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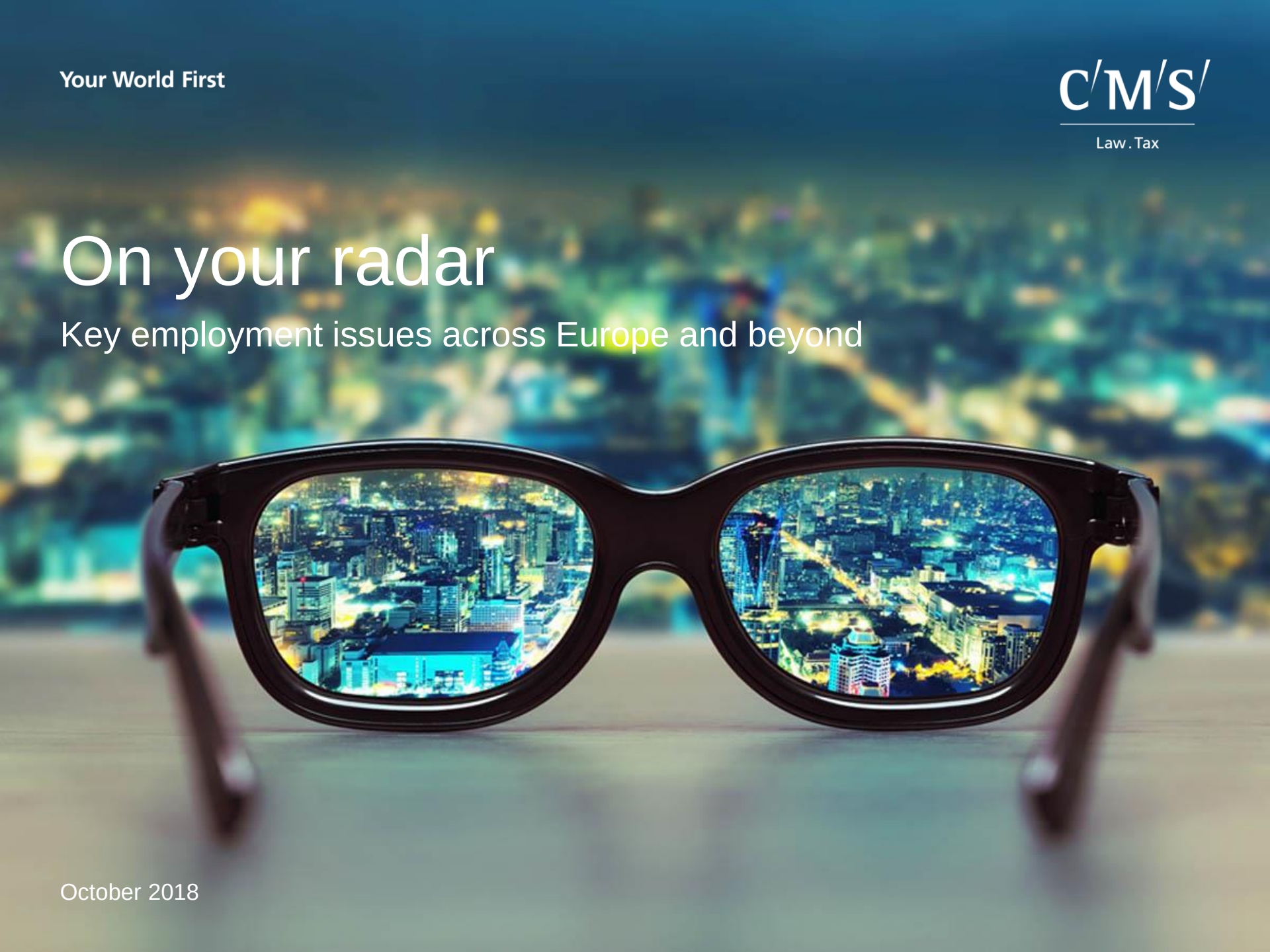
On your radar

Key employment issues across Europe and beyond



October 2018

Welcome to our latest edition of CMS On your radar

If you want to get in touch to find out more about a development in a particular country please do speak to your usual contact within CMS or alternatively email employment@cmslegal.com

The CMS employment team

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Austria

Development

Recent amendments to the Act on Working Time/Rest extend the maximum daily working time from 10 hours to 12 hours and from 50 to 60 hours per week.

Further changes worth noting include:

• New possibilities for work on weekends and public holidays;

• The removal of the annual maximum limit on overtime hours (this was capped at 320 hrs per year); and

• An amendment to the personal scope of the exceptions to the Act on Working Time/Rest.

Description

The recent amendment provides for additional hours of overtime to be worked, but also includes special protection if employees refuse to work these extra hours of overtime.

For the “new” overtime hours exceeding a daily working time of 10 hours or a weekly working time of 50 hours ("special overtime"), the following applies:

Voluntary nature: Employees are not required to perform special overtime and may refuse it without providing any reasons. If Employees refuse to work special overtime, they may not be discriminated against or given notice due to their refusal.

Choice regarding compensation: Employees may choose freely if they should be paid for any special overtime performed or if they would rather take time off in lieu instead.

Effective date

Effective as of 1st September 2018

Impact and risk

The new rules significantly extend the statutory limits on working time. Previously, an extension would have only been possible with the consent of the social partners (e.g. in a CBA, or a works council agreement). Now, the involvement of social partners is not a prerequisite for a 12hrs working day/60 hrs working week.

As the caps on overtime have been abolished, the only limit on overtime remaining is the limit provided for under the EU Working Time Directive, the average working time for each seven-day period, including overtime, does not exceed 48 hours (within a reference period of 17 weeks).

However, any working time limits as regulated in existing CBAs/ works council agreements continue to apply.

Future actions

Need for action:

• Assessment of the impact of the recent amendments on the sector/company (e.g. review of CBAs/works council agreements)

Further action may involve:

• Conclusion of new flexitime (works council) agreements, or amendment of existing agreements

• Amendment of working time (works council) agreements regarding maximum working hours.

• Amendment of employment contract templates regarding exceptions from working time laws

• Check of existing all-in clauses

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Belgium

Development

A new law aims to create a homogeneous legal framework for the protection of business secrets.

Business secrets including the know-how, trade or business secrets or certain other information of a company, have a commercial value.

It is not always possible or desirable to protect trade secrets via intellectual property rights, meaning there is a lack of adequate safeguards for this economic interest.

Description

The procedures established by the Act of 30 July 2018, on the protection of business secrets, are in addition to the ability of the employer to apply to the labour court in the event that an employee violates a business secret.

The Act lists a number of cases in which a request to apply the measures, procedures and remedies relating to the unlawful obtaining, use or disclosure of trade secrets may be rejected. One of these reasons is, under certain conditions, the disclosure of business secrets by employees.

Effective date

24 August 2018

Impact and risk

For business secrets, the employer is, in principle, sufficiently protected by the confidentiality obligation that the Act on Employment Contracts imposes on the employee, both during and after execution of the employment contract.

It is not strictly necessary to include this obligation in an employment contract, unless the employer also wants to further restrict the use of business secrets.

However, when working with self-employed workers, a confidentiality agreement or clause is strongly recommended to ensure the confidentiality of business-sensitive information.

Future actions

We recommend that the terminology of any confidentiality clauses in employment contracts be adapted to include the terminology of the new law.

In any case, we recommend that appropriate confidentiality clauses be included in contracts with self-employed workers.

More generally, it is advisable to clarify in a policy how the company deals with business-sensitive information and what the guidelines are regarding its use or disclosure.

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Bosnia and Herzegovina

Development	Description	Effective date	Impact and risk	Future actions
No General Collective Agreements (“GCA”) in both administrative entities of Bosnia and Herzegovina due to the expiry of the previous GCAs.	The General Collective Agreement for the territory of the Federation of Bosnia and Herzegovina (“FBiH”) expired in June 2017. In addition, the General Collective Agreement for the territory of the Republika Srpska (“RS”) expired in May 2016. As an interim measure, the RS Government has adopted secondary legislation (decisions) providing for certain employment rights previously governed by the GCA. Nevertheless, the GCAs in either of the entities has not been renewed nor renegotiated between social partners and the entity governments.	Ongoing	-Legal uncertainty Lack of applicable/effective GCAs creates legal uncertainty and uncertainty for the workforce in either of the entities since (a) employers are not clear on their obligations towards employees and (b) employees are not clear on their employment rights. - Deprivation of rights Lack of GCAs leaves employees in a highly disadvantaged position and prevents them from exercising the rights and privileges that the GCAs were offering while they were in force. This involves important employment rights such as minimum wages, salary increases and increased annual leave due to specific working conditions, the legal basis for sector specific collective bargaining agreements, and the right to effective and structuralised work of unions, etc.	It is recommended that, as soon as possible, negotiation of new GCAs between entity governments and the social partners should be initiated in order to clearly determine employees’ rights and employers’ obligations. As an interim measure, the FBiH Government could adopt secondary regulations reinstating employment rights and privileges, which have generally been provided by the previously applicable GCA, as it has been done by the RS Government. Both of the entity governments should consider introducing guidelines for employers on how to act in cases where employees’ rights are unclear due to ineffectiveness of the GCAs.

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Brazil

Development	Description	Effective date	Impact and risk	Future actions
The Brazilian Federal Superior Court ("STF") has recently decided that it is lawful for a company to outsource its principal business activity.	The STF was required to decide whether the outsourcing of a business' main activity was constitutional. Before the recent labour law reform (Law 13.467/17), the Superior Labour Tribunal ("TST") had decided that it was only permissible for businesses to outsource ancillary activities (such as office cleaning and security), and that its principal activities must be performed by employees. Law 13.467/17 attempted to remove this restriction but this change was resisted by some labour lawyers and judges and it was asserted in this case that the outsourcing of principal activities was unconstitutional. The majority of the STF rejected that argument and have liberalised such outsourcing.	30 August 2018	Unions are concerned that this decision will undermine labour relations and working conditions, which may not benefit from the same protections in third party service providers. Some surveys indicate that outsourced workers earn 25% less than registered employees and work longer hours. However, this decision will give businesses welcome flexibility in their staffing arrangements and removes a source of considerable uncertainty; it was never entirely clear what was the dividing line between principal and ancillary activities.	Although many businesses may now seek to expand their use of outsourced labour, it is important to consider that they will retain secondary liability for the labour rights of such staff. Therefore, if the service provider does not make the required payments and guarantee employment rights, a claim may eventually be brought against the contracting company. Employers are therefore strongly advised to: • check references and the financial strength of its service providers • inspect work conditions to ensure labour rights are being respected • require evidence of payment of remuneration and employment benefits • include appropriate indemnities in outsourcing agreements, supported by guarantees or the right to retain payment.

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Chile

Development	Description	Effective date	Impact and risk	Future actions
Amendments to the 2017 employment law reform.	The former administration implemented a reform to the employment laws on 2016, which refers mostly to unions and collective bargaining matters. This reform came in force in April 2017. The new administration has announced amendments to these employment laws, to be introduced through a bill. Also, the administration announced new interpretation criteria to be implemented by the government-dependant Labour Authority.	Ongoing. The bill will be sent to the Congress in the next days, but the implementation of the new administrative interpretation criteria has already started.	It is expected that the amendment will have a beneficial effect in favour of the hiring of new employees. As for the new interpretation criteria, on July 2018, the Labour Authority accepted the collective bargaining made by a group of employees gathered to negotiate, without the participation of a Union, in open contradiction of what was expected by the former administration – which was collective negotiation exclusively through unions. Additionally, the Labour Authority has declared that non-unionised employees will be able to keep the benefits they received under collective agreements that were signed before the implementation of the 2017 reform.	Companies operating in Chile must be aware of the new interpretation criteria, and obtain legal advice before entering into collective bargaining.

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China

Development

Starting from 1 January 2019, social security contributions will be levied by the tax authorities.

Description

In the past, social security contributions were levied by different authorities.

In some locations they were levied by tax authorities, while in other locations, they were levied by social insurance administrative authorities. In the next year, all statutory social insurance contributions for pension, medical insurance, unemployment insurance, maternity insurance and work-related injury insurance will be uniformly levied by tax authorities.

Effective date

1 January 2019

Impact and risk

The change indicates that the Chinese government will strengthen the levy on social insurance contributions.

After 1 January 2019, it will no longer be possible that business provides employees with social insurance but pay the social insurance contributions for them at lower rates than the statutory requirements, which has happened in the past.

All businesses must pay the social insurance contributions for the employees fully in compliance with the law. Otherwise, the punishments provided by statutory law will be imposed on the business. In the past, these were not implemented strictly.

Future actions

Due to the change, some local governments, in order to relieve their own financial crises, had started to order businesses with historic social insurance contributions debts to make up the outstanding payments.

This action was immediately stopped by the central government. For the time being, businesses with historic liabilities are comparatively safe and will not be ordered by the local authorities to make-up the shortfall. However individual employees are still entitled to raise complaints against these enterprises at the labour administrative authority for the outstanding payments incurred in the past two years.

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Colombia

Development	Description	Effective date	Impact and risk	Future actions
Constitutional Court, SU-075 of 2018 Presiding Judge: Gloria Stella Ortiz Delgado A new legal decision was issued by the Colombian Constitutional Court modifying the judicial precedent with regards to pregnant women.	Special protection for female employees during pregnancy may vary upon: (i) the type of employment agreement executed (e.g., fixed, open-ended, based on the duration of the work hired); and (ii) the previous knowledge of the employer concerning the pregnancy status of the employee. According to this decision employers will not be subject to cover any payment (i.e., legal contributions to the social security system, maternity leave, nor any legal penalties) in the case of dismissal of a pregnant employee if the employer can prove that they were not aware of the pregnancy status of the employee at the time, either because they had not been notified or because the pregnancy status was not obvious.	Ongoing	The legal impact of dismissing a pregnant employee will vary depending on the duration of the relationship, and the employer's knowledge of the pregnancy. Nevertheless, if the employer has been notified of the pregnancy status of the women employee, they are forbidden from dismissing her without previous authorisation issued by the Colombian Labour Ministry, regardless of the existence of a credited fair cause. Dismissing a pregnant employee without observing the appropriate legal procedure will result in a declaration that the dismissal was ineffective and may give rise to compensation consisting of 60 days of salary, plus fringe benefits and legal contributions due.	The circumstances of the work environment and relevant evidence should be observed to ascertain whether the employer was aware of the pregnancy status of the employee. There is no standard level of proof to test the employer's knowledge. Employees cannot be forced to notify (verbally or in writing) of their pregnancy status. Otherwise, administrative fines may be imposed to the employers by the Ministry of Labour. Health cover, food and severance allowances will be bestowed to pregnant women by the Social Security System, ICBF and Family Compensation Funds, respectively, during pregnancy or maternity leave.

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Czech Republic

Development	Description	Effective date	Impact and risk	Future actions
A recent decision of the Czech Supreme Court confirmed that certain provisions of the Civil Code on limitation periods also apply to employment matters. The Civil Code provisions regarding the operation of the limitation period (e.g. the start date, suspension and continuation) also apply to employment relationships.	By applying these Civil Code provisions to employment relationships, statutory limitation periods in employment relationships may be suspended or extended for various reasons, e.g. the suspension of the limitation period where there is an event which amounts to a force majeure. This is relevant for claims for unfair termination of employment. Under the Czech Labour Code, the invalidity of termination of an employment relationship may be claimed at the courts no later than within two months of the date when the employment law relationship was to end through such termination. The Supreme Court ruled that, if the employee is unable to raise such a claim for obvious reasons, the period shall be suspended.	Ongoing	This essentially means that the two month limitation period for challenging the validity of termination of employment may be suspended if the employee is not be able to raise the claim (e.g. due to serious health reasons). The main impact on employers is that in some cases the limitation period may be longer than two months, causing significant uncertainty as to the date when the employee may still successfully challenge the validity of termination. Further, this may also affect data protection matters, mainly the retention period of various employment documents, creating even more uncertainty.	It is only advisable that such risks are noted and taken into consideration where there might be obstacles on the employee´s side that may cause the suspension of the limitation period. Also, from a Data Protection point of view, longer retention periods of certain documentation should be considered in some cases.

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France

Development

The coming Budget Bill will implement a withholding tax obligation on French employers.

The employees' income tax will now be withheld by employers and thus calculated monthly.

Prior to this measure, the income tax for a specific year was calculated based on the earnings of the previous year (i.e. the 2018 income tax, paid in September 2018,was based on the 2017 earnings).

Description

French employers will be required to withhold the income tax for each employee on a monthly basis, according to the rates communicated to them by the French Tax Administration.

Those rates will be calculated yearly, based on the income of the previous year. They do not include the various tax credits that will be applied at the end of the year (in September).

Due to the nature of the French income tax system, taxpayers would, in theory, have to pay tax on both their 2018 and 2019 income during the same year. In order to avoid this, individuals will receive a tax credit in respect of "non-exceptional" income for 2018, effectively removing the individual income tax for 2018.

Effective date

1 January 2019

Impact and risk

Employers do not have to specify which part of the employees' earnings for 2018 are exceptional and which are not. Each employee is responsible for doing so, on an individual basis.

However, it is recommended that employers inform their employees that they have to make this declaration themselves on their 2018 tax returns.

Exceptional income may include, but is not limited to, one-off bonuses, mobility allowances, termination or severance payments, etc.

Employees can file a request for a confirmatory ruling on this issue from the tax authorities.

Future actions

Implementation of a withholding obligation on employers necessarily involves handling personal data, such as the rates communicated by the French Tax Administration.

Employers will have to ensure that the treatment of such data complies with GDPR.

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Germany

Development

According to the new Temporary Employment Act (Arbeitnehmerüber-lassungsgesetz), the maximum duration of temporary employment is 18 months. As this provision entered into force on 1 April 2017, temporary employments are affected from 30 September 2018 onwards for the first time.

Description

Temporary employment before 1 April 2017 is not taken into account.

An exception of the maximum duration of 18 months applies where the maximum duration is extended by a collective bargaining agreement. These collective bargaining agreements have so far been concluded with employees in the steel, metal and electrical industries and in the field of electrical trades. Companies not bound by collective bargaining agreements can adapt a collective bargaining agreement from their branch by way of a works agreement.

Effective date

Starting September 30, 2018

Impact and risk

Where the maximum duration for temporary employment is exceeded, a de facto employment relationship is established between the temporary worker and the user company (Entleihunternehmen), including all rights and duties under employment law.

The aim of the maximum duration was to promote permanent employment opportunities for temporary employees. However, the question whether that aim can be reached is currently being discussed. Instead of being hired by the user company, many temporary employees are fired or simply replaced by other temporary employees.

Future actions

User companies should take measures to prevent exceeding the maximum duration of temporary employment.

The company can enter into an employment relationship (which may also be for a fixed-term) with the temporary employee concerned or terminate the assignment. In the latter case, the previously assigned temporary employee can be replaced by another temporary employee. After an interruption of at least three months and one day, the temporary employee initially hired may again be assigned to the job in question for up to 18 months.

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Italy

Development

Dignity Decree (publication on 13 July 2018) converted into ordinary Law No. 96 (publication 11 August 2018).

The legislative text aims to limit the use of fixed term contracts, increase open-ended relationships and discourage companies from reducing their workforce.

Description

Where fixed term employment contracts have a duration period longer than 12 months, they require to be justified by temporary and objective needs unrelated to the employer's ordinary business (such as the need for replacements) or needs relating to temporary, significant and unforeseeable increases in the employer's ordinary business (so called "causality" requirements).

In any case the duration cannot be longer than 24 months.

Effective date

Such rules apply to all fixed term employment contracts signed after 14 July 2018.

They also apply to fixed term employment contracts renewed or extended after 31 October 2018.

Impact and risk

The likely impact is that the number of temporary hires will decrease, while, on the other hand, permanent employment is expected to increase.

Indeed, the decree could contribute to creating incentives for employers to switch to more permanent (as opposed to temporary) contracts.

On the other hand, by reducing the share of temporary contracts, with the obligation of "causality" requirements for employers (to be able to renew temporary contracts) the new legislative text could result in future litigation.

Future actions

The new regulatory framework may result in hesitation from businesses when it comes to extending and renewing fixed term employment contracts recently concluded in lines with the previous legislation.

Indeed, the restrictions placed by the decree on the temporary contracts that are longer than 12 months raises the risk of increasing turnover among temporary workers – particularly in association with the reintroduced causality requirements.

Vice versa, less flexibility may be associated with higher labour productivity due to more investment by firms in human capital and innovation.

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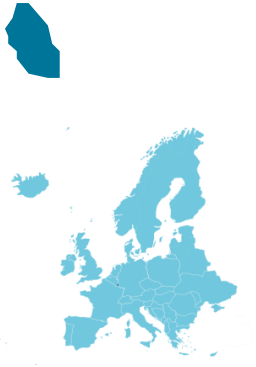
Luxembourg



Development	Description	Effective date	Impact and risk	Future actions
Extension of the payment period of sickness absence from 52 weeks to 78 weeks. At present, the right to be compensated for a period of sickness ends (and the employment contract terminates automatically) when an employee reaches the sickness threshold of 52 weeks over a period of 104 weeks.	With the new law, the 52 week period is extended to 78 weeks over 104 weeks. The rule on automatic termination of the employment contract is consequently adapted and it will now be effective after a period of 78 weeks of sickness. In addition, the reference period during which the employer should continue to pay the salary to the employee (calculation of the 77th day of sickness over a period of 12 months at present) is also affected by the new law and is extended to 18 months. Last but not least, the new law implements the possibility for the employee who has been unable to work for at least 1 month over the last 3 months preceding the filing of his request to benefit from a progressive return to work for therapeutic reasons.	As of 1st January 2019 (Law of 10 August 2018)	Abuse of sick leave by employees	We recommend that the employers take steps to understand their workforce in order to avoid long periods of sickness absence by employees, through the improvement of working conditions (social activity) and to prevent the risk of burn-out by introducing for example counselling and support teams.

On your radar | Key employment issues across Europe and beyond

Monaco

Development

Amendment of the rules on night work.

Monaco Government will prepare a draft law and send it to the National Council in October 2018.

Night work is a significant challenge in Monaco for business sectors such as hotels, restaurants, gambling and entertainment.

Night workers represent 20% of Monaco's employees.

These changes are intended to be beneficial to night workers (health and safety, compensation).

The amendment to the rules of night work is part of the legislator's wish to allow more flexibility in the organisation of work. An amendment of the rules on Sunday work is also being studied, a proposal for a law should be sent to the National Council.

Description

This reform mainly aims at:

- defining precisely which employees are eligible to the status of night workers;
- officially abolishing the ban for women to work at night;
- defining compensation for work carried out at night;
- the possibility that night workers benefit from an early retirement;
- establishing a specialised medical monitoring for night workers.

Effective date

No date has been set yet

Impact and risk

Failure to comply with the new requirements may expose employers to criminal sanctions, which will be specified in the draft law.

Future actions

Assist and advise employers in the implementation of new provisions on night work, being specified that employers will have a period of 12 months as of the promulgation of the law to comply with the new regulations;

Implementation of preventive measures, especially in health and safety.

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Netherlands

Development	Description	Effective date	Impact and risk	Future actions
Employers are changing the manner in which the performance of employees is being discussed, monitored and documented. A growing number of employers in the Netherlands have decided to end yearly performance reviews and instead offer apps and other digital tools which will allow employees to give feedback on each other's performance.	Yearly appraisals and performance reviews are increasingly seen as unappealing by many businesses, and new digital ways are being created allowing all employees to give feedback on the performance of their colleagues. Employees can randomly and continuously give feedback, either by using text or even through emoticons. Employees who wish to receive (more) feedback are expected to ask their manager.	Ongoing	Case law shows that apps and other digital messages are accepted as proof in (employment) court cases e.g. they could - potentially - support a performance case in court. The question is whether this method is objective and transparent, and whether it safeguards that all appraisals are collected and filtered by one central point, being the employer. An employer is obliged to inform employees in case of underperformance and offer means which allow employees to improve. We wonder whether an employer will be able to use these messages in an efficient and GDPR compliant way. Additionally, works councils should be given the right to consent to the introduction of a new performance rating system.	Employers who aim to use these new methods of feedback to substantiate underperformance before a court may face challenges. Employers need to ensure that in designing and operating these tools, that the employee is informed in a transparent manner about the collected feedback, as well as who has given the feedback and when. Employers should also carefully monitor the feedback given by others and ensure that it is objective and trustworthy, before being used to discuss improvement with the employee. Guidance on the wider approach as well as individual cases is advised to avoid the benefits of technology backfiring.

On your radar | Key employment issues across Europe and beyond

Peru

Development

The government has issued a new law aimed at providing comprehensive protection to victims of sexual harassment. The new regulation has modified the criminal code and the employment laws which regulate the measures that employers must adopt to prevent and punish acts of sexual harassment.

Description

In labour matters, the main changes are the following:

1. The definition of sexual harassment has been expanded. There is no need to prove rejection or reiteration of the conduct. With these changes, there are more behaviours considered as sexual harassment.

2. The victim can demand compensation for damages arising from sexual harassment, or request an inspection by the Ministry of Labour.

3. Where a claim has been raised if the employer does not initiate an investigation into the harasser or does not adopt measures of protection, prevention and / or sanction, the victim can sue the employer.

Effective date

13 September 2018

Impact and risk

Once the harassment has been verified, the employer of the harasser must sanction him, with a warning, suspension or dismissal, depending on the seriousness.

Any dismissal or non-renewal of a contract for filing a complaint of sexual harassment, or for participating as a witness of the victim in a sexual harassment proceeding is null and void.

Employers need to adapt their rules of procedure, working practices and guides on preventing sexual harassment in the workplace in order to comply with the new regulation.

Future actions

This measure is an answer by the Government to the many complaints from citizens that greater protection is required for women and victims of sexual harassment and violence in all areas of their daily activities.

In that sense, the changes in labour matters, in addition to the changes in criminal matters, have been arranged with the purpose of offering an integral protection to the victims, and to discourage this type of practice in the work and educational places, and, in general, in any spaces where harassment can occur.

On your radar | Key employment issues across Europe and beyond
Poland

Development

The Polish Parliament has adopted a new law on monitoring in the workplace.

The new rules came into force on 25 May 2018. They aim to ensure compliance with the GDPR of CCTV usage and other forms of employee monitoring, e.g. monitoring of e-mails.

Description

Under the new law, employers may monitor employees if it is necessary to: ensure employee safety, protect property, control production, or maintain the confidentiality of information whose disclosure might expose the employer to detriment.

Employees must be informed about the introduction of monitoring in the company at least 2 weeks before its launch. The law also requires that the objectives, scope and methods of monitoring are specified in a collective labour agreement or in the work by-laws, or in a notice if the employer is not covered by such agreement or is not obliged to enact work by-laws.

Effective date

Ongoing

Impact and risk

Companies that use various forms of employee monitoring, and have defined the rules of monitoring in their internal instructions, policies or procedures, will now have to ensure the monitoring meets the new requirements and is adjusted accordingly to the new regulations. In companies where trade union organisations operate, this will require additional cooperation with the trade unions.

Employers have to delete all records from their cameras 3 months after a recording has been made unless the recordings are used as evidence in civil or criminal proceedings.

Future actions

We recommend that employers review their monitoring policies to ensure compliance with the new provisions as well as compliance with the GDPR. They should analyse the necessity, proportionality, scope and purpose of each monitoring practice.

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Serbia

Development	Description	Effective date	Impact and risk	Future actions
The new Law on Foreigners is coming into force soon.	The new Law on Foreigners is adopted due to the Serbia's EU accession process as well as in order to improve the current legislation and in particular having in mind the current migration issues in Europe	3 October 2018	The Law on Foreigners will affect employers' who will employ foreign nationals and also foreign nationals and companies and entrepreneurs who provide or organise accommodation and transportation services. Failure to comply with the new legal requirements may expose employers to fines up to RSD 2,000,000 (approx. up to EUR 17,000) per offence.	N/A

On your radar | Key employment issues across Europe and beyond
Singapore

Development

The Singapore Manpower Minister introduced the Employment (Amendment) Bill in Parliament on 2 October 2018.

The Employment (Amendment) Bill is intended to introduce sweeping changes to Singapore's main labour law, the Employment Act ("EA").

Description

The changes will include the following:-

- Widening the reach of the EA to cover higher-paid workers, including all professionals, managers and executives ("PMEs");
- Expanding the powers of the Employment Claims Tribunal (which presently only hears salary-related disputes) to include wrongful dismissal claims.
- Extending overtime pay to more workers.

Effective date

The government intends to implement these changes to the EA by April 2019.

Impact and risk

Employers of PMEs in Singapore should take note of the following:-

- The EA presently confers statutory protections to employees earning less than SGD 4,500. Once the new legislative changes come into force, these statutory protections (i.e. minimum days of paid sick leave, notice periods before dismissal, etc.) will apply to all PMEs.
- Contracts for all employees have to be reviewed and may have to be revised to comply with EA requirements before April 2019.

Future actions

We recommend organisations employing staff (including PMEs) in Singapore approach legal counsel to review their present employment arrangements.

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Slovakia

Development	Description	Effective date	Impact and risk	Future actions
Shortage of workforce (especially qualified workforce)	Many employers face the situation when they have to reject orders due to a critical shortage of workforce. There is an increased interest in employing foreigners. However, Slovak law still contains rather strict regulations on employing non-EU citizens. As a result, a number of employers face sanctions from labour inspectorates for illegal employment. Employers intend to increase automatisation and digitalisation in their companies.	Ongoing	• Inability to fulfil contractual obligations; • Slowdown of the growth of economy; • Employers breaching the legal regulations on illegal employment; • Decreased interest in investing in Slovakia.	We recommend increasing the employers' awareness of the rules on employing non-EU citizens. The employers may wish to consider implementation of flexible working arrangements. Providing requalification courses for the personnel. Considering employing of persons from socially disadvantaged groups.

On your radar | Key employment issues across Europe and beyond
Slovenia

Development	Description	Effective date	Impact and risk	Future actions
Collective Agreement for Slovenia's Trade Sector ("Trade CBA")	Trade CBA includes the following significant changes: • salary increase; • ban of work on holidays, but wider scope of exceptions allowed; • work is allowed on 20 Sundays per year (15 before), but max 2 per month per employee;	In force	Salary increase: • IV. tariff class (5% in January and additional 2% in July 2019); • VI. and VII. tariff class (10% January 2019); violation of Sunday and holiday work provisions may result in compensation in the amount of 500% of the worker's hourly rate (15 September 2018);	We recommend that employers organise work and hours in a timely manner to avoid additional costs.
Collective Agreement for the Hospitality and Tourism Industries ("Hospitality and Tourism CBA")	Hospitality and Tourism CBA significant changes: • salary increase; • higher yearly holiday allowance; • more precise excess hours regulations due to irregular distribution of working time;	In force	• higher costs due to salary increase: 11-15% and higher holiday allowance, which is now EUR 1000; • employers will have to analyse overtime hours and promptly pay overtime bonuses; Risks include shortage of workers in the sector (approx. 7000 workers) due to the fact that many workers go to work abroad (high tax rate in Slovenia).	Salaries in the sector are still below average and a possibility of an increase exists in the near future.

On your radar | Key employment issues across Europe and beyond

Spain

Development	Description	Effective date	Impact and risk	Future actions
Court number 39 of Madrid has declared that Glovo (a competitor of Deliveroo) riders do not have a labour relationship with the company.	Court 39 of Madrid considers that Glovo riders are not employees but self-employed workers, although the Court classified them as “economically dependent self-employed workers” (which is a labour term used in Spanish law for self-employed receiving more than 75% of their income from the same client). The main arguments used to declare that there is not an employment relationship are the following: - The rider has no working day nor working time imposed by Glovo. - Working tools are the property of the rider. - Rider´s retribution is variable depending on the number of orders she/he delivers. - Rating system is not a control or sanction instrument, but a tool in order to regulate the preference in the access to orders.	19 September 2018	After the Supreme Court of Milan declared the lack of a labour relationship between Glovo and its riders, this judgement of the Court number 39 of Madrid implies that the European Courts seem to be in line with the self-employed nature of the relationship between Glovo and its riders. This may lead to a reduction of the risk of platforms based on collaborative economy, such as: Deliveroo, Glovo, BlaBlacar, Wallapop, Airbnb, etc.	This judgement was delivered by a Labour Court in Madrid and, therefore, it can be challenged before the High Court of Justice of Madrid and, at a later stage, before the Supreme Court. Therefore, we cannot assure if the High Court of Justice of Madrid and the Supreme Court will reach the same conclusions.

On your radar | Key employment issues across Europe and beyond
Switzerland

Development

Switzerland has implemented a reporting obligation concerning vacant positions in certain professions.

Description

With regard to certain professions defined by the Swiss Confederation, an employer may no longer advertise job vacancies externally.

Rather, the employer must first report the open positions to the competent regional employment centre (RAV). Only after the expiry of a blocking period of five working days is the employer allowed to advertise the position externally.

The employer also has an obligation to give feedback (informally and without the need for justification) to the RAV with respect to the candidates proposed by the RAV.

Effective date

Immediate

Impact and risk

Violations of the reporting obligation and the duty to conduct job interviews or aptitude tests respectively, may result in monetary fines of up to CHF 20,000 in cases of negligence and CHF 40,000 in cases of intent.

Future actions

This obligation currently applies to vacancies in professions that have an unemployment rate of at least 8%.

From 1 January 2020, the threshold will be reduced to 5%; accordingly, the obligation will cover additional professions as of 1 January 2020.

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Turkey

Development	Description	Effective date	Impact and risk	Future actions
Foreign currency restriction in employment contracts. On 13 September 2018, the Decree Law on the Protection of the Value of the Turkish Lira (“Decree No.32”) was amended by the new executive order issued by the President.	The amendment provides restrictions on the foreign currency denominated or indexed payments among residents in Turkey in certain transactions including employment contracts, unless it is exempted by amended Communique No: 2008-32/34 on the Decree No.32 (”Communique”). Accordingly, from 13 September 2018, the employment payments cannot be made in foreign currency under an employment contract, where both parties are Turkish residents, except where (i) the contract is performed abroad or (ii) the employer is a branch, representation office or liaison office of a foreign entity or (iii) employer’s at least 50% shareholding is held directly or indirectly owned by a non-resident or (iv) employer is a free zone company, for its free zone activities.	13 September 2018	If a company is making employment payments in foreign currency and not subject to any of the exemptions, they will need to take action to convert the payments into Turkish Lira. Parties can agree on the exchange rate, yet if they fail to reach an agreement, the effective selling rate of the Central Bank of the Republic of Turkey as of 2 January 2018 will apply. While converting the payments into Turkish Lira, companies should be careful not to adversely affect the rights of the employees (i.e. decrease the salary amounts), as this may lead to a rightful termination of employment by the employee, if not expressly accepted by the employee in writing.	All employers residing in Turkey, which make salary payments in foreign currency must convert such payments into Turkish Lira until 13 October 2018, unless they are subject to any of the exceptions. When such conversion is made, an amendment to the employment contracts should be executed between the parties. As it is not definitive how the new amendments will be implemented in practice, and further amendments can be made, we recommend both employers and employees to follow the developments in this respect.

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Ukraine

Development	Description	Effective date	Impact and risk	Future actions
A number of simplifications have been introduced for the employment of foreigners	1. Foreigners from certain CIS countries are now entitled to file for a temporary residence permit without the necessity of re-visiting Ukraine. 2. Representative offices of foreign business may keep and manage employment record books of their employees by themselves. This is in contrast to the previous provisions where they were obliged to engage special state enterprise for this.	1. 28 August 2018 2. 24 July 2018	1. This simplification is aimed at removing bureaucratic barriers for employing foreign qualified specialists in Ukraine. 2. This development is aimed at simplifying the activity of representative offices of foreign business.	1. Ukrainian employers should consider this development when employing foreign nationals from certain CIS countries. 2. None.

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United Arab Emirates

Development	Description	Effective date	Impact and risk	Future actions
Flexible employment structures have been introduced for public sector employees, with detailed provisions setting out the parameters for each employment "type". There are four types of employment recognised: 1. Full-time 2. Part-time 3. Temporary 4. Special contract	Part-time employees may work between 14-28 hours per week over a minimum of two days. They are entitled to payment and benefits pro-rata. Temporary contracts can be issued for employees working full-time hours for up to three months (renewable for a further three months). Employees are entitled to full pay but not benefits, and mourning and sickness leave only. Special contract roles are only available for those in senior positions. Contracts are for two year periods (renewable for a further two years). Contractors are entitled to a range of leave (including annual and maternity). All benefits must be approved by the Chairman of the Federal Entity.	In effect	This legislation sets out a more detailed framework for flexible job roles than the comparable legislation in the private sector. In particular, this sets out the hours and benefits to be received by each job category. Whilst fixed term contracts have been formally recognised in the UAE for a long time, it is interesting to note the distinction for Special Contracts and the flexibility granted to the applicable department to govern the benefits they are entitled to receive. It is a useful reference for the changes that may be made in the private sector in the future.	The legislation is a useful reference points for different categories of job description, and may be an indication of what is to come in the private sector.

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United Kingdom

Development

The UK Government has launched an independent review into the effectiveness of the Modern Slavery Act 2015.

Although a large part of the Act relates to the criminal law, s.54 applies to businesses and requires them to produce a Modern Slavery Statement which relates to transparency in their organisation and supply chains.

Every organisation which is in scope with an annual turnover of £36 million and over is required to publish a statement on its website outlining what it is doing to prevent and tackle modern slavery in its operations and supply chain.

Description

The Government has said that in relation to section 54, the review will look at how to ensure compliance and drive up the quality of statements produced by eligible companies.

Effective date

The review will be published in March 2019

Impact and risk

To date, enforcement has been light touch and we are not aware of any injunctive action being taken against organisations which have failed to comply with their obligation to publish the annual statement.

Accountability so far has been through negative publicity and through compliance monitoring by not-for-profit organisations.

Organisations have taken a mixed approach to compliance with s.54.

Some have taken a minimalist, 'box-ticking' approach, while others have undertaken a wholesale review of the relevant aspects of their contracts, policies, training and supply chains.

Future actions

If the provisions in s.54 are tightened and there is greater scrutiny of the Modern Slavery Statements then organisations will need to pay greater attention to the content.

We recommend that in scope organisations review the content of their Modern Slavery Statement and ensure that the statements are fit for purpose.