

FOURTH COMMISSION OF STUDY Mexico 2006
QUESTIONNAIRE

Do we need special procedures of Court Of work and alternative methods of discussions

This Questionnaire does not treat with the establishment of collective interests p. ej. between(among) the union and the bosses' association to change tariffs or between(among) the works committee and the boss as for new agreements of plant(floor). In most of countries there specific procedures and institutions exist to handle this class of collective discussions. The principal aim(lens) of this questionnaire is the establishment of the specific points of law as for the claims of personnel. This also implies the question as the unions and statutory representative bodies can be implied in to support this for supporting the individual employee or representing the interest of personnel to specific procedures.

I - are they there new initiatives to make the Work Do the court on more efficient ears(hearing)?

Response: Mexico possesses(relies on) a labour system or of the work dictated by the Political Constitution of the Mexican United States, which in article 123 establishes by means of the paragraphs A and B the relations of work between(among) the private workers and which they find to the service of the State.

This way of the previous thing, the competition decides for each of them in case of some controversy.

TYPES OF LABOUR RELATIONS	LAW THAT REGULATES THEM	COMPETITION IN CASE OF CONFLICT
WORKERS "A"	FEDERAL LAW OF THE WORK	LOCAL AND FEDERAL MEETINGS OF

BETWEEN(AMONG) THE WORKERS, LABORERS, DOMESTIC PERSONNEL, CRAFTSMEN AND IN A GENERAL WAY, ANY CONTRACT OF WORK		CONCILIATION AND ARBITRATION
WORKERS "B" BETWEEN(AMONG) THE POWER OF THE UNION, THE GOVERNMENT OF THE FEDERAL DISTRICT AND HIS(HER,YOUR) WORKERS	FEDERAL LAW OF THE WORKERS TO THE SERVICE OF THE CONDITION(STATE), REGULATION OF THE PARAGRAPH "B" OF THE CONSTITUTIONAL ARTICLE 123	FEDERAL COURT OF CONCILIATION AND ARBITRATION

Nevertheless, that appear constant initiatives of Law for the improvement of the labour relations and his(her,your) attention before the competent organs to dissolve the controversies. In that the meetings to try to be eliminated and to name individual judges of the labour thing.

1. There is there any procedure of preprueba (prejudice)?

If, nothing any more that in Mexico one names them paraprocesales and they have the following characteristics:

Response: In conformity with The Article 982 of the Federal Law of the Work they will be proceeded, all those matters that, for mandate of the Law, for his(her,your) nature or at call of

interested part, need the intervention of the Meeting, without some conflict is promoted jurisdiccionalmente between(among) certain parts.

a. Are they they obligatorily?

Response: since there were marked in the previous response only those that the Law determines, since others are by request of part(report).

b. In which(whom) the way is the complicated court?

Response: The worker, union or interested boss will be able to meet(competes) to the competent Meeting, requesting orally or in writing the intervention of the same one and indicating expressly the person whose declaration is needed, the thing that is claimed shows itself, or the diligence that is asked removes to end.

c. Can all the time they continue?

Response: The Meeting will agree in following twenty-four o'clock on the requested and, in his(her,your) case, will indicate day and hour to take to end the diligence and will arrange, in his(her,your) case, the citation of the persons whose declaration is claimed.

d. The one who has to take the legal cost?

Response: it(he,she) does not specify the Law.

e. That the effect does have they during the time of prescription?

Response:

The prescription is interrupted:

I. For the alone presentation of the demand(lawsuit) or of anyone promotion before the Meeting conciliation or before that of

Conciliation and Arbitration, independently of the date of the notification. It is not an obstacle for the interruption that the Meeting is incompetent; and

The II.nd If the person to whose(which) favor runs the prescription recognizes the right of that one against whom it(he,she) expires, of word, in writing or for undoubted facts.

For the effects of the prescription, the months they will be regulated by the number of days that it(he,she) corresponds(fits) to them. The first day will be counted(told) I complete, still(yet) when it(he,she) it is not, but the last one must be complete and when it is traded, it will not be had for it(he,she) completes the prescription but fulfilled the useful following first one.

2. Are they ideas there specific of giving the help to the plaintiff to raise his(her,your) claim more with efficiency? 685.-alone article in the federal law of the work

Response: in conformity with the article, 685 of the Federal Law of the Work the process of the labour law will be public, free, immediate, predominantly oral and it(he,she) will begin to instance(authority) of part(report). The Meetings will have the obligation to take the necessary measurements to achieve the major economy, concentration and simplicity of the process.

When the demand(lawsuit) of the worker is incomplete, as for that he(she) does not understand(include) all the presentations that in agreement with this Law derive from the tried(meant) or proceeding action, in conformity with the facts exposed by the worker, the Meeting, in the moment to admit the demand(lawsuit), this one will correct. The previous thing without prejudice of which when the demand(lawsuit) is obscure or one proceeds layabout in the terms(ends) foreseen in the article 873 of this Law.

3. That interest has to be paid for remunerations, which are not paid in the date of maturity?

Response: in conformity with the article 50, of the Federal Law of the Work the indemnifications will consist:

I. If the relation of work will be in certain time-year-old minor, in an equal quantity to the amount of the wages of the half of the time of given services; if it(he,she) was exceeding of one year, in an equal quantity to the amount of the wages of six months for the first year and of twenty days for each of the following years in which it(he,she) had given his(her,your) services;

The II.nd If the relation of work will be in indeterminate time, the indemnification will consist in twenty days of salary for each of the years of given services; and

The III.rd Besides the indemnifications to which the previous fractions refer, in the amount of three months of salary and in that of the wages conquered from the date of the dismissal until the indemnifications are paid.

Besides the previous article, there exists a jurisprudential thesis in which the following thing is marked:

Ninth Epoch Instance(Authority): THE FIRST COLLEGIATE COURT AS FOR WORK OF THE THIRD CIRCUIT.

Source(Fountain): Judicial Weekly of the Federation and his(her,your) Gazette Tomo: the XIIth, August, 2000 DEFEATED(LOSING) WAGES. I KNOW THEY GENERATE UNTIL THERE IS SATISFIED THE PRINCIPAL DEDUCED ACTION. The defeated(losing) wages are intimately linked by the origin of the principal action exercised and originated in the dismissal, for what if this one is had for proved(tried), as well as his(her,your) unjustification, the action relative to fallen wages also turns out to be proceeding, provided that the right to the payment of constitutional indemnification and that of the defeated(losing) wages they constitute the same juridical obligation. En such conditions, the right to the payment of the fallen wages understands from the date of the separation of the

worker up to that one in which the boss covers the relative indemnification and the fallen wages that have been generated, which are not interrupted by the simple offer of payment or by the coverage of the constitutional indemnification; this is, the right of the worker to obtain the defeated(losing) wages, ends up to the moment in which the boss covers the totality of those who have been caused. THE FIRST COLLEGIATE COURT AS FOR WORK OF THE THIRD CIRCUIT.

4. They are regulations there procedural for the mediation.

Response: in Mexico mediations do not realize, since the figure that takes charge solving the conflict as for the work is the conciliation, same that is realized inside the procedure.

a. Is it the obligatory mediation?

Response: Not, since as it(he,she) explains in the response that it(he,she) precedes, mediations are not realized in Mexico, since it is the conciliation the way of solution of controversies, since it is dictated by the article 876 of the Federal Law of the Work, nevertheless, it is necessary to clarify that it(he,she) is in this procedural stage when one exhorts them to gain and of to coming to an agreement one concludes the conflict, but if they will not manage to gain, one was taking them for nonconformist, going on to the stage of demand(lawsuit) and exceptions.

b. How are mediators selected?

Are they judges different judges'(judge) of test(proof) (judgment(reason))?

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Response: basing the fact that in Mexico the mediation but the conciliation does not exist, the President of the already local or federal Meeting is the one who directs the procedure, with help of his(her,your) Secretary, who certifies the performances, you will help and the actuaries, in conformity with the article 625 of the Federal Law of the Work.

The Presidents of the Special Meetings will be named every six years by the Secretary of the Work and Social Forecast, by the Governor of the State or by the Chief of the Department of the Federal District, in conformity with the Article 633 of the Federal Law of the Work.

In which (whom) I walk is court implied? Response: the Meetings only will select to the personnel that they are designated by the authorities that the Law marks.

c. Is it confidential it?

Response: the hearings will be public. The Meeting will be able to order, of trade (office) or to instance (authority) of part (report), that they should be to closed door, when it is demanded by the best office of the business, the morality or the good customs, Article 720, the Federal Law of the Work.

d. How much time can the mediation continue? Since it is it finished?

Response: since it has been said the mediation does not exist, but for what it (he, she) concerns the conciliation the law marks the following thing.

The Plenary session or the Special Meeting, in following twenty-four o'clock counted (told) from the moment in which it (he, she) receives the writing demand (lawsuit), will dictate agreement, in which it (he, she) will indicate day and hour for the celebration of the hearing conciliation, demand (lawsuit) and exceptions and offer and admission of tests (proofs), which will have to be effected (to be carried out) in fifteen following days to in that the writing demand (lawsuit) has been received. In the same agreement it (he, she) will be ordained be notified personally to the parts, with ten days of anticipation to the hearing when less, delivering copy arranged of the demand (lawsuit) to the defendant, and ordering (arranging) the defendant is notified to the parts by the provision of having it for nonconformist with all arrangement,

for answered the demand(lawsuit) in affirmative sense, and for lost the right to offer tests(proofs), if he(he) does not meet(competete) to the hearing.

When the actor is the worker or his(her,your) beneficiaries, the Meeting, in case it(he,she) will notice some irregularity in the writing demand(lawsuit), or that was exercising contradictory actions, on having admitted the demand(lawsuit) was indicating to him(her) the faults or omissions which it(he,she) should have incurred and he(he) will anticipate(prepare) it in order that it(he,she) corrects them inside a term(end) of three days, in conformity with the Article 873 of the Federal Law of the Work.

e. The one who has to take the legal cost?

Response: the law does not establish anything.

f. That the effect does the mediation has it(he,she) during the time of prescription?

Response: the law does not establish anything.

f. What they give to the education (to the training) in the law and the procedure to mediators?

Response: the Law does not establish anything.

The IInd - Group (class) action.

1. That type of collective actions have did You put?

Response: the Federal Law of the Work establishes the following thing:

The unions represent his(her,your) members in the defense of the individual rights that correspond(fit) to them, without prejudice of the right of the workers about acting or intervening directly, stopping then, by request of the worker, the intervention of the union.

The collective conflicts of economic nature, are those which exposition(approach) takes as an object the modification or implantation(introduction) of new conditions of work, or, the suspension or completion of the collective relations of work, except that the present Law indicates another procedure.

Response: the Workers' Federal Law to the Service of the State.
It(He,She) does not specify Clearly what is asked.

2. The one who is the Parties(Games) (the Parts) of these procedures

<p>Response: the Federal Law of the Work establishes the following thing:</p>	<p>Response: the Workers' Federal Law to the Service of the State.</p>
<p>The collective conflicts of economic nature will be able to be raised by the unions of titular workers of the collective contracts of work, by the majority of the workers of a company or establishment, providing that one affects the professional interest, or for the boss or employers, by means of there demands in writing,</p>	<p>The Federal Court of Conciliation and Arbitration will be competent for:</p> <p>I. - To know about the individual conflicts that are provoked between(among) holders of a dependence or entity and his(her,your) workers.</p>

<p>which(who) will have to contain:</p> <p>I. Name and domicile of the one that he(she) promotes and the documents that justify his(her,your) personality;</p> <p>The II.nd Exhibition of the facts and reasons that gave origin to the conflict; and</p> <p>The III.rd The pretensions of the promovente, expressing clearly what is asked.</p>	<p>II. - To know about the collective conflicts that arise between(among) the State and the workers' organizations to his(her,your) service;</p>
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3. Which courts are competent?

<p>Response: the Federal Law of the Work establishes the following thing:</p>	<p>Response: the Workers' Federal Law to the Service of the State.</p>
<p>The Meeting of Conciliation and Arbitration.</p>	<p>The Federal Court of Conciliation and Arbitration will be competent for:</p>

4. Which effects have his(her,your) decision?

<p>Response: the Federal Law of the Work establishes the following thing:</p>	<p>Response: the Workers' Federal Law to the Service of the State</p>
<p>In conformity with the article 919 of the Federal Law of the Work, the Meeting, in order to obtain the balance and the social justice in the relations between(among) the workers</p>	<p>The resolutions dictated by the Federal Court of Conciliation and Arbitration will be inappealable and will have to be expired, certainly, for the corresponding authorities</p>

and bosses, in his(her,your) resolution will be able to increase or to diminish the personnel, the day, the week of work, the wages and, in general, to modify the conditions of work of the company or establishment, without in no case it(he,she) could reduce the minimal rights recorded in the laws.	
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5. To whom it is this binding of decision?

The Law does not mark it.

6. Is it(he,she) possible for a works committee or the union to demand or the demand(lawsuit) of the inquiry of rights or legal relations, if some personnel are implied? Do they have to specify these personnel?

Response: the Federal Law of the Work establishes the following thing:	Response: the Workers' Federal Law to the Service of the State.
In Mexico the law marks that they cannot join the unions of other workers, the confidence workers. The bylaws of the unions will be able to determine the condition and the rights of his(her,your) members, who are promoted to a confidence position(place). For what only they would intervene if they had been promoted to these charges in immediate form	

7. The one who has to run with the expenses?

Response: the Federal Law of the Work establishes the following thing:	Response: the Workers' Federal Law to the Service of the State.
Since already the procedures have been mentioned they are free, but every part(report) pays his(her,your) expenses.	The Federal Court of Conciliation and Arbitration will not be able to condemn to the payment of coasts.