The debate regarding the urgency of modernizing Brazilian labour laws has been going for quite a while, probably dating back to early 80s, when the last four decades, hundreds of professions have disappeared, thousands have been created and our legislation has remained almost untouched. As some of you may recall, not long ago, I posted an article outlining that lack of flexibility is probably one of the most difficult obstacles to resolve any dispute. In summary, the absence of flexibility when the letter of the law is applied, both to the ability to reach agreements and culminating in the Courts, the only place where disputes between the parties can be handled, is almost unbelievable that, at this day and age, where new working relations, emerging technologies like artificial intelligence, robotics, and digital biology are also emerging every day, there are still some legal mechanisms that limit the parties' capacity to negotiate and settle their own disputes. Unfortunately, this limitation lasted in Brazilian Labour Law until the end of last year.

Helped by an also outdated Constitution, the labour laws in Brazil (CLT - Consolidação das Leis Trabalhistas) prescribe a series of norms that, in general, opposes the worldwide trend towards solving disputes through direct parties' negotiation or even through mediation, as they are rigid, confusing, unclear and complex. They attempt to cover every detail of the labour relationships, but ultimately are lost in contradictions and doubts. The result of this outdated and illogical legal system is a clogged Court system. At any given moment, the Brazilian labour courts are home to approximately 2.5 million disputes. Roughly speaking, this means that, on average, 1% of the Brazilian population, at any given time, is seeking remedy in the labour courts every year. The implication of this chaotic system goes beyond the legal sphere and has also become an economic problem. In 2016 alone, companies paid close to 3 billion Reais to Justice related to pending labour disputes. Among the branches of Justice, the Labour Court consumes 28.3% of the budget of the Judiciary System.

As many advocates, including myself, in an article that I posted last year, the Labour Court system could be served through direct negotiation or resolution of the issues involved. The good news is that apparently, such changes are now on the way to reality. The Labour Reform Bill, which was finally approved by the National Congress, amending the Labor Law Consolidation (CLT) rules. The new rules, which come into effect on November 30th, provide points that can now be negotiated between employers and employees and, in the event of a collective bargaining agreement, will take the form of law.

One important point is that these changes in the Labour Reform have also modified the relationship between employer and employee, stimulating self-composition, including the possibility of using Mediation as a means to solve labour law disputes.

In this sense, in addition to the clear benefits to all directly involved in legal procedures, mediation can also be a partial economic solution to lower the cost of doing business in Brazil. However, it is still too early to tell whether these and any strengthening of mediation with the law otherwise will, at least now, after a long wait, we can see the light at the end of the tunnel.