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Key employment issues across Europe and beyond

June 2017









On your radar

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Austria	Development	Description	Effective date	Impact and risk	Future actions
	 <p>Act against Wage and Social Dumping (<i>Lohn- und Sozialdumping-Bekämpfungsgesetz, LSD-BG</i>)</p>	 <p>This legislation implements controls and fines for non-compliance with minimum wages in collective agreements, both for employees working in Austria and for employees posted to Austria.</p> <p>There is now an obligation to notify authorities before posting employees/sending cross border temporary agency employees to Austria.</p> <p>A further obligation exists to keep documents regarding wages and social security on site (for detailed information see www.postingofworkers.at).</p>	 <p>1 January 2017.</p>	 <p>For posted employees/cross border temporary agency employees:</p> <ul style="list-style-type: none"> - notification duties regarding each employee and each posting; - documentation duties on wages and social security, mostly in German; <p>For all employees:</p> <ul style="list-style-type: none"> - payment of minimum remuneration according to law, regulation or applicable collective bargaining agreement. <p>Authorities can impose extremely high fines in cases of infringement.</p>	 <p>Particular allowances should be noted for the transportation sector, operating on a cross-border basis:</p> <ul style="list-style-type: none"> - simplified notification duties (one notification for six months, not for each posting); - simplified documentation duties (using electronic documentation). <p>Effective date for these aspects: 1 June 2017.</p>







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Belgium	Development	Description	Effective date	Impact and risk	Future actions
	 <p>A new Act on Feasible and Flexible Work (FFW) wants to allow customised work, and create a modern work environment which is adapted to new technologies.</p> <p>This law contains 15 measures, mainly focusing on working time arrangements, but also includes other measures aiming to improve work-life balance.</p>	 <p>FFW introduces new rules on occasional telecommuting (working remotely), for employees who are unable to work in company premises due to force majeure (e.g. car breakdown) or personal reasons (e.g. doctor's appointment).</p> <p>If the employer accepts (it is not obliged to), it may agree to providing the necessary equipment, the possible accessibility of the employee and the reimbursement of costs related to occasional telecommuting.</p> <p>If the employer refuses the request for occasional telecommuting, it must inform the employee of the reasons in writing.</p>	 <p>1 February 2017.</p>	 <p>The impact depends on the traditions and culture at company level, and the extent to which an employee's functions or activities allow occasional telecommuting/remote working.</p>	 <p>We recommend that companies who intend to allow occasional telecommuting, draft or update standard documents and policies.</p> <p>If desired, they can opt also to implement the legal framework for occasional telecommuting in a CBA or in their work regulations.</p>







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Czech Republic	Development	Description	Effective date	Impact and risk	Future actions
	 <p>Amendments to the Act on Employment, the Act on Labour Inspection and the Employment Code in order to implement the EU Posted Workers Directive.</p>	 <p>There are two key features of the new legislation:</p> <ol style="list-style-type: none"> 1. Preventing the misuse of posting of workers. Many companies are misusing posting of workers in order to avoid strict legislation protecting the employees, as most of the provisions of Czech Labour Code do not apply to posted workers. The Czech Labour Inspection will have broader powers to control misuse of posting of workers. 2. Liability for unpaid wages and compulsory health and social insurance. The employer who has posted the workers pays the employees' wages and their health and social insurance. The amended legislation imposes liability on the receiving employer for unpaid wages and compulsory insurance. 	 <p>Entered into force on 1 April 2017.</p>	 <p>The liability for unpaid wages and health and social insurance of the company receiving posted workers is very important.</p> <p>The receiving employer may avoid liability if it is proven that he was: not aware of the failure to pay wages and the health and social insurance of the employer that posted the workers; and that under reasonable circumstances he could not be expected to be aware of that.</p>	 <p>When receiving posted workers we recommend stipulating in the agreement that there should be obligations on the posting employer to indemnify/compensate the user employer for all costs that the user employer will incur when fulfilling the respective obligations.</p>







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China	Development	Description	Effective date	Impact and risk	Future actions
	 <p>A new work permit application system for foreigners has been adopted.</p> <p>The new work permit application system for foreigners classifies all foreigners applying for work permits in China into three categories, i.e. Category A, Category B and Category C depending on education, background and working experience, as well as the needs of the Chinese labour market.</p>	 <p>A foreigner belonging to Category A can obtain a work permit easily without limitation on his/her age, education, background and working experience.</p> <p>A foreigner belonging to Category B normally should be less than 55 years old (for females) and 60 years old (for males), hold at least a bachelor's degree and have at least two years' experience. Whether he/she can obtain a work permit is subject to the needs of the Chinese labour market.</p> <p>A foreigner belonging to Category C can only obtain a work permit if he/she is needed by the Chinese labour market and subject to the quota provided by the Chinese government.</p>	 <p>This system was first introduced in ten provinces such as Beijing and Shanghai from 1 October 2016. It has been implemented nationwide since 1 April 2017.</p>	 <p>Under the new system, all foreigners working in China, including the foreign experts who used to obtain a Foreign Expert Certificate, will require a new uniform Foreigner's Work Permit Card.</p> <p>According to the Chinese government, the old Work Permit and the old Foreign Expert Certificate will still be valid until expiration. However, foreigners who apply for a work permit for the first time or renew their work permit should now follow the new regulations. Some foreigners who could obtain a work permit in the past may not be able to do so under the new application system.</p>	 <p>Companies may wish to review the foreigners who are going to be assigned to work in China or the existing foreign employees to make sure that their work permits can be obtained or renewed under the new application system.</p> <p>If not, the companies may wish to make proper adjustment or preparation according to the requirements of the new application system to avoid the situation where any foreign worker fails to obtain or renew a work permit as expected.</p>







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Croatia	Development	Description	Effective date	Impact and risk	Future actions
	 <p>New attempt to stimulate employment and decrease high unemployment rates in the country.</p>	 <p>A new Act on employment mediation and unemployment benefits and an amendment to the Act on the stimulation of employment, which aims to increase employability.</p> <p>This includes new measures for young people on professional training (e.g. the possibility to engage a young person who does not have a college degree and a reduction in the age of individuals who are eligible). Certain changes have also been made in relation to seasonal workers. In addition the basis for determining remuneration during professional training has been changed.</p>	 <p>Entered into force on 2 March 2017.</p>	 <p>Under the new law wages paid by the State during professional training has increased and the measure is spread to additional users (i.e. ones without a college degree). The latter change caused dissatisfaction among the public, especially unions, as they believe it will be misused, in that employers (especially in retail sector) will terminate their current employees and hire employees for a limited time, without paying them properly (or at all, considering that the State in certain cases covers for all the employee related costs). It remains to be seen whether these concerns prove to be correct.</p>	 <p>Employers now have more options to engage employees (especially young ones with no relevant experience), without having the usual costs (as lots of benefits and monetary privileges will be met by the State).</p> <p>We recommend that employers review whether job applicants fulfil the new conditions to qualify for the State support; also, those employers who currently use external training providers (under the “old” law), should contact the competent authority in order to identify whether they are eligible to fall within the (more favourable) scope of the new law.</p>







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France	Development	Description	Effective date	Impact and risk	Future actions
	 <p>Large companies must take measures to prevent and detect corrupt practices or exert undue influence in France and abroad (Act n° 2016-1691, dated 9 December 2016, known as "Sapin II Act").</p> <p>The obligation to implement an anti-corruption program applies to :</p> <ul style="list-style-type: none"> - French companies or companies belonging to a group of companies whose parent company is headquartered in France; - which employ at least 500 employees; - and have an annual total revenue of at least €100 million. 	 <p>The anti-corruption program is composed of:</p> <ul style="list-style-type: none"> - a code of conduct with disciplinary sanctions for failure to comply - an internal whistleblowing system; - a risk mapping system to identify the risks of exposure for the company; - assessment procedures for the company's clients, major suppliers and intermediaries; - internal or external accounting control systems; - training for certain managers and staff - an internal system to control the implementation of the above measures. 	 <p>1 June 2017.</p> <p>The Sapin II Act has also created an obligation to implement an internal whistleblowing system in all companies employing at least 50 employees. This new procedure must be implemented by 1 January 2018.</p>	 <p>The code of conduct's incorporation in the company's internal rules should specify that the company will:</p> <ul style="list-style-type: none"> - consult the works' council; - inform employees of these new internal rules; - forward these rules to the labour inspection along with the opinion of the employees' representatives. <p>The new French Anti-corruption Agency can impose administrative sanctions upon the company or its representatives including an injunction and a fine up to €200,000 for natural persons, and €1,000,000 for legal persons.</p>	 <p>The report of the whistleblower will be brought to the attention of management or a contact person designated by the employer.</p> <p>This new procedure will also specify the time frame for assessing the report and how the author will be informed whether action is taken or not.</p> <p>The whistleblowing system aims to ensure the strict confidentiality of the procedure and the anonymity of the whistleblower. It prohibits the whistleblower from being sanctioned, discriminated against, or treated unfairly.</p> <p>This procedure will have to be published on the company's website.</p>

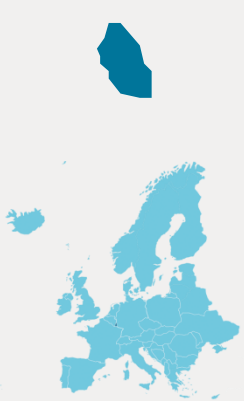





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Germany	Development	Description	Effective date	Impact and risk	Future actions
	 <p>Amendment of the Maternity Protection Act (<i>Mutterschutzgesetz</i>)</p> <p>The amendment of this Act extends the personal scope and covers, students, trainees and those individuals who are similar to employees such as Managing Directors.</p>	 <p>Within the assessment of the working conditions under s.5 of the Occupational Health and Safety Act (<i>Arbeitsschutzgesetz</i>), the employer has to determine the risks and necessary measures for pregnant and nursing workers for each workplace, irrespective of whether a female or a male employee is currently active at this workplace.</p> <p>The dismissal protection will be extended to preparatory measures and with the approval of the pregnant employee, the prohibition of overtime and Sunday work can be relaxed. Night work needs the permission of the responsible authority.</p>	 <p>Expected in 2018.</p> <p>The Act should enter into force on 1 January 2018.</p> <p>The extended protection periods and the extension of the dismissal protection in case of a stillbirth or miscarriage shall apply when the Act comes into force.</p> <p>The new fine system shall enter into force on 1 January 2019.</p>	 <p>Although the amendment will allow more flexibility in relation to working time, this imposes additional bureaucratic burdens. Together with the employee's approval, this also presumes a medical certificate and the approval of the responsible regulatory authority.</p> <p>The new Act places enormous demands on documentation and information requirements. The general risk assessment needs to be conducted and documented, otherwise, the employer may face fines of up to 30.000 €. However a risk assessment is not new.</p>	 <p>Internal risk assessment processes will require a comprehensive overhaul to include the risks to pregnant and nursing employees. The employees should be informed about the new documentation and information requirements.</p> <p>Regarding upcoming dismissals, preparatory measures (e.g. Works Council Hearing) must be carried out after expiry of the protected periods.</p> <p>Regarding the extended dismissal protection, it remains to be seen whether a clarification of the term "preparatory measures" will be necessary. But in any case, the alteration affects an extension of the notice periods.</p>







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Luxembourg	Development	Description	Effective date	Impact and risk	Future actions
	 <p>Reform of the organisation of working time</p> <p>This reform retains the main principles applicable to working time but with a number of modifications, including the reference period over which working time can be averaged.</p>	 <p>The maximum reference period is now 4 months;</p> <p>If the reference period is more than a month and there is no collective labour agreement an additional leave is granted to the employees:</p> <ul style="list-style-type: none"> - between 1 and 2 months: employees have 1 and a half additional days per year; - between 2 and 3 months: employees have 3 additional days per year; - between 3 and 4 months: employees have 3 and a half additional days per year. - the work organisation plan is now valid for a month and the period of notice is now 3 days. 	 <p>1 January 2017.</p>	 <p>Impact on HR management regarding duration of work, procedure of notification and rights of employees in terms of leave.</p>	 <p>Be aware of the procedures for consultation and provision of information in your company, which will apply here.</p>

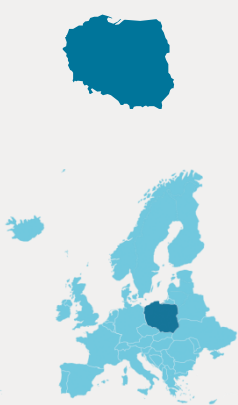





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Netherlands	Development	Description	Effective date	Impact and risk	Future actions
	 <p>The Working Conditions Act (<i>Arbowet</i>) will be amended, aiming to increase:</p> <ul style="list-style-type: none"> - the independence of the company doctor; - the involvement of the works council / in-house health and safety ('H&S') officer and to improve the prevention of occupational illnesses and work related health problems. <p>The new legislation provides for certain minimum requirements in the so-called <u>base contract</u> which an employer should conclude with the H&S service provider (<i>Arbodienst</i>).</p>	 <p>The most important aspects are:</p> <ul style="list-style-type: none"> - the introduction of the compulsory base contract; - allowing employees to request a second opinion from another company doctor, paid for by the employer; - granting the works council the right to consent re the implementation and amendments to the base contract as well as re the appointment of the in-house H&S officer; - employees – ill or not – may at all times consult the company doctor without prior intervention or permission of the employer. 	 <p>The legislative proposal is expected to enter into force on 1 July 2017.</p> <p>Existing contracts between the employer and the H&S service provider should be amended before 1 July 2018 in accordance with the new law.</p>	 <p>Increase in costs for employers.</p> <p>Expansion of rights of individual employees, involvement of the works council and involvement of the H&S service provider.</p> <p>If the works council fails to consent, the employer must seek approval through a procedure with the sub district court.</p> <p>Non-compliance with the Working Conditions Act such as a failure to have a base contract, may be sanctioned by the Social Affairs and Employment Inspectorate and fined up to € 13,500 for companies with 500 or more employees.</p>	 <p>Employers should:</p> <ul style="list-style-type: none"> - determine which changes are necessary to comply with base contract requirements; - determine necessary changes to sickness policy; - consider the timely involvement of the works council bearing in mind that it should be given sufficient information and time to give consent to the introduction and/or amendment of the base contract. In practice this process may easily take a couple of months; - prepare communication for employees in which the consequences of the new legislation are explained; - determine who will take on the role of H&S officer and provide for training.







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Poland	Development	Description	Effective date	Impact and risk	Future actions
	 <p>There are changes underway regarding temporary employment. Draft legislation introduces amendments to the <i>Act on Temporary Work</i>.</p> <p>The draft legislation has already been passed by the Polish Parliament. Now, in order to come into force, the Act is to be signed by the President.</p>	 <p>The change will ensure that a single user-undertaking (the work agency's client) is not able to hire the same temporary worker for more than 18 months in a 36-month reference period.</p> <p>Currently, a temporary worker cannot work for the same work agency for more than 18 months within a period of 36 consecutive months. Polish temporary work agencies mitigate this time limitation by transferring temporary workers from one work agency to another, after the permitted 18-month period. As a result, a given temporary worker could work for the same user-undertaking for more than statutory 18 months.</p>	 <p>1 June 2017.</p>	 <p>The purpose of the draft legislation is to eliminate practices of circumventing the time limits, so agencies cannot collaborate and exchange temporary workers or create their own subsidiary agencies to direct a temporary worker to the same user-undertaking.</p> <p>A temporary work agency and a user-undertaking who do not respect the time limits may face a fine of PLN 1,000 up to PLN 30,000 (approx. EUR 7,109).</p>	 <p>Clients and agencies will need to review their arrangements for using and supplying temporary labour.</p> <p>Temporary work agencies and user-undertakings will be prohibited from assigning a temporary worker to a single user-undertaking for a period exceeding 18 months.</p> <p>Therefore, a single worker will not be able to work for a single user-undertaking for a period exceeding 18 months.</p>

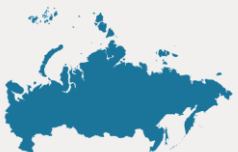






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Portugal	Development	Description	Effective date	Impact and risk	Future actions
	 <p>New measure to encourage jobseekers into employment, including professional training for the unemployed.</p> <p>This measure enables young people and the long-term unemployed, to develop their technical skills in order to improve their professional profile.</p>	 <p>Unemployed people may benefit from professional training (6, 9 or 12 months), promoted by employers when meeting certain conditions. This is partly financed by the Employment Institute and Vocational Training ("EIVT") (up to a maximum of 80% of the cost of training.)</p> <p>Employers who offer and sign up to indefinite employment contracts with the trainees for a minimum period of 12 months (to start within 20 days after the termination of the professional training) will be granted financial support.</p> <p>The employees must not otherwise have worked with the company (or the group company) in the last 24 months.</p>	 <p>In force since 8 April 2017.</p>	 <p>This new measure creates an incentive for employers to grant professional training to those who meet the requirements, since:</p> <ul style="list-style-type: none"> - in certain conditions the "EIVT" can cover up to 80% of the training and 30% may be paid in advance; - employers receive an "employment reward" equal to twice the amount of the trainees' monthly wage, up to a maximum of 5 times the "Social Support Allowance" (presently €421,32), when offering permanent employment contracts with a minimum duration of 12 months. <p>The employer will be liable for the return of the funds granted if they dismiss the employee within the first 12 months.</p>	 <p>Where a business feels it could take advantage of these new rules, it should prepare the relevant contractual paperwork for presentation to the EIVT.</p> <p>The EIVT will announce the date of opening and closing of the application period ("www.netemprego.gov.pt")</p> <p>The trainees may be identified in the application or selected by the EIVT according to the profile described in the application by the employer.</p> <p>The EIVT can undertake audits or inspections to verify the correct fulfilment of the legal requirements.</p> <p>The employer and the trainee are liable for the payment of social security contributions relating to the professional training relationship.</p>







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Russia	Development	Description	Effective date	Impact and risk	Future actions
 	 <p>The Russian courts have modified their approach to the extension of fixed-term employment contracts, or moving an employee onto a fixed term contract. This change simplifies the procedure to employers' benefit.</p>	 <p>In essence, the latest court practice is more flexible in relation to consecutive fixed term contracts. Under the recent court rulings these contracts do not automatically convert to ones for an indefinite period.</p> <p>The courts are now accepting the extension of a fixed-term contract by signature of an addendum to an employee's existing contract, rather than by terminating the previous agreement and issuing a new one.</p> <p>The transfer of an employee to a new position involving fixed-term employment is no longer considered a breach of the employee's rights.</p>	 <p>Ongoing.</p>	 <p>The rulings demonstrate a more simplified approach to the procedure for the extension of a fixed term contract. If this new approach stands the test of time, employers will not be required to dismiss and then re-engage fixed term employees under new contracts so as to extend.</p> <p>Furthermore, employers will have additional flexibility in entering into fixed-term contracts with their employees.</p>	 <p>Employers should keep an eye on the court rulings here, and they may want to reconsider their current procedures regarding entering into and extending fixed-term contracts with their employees.</p>







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Slovakia	Development	Description	Effective date	Impact and risk	Future actions
	 <p>The amendment of the Labour Code to extend the number of public holidays for retail workers. Employers in the retail sector are prohibited from asking their employees to work on these days, and the prohibition extends to voluntary agreements with their employees to work on those days.</p>	 <p>On 1 January, 6 January, Good Friday, Easter Sunday, Easter Monday, 1 May, 8 May, 5 July, 29 August, 1 September, 1 November, 17 November, 24 December after 12 pm, 25 December and 26 December, no employee may be ordered to work nor may any work be agreed with an employee which involves the sale of goods to a consumer or any associated work, except retail sales in petrol stations, pharmacies, airports, ports, other stations of public transport, hospitals, sale of travel tickets, souvenirs, and sale of flowers.</p>	 <p>1 June 2017.</p>	 <p>The affected businesses will be unable to open their shops on the respective days.</p>	 <p>Retail businesses affected by this development should ensure that they plan ahead and comply with the prohibition.</p>







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Spain	Development	Description	Effective date	Impact and risk	Future actions
	 <p>A recent judgement delivered by the Spanish Supreme Court on 23 March 2017 changes the scope of what records are required to be retained to demonstrate compliance with working hours time recording by the National Court and the Employment and Social Security Inspection Service.</p>	 <p>In essence, according to this judgement of the Spanish Supreme Court, companies are not required to keep a daily work schedule register for their entire workforce. Thus, the only requirement is to keep a register of overtime worked by the employees.</p>	 <p>Ongoing.</p>	 <p>This judgement changes completely the previous criteria maintained by the National Court and the Employment and Social Security Inspection Service, which considered that employers were obliged to record on a daily basis the working time of all the employees notwithstanding whether or not they worked overtime.</p>	 <p>Some caution is needed. Although this judgement is a good precedent for employers, it cannot be considered consolidated case law and, consequently, the Employment and Social Security Inspection Service could maintain its previous criteria. Likewise, in order to be able to prove the existence of overtime in case of judicial proceedings from employees claiming compensation in this respect, it is always advisable to keep records of the employees' working time (although this judgement may allow the companies to be more flexible in this regard).</p>







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Turkey	Development	Description	Effective date	Impact and risk	Future actions
	 <p>New incentives for employers who employ persons registered with the Turkish Employment Agency as being “unemployed” for the previous 3 months.</p>	 <p>The State of Emergency Law Decree No:687 amends the Unemployment Insurance Law to the effect that if the employers employ, between 1 February 2017 and 31 December 2017, persons who are registered with Turkish Employment Agency as “unemployed” in the previous 3 months; the employers will be entitled to certain incentives.</p>	 <p>Came into force on 9 February 2017, in relation to employment which began or will begin between 1 February 2017 and 31 December 2017.</p>	 <p>Employers will be entitled to discounts in their social security contribution amounts and tax deductions by employing registered unemployed persons. However, in order to benefit from these incentives, the employer must make its social security payments and comply with its obligations under the social security law. Incentives cease to apply after 31 December 2017.</p>	 <p>Companies may wish to employ unemployed persons registered with the Agency in order to benefit from the incentives.</p>







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UK	Development	Description	Effective date	Impact and risk	Future actions
	 <p>Brexit and the impact for UK employers on employing 3 million EU nationals in the UK now that Article 50 has been triggered.</p> <p>The UK Government has said that securing the rights of EU nationals is a priority in the Brexit discussions. However they have also said that any deal will need to be reciprocal and apply to UK nationals working in the EU.</p>	 <p>UK employers are worried about the impact Brexit will have on</p> <ul style="list-style-type: none"> - the immigration status of existing EU staff; - their future ability to attract EU nationals to work in the UK; and - workforce planning and skills shortages. 	 <p>Ongoing.</p>	 <p>Sectors which are heavily reliant on EU nationals are concerned about skills shortages, with the following particularly affected: higher education, financial services, NHS and other care services, hospitality, construction and agriculture.</p> <p>There are various options that EU nationals living in the UK can explore to secure their immigration status:</p> <p>Fewer than 5 years residence:</p> <ul style="list-style-type: none"> - registration certificate <p>More than 5 years residence:</p> <ul style="list-style-type: none"> - permanent residence <p>More than 6 years residence:</p> <ul style="list-style-type: none"> - nationality/UK passport 	 <p>We recommend that UK employers take steps to understand their workforce exposure to this, including assessing immigration status.</p> <p>They may wish to offer information to staff on the options available to them to secure their residency status, and the impact for their dependents. However this should be restricted to information rather than individual advice.</p> <p>Some employers are offering information clinics from immigration lawyers, town hall meetings to reassure staff and, in some cases, interest free loans to help with the expense of these processes.</p>

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Ukraine	Development	Description	Effective date	Impact and risk	Future actions
	 <p>Recent increase of the minimum monthly wage and significant increase in financial penalties applicable to employers for payroll related breaches. Following the increase in fines, there is also a new regulation regarding labour inspection visits.</p> <p>And finally, new changes regarding the simplification of employment and immigration procedures for foreigners are also underway.</p>	 <p>Starting from 1 January 2017 minimum monthly wages have been increased twice.</p> <p>Increased financial penalties for payroll breaches will apply to employers who fail to properly document their relationship with their employees or to comply with minimum wage and other salary payment requirements.</p> <p>The changes regarding employment and immigration procedures for foreigners simplify the work permit and temporary resident permit procedures.</p>	 <p>1 January 2017 – for minimum wage and increased financial penalties.</p> <p>16 May 2017 – for new labour inspection visits regulation.</p> <p>23 May 2017 – the law on the simplification of the employment and immigration procedures for foreigners was adopted; the law is yet to be signed by the President and will come into force three months after its official publication.</p>	 <p>The new legislative changes regarding minimum monthly wages and increased financial penalties are aimed at increasing the welfare and protection of employees, a living wage and preventing tax evasion and off-the-books employment.</p> <p>The forthcoming change on the employment of foreigners is expected to simplify the investment climate in Ukraine and enable use of foreign skilled managers and employees, who are now in great demand at this stage of ongoing reforms in Ukraine.</p>	 <p>We recommend that companies operating in Ukraine take steps to revise their labour policies and practices to make sure they are compatible with the statutory requirements and prepare its workforce for the possibility of labour law dawn raids and audits.</p>



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