

**NOTE OF WARNING ON THE ACCESS RESTRICTION TO THE JUDICIARY IMPOSED BY THE LABOR REFORM AND THE DROP IN THE NUMBER OF LABOR CLAIMS IN THE BRAZILIAN LABOR COURTS**

The National Association of Labor Magistrates - ANAMATRA, a representative entity of more than 4,000 Labor Judges from all corners of Brazil, with intense action in the fight against the dignity at work and against all kinds of discrimination, precariousness and exploitation in the labor environment considering the upcoming 107th International Labour Conference, from May 28 to June 8, 2018, in Geneva, Switzerland, has resolved to publish this note of warning on the access restriction to the judiciary imposed by the labor reform and the drop in the number of labor claims in the Brazilian Labor Courts, for the reasons below.

Some changes brought by Law 13467, 13 July 2017, to the Consolidation of Labor Laws - CLT were questioned in a Direct Action of Unconstitutionality by the Attorney General's Office, ADI N. 5766, in the Federal Supreme Court. In his vote on the matter, Justice Luiz Edson Fachin dissented from the rapporteur, Justice Luís Roberto Barroso, and defended the material unconstitutionality of several provisions of the new legal text, in particular, those that restrict the access to the judiciary for individuals proceeding *in forma pauperis*. Justice Barroso, the rapporteur, even not considering the unconstitutionality of such provisions, set boundaries for worker proceeding *in forma pauperis* to pay for court fees. It indicates that the legal text, as approved, restricts access to the judiciary.

Labor Judges are warning that the Labor Reform caused visible precariousness to labor relations, whereas the drop in the number of labor claims reduced the collection of social security contributions and court fees by the Labor Courts, which add to the thesis of extinction of this specialized branch of the Judiciary.

As the new law became effective, its harmful effects were noticed immediately. According to the numbers released by the Superior Labor Court, there was a drop of approximately 45% in the number of claims in the Brazilian Labor Courts in the first quarter of 2018<sup>1</sup>. It is important to note that most of the labor lawsuits deal with basic rights disrespected by employers. The prevalent characteristic in the Brazilian scenario is the frequent noncompliance with the legislation.

Contrary to what had been announced before the approval of the labor reform by the National Congress, unemployment numbers have not been

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<sup>1</sup>Available at: <<https://veja.abril.com.br/economia/com-reforma-numero-de-aco-es-trabalhistas-cai-45/>> Access on 15 May 2018.

reduced<sup>2</sup> and the conflicts between capital and labor did not cease to exist.

It is therefore evident that the access to the Judiciary has been compromised, which is not only a violation to the Brazilian Constitution (art. 5.XXXV), but a disrespect to the International Covenant on Civil and Political Rights (art. 14) and the American Convention on Human Rights (art. 8).

In this context, ANAMATRA comes before the international community to highlight the restrictions on access to the judiciary promoted by the Labor Reform and the drop in the number of claims in the Labor Courts, reaffirming the importance and necessity of the existence of Labor Courts in Brazil as a specialized branch of the Judiciary for pacification of labor conflicts and rebalancing of social inequalities.

Brasília, May 18th, 2018;



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<sup>2</sup>According to the Brazilian Institute of Geography and Statistics (IBGE), the unemployment rate in Brazil rose to 13.1% in the first quarter of 2018, compared to the last quarter of 2017, when it reached 11.8%. Available at: <<http://agenciabrasil.ebc.com.br/economia/noticia/2018-04/taxa-de-desemprego-sobe-para-131-diz-pesquisa-do-ibge>> Access on 15 May 2018.