forced labor and child labor.

[\[1\]](#) Amendments to Mexico's Federal Constitution Articles 103 and 123, in effect since February 24, 2017, promulgated changes to the labor justice system in Mexico by creating specialized labor courts, centralizing collective bargaining agreements and union organization registration, requiring unions to prove that they represent a majority of a company's workers before executing a collective bargaining agreement, and guaranteeing personal, free and secret voting.

[2] In September of 2018, Mexico ratified Convention No. 98 of the International Labor Organization, which protects the rights of union members to organize freely and participate in collective bargaining. Convention No. 98 will enter into force on November 23, 2019.

[View Original](#)