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Insights: Perspectives

5 Key Takeaways | Navigating Cross-Border Legal Issues in Brazil and Mexico: Labor & Employment

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5 KEY TAKEAWAYS

Navigating Cross-Border Legal Issues in Brazil and Mexico: Labor & Employment

Kilpatrick Townsend recently partnered with the ACC Georgia Chapter to offer again this year the Annual International Seminar: Navigating Cross-Border Legal Issues in Brazil and Mexico. Speakers covered issues organizations face when conducting business in Brazil and Mexico, including *Privacy and Data Transfers, Anti-Corruption, Ethics, and Compliance, Intellectual Property, and Labor and Employment*. Panels featured Kilpatrick Townsend's attorneys, in-house counsel, and local counsel to provide first-hand perspectives and practical information. Kilpatrick Townsend counsel Katie Barton, UPS's Jenny Ortiz-Schaffer, Basham partner Jorge G. De Presno A., and CGM partner Patricia Medeiros Barboza participated on the panel addressing *Labor & Employment* issues.

They offer 5 key takeaways from the discussion:

1

Currently, employers in Mexico cannot mandate that employees are vaccinated against COVID-19 and an employee cannot be terminated for refusing to get vaccinated. In Brazil, an employer can mandate the COVID-19 vaccine for its workforce.

2

Mexico is not an employment-at-will country. Rather, employment in Mexico is a matter of law and employees cannot be discharged without liability unless the discharge is for cause. The reasons that amount to cause are limited. In Brazil, an employee can be discharged without cause, but the employer will owe severance to the employee.

3

In Brazil, all employees are represented by a union. There are over 16,000 unions in Brazil. Some unions are more active and vocal than others, but ultimately the terms and conditions of all employees are governed by a collective bargaining agreement in addition to general employment laws.

4

In Mexico, the use of outsourcing has recently been restricted such that it is effectively prohibited. Mexico employers cannot outsource core business activities, and companies looking to begin doing business in Mexico will need to set up a local entity. In Brazil, there are no statutory limitations on outsourcing or using a professional employer organization.

5

If you are in-house counsel with responsibility for Mexico and Brazil operations, prepare business partners up front for the costs and challenges of doing business in Mexico and Brazil. Most decisions impacting employees in Mexico and Brazil must be carefully thought out and planned.

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