

A Pivotal Year for Labor Employment Law: Trends in Brazil's Superior Labor Appeals Court and Supreme Federal Court

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2025 proved to be a pivotal year for Brazilian labor and employment law, marked by intense debate and significant developments in the country's highest courts. The Superior Labor Appeals Court (TST – *Tribunal Superior do Trabalho*) was especially active. It has emerged as a true engine of judicial precedents, with over 189 binding rulings (known as *Temas* or “Themes”) issued this year and another 93 still pending. While harmonizing the labor courts' interpretation of the law has always been central to the TST's mission, the recent surge in binding decisions reflects new rules for handling repetitive claims.

Under these new procedures, if a Regional Labor Appeals Court (TRT – *Tribunal Regional do Trabalho*) denies leave to appeal to the TST on a question that has already been settled by TST under a Theme, the TRT's decision will be subject to review by the TRT itself – not an interlocutory appeal to be sent to the TST for decision. The change is expected to sharply reduce the number of cases reaching the TST, making litigants' access to the court even more selective.

Among the most significant Themes decided in 2025 are: Theme 73, which places the burden on employers to prove it is impossible for them to maintain records of time worked off-site by employees; Theme 307, which clarifies that witnesses holding “positions of trust” with the employer are not automatically considered suspect; and Theme 310, which establishes that in cases where the parties reach a court-approved settlement in which they do not admit the existence of an employment relationship, the full social security contribution rate of 31% (20% for the contracting party and 11% for the service provider) applies to the amount paid under the settlement, even when the parties declare the amount to be an indemnity rather than compensation from employment.

Looking ahead to 2026, the expectation is that the TST will take on controversial questions of law under dozens of pending Themes, continuing to shape Brazilian labor and employment law.

The nation's highest court, the Supreme Federal Court (STF – *Supremo Tribunal Federal*), also saw important labor and employment decisions in 2025, along with several high-impact cases likely to be judged next year. In 2025, Theme 1232 stands out: the STF ruled that claimants who include companies other than the employer as defendants when enforcing labor and employment judgments must first bring an incidental proceeding, known as a “Proceeding to Disregard Legal Personality” (*Incidente de Desconsideração da Personalidade Jurídica* – IDPJ), and produce evidence of the existence of

an economic group or abuse of legal personality. The STF's ruling upholds constitutional principles of due process, preventing companies from being indiscriminately drawn into enforcement proceedings.

Another widely debated issue in 2025 was Theme 1389, which addresses “Pejotização” – the practice of hiring legal entities (known as *peças jurídicas*, hence the term *pejotização*) or independent contractors instead of employees – and the jurisdiction of the Labor Courts over such arrangements. In April, the STF held that the Theme has “general repercussion” and ordered a nationwide stay of all cases dealing with the issue. According to data published by the Brazilian Institute of Geography and Statistics – IBGE, the issue affects around seven million people in Brazil. Its importance is reflected in the fact that over the course of 2025, the STF held public hearings to gather input from society. The STF's judgment, expected in 2026, is expected to have a major impact on labor and employment law in Brazil.

Several other labor and employment matters before the STF may come up for decision next year. Among the most socially significant are the employment status of app-based drivers and delivery workers, the requirements for free access to the courts (recently decided by the TST in favor of workers), and the need for union approval in mass layoffs.

In summary, 2025 marked a decisive step forward in the consolidation of Brazilian labor and employment case law, with the TST reinforcing its role as a court of precedents and the STF tackling issues with far-reaching social impact. As 2026 approaches, the expectation is that critical labor and employment questions will remain at the top of the courts' agendas, demanding close attention by businesses in Brazil.

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