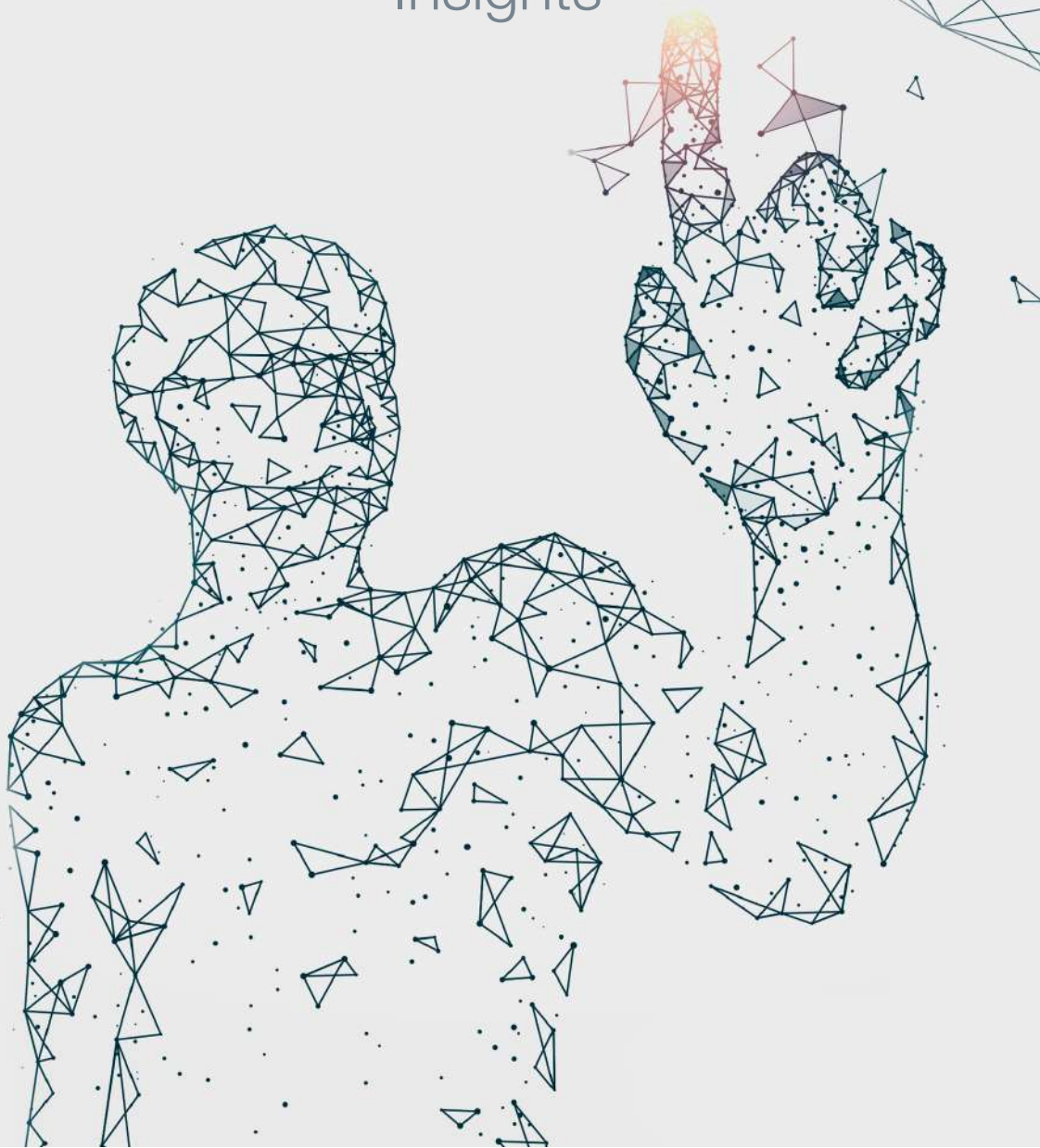


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Andersen Global Chairman and Andersen CEO
Mark L. Vorsatz, Andersen (U.S.)

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Introduction



You may also be interested in:

Employment of Managing Directors

The guide provides an overview of the regulations concerning the employment and/or appointment of managing directors who also hold positions within the company's governing bodies. This guide focuses on the rules applicable mainly to limited liability companies (LLCs) in over 30 European countries.

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Our experts have jointly developed a practical guide to remote work in different European countries. We hope that our study will serve as a support for employers when making decisions related to the implementation of remote work.

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Context

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Belgium



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LAW - Anti-discrimination law substantially expanded

On 20 July 2023 Belgium has amended its anti-discrimination law. Multiple, associative, and presumed discrimination is now explicitly prohibited by law as a result of codification of European case-law. From now on, the Belgian legislator recognizes multiple discrimination, which was not the case before. This multiple discrimination can be (i) cumulative – based on multiple criteria of separate discrimination grounds or (ii) intersectional based on multiple protected criteria which become inseparable and seen as one discrimination ground. The law adds two more discrimination grounds: (i) discrimination by association and (ii) discrimination based on a presumed criterion (for example the prohibition to discriminate a parent who has a child with a disability). The law even extends sanctions that can be imposed by the courts and provides for the possibility of cumulating the flat-rate damages determined by law. Hence, from now on, the court can impose the lump-sum damages provided in the case of workplace discrimination, being 6 months' gross salary, several times according to the

number of protected criteria violated. Finally, the legislative amendment also extends the possibility of imposing a cease-and-desist order.

LAW - Notice period capped at 13 weeks for all workers terminating their employment agreement

The maximum legal notice period in the event of dismissal by the worker, as a consequence of the so-called "unified worker status", has been amended, effective 28 October 2023. When the law relating to the "unified worker status" came into force in 2014, a transitional regime for calculating the notice periods in case of termination of running employment agreements by the worker was introduced. Two notice periods had to be calculated and added together to determine the total notice period to be observed, namely (i) a notice period running from the conclusion of the employment agreement until 31 December 2013; and (ii) a notice period for the period from 1 January 2014 until the end of the employment agreement. The transitional regime is now replaced by a new paragraph that expressly states that the notice period for both blue-collar and white-collar workers may never exceed 13 weeks for workers with at least 8 years of seniority.

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Bosnia and Herzegovina

At the end of the transitional period, citizens will only be able to exercise their right to health insurance if they are insured for the reasons set out in the law on compulsory health insurance, while employers will of course continue to be obliged to pay health insurance premiums.

LAW - Employees' right to health insurance after the lifting of the state of emergency

Under Bosnia and Herzegovina law, employees are entitled to health insurance if their employer has paid all taxes and contributions, including the health contribution. Since the beginning of the coronavirus pandemic, the Health Insurance Fund has been financing health services for uninsured citizens in public health facilities. With the end of the state of emergency, this will no longer be the case and citizens will be asked to regularize their status accordingly. The Health Insurance Fund, as decided by the government, has made it possible for uninsured citizens to obtain health insurance during the transitional period. At the end of the transitional period, citizens will only be

able to exercise their right to health insurance if they are insured for the reasons set out in the law on compulsory health insurance, while employers will of course continue to be obliged to pay health insurance premiums.

LAW - Rulebook on the procedure for determining temporary incapacity for work

The Rulebook on the Procedure for Determining Temporary Incapacity for Work was published in May 2023. This regulation establishes the procedure for determining temporary incapacity to work, the recommended duration of incapacity to work, the criteria for diagnostic procedures and the type of medical documentation required for making decisions based on diagnoses established in accordance with the International Statistical Classification of Diseases, the territorial organization of first-instance commissions for the assessment of temporary incapacity to work that lasts continuously for more than 30 days. An employer who believes that an insured person who is temporarily incapable of working is making unjustified use of the right to wage compensation during the period of temporary incapacity to work may initiate the procedure of extraordinary assessment of temporary incapacity to work.



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Croatia



LAW - Prohibition of Sunday Work

On 1 July 2023, the amendment to the Law on Trade regarding work on Sundays came into force. According to the amended Article 57, it is up to the trader to determine the working hours of the sales premises, which must be between Monday and Saturday. On Sundays and public holidays, sales outlets must be closed. However, the trader may designate sixteen Sundays a year as working days. The provision specifies exceptions to this rule, which apply to transport hubs, petrol stations, hospitals, hotels, cultural and religious institutions and others. In addition, the above provisions do not apply to certain sales activities, such as the sale of self-produced agricultural products, marketplace sales, sales at fairs, sales from vending machines and distance/online sales.

COURT - Constitutional Court decision regarding Medical Residents and their specialization costs

The recent decision by the Constitutional Court is a welcome development for medical residents who have been struggling with uncertainty about their specialization program. By overturning previous rulings, this decision brings clarity to the issue: specialization fees are not intended to cover both salaries and research costs, contrary to previous assumptions.

In the past, residents were required to repay both specialization costs and salaries when they terminated their contracts with medical institutions. The recent ruling revises this requirement to focus solely on the costs incurred. Although not definitive, this ruling has shed light on the need to define specialization costs and ensure the mobility of workers without financial concerns. As discussions continue, there is potential to establish a fair system that complies with the law and meets the needs of medical residents.

[Read More](#)

The recent decision by the Constitutional Court is a welcome development for medical residents who have been struggling with uncertainty about their specialization program.



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Czech Republic

The purpose of the law is to allow employees to safely report possible illegal activities and subsequently protect them from possible retaliation by employers.

LAW - Whistleblowing Act adopted

The long-awaited and much-discussed Whistleblowing Act was finally adopted at the end of June. The purpose of the law is to allow employees to safely report possible illegal activities and subsequently protect them from possible retaliation by employers. As a result, by 1 August 2023, all private companies in the Czech Republic with more than 250 employees (as well as larger municipalities and publicly funded entities) must have a functioning internal reporting system in place. Companies with more than 50 employees must do so by 15 December 2023. The Whistleblowing Act provides for fines of up to CZK 1 million.

LAW - Major amendment to the Labor Code returned to Chamber of Deputies by Senate

The adoption of important amendments to the Czech Labor Code has been postponed. It should introduce several

important changes, also required by EU law. Firstly, the workers under popular agreements on work performed outside an employment relationship (agreement to complete a job, agreement to perform work) should be given a higher level of protection. They will be entitled to additional payments for weekend and night work, including compensatory time off. Secondly, in order to facilitate the reconciliation of private and professional life, the amendment should regulate homework. Pregnant employees, employees caring for a child under the age of nine, or employees caring for dependent persons should be entitled to request some form of homeworking. Such a request could only be refused with sufficient written justification. At the same time, employers should compensate employees who work from home for energy and other expenses.



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Finland



LAW - Small amendment to the Finnish Employment Contracts Act from 1 July 2023

Chapter 1, Article 1 of the Finnish Employment Contracts Act (2001/55) on the basic characteristics of an employment relationship was reformed 1 July 2023. The provision has been clarified by adding that in situations open to interpretation, the existence of an employment relationship shall be assessed on the basis of an overall assessment, taking into account the conditions under which the work is performed, the circumstances in which the work is performed, the intention of the parties as to the nature of the legal relationship and other factors affecting the actual position of the parties in the legal relationship. The reform of the law as such does not in itself introduce any changes and the basic characteristics of an employment relationship have not changed. An overall assessment should be made if the nature of the legal relationship remains unclear after an examination of the basic characteristics.

LAW - Amendments to the Finnish Act on Posting Workers

The Finnish Act on Posting Workers (447/2016) will be amended following infringement proceedings launched by the European Commission against Finland. The draft government proposal e.g. abolishes the obligation to notify the contracting authority and the main contractor of the posting of

workers, the obligation for the contracting authority to contact the contractor at the request of the labor inspectorate and the associated penalty for failure to do so. In order to protect posted workers, it is also proposed to introduce a ban on retaliation and to make the posting company liable for damages in the event of a breach of the ban. This provision may slightly lower the threshold for posted workers to approach the authorities to clarify their case or to claim their rights in court. The proposed law is under consultation until 31 August 2023 and is expected to come into force on 1 January 2024.

In order to protect posted workers, it is also proposed to introduce a ban on retaliation and to make the posting company liable for damages in the event of a breach of the ban.



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France



Law - Pension reform

The pension reform law was passed in a tense social context in France on 15 April 2023. The main implementing decrees were published over the summer, allowing the law to enter into force on 1 September. In summary, the retirement age will be gradually increased from 1 September 2023, depending on the year of birth, to reach 64 in 2030 (it is currently 62). The contribution period required to obtain a full pension will be gradually increased to 172 quarters (instead of 164 quarters at present), i.e. 43 years of contributions. Despite the increase in the legal retirement age, disabled persons and those deemed medically unfit for work will still be able to retire at 62 with a full pension. The law also modifies the current system of early retirement for those with long careers. Employers and employees will have to adjust to these new rules over the next two years.

COURT - "Golden hello" signing bonuses

"Golden hello" hiring bonuses are a common practice to attract talent and/or to compensate for medium or long-term bonuses lost when employees leave their previous employer. In a recent ruling, the French Supreme Court clarified for the first time that this type of clause may provide that part of the signing bonus must be reimbursed to the employer in the event of departure before a date set out in the

clause. According to the Court, the clause must clearly state the objective of securing the loyalty of an employee with whom the employer wishes to establish a lasting relationship and cannot provide for the possibility that the employer may claim the full amount of the signing bonus. Employers should seek advice before drafting "golden hello" type employment clauses and, where appropriate, review existing clauses to ensure that they comply with this recent case law.

In a recent ruling, the French Supreme Court clarified for the first time that this type of clause may provide that part of the signing bonus must be reimbursed to the employer in the event of departure before a date set out in the clause.



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Germany



COURT - Termination because of statements in a chat group

In its decision dated August 24, 2023 (2 AZR 17/23), the German Federal Labor Court (Bundesarbeitsgericht - BAG) ruled that the dismissal for cause of an employee who had made highly offensive, racist, sexist and violent comments about his superiors and other colleagues in a private WhatsApp chat group consisting of seven colleagues could be justified. Only in exceptional cases the employee can claim a legitimate expectation of confidentiality from the chat group. If the subject of the messages is offensive and inhumane remarks about company employees, a specific explanation is required as to why the employee had a reasonable expectation that the content of the messages would not be disclosed to third parties by any member of the group. Failure to do so constitutes cause for extraordinary termination of employment.

COURT - Open video surveillance – (No) prohibition of use of evidence

According to a decision of the German Federal Labor Court (BAG) dated June 29, 2023 (2 AZR 296/22), there is no general prohibition against using recordings from open video surveillance to prove that the employee intentionally violated the employment contract. It is irrelevant whether the surveillance complied in all

respects with the requirements of the Federal Data Protection Act or the General Data Protection Regulation. If it did not, the processing of the employee's personal data in question by the labor courts would not be precluded under the GDPR. This applies in particular if the data collection is carried out openly and the employee's intentional breach of contract is at issue. In such a case, it is in principle irrelevant how long the employer waited to view the video material for the first time and kept it until then. The Federal Labor Court left open the question of whether, as an exception, a prohibition of the use of surveillance material could be considered for reasons of general prevention with regard to intentional breaches of duty if the open surveillance measure constitutes a serious violation of constitutional rights.

Only in exceptional cases the employee can claim a legitimate expectation of confidentiality from the chat group.



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Hungary

LAW - Harmonization to EU laws

New Act XXV of 2023 has been adopted to implement EU Directive 2019/1937 on the protection of whistleblowers. Employers with at least 250 employees required to establish an internal whistleblowing reporting system up to July 25, 2023 and the ones with at least 50 and up to 249 employees by December 17, 2023. Within the first deadline some employers irrespective of their headcount also must set up the system (e.g. certain service providers under the Anti Money Laundering Act or companies with special activities). The new Act defines the scope and means of the reporting, the requirements of the whistleblowing system and the procedural and data protection rules. The whistleblowing system can be operated by an impartial person or department within the employer designated for that purpose or by a specialized lawyer or other external organization. Affected Hungarian employers should implement these new obligations to ensure compliance.

LAW - Global Mobility

In addition to the complex immigration regulations, Act L of 2023 (published on May 25, 2023 with entry into force of July 25, 2023) was adopted on the employment of guest workers further regulating the situation of third-country nationals arriving

with the intention of working, by creating a legal definition of guest worker and introducing a new type of residence permit. Third-country nationals have been able to be employed by Hungarian employers after successfully applying for a single permit - i.e. a work and residence permit - and will continue to be able to do so. Under the new legislation, a guest workers will be a narrower category of third-country workers and the application procedure for their permit intended to be shorter. The rules do not allow family reunification or settlement of guest workers. Further legislative pieces shall determine the total number of guest workers who may be employed in Hungary each year, the occupations in which guest workers may not be employed in Hungary, and the list of countries outside the EEA that are not neighboring of Hungary but from which guest workers may be employed.



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Italy



GUIDELINES - National Labor Inspectors' summary of remote monitoring of employees

INL, the Italian National Labor Inspectors' agency issued a summary of the rules governing the use of systems that might be used for the remote control of employees. Under Italian law the remote control of employees is not allowed, and when a system is needed, e.g. for organizational, safety or security reasons, that could potentially be used also for the remote control of employees, a prior agreement with the works council, or an authorization by the labor inspectors' is necessary. INL summary is a very helpful read for employers that consider installing any such systems, and it also addresses matters such as GPS tracking, platform workers, workers in fields where video-surveillance may be needed to protect elderly and children.

LAW - Fixed-term Agreements

Law 85 of July 3, 2023 confirmed decree issued in May, making it more flexible for employers to conclude fixed-term employment agreements, that may now be concluded, without need to state a reason, for a duration of up to 12 months. In order to exceed 12 months, including in case of extension (and in any event, in case of renewal) one of the following conditions must be met:

- (1)** replacement of another worker;
- (2)** cases provided for by collective agreements (national, territorial or company-specific) signed by comparatively more representative unions or company-specific agreements signed by their works councils;
- (3)** in the absence of said collective agreements: cases provided for by any collective agreement implemented by the employer and, until April 30, 2024, in case of technical, organizational or production needs.

LAW - Youth employment incentives

On July 21 and then on August 10, 2023 INPS (the Italian social security agency) issued guidelines on the implementation of Law 85 of July 3, 2023, that provided an incentive, equal to 60 percent of the remuneration subject to social contribution, for a period of 12 months, in favor of employers who shall hire, between June 1 and December 31, 2023 individuals that meet all of the following conditions:

- (i)** under the age of 30;
- (ii)** NEETs (not in education, employment or training);
- (iii)** registered in the "Youth Guarantee" program.

INPS guidelines outlined in details the limits within which the incentive may be obtained, as well as the possibility to partially cumulate the incentive with tax breaks provided by other laws.

COURT - The retaliatory nature of a dismissal may be proven by circumstantial evidence

On August 3rd, 2023 the Italian supreme court (Corte di Cassazione 23702) rejected

a petition lodged by a bank against a court of appeal decision that had upheld a dismissed employee claim to be reinstated. The bank had terminated the employee for reorganizational reasons. The employee however successfully claimed that (i) the existence of alternative jobs; (ii) previous conflicts with the bank's CEO; (iii) refusal to grant the employee a "good leaver" status for stock plans purposes, were sufficient circumstantial evidence that dismissal was retaliatory and therefore void. The case continues the increasing tendency of dismissed employees to claim their dismissal was retaliatory or discriminatory, since this eventually leads to reinstatement or significantly higher settlements.

Discrimination/retaliation must be proven by employees, but employers should carefully review and demonstrate the reasons of termination.

COURT - Judicial commissioners appointed to manage companies charged to unlawfully exploit employees. Impact on supply chains.

On July 18, 2023 a widely reported press release by the Milan court public prosecutor, informed that a judicial commissioner had been appointed to manage a company that had been charged to unlawfully exploit employees, by paying too low salaries, for too many working hours. Exploiting employees in a situation of need is a crime under Italian law and recently a number of cases drew widespread attention. Cases usually concern companies active in providing services (such as security services, cleaning services, freight and delivery services). This means that criminal investigations can have a broader impact on the supply chains served by the investigated

companies, since, under Italian law, employers are jointly and severally liable for remuneration and social security allegedly unpaid to their providers' workers. In light of such initiatives, employers should carefully scrutinize their supply chain arrangements, including the relevant agreements.

On July 18, 2023 a widely reported press release by the Milan court public prosecutor, informed that a judicial commissioner had been appointed to manage a company that had been charged to unlawfully exploit employees, by paying too low salaries, for too many working hours.



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Liechtenstein



COLLECTIVE AGREEMENTS - Renewal of several collective agreements

With effect from 1 April 2023, the Government of Liechtenstein has issued an ordinance declaring various pre-existing but now updated collective agreements to be generally binding, thus establishing the contractual basis for all employment relationships in the following sectors: personnel (staff) leasing, retail trade, metal industry and automotive industry. The agreements were negotiated between the Liechtenstein Chambers of Commerce and the Liechtenstein Employee's Association for a specific period of time and include a wage and protocol agreement as appendix.

As in the past, the social partners have entrusted the Central Joint Commission (ZPK) with the monitoring and enforcement of the above-mentioned collective agreements. In Liechtenstein, this Commission has the task and competence of monitoring and enforcing compliance with and implementation of the collective agreement provisions in the relevant area of application. As a rule, the collective agreement regulates working hours, holidays, notice periods and minimum wages. Minimum wages are set annually in a wage and protocol agreement.

GUIDELINES - Framework agreement on teleworking or home office from 1 July 2023

In May 2023, the Liechtenstein Government took note of the "Framework agreement on the application of Art 16 (1) of Regulation (EC) No 883/2004 for cases of habitual cross-border telework" and mandated the Liechtenstein Office of Health to sign this framework agreement (as Germany, Austria and Switzerland had also done). Since the beginning of the Covid-19 pandemic, telework or home office has become the norm in many employment relationships. In the interests of both employers and employees, a multilateral framework agreement on cross-border telework has been negotiated at EU/EFTA level for the period after the end of the transitional phase from 1 July 2023. According to the framework agreement, the country of residence of the employer remains responsible for social security for telework up to a maximum of 49.9 %. The framework agreement only covers social security law, and in particular does not cover tax law.

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Lithuania



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LAW - Work under specific conditions

Certain amendments to the Labor Code of the Republic of Lithuania have come into force which may result in additional tax obligations for employers. Previously, it was stipulated that employees whose work is mobile or performed outdoors, or involves travelling or commuting, should be compensated for the related increased costs. This provision will be abolished on 1 June 2023.

However, the employment contract may stipulate that an employee working in this type of job is entitled to compensation. Continuing to pay the compensation will result in increased costs for the employer, as the amount of the compensation will be taxed as income of the employee in connection with the employment relationship or a relationship corresponding to its nature. The solution here is that the abolition of this provision could be the basis for offering the employee a change in the terms of the employment contract in which the compensation would be denied

and, if the employee does not agree, to consider the possibility of termination of the employment contract with notice and severance pay.

LAW - Daily subsistence allowances: important changes

Changing legislation on the posting of employees raises many practical issues. An amendment to the Resolution of the Government of the Republic of Lithuania on the Payment of Daily Subsistence Allowances and Other Expenses for Missions entered into force on 1 August 2023. This amendment of the Government Resolution increased the maximum daily subsistence allowances for certain countries and added new countries to the list. In Lithuania, the daily allowance was increased to EUR 28. It should be noted that several other changes also came to effect on 30 June 2023. Previously, the regulation provided that if a person travelled to several countries on one day, he or she would be paid the average of the daily allowances calculated according to the rates set for those countries. Employers should be aware that the average daily subsistence allowance rule will no longer apply where a person enters another country on a connecting flight or in transit by other means of transport.



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Malta



The Department for Industrial and Employment Relations has published its resource pack for 2023 which includes guidelines for practitioners detailing the minimum wages in Malta as well as the minimum entitlements.



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COURT - Repayment upon criminal conviction of employee

The Maltese Court dismissed a claim by a Maltese authority against its former employee. The former employee has been found guilty of a criminal offence in 2015, by a Court of First Instance. Following an appeal, a final decision upholding the verdict was reached in 2018. The employer subsequently filed a claim against the former employee, requesting the repayment of wages paid between 2015 and 2018. However, the Court rejected the claim on the basis that the final guilty verdict has

been delivered in 2018. Moreover, the Court affirmed that as the final decision was delivered in 2018, the authority could not have terminated the employment in 2015.

LAW - Transposition of EU laws: Transparent and Predictable Working Conditions

In October 2022, Malta transposed the Directive on transparent and predictable working conditions in the European Union. The aim of this transposition is for minimum requirements relating to working conditions of employees to be streamlined. These conditions are applicable to every worker in the European Union who has an employment contract, or employment relationship. By virtue of this law, employers have new obligations vis-à-vis information which is to be given to the employee, and records which are to be kept. This law also prohibits the employer from restricting the employee to take up other employment with other employers outside the work schedule, unless there are objective grounds to do so. The employees are given additional rights and protection from dismissal in case of employer's breach of these regulations. Breach of these regulations is punishable with a fine of not less than four hundred and fifty euro (€450).

GUIDELINES - Malta Resource Pack 2023 – Department for Industrial and Employment Relations (DIER)

The Department for Industrial and Employment Relations has published its resource pack for 2023 which includes guidelines for practitioners detailing the minimum wages in Malta as well as the

minimum entitlements. The Guidelines are comprehensive as they take into consideration the National Standard Order and the Wage Regulation Orders. The Wage Regulation Orders regulate employment conditions for specific economic sectors. The guidelines are easy to follow and provide a good reference manual.

COLLECTIVE AGREEMENTS - Collective Agreements in Employee Dismissal

In a recent judgement, the Maltese Courts have emphasised the legally binding effect of collective agreements. An employee was dismissed by HSBC Bank PLC Malta through disciplinary proceedings, and after he took the matter to the Industrial Tribunal, he was awarded €6,000 in compensation on the basis of unfair dismissal. The dismissed employee appealed, as according to the collective agreement he was entitled to the equivalent of 3 years' salary. The Court of Appeal insisted that collective agreements are contracts like any other and are therefore legally binding and enforceable by the courts, and, while dismissing the bank's arguments and claims that the collective agreement did not apply to the case at hand, awarded the dismissed employee three years' salary plus legal interest and all legal costs involved.



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Moldova



LAW - Less formalities for Moldovan employers

As of 2 July 2023, Moldovan employers will have the right, and not the obligation (as previously required by law), to adopt and implement the internal regulation, which is the employment document regulating the rights and obligations of employees, their work and rest regime, specific conduct requirements, disciplinary procedure, etc.

The legal obligation of employers to plan the annual paid leave of their employees by the end of each calendar year has also been excluded. Instead of the rule that an employee must be paid the allowance for annual paid leave at least 3 calendar days before the beginning of the leave, the employer and the employee are now entitled to agree on another date of payment of such allowance, but no later than the date of salary payment for the month in which the employee was granted the respective leave.

COURT - Dismissal of employees who have reached retirement age

In June 2023, the Moldovan Supreme Court of Justice overturned the decision of the appeal court, upheld the decision of the court of first instance and stated that the employer has the right to dismiss an employee with the status of retiree

regardless of when the employee acquired this status: before or after employment.

The main argument of this recent case law is that the Moldovan Labor Code does not expressly require that the dismissal of employees on the grounds of their pensionable status be preceded by the acquisition of such status during their employment with that employer. Therefore, it is at the discretion of the employer to make use of this legal ground for dismissal and to decide whether and when to terminate the employment relationship with these employees.

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The legal obligation of employers to plan the annual paid leave of their employees by the end of each calendar year has also been excluded.



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North Macedonia

LAW - Changes in overtime work regulations

In May 2023, for the purpose of implementing projects of national interest of the Republic of North Macedonia, amendments to the Labor law regarding overtime work were adopted. For work on projects of strategic national importance defined by law, and due to the need for continuity of work, overtime may exceed 8 hours per week and 190 hours per year, with the prior written consent of the employee. Work more than 40 hours per week is considered overtime and is paid as such, with mandatory compliance with daily and weekly rest requirements in accordance with the law.

LAW - Preparation of new Labor law

A new Labor law is currently in the process of development and is anticipated to be approved by year-end. This forthcoming legislation will introduce significant changes to various aspects of employment, including maternity leave regulations, employment contracts, and collective agreements within organizations and companies. These revisions aim to address issues commonly encountered in business practice and will strengthen employee rights while limiting potential employer abuses.

Presently, the law is undergoing a phase of analysis and feedback from chambers of commerce and other relevant entities, allowing them to contribute comments and proposals. Following this stage, the draft of the law is expected to be presented to Parliament for further discussion during parliamentary sessions, ultimately culminating in a parliamentary vote.

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Norway



Norway has implemented more strict rules on companies' possibility to hire employees from staffing agencies. The purpose of the change of the rules is to try to force more employment relationships to be of a permanent and direct character between the employer and the employee.

LAW - New and more strict legislation regarding hiring temporary staff from staffing agencies

Norway implemented tighter regulations for hiring labor from staffing agencies starting on April 1, 2023. The significant change is that it is prohibited to hire from a staffing agency when the only reason for hiring is that the work is of temporary nature. There are exceptions to this:

- If there is a pre-existing agreement with employee representatives in the

company giving the right to hire from staffing agencies. This agreement must be part of a collective agreement established with a trade union that has at least 10,000 members.

- Staffing agencies can be used for temporary specialist expertise in advisory and consultancy services.
- Hiring from staffing agencies is allowed for health personnel to ensure proper health and care services.

These changes have caused difficulties for many businesses, and some staffing companies have filed a complaint with the ESA. The outcome of the case is pending.

A company may still hire staff from staffing agencies in some situations, e.g. to do work on behalf of someone else and if there is an agreement with the employee representative (being part of certain unions). There are exceptions for specialist expertise and within health and care services. Additionally, in Oslo, Viken, and former Vestfold county, hiring staffing agency labor for construction work is prohibited. However, construction companies can still hire staff for other roles.

GUIDELINES - New guidelines for preventing and dealing with sexual harassment at the workplace Article

Sexual harassment is prohibited under the Norwegian Working Environment Act and the Norwegian Equality and Discrimination Act. The Norwegian Labor Inspection Authority, the Equality and Discrimination Ombudsman and other relevant parties representing both employers and employees in Norway have together prepared guidelines for the prevention of and how to deal with sexual harassment

at the workplace. The above mentioned parties have released a campaign named "Let's draw the line on sexual harassment" in relation to the new guidelines on the topic. The campaign is originally designed for the catering and nightlife industry, but the advice and guide are also relevant for other industries. The parties have reached a consensus on six initiatives aimed at addressing and preventing sexual harassment in the workplace: risk assessment, codes of conduct, standard operating procedures, consequences for violations, managerial accountability, and open discussions on sexual harassment.

Read More



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Poland



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LAW - Important changes in litigation with employees

On 22 September 2023, important changes to labor law will come into force. They relate to the situation where an employer terminates an employee's contract, and the employee goes to court to claim reinstatement. If the court of first instance finds that the dismissal was unfair, the court's judgment will oblige the employer to reinstate the employee immediately (even if the employer appeals to the court of second instance). It is sufficient for the employee to make such a request during the proceedings - then the court must impose such an obligation on the employer.

In the case of employees with special protection against dismissal (pregnant employees, trade union leaders, etc.), the court will impose an obligation to reinstate them at any stage of the proceedings upon their request (refusal will be possible only

in exceptional cases). The employer will therefore have to employ such a person for the duration of the court proceedings (both in the court of first instance and in the court of second instance). This situation may last for several years.

LAW - Higher employment costs for employers in 2024

The minimum wage will increase from 1 January 2024, according to the draft ordinance on the minimum wage in 2024. Currently, the minimum wage in Poland is PLN 3,600 gross. According to the planned changes, the minimum wage is to increase significantly in 2024 and will amount to PLN 4,242 gross from 1 January 2024, and from 1 July 2024. - PLN 4,300 gross.


It is important to note that the minimum wage also affects other components of remuneration. Labor courts will be able to reinstate employees to work even though the court dispute is still unfinished. Therefore, this component will also increase. This means that labour costs will increase next year, which should be taken into account in the planned budget.

COURTS - Legal uphold for employee surveillance

The Polish Labor Code stipulates that video surveillance may only be used to ensure employee safety, protect property, control production or protect the confidentiality of information. The Data Protection Authority (UODO) received a complaint from an employee who was reprimanded for violating health and safety rules, which was documented on the CCTV video. The employee alleged

unlawful processing of his personal data claiming that the employer tracked the employee contrary to the purpose of the monitoring as set out in the Labor Code. The DPA agreed with the arguments put forward by our experts during the proceedings and subsequently dismissed the complaint.

Despite the decision of the supervisory authority, the employee filed a complaint with the Provincial Administrative Court. The court ruled on the correctness of the DPA decision and found that compliance with health and safety rules constituted the employer's legitimate interest, which was the legal basis for the processing of personal data.



In particular, according to Polish regulations, the allowance for night work is 20 per cent of the hourly rate resulting from the minimum wage.



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Portugal



LAW - Legal protection of independent contractors

Since its enactment, the Portuguese Labor Code has provided for the protection of independent contractors in terms of personal rights, equality and non-discrimination, and health and safety at work, whenever they are considered to be economically dependent on the beneficiary of the activity. However, the concept of "economic dependence" was not legally defined, leaving it to the courts and jurisprudence to interpret and apply it.

With the latest amendments to the Code, which will come into force in May 2023, the legislator now considers an "economically dependent" contractor to be a natural person who performs an activity directly and without the intervention of third parties for the same beneficiary and from whom he/she receives at least 50% of the income from his/her activity.

At the same time, with the recent changes to the Labor Code, independent contractors now have greater legal protection, benefiting from representation and collective bargaining for dependent workers.

LAW - Collective bargaining benefits

According to Portuguese labor legislation, the State must encourage collective bargaining, in order for the corresponding

instruments cover as many employees and employers as possible. However, the state's intervention has proved insufficient in this matter, placing the onus on private entities to promote collective bargaining.

Amendments have therefore been made to the Portuguese Labor Code, which stipulate that the state's promotion of collective bargaining should consist in adopting government measures that favor the contracting companies in terms of access to public support or financing, including European funds, and tax benefits. However, the legislation that has now been introduced is largely vague and it is not yet known how the measures to be implemented by the State will be implemented and what the concrete impact on companies will be.

At the same time, with the recent changes to the Labor Code, independent contractors now have greater legal protection, benefiting from representation and collective bargaining for dependent workers



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Slovakia

The proxy is not a body of the company but is a person who helps with the management (the statutory body itself) to ensure the fulfillment of the company's tasks by performing legal acts for and on behalf of the company.

LAW - Judicial reform in Slovakia

On 1 June 2023, the judicial reform came into force in Slovakia, the main purpose of which was to change the causal and local jurisdiction of courts in the new judicial system.

The main results of the judicial reform are as follows:

- A.** change of seats and districts, especially of district courts - reduction of the number of district courts from 54 to 31 and establishment of municipal courts (5 municipal courts were established),
- B.** adjustment of the causal jurisdiction of the courts and the associated higher specialization of the judges (e.g. in family law, civil law, labor law, commercial law and criminal agenda),
- C.** creation of new administrative courts (3 courts of first instance were created

to deal with the administrative agenda, which together with the Supreme Administrative Court of Slovakia form the system of administrative courts)

As a result of the judicial reform, cases are transferred to the successor court, which also leads to a change in the case number. In connection with the above, since the entry into force of the judicial reform, it is necessary to pay more attention to the correct determination of the competent court for the proceedings in a particular case.

COURT - A commercial power of attorney does not authorize the proxy to act on behalf of the employer

According to the decision of the Supreme Court of Slovakia of 28 October 2021, No. 6Cdo/120/2019, published in the Collection of Judgments of the Supreme Court and Courts of Slovakia No. 3/2023, a proxy granted in accordance with the provisions of the Commercial Code does not authorize the proxy to act on behalf of a legal entity in labor relations. A procuration is a special type of representation. The case law excludes the analogous application of the position of a statutory body to the position of a proxy.

The purpose of the procuration is to appoint a representative of the company who is able to bind the company in all matters of its business (during the operation of the company). The proxy is not a body of the company but is a person who helps with the management (the statutory body itself) to ensure the fulfillment of the company's tasks by performing legal acts for and on behalf of the company. Due to the nature

of this specific type of representation of the company to the outside, the procuration does not include any of the activities that the statutory body performs within the company. Therefore, its right to terminate the employment of an employee cannot be derived from the provisions of the Commercial Code.



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Slovenia

The new law regulates rights and services for a broader group of people who need basic daily assistance and support to integrate into the community, and is not limited to the elderly, but includes all beneficiaries.

LAW - The new Long-Term Care Act

In August 2023, the new Long-Term Care Act was adopted. The new law regulates rights and services for a broader group of people who need basic daily assistance and support to integrate into the community, and is not limited to the elderly, but includes all beneficiaries. One of the key systemic innovations it introduces is a guaranteed system of public funding. In addition to the annual budget share, workers, employers and pensioners will contribute a share of 1%, paid by employers and workers on gross wages and by pensioners on net pensions.

LAW - New Supplementary Health Insurance Contribution

Amendments to the Law on Health Care and Health Insurance (ZZVZZ-T), that was published in July 2023, abolishes voluntary supplementary health insurance and the payment of the supplementary health insurance contribution as of 31 December 2023, and instead introduces a new contribution for compulsory health insurance in the flat amount of EUR 35 for each calendar month as of 1 January 2024.

For persons in an employment relationship who are in receipt of a salary, the employer will deduct it from their calculated net salary on the day on which he pays the salary for a given month.



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Switzerland



LAW - New data protection law

On 1 September 2023, the new Federal Act on Data Protection (nFADP), which aims to protect the privacy and the fundamental rights of individuals when their data is processed came into force and significantly revising the Federal Act on Data Protection of 1992. It aligns the law with the European GDPR. Persons that were already compliant with the European GDPR will only need to make minor changes.

With the implementation of the new law, employers need to pay attention to the updated definition of “sensitive personal data” as now it also includes genetic, ethnic and biometric data that uniquely identifies a natural person.

As of 1 September 2023 individuals who fail to comply with the nFADP, or who violate or breach the nFADP, may be fined up to CHF 250'000.

LAW - New framework agreement on cross-border telework

On 1 July 2023 the new framework agreement on cross-border telework in the EU, the EEA and Switzerland entered into force. This agreement derogates from the normal rules of jurisdiction in order to

facilitate telework beyond 30 June 2023, in the interest of the workers concerned and their employers.

Under this agreement, people who work in a country for an employer based there will be able to perform up to 50 percent of cross-border telework (a maximum of 49.9 percent of working time) from their country of residence, in principle using computerized means, while retaining the social security jurisdiction of the country where the employer is based. This waiver can only apply to situations involving two signatory states to the agreement, as not all the EU countries have signed the agreement.

With the implementation of the new law, employers need to pay attention to the updated definition of “sensitive personal data” as now it also includes genetic, ethnic and biometric data that uniquely identifies a natural person.



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Ukraine



women shall be entitled to choose when to start their maternity leave. The maximum total duration of a maternity leave (126/140 calendar days) remains unchanged.

As a general rule, the maximum duration of a maternity leave in Ukraine is 126 calendar days (140 calendar days in case of complicated or multiple birth).



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LAW - Maternity leave rules change

On 29 July 2023 amendments to the Ukrainian laws on maternity leave, aiming at introducing flexibility in taking such leave by a female employee, became effective.

As a general rule, the maximum duration of a maternity leave in Ukraine is 126 calendar days (140 calendar days in case of complicated or multiple birth). Prior to the said amendments, the laws required the maternity leave to be split as follows: 70 calendar days of leave had to be taken prior to a childbirth on the basis of a medical certificate and the remaining 56 calendar days - after a childbirth, provided, however, that the total length of a maternity leave should not have exceeded 126/140 calendar days. From now on, the aforementioned division of a maternity leave shall no longer be mandatory and, in absence of medical contraindications,



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