

Constitutionality of the limit on back wages introduced in the 2012 reform of the Federal Labor Law.

This past January 20th, the Supreme Court of Justice of the Nation issued a ruling with respect to the constitutionality of article 48 of the Federal Labor Law in relation to the limit on back wages to a 12-month period from the date of dismissal of a worker, as established in the 2012 reforms to the Law.

Prior to the reform, in labor lawsuits there was no limit on the generation of back wages; it continued to accrue until the date on which the judgment was issued in the case. As a result of the 2012 reform, back wages were limited to a period of 12 months from the date of the wrongful dismissal of a worker, and if the lawsuit continues beyond that time period, interest will begin accruing on the amount of 15 months of wages or salary, at the rate of 2% a month, capitalized at the time of the payment.

Following contradictory court ruling, the Second Chamber of the Supreme Court of Justice of the Nation ruled that article 48 does not violate the principle of progressive development established in article 1 of the Constitution, since the human rights of workers are not ignored, given that the action for wrongful dismissal continues to be protected by the labor law, through reinstatement or an indemnity of 3 months wages, at the election of the worker, as well as through the payment of back wages, but now limited to a maximum period of 12 months and the payment of interest as specified.

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Sincerely,

Von Wobeser & Sierra, S.C.

Mexico City, February 2nd, 2016.