Your World First

On your radar
Global developments in employment law

September 2017



Welcome to our third edition of CMS ‘On your radar’, which we are delighted to say is now truly global in its reach.

We hope you find our at-a-glance guide to international developments in employment law both useful and interesting. With 71 offices across 40 countries it is only right that we have built on earlier editions to include new contributors!

What is striking is the mix between common themes and unique approaches. Poland for instance is reducing their retirement age, in direct contrast to a number of other countries including the UK. This year Brazil has seen major changes to all aspects of their labour code, Bulgaria is facing changes to guaranteed annual increases in pay, and in a sign of the times both Germany and Monaco have introduced new provisions regarding home working.

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	Description	Effective date	Impact and risk	Future actions
Austria has comparatively high additional non-wage labour costs (roughly 30.5%). These costs are perceived to a be a barrier to the creation of new jobs. The government initiative “Employment bonus” (Beschäftigungsbonus) addresses this issue, aiming to lower national unemployment rates, by subsidising the creation of new jobs.	If employers create new jobs, they can apply for a refund of 50% of their non-wage labour costs (especially the employer contributions to the statutory social insurance scheme) for up to three years. Companies qualify regardless of their size. As the bonus is designed as a measure to combat national unemployment, it is granted only if the people hired are already job-seekers registered with the Austrian Labour Market Services, graduates from Austrian learning institutions, people changing their jobs and third country nationals holding a Red-White-Red-Card (Rot Weiss Rot-Karte).	**The laws on the introduction of an employment bonus entered into force on 1 July 2017. They will lapse on 31 December 2023.** **The official guidelines on eligibility were published on 29 June 2017.**	The employment bonus departs from previous labour market measures as it significantly subsidises the creation of new jobs. However, it remains doubtful whether the limitation to fund only jobs taken by people who are already part of the Austrian labour market is compliant with EU law.	For companies planning to expand their business in Austria, an application for the bonus can be a financially beneficial, as 50% of the 30.5 % of additional non-wage labour costs are refunded at the end of the year. Information and guidelines on the application are provided on the website on the Employment Bonus: http://www.beschaeftigungsbonus.at (German only).

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Belgium



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The new Code on Well-Being at Work has entered into force. This Code consolidates all provisions regarding health and safety and well-being at work in one single text, consisting of 10 books. However, the Code does not introduce new employers' well-being obligations.	Book I contains the general principles on well-being at work, such as provisions regarding serious work accidents, prevention measures, psychological risks at work, etc. Book II consolidates all regulatory provisions regarding the organisation of well-being at work (Health and Safety Committee, internal and external prevention services, etc.) Books III to IX deal with all substantive aspects of well-being such as work equipment, chemical agents, ergonomics, etc. The last Book X contains protective measures for specific categories of employees, such as young workers and pregnant women.	**Effective as of 12 June 2017.**	The entering into force of the Code does not directly impact employers' well-being obligations, as they remain the same. However, all relevant HR-documents (existing or new), referring to well-being at work such as work rules and policies, should be adjusted taking into account the structure and the numbering of the articles of the new Code.	The Code provides for a transitional period of 2 years to update and adjust all relevant HR-documents. All plans for implementing the changes should be completed by 12 June 2019.

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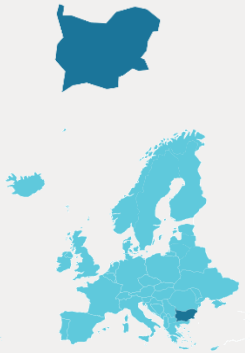
Brazil



Development	Description	Effective date	Impact and risk	Future actions
The Brazilian Presidency has sanctioned a major reform of the Brazilian Labour Code (Consolidação das Leis do Trabalho - CLT). The changes were met with some resistance and watered down during congressional debates, but have been generally well received by the business community; particularly the end of mandatory union contributions and various procedural changes intended to prevent widespread abuse of employment claims. The latter is crucial in a country where three million new labour claims were made just last year.	Changes were made to: • Calculation of work hours and commuting time • Calculation of salary • Part Time Regime • "Bank of Hours" • Remote working • Vacations • Pregnant employees in hazardous conditions • Arbitration in employment agreements • Out of court agreements • Burden of proof in labour claims • Attorney fees • Negotiation of terms • Termination, voluntary resignation, agreed resignation and collective dismissal processes • Union contributions Employees' representative committee	**Sanctioned on 13 July 2017.** **Effective on 11 November 2017 (120 days later).**	This Labour Reform changes material aspects of individual and collective labour relationships and is intended to make labour relationships more flexible and to encourage employment. This is crucial in an economy that has suffered from a deep recession over the past few years, causing national unemployment to rise to over 13%.	We recommend that Brazilian employers review their employment practices and payroll procedures in light of the Labour Reform. They will have more freedom to negotiate the terms of new labour contracts with university educated and better paid employees, which may benefit both employer and employee.

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Bulgaria



Development	Description	Effective date	Impact and risk	Future actions
Changes in maternity leave regulations	An option has been introduced for mothers to terminate their maternity leave prior to its expiry and to continue to receive 50% of the maternity benefit. This is a new kind of compensation, which encourages mothers to return to their jobs earlier.	**Effective as of 1 June 2017.**	In this situation, women on maternity leave will be entitled to receive their salary and half of their maternity pay at the same time if they return to work 135 days after the start of their maternity leave. On the other hand, the employers would benefit from the earlier return of their employees.	According to a statistical information of the National Social Security Institute only 1-2 % of the mothers return to work after the expiry of the first year of maternity leave. The amendments are expected to raise this percentage.
Changes related to the abolition of the length-of-service allowance are in the pipeline of the Tripartite Council for National Cooperation in Bulgaria	Currently, employees are entitled to at least 0.6% additional allowance to the employees' basic gross monthly remuneration for each year of length-of-service and professional experience. The topic of abolishing the length-of-service allowance was subject to disputes in Bulgaria's Parliament on 14 July.	**Ongoing.**	Employers have voiced their opposition to this and say that the length-of-service allowance creates inequality and discrimination between employees. The trade unions fear that the elimination of the allowance would harm employee income and deprive low-paid workers of a considerable part of their earnings.	Possible amendment to the legislation introducing monthly length-of-service allowances, calculated as a percentage to the basic wage, which is to be included in the basic wage and not to have an accumulated percentage for every year of service. The topic will evolve in the further discussions between the government, the employers and the trade unions.

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Chile



Development	Description	Effective date	Impact and risk	Future actions
There are new labour regulations for unions and the collective bargaining process, through amendments to the Chilean Labour Code. Some of the changes are: - New deadlines for the collective bargaining procedure - Prohibition of the use of new employees to replace those on strike, as well as extending collective agreements to non-unionised employees - Authorisation for inter-company unions to negotiate - Consideration of the conditions contained in former collective agreements as a floor for future negotiations.	Labour laws were modified with the aim of stimulating the affiliation of employees to unions, and also in order to comply with some OECD standards. The laws have been controversial in public opinion, because some of their provisions were declared unconstitutional by the Constitutional Court. There are several practical problems that will arise with the law's enforceability, which we expect will result in legal challenges with the hope that judicial guidance will clarify such matters.	**Enforceable as of 1 April 2017.**	In the few months since coming into force, company unionisation levels increased from 13.2% to 19.8%. Also, the number of employees covered by collective agreements increased from 6.5% to 11.5%. Employers are concerned that this will increase the level of disputes in Courts, and workplace conflict. The lack of clarity over some aspects means it is difficult to speculate how companies will be affected. However, certain industrial sectors expect an impact on employment levels. Companies that have unions are being forced to provide the majority of benefits to their employees through collective agreements, instead of personal negotiations.	We recommend that companies try to advance their collective bargaining negotiations, in a non-regulated procedure, to avoid the cost of strikes. Collective bargaining agreements must be very clear on which benefits are provided exclusively to unionised employees, and which others are given to all employees, regardless of their union status, so that the future provision of these benefits is not considered as an anti-union practice by the Labour Courts.

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China



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The PRC Government has adjusted the policies on the levy of the Employment Security Fund for Persons' with Disabilities ("Fund").	Companies with no more than 30 employees are exempt from paying the contributions in their first three years of operating. Also, a threshold of three times the average annual salary of employees for the previous year at the location is set for the calculation of the amount payable ("Threshold"). Companies make contributions calculated at a statutory rate (based on the average annual salary of their employees for the previous year). However, if a company's average employee salary is higher than the Threshold, it need only make payments to the Fund calculated on the basis of the Threshold.	**Effective as of 1 April 2017.**	The new policies are helpful for reducing the financial burden on companies. In the past, the exemption policies were only applicable to those with no more than 20 employees. Additionally, no threshold was set for the calculation basis, resulting in businesses with higher average annual salaries having to make much higher contributions to the Fund.	The Fund contribution is actually subject to the decision of local governments. Therefore, how the new policies are executed in different locations will be decided by local governments. Already, some locations such as Beijing, Shanghai and Jinlin Province have started to implement the new policies. We expect that more locations will follow.

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Colombia



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Amendment to the law regarding the duration of day and night work. On 18 June 2017 the Colombian Congress enacted Law 1846 of 2017, amending the articles 160 and 161 of the Substantive Labour Code regarding the duration of day and night work.	Day and night work used to last from 6:00 a.m. to 10:00 p.m. and from 10:00 p.m. to 6:00 a.m. The modification issued by the Law 1846 of 2017 established the duration of work as follows: • Day work: from 6:00 a.m. to 9:00 p.m. • Night work: from 9:00 p.m. to 6:00 a.m.	**Ongoing (since 18 June 2017).**	Changes the calculation of payments for night work and day work. Night work compensation (established in article 168 of the Substantive Labour Code) and the estimation of day work for implementation of flexible working time purposes, (established in article 161 of the Substantive Labour Code) are to be calculated according to the new amendment.	We recommend that Colombian employers amend the calculation of their employees' working hours. At the same time, it may be prudent to review all legal documents concerning working time.

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Croatia



Development	Description	Effective date	Impact and risk	Future actions
The Croatian Parliament has amended the Foreigners Act, affecting the work and residence of foreigners in the country. The amendments to the Foreigners Act bring about numerous changes to the short and the long-term residence of foreigners and their work in Croatia (differentiating between citizens of EEA / Switzerland and of other countries).	New provisions relate to: registration procedure for residence of foreigners, seasonal jobs, transfer of employees within the company, posted workers, responsibility of sub contractors in the construction sector, entry and deportation of foreigners, better cooperation between countries in addition to a number of other topics. The penalty provisions (including the amounts of prescribed monetary fines) have also been amended.	**Entered into force on 22 July 2017 (except for some minor provisions, which will enter into force when certain other conditions are met).**	The significant changes relate to the work of foreigners in Croatia. Therefore, the way in which work / residence permits and the status of foreigners in general has been regulated up until now, will change. Additional uncertainty will be created by the fact that some aspects of the new rules are ambiguous leaving room for competent authorities to interpret these aspects according to their sole discretion. All documents which related to the work and residence of foreigners issued under the previous version of the Foreigners Act, will be valid until their expiration date.	We recommend that employers who intend to employ foreigners in the future (or foreign employees themselves) review whether they are eligible to work in Croatia under the new version of the Foreigners Act, and under which conditions. Special attention has to be paid to posted workers, as significant new obligations have been imposed to employers in this field. As for the ambiguities and uncertainties already mentioned – it remains to be seen whether the Parliament will adopt helpful changes in the near future and, more importantly, how will the competent authorities manage the changes in practice.

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Czech republic



Development	Description	Effective date	Impact and risk	Future actions
Amendments to the Act on Employment and Act on Labour Inspection present two major challenges for employment agencies and employers: • New fines and stricter conditions for employment agencies. • New fines for violations of employee privacy.	• Employment agencies will now have to pay a CZK 500,000 (approx. EUR 19,100) deposit to obtain or retain their licence. Employment agencies can be fined for recruiting without a licence. • Employers can be fined for asking employees to disclose information irrelevant to the employment relationship, especially information that could be used for discrimination. • Employers can be fined for failing to inform employees of measures that interfere with their privacy, such as cameras, recording of phone calls or reviewing emails.	**Effective as of 29 July 2017.**	• Employment agencies can be fined up CZK 10,000,000 (app. EUR 380,000) for recruiting employees without the required licence. • Employers can be fined up to the amount of CZK 1,000,000 (app. EUR 38,000) for requesting that employees disclose information irrelevant to the employment relationship. • Employers can be fined up to the amount of CZK 100,000 (app. EUR 3,800) for failing to inform employees of the introduction of control mechanisms.	• Employers should review what information is collected and the purposes such collection serves. In particular, employers must not ask for a copy of the employee's criminal record, unless specific characteristics of the employment position make this necessary. • Employers should reconsider the necessity of current workplace monitoring practices, and inform employees of any cameras in the workplaces, recording of phone calls and of the possibility that their email correspondence may be subject to review.

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France



Development	Description	Effective date	Impact and risk	Future actions
Parliament has allowed the Government to issue executive orders to strengthen the social dialogue.	The key provisions are : • Changes to the relationship between branch-level agreements and company-level agreements • harmonising the termination rules when the employee refuses a change to their contract resulting from a collective agreement • fix deadlines and conditions to challenge collective agreements • facilitate the conclusion of company-level agreements • reinforce the social partners' autonomy in the company's social dialogue.	**The executive orders should be adopted by the Cabinet on 20 September.**	If an employee is dismissed for refusing to accept an amended contract resulting from the application of a collective agreement, an employer is no longer able to say the reason for the dismissal is because of economic grounds. The aim is to improve bargaining in companies where there is no trade union presence and to introduce collective agreements where sufficient employees vote to do so. The content and frequency of compulsory consultations and negotiations should be defined by a company-level agreement.	The new rules widen the scope of derogations to branch-level agreements in areas other than working time in order to allow company-level agreements to adapt the rules to the specific needs of the company. Employers should review collective agreements to ensure they are lawful and to limit the retrospective effects of these.

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Germany





Development	Description	Effective date	Impact and risk	Future actions
Amendment of the Workplace Ordinance (Arbeitsstättenverordnung, ArbStättV). For the first time, the revised Workplace Ordinance regulates teleworking (homeworking) jobs and has been adapted to the universal use of computers, notebooks, tablets and smartphones.	Teleworking stations are defined as fixed workplaces in private homes subject to agreed-upon working conditions where communications equipment, working materials and furniture are provided by the employer. Mobile work (i.e. occasional work from home) is not included. Teleworking stations within scope will require to have a risk assessment and the employee must be instructed about any dangers that may occur and measures for their avoidance. In order to protect employees, the use of tablets or smartphones instead of computers is permissible only if such devices are used for a short time or if duties cannot be performed otherwise.	**Effective as of 3 December 2016.**	When the amendment was negotiated, employers feared unmanageable responsibilities in relation to workplaces in employees' private homes. Unlike the previous draft of 2014, the new definition of teleworking stations is now extremely narrow. It is likely that the scope of application will therefore be relatively limited in practice as home offices are usually not fully equipped by the employer. However, the Occupational Health and Safety Act (Arbeitsschutzgesetz) and other health and safety laws (i.e. Working Hours Act, Maternity Protection Act, etc.) continue to apply to both teleworking and mobile working.	We recommend that employers verify whether there are teleworking jobs within the meaning of the Workplace Ordinance in their company and review the existing procedures concerning risk assessments accordingly. When setting up teleworking stations, employers should especially take into account the mental strains of a solitary workplace as well as eye strain and possible risks to eyesight caused by screen work.

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Luxembourg



Development	Description	Effective date	Impact and risk	Future actions
Reform affecting the secondment of workers	This new regulation establishes: • Corporate liability in relation to the chain of contracts; • an electronic platform regarding secondment of employees in Luxembourg; • an update of the list of documents to be provided by the company sending the worker; • increased cooperation between the State's services; • an effective appeal mechanism for workers in order to file a claim in case of abuse;	**Effective as of 23 March 2017.**	This will affect immigration procedure and compliance especially where there is a chain of contracts or in construction projects. The new regulation not only includes administrative sanctions, but also provides cross-border administrative sanctions of fines. In some cases this will involve the ability to shut down a construction project were there has been a breach.	The company sending the worker is now obliged to comply with the new list of documents to provide to the administration stated at the new articles L. 142-2 and L.142-3 of the Labour Code. A thorough review of the sub-contractors' compliance to this new legislation has to be conducted in order to avoid the company's liability in case of chain of contracts.

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Monaco



Development	Description	Effective date	Impact and risk	Future actions
Implementation of teleworking (homeworking) in Monaco.	Law n°1.429 4 July 2016 introduces the option of implementing teleworking. This is a form of work using information technologies enabling work which would normally have taken place in the workplace, is performed outside of it on a regular basis.	**Effective as of 16 July 2016.**	Employers are required to obtain the prior approval of the Employment Governmental Office before teleworking can be offered. In addition, prior information should be given to the staff representatives. Employers should also obtain consent from each employee who is going to undertake teleworking. Teleworking hours are limited to two-thirds of the employee's weekly working time.	Assist and advise employers regarding teleworking practical issues on: • data protection and confidentiality , • understanding working time and patterns. • applying the principle of equal treatment between teleworkers and other employees, • and respecting the employee's privacy.

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Netherlands





Development	Description	Effective date	Impact and risk	Future actions
New rules around work permits for non-EU/EEA nationals working in the Netherlands on a temporary basis. Non-EU/EEA nationals may only work in the Netherlands if a work permit is obtained, unless a specific exemption applies (for example highly skilled migrants or EU Blue Card). A work permit will not be granted if the position of the non-EU/EEA worker could be fulfilled by an EU/EEA worker. Due to this high threshold it is difficult to obtain a work permit. However, recently the new International Trade Regulation increases the opportunity to obtain a work permit for non-EU/EEA nationals to work in the Netherlands.	The new exemption covers work relating to projects that are of a temporary basis and relate to international trade. Such projects must have a partnership, collaboration or other form of agreement between a Dutch company and a foreign company for the delivery of goods or services. The request for the work permit must relate to the employees employed at the foreign company who will be working in the Netherlands on a temporary basis. The foreign company must substantiate why the knowledge/expertise of the non-EU/AA national is specifically required. The admission of the non-EU/AA national may not lead to unfair competition with the Dutch workers.	**The change took effect on 1 July 2017.**	This new regulation applies to a specific group only and still the (foreign) employer needs to substantiate why the knowledge/expertise of the non-EU/AA national is specifically required, and why an EU worker would not be qualified. In practice this is a difficult threshold. Therefore, this option is only advisable if the EU/EEA national cannot apply for one of the exemptions to a work permit. This new regulation only entails an exemption for a Dutch working permit. It does not provide an exemption regarding a residence permit. Therefore, if based on the nationality of the non-EU worker and the duration of the visit that a residence permit is needed, the non-EU worker needs to apply for a residence permit.	The exemption is valid for up to three years. After the first three years of the project, the non-EU worker has to re-apply. If the non-EU worker continues working on the project without re-applying the employer can be fined. The standard amount of the fine for not having a valid work permit is € 8,000 but can be increased/ decreased depending on the circumstances of the event.

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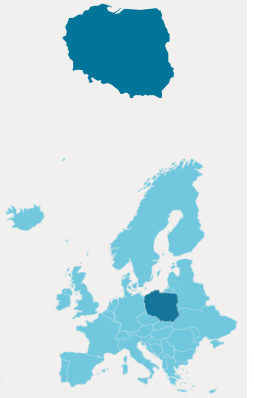
Peru



Development	Description	Effective date	Impact and risk	Future actions
The judges of the Supreme Court meeting in the "Plenary Chamber" have adopted various agreements developing jurisprudence in labour and social matters. Workers who are dismissed without cause or in a fraudulent manner can now jointly request reinstatement and the payment of compensation for damages (emergent damages, loss of profit and moral damages).	The law does not expressly establish the right to collect accrued salary in cases of unfair dismissal or fraudulent dismissal, however, the Plenary Chamber concluded that the worker is entitled to receive compensation for damages that replaces the claim for accrued salary. Compensation for damages will be determined not only taking into account the loss of earnings but also the moral damage and "punitive damages".	**Effective as of 4 August 2017.**	It affects all judicial processes that are in process and new ones that are initiated. It increases the costs of dismissals in Peru. Although not regulated by Peruvian law, the Supreme Court has also decided to impose on the employer the obligation to pay additional compensation for punitive damages, establishing as the limit of this new compensation the equivalent of the amount that the worker stopped contributing to his Pension funds. The judges may order this payment even when the worker has not included such payment in the claim.	We recommend that employers review their dismissal process and take care carrying out dismissals. When there is insufficient evidence to support the cause of the dismissal, it is advisable to reach an agreement with the worker to terminate the employment relationship.

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Poland



Development	Description	Effective date	Impact and risk	Future actions
A lower retirement age will be introduced following amendments to the Act on retirement pensions and other pensions from the Social Insurance Fund.	The most important change relates to lowering the retirement age. Women will be able to retire at 60 and men at 65. Currently, the retirement age for both women and men is 67. Also, at the time of reaching retirement age, the insured person will be able to apply to the Social Insurance Institution for a calculation of the amount of the retirement pension that she/he would receive at that date.	**Effective as of 1 October 2017.**	In Poland, employees who will reach their retirement age in no more than 4 years, enjoy special protection against termination (protection due to pre-retirement age). During this 4-year period, the employer cannot serve them termination letters. A decrease in the retirement age will change this protection period, which will begin sooner: 56 years of age for women and 61 years of age for men. However, the new legislation introduces numerous specific modifications to this rule, in some cases extending this protection period even to 6 years.	Due to the modifications of the protection period, before serving a termination letter, employers should double-check whether the employee is subject to pre-retirement protection. The reform will allow potential retirees to decide whether the pension they can receive is satisfactory to them or whether they prefer to work longer to ensure that they will receive a higher pension.

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Portugal



Development	Description	Effective date	Impact and risk	Future actions
Strengthening of the enforcement powers to prevent precarious employment – fake “green receipts” and all forms of non-declared work, including fake internships and fake volunteering. Green receipt is the term used to describe a person hired under a service agreement in Portugal (because upon payment they issue a *green receipt*). This refers to a contract for services, rather than a contract of employment.	The new measure seeks to prevent and combat situations where there is an actual employment contract but under the form of a “green receipt”, internship or volunteering relationship. The two key points of this measure are the following: • Enhanced powers for the Labour Authority and the functions of the Public Prosecutor's Office – which are now judicially entitled to initiate proceedings for the recognition of an employment contract; • Legal standing of the Public Prosecutor's Office to request the preventative suspension of the dismissal after the relevant employment contract has been judicially recognised as such.	**Effective as of 1 August 2017.**	With the strengthening of these procedural mechanisms, there may be an increase in the inspection of “green receipt” contracts, internships and volunteering programs. The condemnation of the company by the court will result in the judicial obligation to pay: • The pay and allowances to which the employee would have been entitled to during that period; • The social security contributions in debt; • Potential indemnities for property and non-property damage; • Possible fines.	Companies should ensure that contracts in the form of “green receipts”, internships and volunteering are carried out in a way that does not resemble an employment relationship - no fixed working hours, disciplinary exercise, and application of the internal career progression system, among others. In the case of internships and voluntary work, these preventive measures are more easily ensured if they are carried out in a curricular context (for instance, through a college program).

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Russia





Development	Description	Effective date	Impact and risk	Future actions
The Russian Ministry of Finance has clarified the position over the taxation of severance payments made to employees upon dismissal (including those dismissed under amicable agreements with their employers).	It has been clarified that payments not exceeding three average monthly salaries are not subject to personal income tax, (13% for Russian tax residents) only if the relevant amount of severance compensation has previously been established in the employee's contract or in a collective bargaining agreement. As regards company profit tax, it has been confirmed that payments not exceeding three average monthly salaries are tax deductible for the employer by default. Any amounts of compensation paid in excess of three average monthly salaries are non-deductible unless the employer can provide a valid economic justification of the higher payments.	**Ongoing.**	These taxation issues will have a direct financial impact for both employers and employees where the employee's termination is on certain grounds. In particular, this clarification of taxation principles should be taken into account when deciding on the amount of compensation payable to employees, particularly where termination is upon mutual agreement with employer.	Employers should take into account this clarification when calculating the amount of compensation payable to employees who have been dismissed.

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Singapore



Development	Description	Effective date	Impact and risk	Future actions
Launch of the Employment Claims Tribunal ("ECT") to hear low value salary-related claims. Key points to note: *Maximum claim amount* • Up to S$20,000 • Or up to S$30,000 for claims which have undergone mediation through the Tripartite Mediation Framework or mediation assisted by unions recognised by the Industrial Relations Act. *Legal representation* • External lawyers cannot represent parties.	The ECT covers: For employees • Statutory salary-related claims from all employees under the Employment Act, Retirement & Re-employment Act and Child Development Co-Savings Act. • Contractual salary-related claims for all employees, except domestic workers, public servants and seafarers. For employers • Claims for salary in lieu of notice for all employers. Whilst the claim threshold is relatively low and the ECT's jurisdiction is limited, employers will face increased exposure to a wide variety of salary-related disputes.	**Effective as of 1 April 2017.**	The ECT provides an avenue for those employees who fall outside the scope of the Employment Act (i.e. those who earn more than S$4,500 per month) to have their salary-related disputes adjudicated. Previously, these employees' sole recourse was to the Civil Courts. Claims may relate to: • Non-payment of salary or salary in lieu of notice; • Overtime payments; • Unauthorised deductions from salary; • Non-payment of contractual bonuses; • Unpaid commission claims; • Central Provident Fund payments; and • Retrenchment benefits.	We recommend that employers with a Singapore workforce take steps to understand the ECT process and potential exposure. Some employers are conducting internal training to prepare their HR and in-house legal teams.

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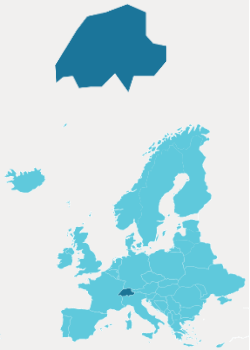
Spain



Development	Description	Effective date	Impact and risk	Future actions
A recent judgement delivered by the Supreme Court in May 2017 changes the rules on the calculation of severance salary. Under Spanish law, depending on the type of termination employees may be entitled to a compensation/severance for the termination of the employment contract. This is calculated based both on the employee's salary and the years of service. For instance, the severance payment for unfair dismissal is 33 days' salary per year of service.	The Spanish Supreme Court has clarified a legal question that has raised many problems in the past. Now it is clear that severance salary shall include not only fixed-salary, variable remuneration, etc. Payments made by the employer regarding life and medical insurance and contributions to pension plans must be considered as part of the employee´s salary. The Supreme Court stated that these payments are based on the existence of an employment relationship and derive from the fulfilment of the employee´s obligations and, therefore, shall be considered salary and included for severance payment calculations.	**Ongoing.**	Insurances and pension plans were traditionally considered social benefits or voluntary improvements to social security benefits. Therefore, they were usually excluded for severance purposes. This judgement, together with previous judgements from the Spanish Supreme Court in this respect, clarify the consideration of these benefits as part of the employee's salary. Consequently, the exclusion of life and medical insurance rates, as well as the contributions to pension plans, when calculating severance payments, may involve judicial claims from the employees and, in the case of redundancies, may be considered a breach of the legal formalities.	In order to avoid future claims against the employer regarding the calculation of severance payments, it will be necessary to include the value of life and medical insurance as well as the contributions to pension schemes when determining the employee's salary for severance payment purposes.

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Switzerland



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Intragroup employee leasing (where the employee remains employed by the original company but the right to give instructions is transferred to the receiving company) is subject to the same permit requirements as normal third party employee leasing.	The Swiss State Secretariat for Economy and Labour (SECO) has clarified that intragroup employee leasing is not exempt from the laws and regulations regarding employee leasing. Accordingly, if the legal requirements are met, even a mere intra-group employee leasing requires obtaining the relevant permits. As a general rule, only intra-group employee leasing of a very short duration, in isolated cases, or in the context of a know-how transfer are exempt and no permit is required in this situation.	**With immediate effect.**	If the requirements for an exception are not met, intragroup employee leasing requires a permit. Employee leasing without a valid permit may even lead to criminal sanctions.	Employers with regular intra-group employee leasing activities should carefully assess the situation and whether they have to apply for a permit.

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Turkey



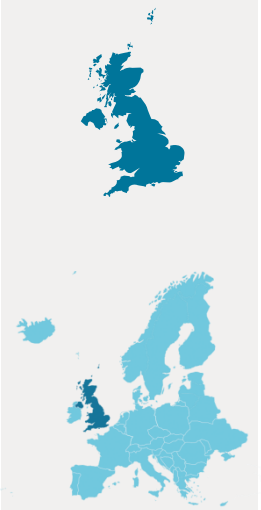


Development	Description	Effective date	Impact and risk	Future actions
The International Work Force Law, Law No. 6735. introduces the Turquoise Card as an alternative to ordinary work permits for foreign employees. The Turquoise Card Regulation (the "Regulation") was published in the Official Gazette dated 14 march 2017 and numbered 30007. However, a subsequent implementing regulation has not yet been published.	Although the Law and the Regulation set the framework for the Turquoise Card, the lack of an implementing regulation means that Turkish employers are currently unaware of the details of the application process for obtaining a Turquoise Card for their foreign employees.	**Ongoing.**	Upon the publication of the implementing regulation, foreign persons meeting certain educational and professional eligibility criteria will be entitled to apply for a Turquoise Card. This will grant them an indefinite period right of residence and employment in Turkey, as opposed to ordinary work permits, which only grant a one-year right of residence and employment in Turkey for first time applicants. Foreign persons able to obtain a Turquoise Card will be those who are classed as high-skilled, qualified investors, scientists and researchers, as well as those who are successful internationally in the cultural, artistic or sporting areas and those who have contributed to the recognition and publicity of Turkey and Turkish culture.	Turkish employers should take steps to monitor and understand these developments in relation to work permits and especially the timing of the publication of the implementing regulation. Employers may wish to provide general advice on the various work permits available to their foreign employees and engage intermediary institutions for applications to be made to the Ministry of Labour and Social Security.

On your radar

|Global developments in employment law

UK

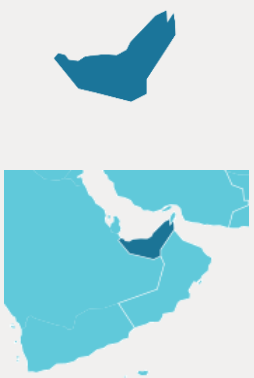


Development	Description	Effective date	Impact and risk	Future actions
Abolition of fees in employment tribunal claims following the Supreme Court decision of *R (on the application of Unison) v The Lord Chancellors Department*. Not only did the Supreme Court rule that the existing fees were unlawful, they ruled that this is the position since they were introduced in 2013. Therefore all previous fees which have been paid by claimants and respondents will be reimbursed. The Tribunal service immediately stopped requesting fees from claimants. We are currently awaiting details of how the Tribunal service will reimburse fees.	Fees were introduced in UK employment tribunals in July 2013. There were 2 different rates depending on the type of claim: either £1200 or £350. Following the introduction of fees employment tribunal claims reduced by 79%. The Government introduced fees to try to prevent unmeritorious claims and to pass some of the costs of using tribunals to the users of the system. The Supreme Court rejected these arguments and said they acted as a barrier to justice. Unison, one of the UK's largest unions challenged the Government in a long running cases which began in 2013.	**26 July 2017 – the date when fees were ruled unlawful.**	It is likely that there will be a significant increase in tribunal claims from employees. In addition we expect there will be additional historical claims from • individuals who were either refused the ability to bring their claim because they did not pay the fee or were not eligible for remission, or • individuals who were put off raising a claim because of the level of fee	Employers should audit the tribunal claims they have been involved in to determine what fees they have paid directly to the tribunal service, and any fees they were ordered to pay to reimburse a claimant. We expect that employers will actively have to contact the tribunal service to recover any money paid. It is not yet clear how the system will operate where fees were reimbursed to a claimant via a settlement agreement. We expect further details of the refund scheme to be published in September and we will update clients via our law-Now service.

On your radar

Global developments in employment law

United Arab Emirates



Development	Description	Effective date	Impact and risk	Future actions
Reform of the Dubai International Financial Centre (“DIFC”) Employment Law. A new draft employment law is being drafted for the DIFC Free Zone in Dubai. Whilst the substantive form has not yet been announced, there has been local media coverage stating that the changes may mirror the employment law for the recently created Abu Dhabi Global Markets Free Zone (“ADGM”).	Key differences between existing DIFC and ADGM laws are as follows. DIFC: employees can opt out of the maximum 48 hour working week. ADGM: employees can also opt out. In addition, employers may not "require or allow directly or indirectly" employees to work excessive hours or hours detrimental to their health. DIFC: no mandatory minimum notice period. Termination for "cause” permitted but not specific. ADGM: specific minimum notice periods and definition of "cause". DIFC: No paternity leave provisions. ADGM: new right of minimum 5 days paid paternity leave.	**The date of the new DIFC legislation is yet to be confirmed, and the draft proposal has not yet been issued for consultation. It is envisaged a draft law will be published in the last quarter of 2017.**	The impact and risk will be dependent on the content of the new DIFC Employment Law, which are yet to be released. If the new law does follow the approach taken in ADGM, the key impacts and risks will be as follows. Employers in the DIFC will need to take additional care in respect of employees working in excess of 48 hours a week, to ensure there is no detrimental effect on their health. Termination for cause may be more straightforward and less risky for employers if a clear definition of cause is introduced. Employers will need to introduce paternity leave policies in line with the minimum requirements.	Employers based in the DIFC should look out for the revised DIFC Employment Law and ensure they become familiar with the changes. Whether any revisions are required to existing employment contracts will depend on the changes actually implemented in the new Employment Law. Employers may need to update existing employment/HR policies. There may be particular requirements in respect of paternity leave and excessive working hours, but other areas may also be effected depending on the scope of the new law.

On your radar
|Global developments in employment law

Ukraine



Development	Description	Effective date	Impact and risk	Future actions
Three current developments are: 1. Future changes to the law simplifying the employment and immigration procedures of foreigners. 2. The draft Labour Code of Ukraine was prepared for second hearing by the Parliament. In addition, a draft law introducing a number of substantive changes to the regulation of collective bargaining agreements (CBAs) was submitted for review by the parliamentary committees. 3. Finally, labour inspection visits are expected to go live under the new recently adopted procedure.	1. The procedure for obtaining work and temporary residence permits will be significantly simplified e.g. by shortening the list of documents required to be filed. 2. Once the long awaited Labour Code is approved, it will bring the employment regulations of Ukraine closer to international best practice in addition to providing a number of new aspects - look out for future updates! If the changes to the CBA law are adopted, the duration of CBAs will be three years (with a max. Three year extension). If parties fail to extend the term of the CBA or re-conclude a new one, the CBA will continue in effect for one year.	**27 September 2017 – for the law on the simplification of the employment and immigration procedures.** **The date when the draft Labour Code and the draft law introducing changes to the CBA regulation is not yet known, although it is expected in the autumn of 2017.** **On 16 May 2017 the regulation on the new labour inspection visits became effective and the order on inspectors' IDs became effective on 16 June 2017.**	The changes to employment of foreigners are expected to establish clear, transparent and foreigner-friendly work permit and temporary resident permit procedures aimed at engaging foreign professionals. The new procedure for labour inspections is expected to prevent tax-evasion and off-the-books employment. The new Labour Code, if and when it is adopted, will change the outdated regulation of employment relations in Ukraine and will require efforts from both employers and employees. If the law on CBAs is adopted it is expected to bring positive changes by making CBAs more in line with the needs of employees and employers.	We recommend that employers: • review their internal documents in order to ensure compliance with the recent and future changes, and • organise staff training particularly for those employees who will be involved with labour inspections.

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