European

Employment

Insights

> “Employers must now keep records of working hours not only for their own employees but also for individuals employed on other bases and temporary workers.”

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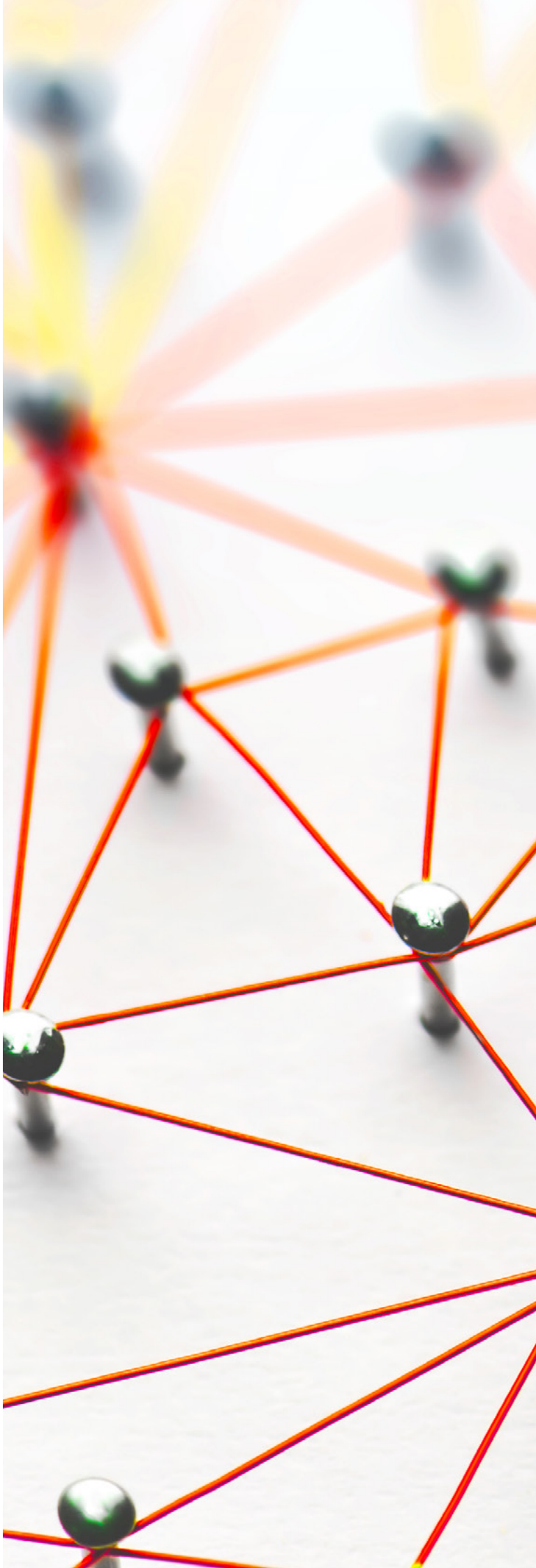

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INDEX

Introduction

European Guide to Support Employers
Remote Work in Europe 2024

Our guide sheds light on the current legal frameworks across 33 European countries, helping you develop effective remote work strategies tailored to your organization. Whether you're still weighing the pros and cons or already embracing remote work, this resource is invaluable.

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European Guide to Support Employers
Employment of Managing Directors

This comprehensive guide provides a detailed overview of regulations and conditions surrounding the employment and appointment of managing directors within limited liability companies (LLCs) in over 30 European countries.

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You may also be interested in:

European Employment Insights

The guide provides an overview from over 20 European countries of recent legal developments, tips for navigating complex legal issues, and staying up to date on notable cases.

April Issue **May Issue** **June Issue**

Context

Andersen Employment and Labor Service Line is your go-to partner for navigating the complexities of local and international labor laws and customs. We help you steer clear of employee-related issues while staying competitive in the global economy.

Our team comprises specialist lawyers and tax advisors who proactively guide both domestic and international companies of all sizes, spanning various industries. With a presence in more than 475 locations worldwide, Andersen offers top-notch advice through local experts. We stand by your side throughout the entire employment relationship, from its establishment to termination, making us your trusted partner in all employment-related matters.

We invite you to read in-depth employment information in our monthly Andersen Employment Insights newsletter. This newsletter provides an overview of the latest developments in employment law, guidelines, case law and collective agreements from various countries.

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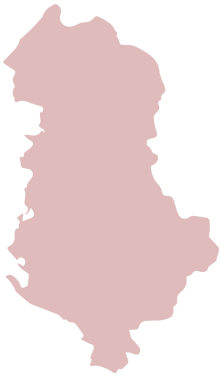
Albania



The comprehensive Employment Promotion Program aims to support the long-term unemployed individuals through vocational training, counseling and access to social services.

LAW
Social protection agreement between Albania and Italy to benefit cross-border employees

On February 6, 2024, Albania and Italy signed a landmark agreement on social protection, which has now been ratified by the Albanian Parliament through Law no. 47/2024. This ratifying law entered into force on 6 July, 2024, marking the culmination of negotiations that began on 6 February, 2015.

Given the long-standing economic and social ties between the two nations, this agreement is a crucial step in ensuring the social welfare of employees contributing to both economies. It harmonizes social security legislation, regulating pension benefits, unemployment insurance, sickness and maternity benefits, and provisions for old age, disability, and family pensions.

This agreement enhances the attractiveness of Albania as a destination for Italian businesses, providing economic stability and security for their employees. The agreement guarantees equal treatment for employed and self-employed individuals, both Albanian and Italian, and ensures access to social insurance benefits and recognition of contributions accumulated in both countries.

Read More

LAW
New employment promotion program

The Council of Ministers has issued Decision No. 401, dated 19 June, 2024, outlining procedures, criteria, and rules for implementing the Employment Promotion Program through Social Reintegration. This program targets unemployed individuals who have been out of work for more than six months. Aimed at fostering economic empowerment, it offers specialized counseling, professional training, and facilitates access to employment and social services. Priority is given to economically vulnerable groups such as recipients of economic aid, Roma and Egyptian communities, disabled individuals, and women in underserved administrative units.

NGOs delivering program services receive financial support by the state budget covering supervisor and consultant salaries, social and health insurance contributions, and administrative fees.

The public institution responsible for implementing the employment promotion program (AKPA) ensures transparency by publishing detailed guidelines and application procedures for grants, facilitating NGO selection. Each individual participant benefits from a personalized integration plan developed within a structured framework overseen by AKPA, ensuring effective program implementation and impact assessment.

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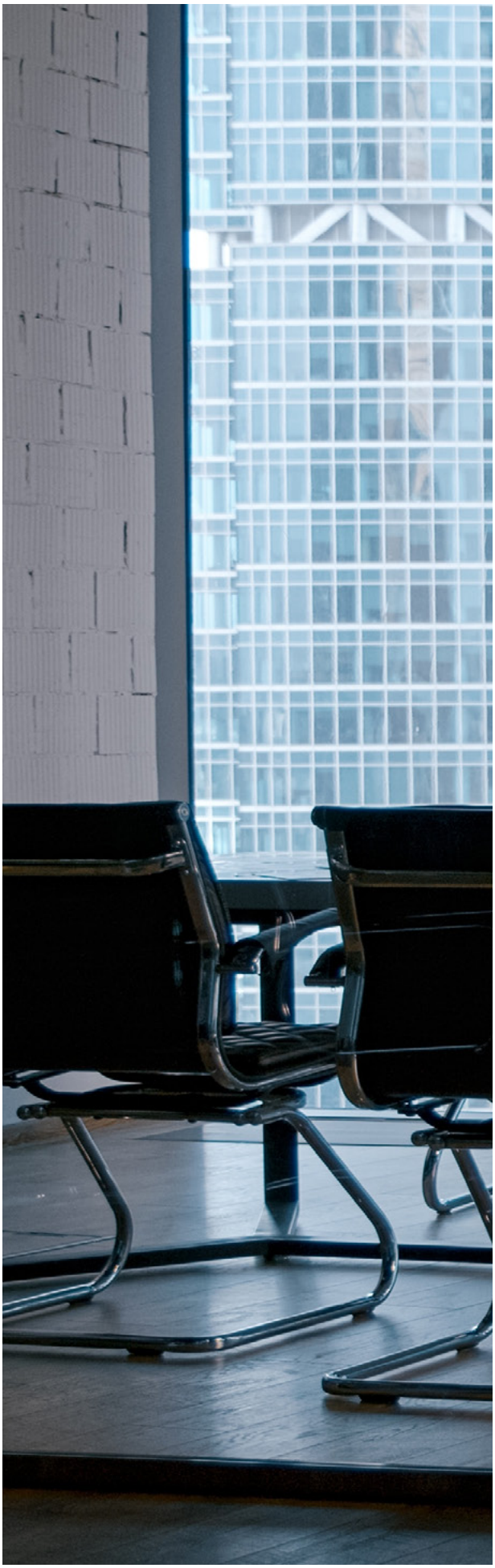

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Belgium

As of July 1, 2024, penalties for serious crimes are being increased, introducing the concept of an "aggravating factor" and reducing penalties for bona fide employers, while increasing penalties for unreported employee work.

LAW
Amendment of the Social Penal Code

The Act of 15 May 2024 amending the Social Penal Code was published on 21 June 2024 in the Official Belgian Gazette. This Social Penal Code, over 10 years old, needed reform to enhance the fight against social fraud. Amendments affect both Book 1 and Book 2 provisions of the code.

Key changes include: (i) increased penalties for level 3 and 4 offenses; (ii) introduction of the 'aggravating factor' concept and (iii) reduced penalties for some administrative offenses by employers deemed 'in good faith'. Workers are also impacted, with penalties for undeclared work rising from level 1 to level 3. The reform takes effect on 1 July 2024.

LAW
Minimum wages in the public sector

On 6 June 2024, a bill on statutory minimum wages in the public sector was published in the Belgian Official Gazette. This bill partially transposes the European Directive on adequate minimum wages in the EU for public sector wages. Previously, statutory minimum wages in the public sector could be legally reduced if the consumer price index dropped due to economic conditions.

Although such conditions have never occurred, the new bill amends the indexation scheme to prevent lowering minimum wages in the public sector. The bill entered into force on 16 June 2024.

Additionally, a royal decree is being prepared to ensure the directive's procedural obligations, ensuring the sufficiency of statutory minimum wages in the public sector.

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Bosnia and Herzegovina

Students may enter into temporary and occasional work agreements in the Federation of Bosnia and Herzegovina.

LAW
Amendments to the Labor Code of FBiH

Amendments to the Labor Code have been adopted in the Federation of Bosnia and Herzegovina, which stipulate that an agreement for the performance of temporary and occasional work may also be concluded with a student, i.e. a person enrolled at an accredited higher education institution on a full-time, part-time or distance learning basis, or a combination of these three study models.

This type of agreement with a student may be concluded no more than twice per calendar year, for a period that may not exceed a total of 180 days per calendar year, and only for jobs that are not considered to be high-risk jobs according to occupational safety regulations and for jobs for which a fixed-term employment agreement is concluded with the employer (seasonal and auxiliary jobs).

Students signing temporary or occasional work agreement cannot be under 18 or over 26 years old.

GUIDELINES
Emergency medical services

The Health Insurance Fund of the Republic of Srpska has announced that it will fully finance emergency medical services for the entire population - insured and uninsured citizens. This means that citizens are also exempt from paying co-payments, as the Fund fully finances emergency medical services.

If it happens that a co-payment or the full price of the service is charged in emergency cases, the insured has the possibility to submit a request for reimbursement of costs, but also to file a report of violation of rights so that the Fund's controllers can determine why the service was charged.

Violation reports are a concrete tool to protect the interests of the insured and a way for the Fund's inspectors to determine whether there has been a violation of rights in a healthcare institution. **Read More**

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Croatia

The Supreme Court has clarified that employers are not obliged to consult with the workers' council if unions fail to agree on a trade union commissioner.

COURT

A new legal understanding of the Supreme Court regarding the obligation to consult with the trade union commissioner

The Labor Act stipulates that before making a decision important for the position of the worker, the employer must consult with the workers' council about the intended decision. Also, the Labor Act stipulates that if the employer does not have a workers' council, the trade union commissioner takes over all the rights and obligations of the workers' council, and if there are several trade unions operating at the employer, the trade unions must agree on a trade union commissioner who will have the rights and obligations of the workers' council, and the trade unions are obliged to inform the employer in writing about the agreement reached.

The Supreme Court published a new legal understanding in which it resolves the disputed situation when there is no agreement between several trade unions about the trade union commissioner, in such a way that there is no obligation on the part of employers to carry out consultations in a situation where the trade unions have not previously fulfilled their obligation - reached an agreement on which trade union commissioner to have the rights and obligations of the workers' council and a written agreement about this through the notification of the employer.

LAW

New Rulebook on the content and method of keeping records by the employer

The new Rulebook on the content and method of keeping records of workers employed by the employer enters into force on 1 October, 2024, and the novelty is that it imposes more extensive obligations on employers related to keeping records of workers. Failure to keep records of employees or working hours according to the Labor Act is the most serious misdemeanor of the employer.

The new Rulebook prescribes that the employer is obliged to keep records of workers who perform work for the employer based on an employment contract; on natural persons who perform work for the employer on the basis of other contracts or special regulations and records of workers' working hours.

Records are kept in writing, on paper or in electronic form. The big news is that employers must now keep records of workers (and their working hours) who have been temporarily assigned to them by affiliated companies, as well as workers who have been assigned to them by a temporary employment agency.

Finally, the employer is obliged to keep and present a written overview of the data for each worker.

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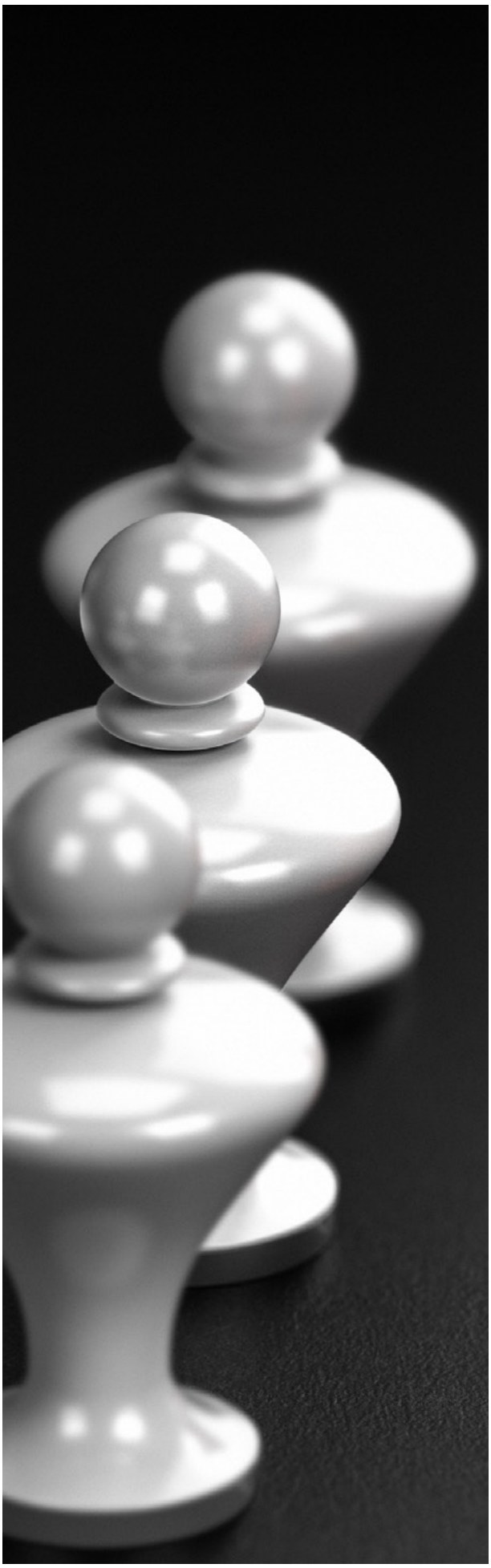
Employers must now keep records of working hours not only for their own employees but also for individuals employed on other bases and temporary workers.



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Cyprus

Employer notices require written communication, but employee notices need not be in writing under Law 24/1967.

LAW
Statutory notice periods on termination of employment

Employees with continuous employment of at least six months but less than one year are entitled to at least one week's notice from the employer. Employees with one years' continuous employment or more are entitled to one week's notice for each complete year of employment from the employer, up to a maximum of eight weeks' written notice. The parties may validly agree in writing to longer notice periods, provided that they are not shorter than the statutory minimum notice prescribed by Law 24/1967 above. The notice must be in writing in order to be valid. The notice period runs from the day after it is communicated unless the parties have expressly agreed otherwise in the employment contract.

In comparison, the statutory minimum notice due to be given to an employer by an employee intending to resign with at least: (a) six month's continuous employment but less than one year is one week; (b) one years' continuous employment but less than five years is two weeks; (c) five years or more of continuous employment is three weeks. It should be noted that Law 24/1967 does not require such notices to be communicated in writing in order to be valid and it remains silent as to whether a clause in an employment contract providing for a longer notice period will be valid.

LAW
The remedy of reinstatement in employment claims

An order for reinstatement comprises a remedy that may be awarded to an employee where a court has made a finding of unfair dismissal, whereby the employer is compelled to reinstate the employee to the position from which the employee was dismissed. The court enjoys a wide discretion in deciding whether a reinstatement order is appropriate, but Law 24/1967 identifies three factors the court must consider, namely that: (a) the employer's workforce comprises of more than nineteen employees; (b) the employee has expressly requested reinstatement as a remedy; and (c) the termination of employment was unfair and made in bad faith.

In addition to arrears of pay and benefits to the employee for the period between the date of termination of employment and the date of reinstatement, on making an order for reinstatement the court can specify a compensatory award payable by the employer to the employee that is capped to an amount not exceeding twelve salaries.

The court is likely to consider a reinstatement order inappropriate where, amongst others, the trust and confidence between either (or both) parties to the employment relationship has been lost.

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An order for reinstatement comprises a remedy that may be awarded to an employee where a court has made a finding of unfair dismissal.

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Estonia

On September 1, 2024, new legislation on the protection of whistleblowers will come into force.

LAW
Whistleblowing regulation finally adopted in Estonia

Estonian Parliament has finally adopted the new legislation – Act on the Protection of Whistleblower of Work-Related Violations of European Union Law (the "Whistleblower Protection Act") which is intended to transpose the EU Whistleblower Protection Directive. The act is due to enter into force on 1 September 2024. Estonia is the second to last of the 27 EU Member States to adopt legislation to transpose the Directive.

As from enforcement of the Act all administrative agencies and enterprises having 50 or more workers and municipal agencies will have the obligation to establish internal reporting channels. Knowingly reporting wrong information would be punishable. Hindering reporting or retaliating against whistleblowers would also be punishable. The law enables group channels.

LAW
The right to use variable hours agreements was terminated

The pilot project which enabled since 15 December 2021 employers in the retail sector to conclude variable hours agreements with their employees has been terminated as from 15 June 2024. Under these temporary legal provisions employees in the retail sector were able to work up to eight extra hours per seven-day period, on top of their normal part-time hours, on the basis of a written variable hours agreement.

From 15 June 2024, the provision has ceased to apply. The initial results showed that there is interest in flexible time agreements, but because of the relatively bureaucratic nature of concluding and implementing such agreements, employers have not been able to make widespread use of variable hours agreements.

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France

LAW
Dissolution of the French parliament

Following the results of the European elections on 9 June, 2024, French President Emmanuel Macron dissolved the National Assembly and new elections were held on June 30 and July 7. As a result, all the reforms currently being debated in the Parliament and those planned are on hold pending the renewal of the deputies.

Regarding employment, this concerns in particular the reform of unemployment insurance, as well as the Labor Law II, which provided for the raising to 250 of the thresholds for the obligation to set up a works council with extended prerogatives, or the possibility of reducing the limitation period for contesting the termination of an employment contract (currently 12 months) to 2 months.

LAW
Right of absence for candidates in legislative elections

Any employee who is a candidate for parliamentary or local office is entitled to justified absences to take part in his or her election campaign. For the legislative elections scheduled for June 30 and July 7, 2024, candidates are entitled to 20 working days' absence. To benefit from this right, employees must inform their employer at least 24 hours in advance of each absence, in writing or orally, without the employer being able to refuse. These absences may be deducted from the employee's paid leave at the latter's request, otherwise they will not be paid but may be recovered in agreement with the employer.

LAW
Protection for elected MP

If you have an employee in France who could be elected in the next parliamentary elections, he or she will be eligible to request suspension of his or her employment contract for the duration of his or her term of office if he or she has at least one year's seniority at the date of taking office.

On expiry of an elected office at local or national level, the employee has the right to be reinstated in his previous job or a similar job with equivalent remuneration. In the event of a change in techniques or working methods, the employee may, if necessary, undergo vocational retraining. However, in the event of renewal of the mandate, the employee may no longer benefit from the right to reinstatement, unless the mandate was exercised for less than 5 years.

The distribution of political tracts to colleagues after a professional event taking place outside the workplace and working hours cannot be the cause of disciplinary dismissal.

COURT
Dismissal of a human resources manager who hid his intimate relationship with a union and staff representative

An employee working as a Human Resources VP was dismissed for gross misconduct for concealing his relationship with a female employee who held union and staff representative mandates. In a decision dated May 29, 2024, the French Supreme Court upheld this dismissal, pointing out that a reason based on the employee's personal life cannot justify disciplinary dismissal unless it constitutes a breach by the employee of an obligation under his employment contract.

In this case, the concealment of his relationship was such as to affect the proper performance of his duties and, in accordance with his duty of loyalty, he was required to inform his employer. The employee's breach of his duty of loyalty therefore made it impossible for him to remain with the company.

COURT
Political leaflet distribution at a professional event

In this French election period, this French Supreme Court decision is interesting in more ways than one. The distribution of political tracts to colleagues after a professional event taking place outside the workplace and working hours cannot be the cause of disciplinary dismissal. This principle was established by the French Supreme

Court in a decision dated 29 May, 2024. This distribution was considered to fall within the exercise of the employee's religious, philosophical or political convictions, and therefore within his private life. In the absence of any breach of the obligations arising from his employment contract, his dismissal on disciplinary grounds was not justified.

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Germany

Works councils pay must not be lower than that of employees with a comparable career in the company.

LAW

New law on works council remuneration

The German parliament has unanimously passed an amendment to the law that provides clear rules for the remuneration of works councils. The background to this is a ruling by the Federal Court of Justice on 10 January 2023, which led to great uncertainty in some companies with regard to the remuneration of works council members. The ruling criticized excessive remuneration, which even had consequences under criminal law. Fearing such consequences, companies cut the remuneration of their works council members. The law on works constitution (BetrVG) already stipulates that members of the works council may not be disadvantaged or favored because of their their work.

This also applies to their professional development and pay. The amendment to the law now also stipulates a minimum remuneration entitlement. In future, their pay must not be lower than that of employees with a comparable career in the company. The practical difficulty in future will be to determine how the remuneration of such works council members would have developed if they had not been active on the works council but had worked "normally".

GUIDELINES

No discrimination against disabled employees

Disability discrimination occurs when employees or job applicants face unfavorable treatment due to their disabilities. This can include discriminatory hiring practices, lack of reasonable accommodations, unequal opportunities for career advancement, and biased daily interactions. Discrimination can be both overt, such as explicit refusal to hire someone with a disability, or subtle, like failing to make necessary workplace adjustments.

There are several laws to protect disabled individuals from discrimination in the workplace. Key legislation includes: the Basic Law (Grundgesetz): Article 3 of the German Basic Law guarantees equality before the law and explicitly prohibits discrimination against disabled persons; the General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz - AGG): This act aims to prevent and eliminate discrimination on various grounds, including disability, in employment and occupation; the Social Code Book IX (Sozialgesetzbuch IX): This law focuses on the integration and participation of disabled persons in society and the workplace, emphasizing the rights to reasonable accommodation and

accessibility; and the Works Constitution Act (Betriebsverfassungsgesetz - BetrVG): This act ensures that works councils participate in matters concerning disabled employees, promoting their inte-gration and protecting their interests.

Public employers are subject to special provisions and have to deal with special requirements with regard to disabled employees and job applicants. Public employers have a mandatory obligation to invite disabled applicants for a job interview if they meet the basic qualifications for the position. This requirement aims to ensure that dis-abled individuals have a fair opportunity to present their skills and competencies, promoting their integration into the workforce. However, even public employers may refuse the hiring of a candidate who is not suitable for the position for medical reasons.

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Greece

The new law extends to same-sex couples and parents family-related employment and social security benefits.

LAW
Adjustment of provisions of labor law, social security law, and employment law for same-sex spouses and parents

The latest provisions adopted with the Law 5089/16.02.2024 (Government Gazette Vol. A' 27, effective from 16 February, 2024) consist of a major reform regarding civil and labor law related issues. By virtue of said provisions family-related employment and social security benefits have been extended to same-sex couples and parents. These changes include the following: the designation of eligible parents for maternity leave in cases of adoption by same-sex couples, extending special maternity benefits to same-sex couples, granting paternity leave to same-sex couples, granting maternity leave to same-sex couples and providing protections against dismissal for same-sex parents during pregnancy and postpartum.

LAW
Increase in the statutory minimum wage amount

As per the provisions of the Ministerial Decision 25058/29.03.2024 (Government Gazette Vol. B' 1974) which has been effective as of 1 April, 2024, the statutory minimum wage for full time employment has been set to the amount of eight hundred and thirty euro (EUR 830,00) for white collar workers (employees). Furthermore, the statutory minimum daily wage for manual workers has been set at thirty-seven euro and seven cents (EUR 37,07).

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Hungary

Under the new Immigration Act, as of 1 July 2024 it is possible to apply for a guest investor visa & residence permit.

LAW

New visa and residence permit for guest investors

Under the new Immigration Act, as of July 1, 2024 it is possible to apply for a guest investor visa and residence permit.

First step is obtaining a guest investor visa allowing a 2-year period of residence in Hungary. Holders are entitled to stays of more than 90 days and multiple entries within 180 days. Basic requirement for this visa is one of the following investments: (i) at least EUR 250k in a real estate investment fund, or (ii) at least EUR 500k in the acquisition of a residential property in Hungary, or (iii) at least EUR 1M in non-refundable public trust donation.

In addition, foreign nationals can obtain a guest investor visa if their entry and residence is in the national economic interest, they have a valid travel document and a permit for return or onward travel, they provide proof of the purpose of their entry and residence and also sufficient means of subsistence and are able to cover the costs of departure. Furthermore, they should have health insurance, be subject to entry and residence bans and they must not constitute a threat to public order and security, national security or public health in Hungary. Lastly, they cannot be subject to a Schengen Information System (SIS) alert, they should be able to certify the lawful possession of the amount corresponding to the required investment and they should provide a written undertaking to make the required investment within 3 months of the entry.

A prohibition of alienation and encumbrance must be registered for a period of 5 years on the residential property purchased. The residential property must be owned exclusively by the visa holder or a family member for 5 years.

Provided that they meet the additional requirements, holders of a guest investor visa can apply for a 10-year guest investor residence permit as a next step.

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Italy

LAW
Report on the situation of male and female employees

On 26 June 2024 the Official Gazette reported the adoption of the decree of 3 June 2024 by the Ministry of Labor and the Ministry of Equal Opportunities and outlining the rules on how employers should report their companies' situation concerning male and female employees. Said obligation has existed for about twenty years now, but in 2021 it was made mandatory for all employers with more than 50 employees. Employers should use the web-based reporting system, to cover data such as the distribution of males and female employees across grades, types of employment agreements and about their remuneration. The report also includes questions about selections, promotions, inclusivity and work-life balance procedures. Smaller employers who want to file the report on a voluntary basis should follow the same rules. The report has to be filed by no later than September 20, 2024 for the years 2022 and 2023.

LAW
Extension of Decontribuzione Sud (social security exemption)

On 25 June 2024 the EU Commission approved the extension until December 31, 2024 of Decontribuzione Sud, measure that was due to expire on June 30, 2024. This initiative provides for a social security contribution exemption in order to incentivize employment in companies located in the southern regions of Italy (Abruzzo, Basilicata, Calabria, Campania, Molise, Apulia, Sardinia and Sicily).

COURT
The use of an automated toll-ways payment system on company cars has to be notified to employees

On 3 June 2024 the Court of Cassation clarified that an electronic device, installed on a company car in order to pay highway tolls, has to be notified to employees, explaining the way in which said tools will be used and how they will be monitored. Only by complying with said rules employers will be able to use evidence gathered from such devices. The Court opined that it is irrelevant that the data from highway transits are obtained through monthly invoice documents rather than directly from the device; it is irrelevant that the employee could have deactivated the device or chosen alternative lanes to avoid using it. Only by providing clear and adequate information to the employees, employers

will be entitled to use data acquired through highway toll devices for all employment purposes, including disciplinary ones.

Decision 15391/2024

GUIDELINES
IT software and services for e-mail management in work contexts and metadata processing

The guidelines published Italian Data Protection Agency in the newsletter of 26 June 2024: "do not apply to the contents of e-mail messages but specifically to metadata (sender and recipient email addresses, the IP addresses of servers or clients, the times of sending, retransmission or receipt, the size of the message, the presence and size of any attachments and, in certain cases, the subject of the message) recorded in the logs generated by the mail handling and sorting server systems (MTA = Mail Transport Agent), by the workstations in the interaction that takes place between the different interacting servers and between these and the clients (which carry out the sending of the messages and allow consultation)".

The collection and retention of such metadata will normally have to be limited 21 days, unless an employer can demonstrate the existence of special conditions requiring longer retention. Where employers intend to collect and retain such data longer across the board, they will have to enter into an agreement with the works council or obtain an authorization by the Labor Inspectorate. Said measure appears to be very complex and requires companies to check their e-mail systems and their requirements to negotiate works council agreements or obtain the Inspectors' authorization.

GUIDELINES
Unlawful facial recognition system and failure to adequately inform employees about an ERP app

Data Protection Agency ("Garante per la protezione dei dati personali – GPDP") imposed a 120 thousand euro fine on a car dealer (i) for using a facial recognition tool to monitor workplace attendance, despite the absence of a statutory basis making the use of biometric data for said purposes and (ii) for requiring employees to use an app (through which they had to record the activities they performed, as well as rest breaks and idle time) without providing them adequate information on the processing carried out on such data, about the nature and type of data being processed, the manner and timing of data storage, and without assessing its actual necessity and proportionality in relation to the purposes to be pursued. The car dealer had in fact provided only a generic data processing statement to employees, deemed insufficient by the GPDP.

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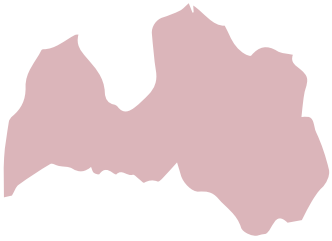
Latvia



The Senate of the Republic of Latvia has decided from which point in time the preclusionary period for filing a lawsuit in court should be counted if a trade union does not agree with the termination of a contract.

COURT
Deadline for the employer's claim for termination of the employment contract

If the employee trade union does not agree with the employer's notice of termination of the employment contract, the employer may, within one month of the day of receipt of the reply, bring an action in court for termination.

The Senate of the Republic of Latvia made a decision on 17 June 2024 , which assessed from which point the preclusive term for filing a claim in court should be counted if the trade union replied that it does not agree to the termination and additionally pointed out to the possibility to resolve the disputes through an out of court process.

The Senate, assessing the purpose of the applicable provisions, decided that in the specific situation, the term does not commence because the trade union has not expressed absolute disagreement with the termination.

A dialogue between the employer and the trade union, if aimed at the employee's interests, conducted in good faith and within a reasonable timeframe, cannot create grounds to deny the employer's rights to seek protection in court if respective dialogue has not yielded a result.

Read More

GUIDELINES
The minimum wage in Latvia

In accordance with Section 61 of the Labor Law a minimum wage must not be less than the minimum level determined by the State. The amount of the minimum monthly wage for normal working hours (for a 40-hour workweek), as well as the calculation of the minimum hourly wage rate, is determined by the regulation of the Cabinet of Ministers.

According to the regulation, the minimum monthly wage for normal working hours in 2024 is EUR 700, but when calculating the minimum hourly wage rate, the specified minimum monthly salary is taken into account, divided by the number of normal working hours in the specific month, including the hours of public holidays if the employee does not work on a public holiday that falls on a designated workday for the employee. In industry collective agreements (general agreements), a higher minimum monthly wage may be provided for the specific industry.

Currently, there are discussions in Latvia regarding the amount of the minimum monthly wage for upcoming periods and its linkage to the increase in the non-taxable minimum and average wage, considering that in the first quarter of 2024, the average monthly wage in Latvia reached EUR 1,623.

Read More

In 2024 minimum monthly wage is set at EUR 700 for a 40-hour workweek.

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Lithuania

The high temperatures of the summer season create new risks in the workplace.

GUIDELINES
Ensure a safe working environment in hot weather conditions

All employees have the right to work in an environment where risks to their health and safety are adequately controlled. The high temperatures of the summer season create new risks in the workplace, and employers need to assess the potential risks to employee safety and health. Occupational safety and health experts point out that employers need to pay special attention to employees who work outdoors. Employers should be aware that if employees work outdoors in temperatures above 28 degrees Celsius, they must be given special breaks at least every hour and a half. The minimum duration of special breaks shall be at least 40 minutes per eight-hour shift. To prevent accidents, employers must organize work in such a way as to minimize the need for employees to work in the heat and inform employees about the harmful effects of heat and the sun and about first aid.

Read More

GUIDELINES
Increasing fines for employers

Starting July 1, 2024, penalties for employing illegal workers will increase. Employers who fail to sign an employment contract with their employees or neglect to notify the State Social Insurance Fund Board under the Ministry of Social Security and Labor at least one working day before the employment start date will face higher fines. Additionally, employers who hire illegal workers will be listed on the official website of the Lithuanian Labor Inspectorate. Under this amendment, employers who illegally employ a worker will be required to pay between EUR 2,772 (three minimum wages) and EUR 11,108 (twelve minimum wages) for each illegally employed worker. Employers are reminded that even a one-day delay in notifying the authorities about an employee's employment can have serious negative consequences.

Read More

LAW
Amendments to the Labor Code on overtime

One of the most important aspects of overtime is obtaining the employee's consent, as employers must ensure that overtime is voluntary and that employees are not forced or pressured to work overtime. The Seimas of the Republic of Lithuania has registered a draft law to amend the articles of the Labor Code of the Republic

of Lithuania has registered a draft law to amend the articles of the Labor Code of the Republic of Lithuania. One of the proposed amendments aims to clarify the provisions of Article 119(2) of the Labor Code, which states that the employer may order overtime work only with the employee's written consent.

Currently, there are different interpretations in practice, as the existing legislation allows the employer to order overtime work with the employee's consent but does not specify the form this consent should take. Therefore, the amendment is intended to prevent employers from assigning overtime with only the employee's verbal consent and to require written consent instead. This change aims to reduce and avoid additional litigation to determine the legality of overtime work.

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Malta

The skills pass program has been introduced with the aim of elevating the quality of tourism services offered in Malta.

COURT
Tourism and hospitality skills pass

In March 2024, Legal Notice 78 of 2024 introduced a skills pass for individuals seeking employment in Malta's hospitality and tourism industry. These regulations outline the necessary skills, knowledge, and conditions for obtaining a skills pass, which must be read alongside other relevant laws like the Malta Travel and Tourism Services Act.

As of May 2024, all tourism and hospitality workers must have a skills pass. The skills pass program has been introduced with the aim of elevating the quality of tourism services offered in Malta. Non-EU jobseekers must complete a two-phase application process for the skills pass.

Phase 1 involves a mandatory online course covering English language proficiency, basic customer care, Maltese tourism product, and English for hospitality. Candidates choose a preferred occupation after passing the assessments (e.g., luggage porter, receptionist, bar waiter, etc.). Successful completion results in a Phase 1 Confirmation, which is submitted to Identity Malta along with required documents.

Phase 2 includes a mandatory verification interview. Upon passing, candidates receive a permanent skills pass and will be able to work in the hospitality and tourism sector in Malta. Non-EU/EEA/EFTA applicants can only apply for an entry visa once the full skills pass is achieved, and they can then proceed to Malta to finalize the single permit application.

Read More

COLLECTIVE AGREEMENTS
The first collective agreement for the Institute for Education

The recent signing of a new collective agreement between the government and the Malta Union of Teachers (MUT) represents a significant milestone for employees at the Institute for Education (IFE). This agreement is historically important as it is the first of its kind for the IFE and the first signed by MUT covering all employment grades within an entity. It was approved unanimously by MUT members.

Established by the government in 2015 and reconstituted as an agency in 2017, the IFE aimed to enhance the training section within the ministry into an agency providing specialized training for educators.

The new agreement will lead to improved working conditions and a better financial package for employees of all grades. It introduces more flexibility, revised policies and procedures, and new grades, among other benefits. Crucially, it provides job security for IFE employees and solidifies the IFE's position as a leading institution in the educational sector.

Poland

LAW

Poland has implemented the EU Whistleblower Protection Directive

On June 24, 2024, the Polish Whistleblower Protection Act was published, implementing the EU Directive 2019/1937 on the protection of persons reporting breaches of Union law. This new law will come into effect on September 24, 2024. By this date, employers with at least 50 employees, including full-time workers, contractors, and B2B contract workers, must establish a whistleblower protection system.

The key requirements of the act include implementing an internal procedure for reporting breaches, which involves appointing a unit or person to receive and acknowledge reports, creating at least one internal reporting channel for written or oral reports, and identifying the unit or person responsible for follow-up actions.

Additionally, the internal reporting procedure must be consulted with trade unions or employee representatives. The procedure must be communicated to all workers and will take effect seven days after being announced. Ensuring the confidentiality of reports and the protection of whistleblowers' personal data is crucial, except in specific cases outlined by the law, unless the whistleblower consents to disclosure.

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Employers must also maintain a register of internal reports, including the date the case was closed and details of any follow-up actions taken. Job applicants must be informed about the procedure at the recruitment stage or during pre-contract negotiations, as they are also protected under the law. Finally, appropriate follow-up actions must be taken on reports submitted by whistleblowers.

LAW
Possible employer control over the use of AI by trade unions

A draft law on changes to the Trade Union Act has been referred to the Sejm for work. The proposed amendments are intended to make the employer obliged to provide, at the request of a company trade union organization, information necessary for the conduct of trade union activities, in particular information on parameters, rules, and instructions on which algorithms or artificial intelligence systems are based that influence decision-making and may affect working and pay conditions, access to and retention of employment, including profiling.

The aim of the amendment is to bring the law in line with changing technological realities. Employers will be required to provide information on the use of artificial intelligence to make decisions that may affect the employment of employees. The bill is expected to come into force within 14 days of its promulgation. The new obligation on employers can be introduced in a very short time.

LAW
Revision of the Law on employment of persons with disabilities

The Polish Government has published the assumptions of the draft act amending the Act on professional and social rehabilitation and employment of disabled persons.
The main objective is to increase the monthly financial contribution to the remuneration of a disabled employee financed by the State Fund for Rehabilitation of Persons with Disabilities. Contributions are to be increased by 15%. The amendment is also to increase the level of compensation for employers of disabled employees. The bill is expected to be adopted in the second quarter of 2024.

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Portugal

COURT

Presumption of consent to collective dismissal and timing of return of compensation

The 2009 Labor Code created a legal presumption, whereby the employee involved in a collective dismissal is presumed have accepted it when receiving the legal compensation, a presumption that can be rebutted provided that “at the same time” the employee returns the compensation to the employer.

Since its creation, this legislative solution has raised numerous uncertainties, specifically regarding the meaning and scope of the expression "at the same time", with no certainty as to when the employee must return the compensation to rebut the presumption of acceptance of the dismissal.

Some consider that the expression "at the same time" obliges the employee to return the compensation at the moment it is received (or very shortly afterwards) and, conversely, there are those who believe that, since the employee has a legal period to initiate a precautionary procedure or an action to challenge dismissal, the simultaneity referred to in the law requires the employee to return the compensation at the same time as they pursue legal action against the employer.

To settle such doubts, the Supreme Court of Justice ruled last June, in a landmark decision, that the legal presumption can be rebutted provided the employee returns the compensation until legal action has been initiated, definitively clarifying the meaning of the legal expression.

LAW

The legalization process in Portugal and the expression of interest mechanism

Until now, it was possible for foreign citizens who intended to live and work in Portugal to legalize their status through the expression of interest mechanism, a mechanism that allowed these citizens to expedite the bureaucratic process, namely by not being required to wait to obtain a visa or residence permit.

Last June, this legal mechanism was revoked and from now on foreign citizens wishing to live and work in Portugal must necessarily obtain a visa or residence permit, which is contingent on the existence of an employment contract between the foreign citizen and a company established in Portugal.

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Romania

Representatives of single-parent families are exempt from mandatory night shifts.

LAW
Law amendments to the Labor Code regarding the employees performing night work

Law no. 161/2024 introduces a key amendment to the Romanian Labor Code, including single-parent family representatives among the categories of individuals who cannot be obliged to work night shifts.

While previously Article 128 paragraph (2) of the Romanian Labor Code granted this benefit exclusively to pregnant women, women who have recently given birth and those breastfeeding, with the entry into force of new law, even single parents from single-parent families will be under no obligation to perform night work.

Thus, employers must further take into consideration the new aspects related to the organizing of the companies' activities and the work schedule that employees in such situation may benefit from.

LAW
Increase of the national minimum gross basic salary guaranteed in payment

The Romanian government has adopted the decision for setting the national minimum gross basic salary guaranteed in payment, which stipulates the increase of the base salary to RON 3,700 per month, for a normal working schedule averaging 168 hours per month, representing the equivalent of RON 22.24/hour, excluding allowances, bonuses and other additions/ supplements, compared to the current RON 3,300 base salary. The increase of the national minimum gross wage guaranteed in payment brings the remuneration closer to the level required by Directive (EU) 2022/2041 of the European Parliament and of the Council on adequate minimum wages in the European Union.

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Slovakia

The aim of introducing a compulsory holiday allowance, to which the employee is entitled if the statutory conditions are met, was to encourage domestic tourism.

LAW

Holiday allowance provided by the employee (extension of the beneficiaries)

We have informed you before about the draft amendment to the Labor Code, the subject of which was a change regarding the provision of a recreational allowance to an employee by the employer. The draft amendment has now been approved by Parliament, and during its approval, there were changes that we would like to update you on.

The following changes will take effect on 1 January 2025: (a) employees will be able to claim as eligible recreational expenses, to the extent determined by law, the expenses of their parents, (b) the transferability of the recreation voucher from the employee to his/her parent has been introduced, (c) an arrangement is introduced to allow eligible recreational expenses to be claimed directly by the parent of the employee.

The aim of introducing a compulsory holiday allowance, to which the employee is entitled if the statutory conditions are met, was to encourage domestic tourism. The aim of the above-mentioned amendment to the Labor Code was to further intensify the promotion of domestic tourism by expanding the forms of using the holiday allowance and thus maximizing its provision or use.

COURT

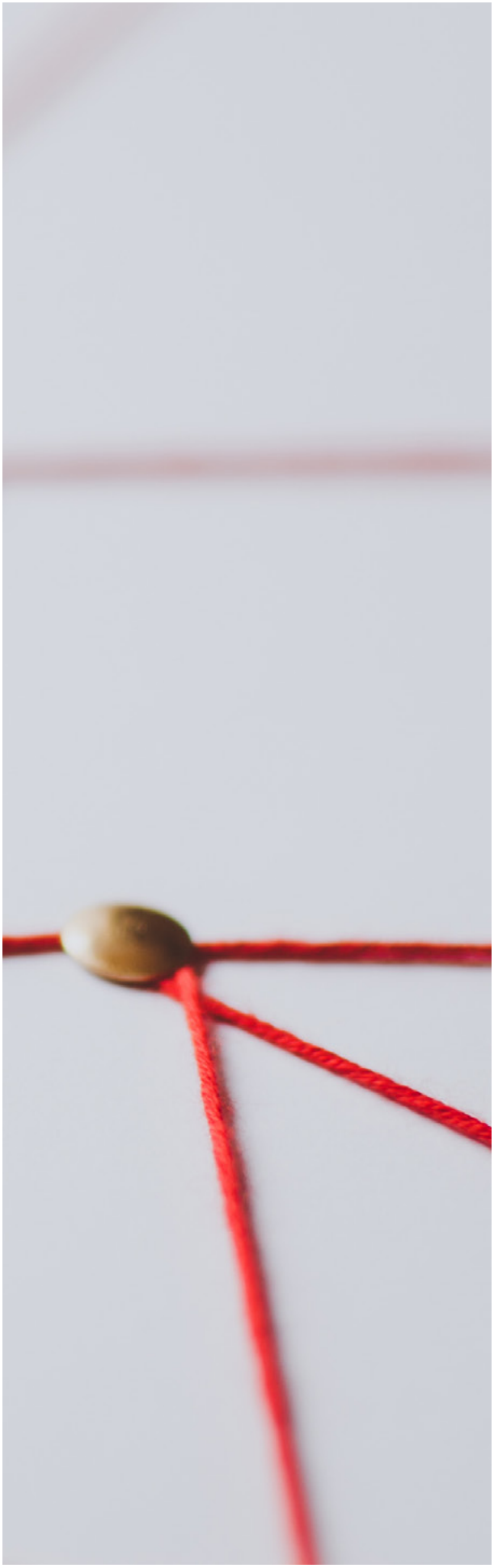
Fictitious organizational change may invalidate termination of employment

If a person works in a dependent work mode, he or she performs work in a relationship of superiority and subordination, personally, under the instructions of the person for whom he works, on behalf of the person for whom he works, and during the working hours determined by the person for whom he works, this is dependent work, which may be performed only in an employment relationship and only within the meaning of the Labor Code.

The Supreme Court held that the employer's conduct consisting in changing the employment relationships of its employees to a trade under threat of dismissal, with the addition that they could only perform this trade for the employer, while there was no fundamental change in the type of work or the organization of work, was contrary to good morals within the meaning of the Labor Code, insofar as these employees did not agree to this procedure.

Since the employer did not prove in the proceedings an organizational change as a prerequisite for giving notice pursuant to the Labor Code, the notice given to the employee is therefore invalid.

An employer's attempt to change employment relationships to a trade under threat of dismissal, without significant changes in work type or organization, violates the Labor Code, making any resulting dismissal notices invalid.



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Slovenia

In collective dismissal cases, terminating employment based on a distinction between full-time and part-time workers in the same position is inappropriate, as it creates unjustified differentiation among workers who perform the same work and are interchangeable.

COURT
Collective dismissal - selection criteria

The Supreme Court of the Republic of Slovenia, in a dispute regarding the legality of collective dismissal, decided in its judgment VIII Ips 8/2024 dated 27 March 2024, that the termination of the need for performing certain work under the conditions of the contract must not be based on a distinction between full-time and part-time workers in the same position, as this establishes a differentiation based on an inappropriate criterion of comparability or non-comparability.

The criteria must arise from the termination of the need for work, but on the same job position, the termination of the need for work cannot be justified by claiming that only the work of those employed full-time has become unnecessary, but not the others. It is true that one of the essential components of an employment contract is also full-time or part-time work, but in relation to the termination of the need for work, differentiation based on this criteria is not appropriate. Such exclusion of certain workers from the comparison creates unjustified differentiation among workers who otherwise do the same work and are completely interchangeable.

Read More

LAW
Prepared foundations for the strategy to eliminate precarious work

In May 2024, the government reviewed and adopted the Foundations for Preparing the Strategy to Eliminate Precarious Work. The systemic elimination of precarious work is one of the coalition commitments of the current government, aligning with the Directive on Improving Working Conditions in Platform Work, which was recently adopted by the European Parliament.

The purpose of the strategy is to prepare a concrete set of measures with which the Government of the Republic of Slovenia will address precarious work, to be subsequently implemented within the prepared action plan.

The strategy will include a division by specific areas and risks, along with concrete measures that will provide solutions to the identified risks. The specific measures will focus on the following areas: false self-employment and hidden employment relationships, strengthening supervisory institutions and their actions, agency work and other multi-party employment relationships, platform work, student work, taxes and social security, social dialogue.

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Spain

LAW

Priority application of CBAs at the autonomous community level over any other at the state level.

Royal Decree-Law 2/2024, dated 21 May 2024 was approved, through which, among others, Article 84 of the Workers' Statute was amended, establishing the priority application of interprofessional agreements and sectorial collective bargaining agreements (CBA) at the autonomous community level over any other at the state level, provided that they are more favorable for workers than the state agreements, they are legitimately negotiated and that they do not regulate "non-negotiable" matters at the autonomous community level (such as the trial period, the maximum annual working day or the disciplinary regime).

COURT

Court ruling on workers' rest periods and public holidays

The Chamber has determined that it is illegal for companies to make their workers' variable weekly rest periods coincide with national, regional or local public holidays

This decision affects workers who work from Monday to Sunday, including public holidays, who have weekly breaks that vary, since they suffer an overlap between public holidays and their breaks.

The High Court argues that this overlap is contrary to several rules, including Directive 2003/88/EC and Article 37 of the Workers' Statute and should be avoided. The resolution emphasizes that the rest corresponding to public holidays must be respected and there is no objective justification for companies to impose variable weekly breaks on public holidays, thus forcing them to adjust their monthly schedules to avoid the coincidence of weekly breaks with public holidays and, in this way, ensuring workers an adequate rest.

Ruling of the Supreme Court (Social Chamber) No. 502/2024, of March 22, Rec. No. 11/2022.

COURT

Death of a teleworker at home. Is it considered an accident at work?

The worker, who provided remote services, suffered an acute myocardial infarction at her home at around 3:00 pm. The question that arises is whether the death should be considered an accident at work, with the legal consequences that derive therefrom, both in terms of the surcharge of Social Security benefits, and with respect to those benefits generated in favor of the deceased worker's family members.

Initially, the Court upheld the claim filed by the spouse of the deceased worker, applying the presumption of work-relatedness provided for in the Social Security regulations whereby, unless there is proof to the contrary, all injuries caused at the time and place of work are work-related accidents. However, although its pronouncement is not final, the Chamber has changed the criteria of the lower court, declaring that there is no way to prove whether the worker was at that moment on working time, arguing that her flexible working day (from 9 a.m. to 7 p.m. with a lunch hour) and the lack of a detailed time record, open the possibility that the death occurred during the worker's rest time.

Ruling of the Superior Court of Justice of Madrid (Social Chamber), No. 240/2024 of March 27, Rec. No. 529/2023.

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Switzerland

Posted workers, self-employed service providers or foreign workers from the EU can work in Switzerland for up to 90 days a year without a work permit through the online notification procedure.

GUIDELINES
Notification procedure for short-term work

The bilateral Agreement on the free movement of persons (AFMP) between Switzerland and the EU allows for the liberalization of cross-border services by posted or self-employed workers for up to 90 working days per calendar year. These services only require a simple notification. The 90-day limit applies to both the posting firm and the individual worker. Services exceeding 90 days per year require a work permit, which is not guaranteed.

The online notification procedure also applies to companies based in Switzerland seeking to employ foreign workers for periods of up to three months. Submission of a notification form is all that is required. However, if the employment period extends beyond three months, the individual must apply for a Swiss residence permit or meet the criteria for a cross-border commuter permit.

Service providers, whether companies or self-employed individuals, must first create an online notification account. After setting up the account, they must notify the Swiss authorities at least eight days prior to each employment engagement. For foreign workers taking up short-term employment with a company based in Switzerland (work contracts of up to three months), the notification form must be submitted no later than one day prior to the first day of work.

LAW
Federal Council extends the maximum period for collecting short-time work allowance

On 19 June 2024, the Federal Council decided to extend the maximum period for collecting short-time work allowance (STWA) from 12 to 18 months. This ordinance amendment will take effect on 1 August 2024, and will remain in place until 31 July 2025.

Initially, during the onset of the war in Ukraine, especially energy-intensive sectors had to rely on STWA due to skyrocketing energy prices. Although energy prices have since decreased, the economic environment remains challenging for several industries.

By extending the STWA duration, companies that have already reached or are nearing the limit will have additional time to **adapt to these difficult conditions, explore** new markets, or launch new products. This extension aims to provide businesses with greater confidence for future planning. Furthermore, it is intended to counteract rising unemployment rates.

From 1 August 2024, companies will be eligible to claim up to eighteen months of short-time work allowance for their employees, provided they meet the other eligibility criteria. This measure will be valid until 31 July 2025.

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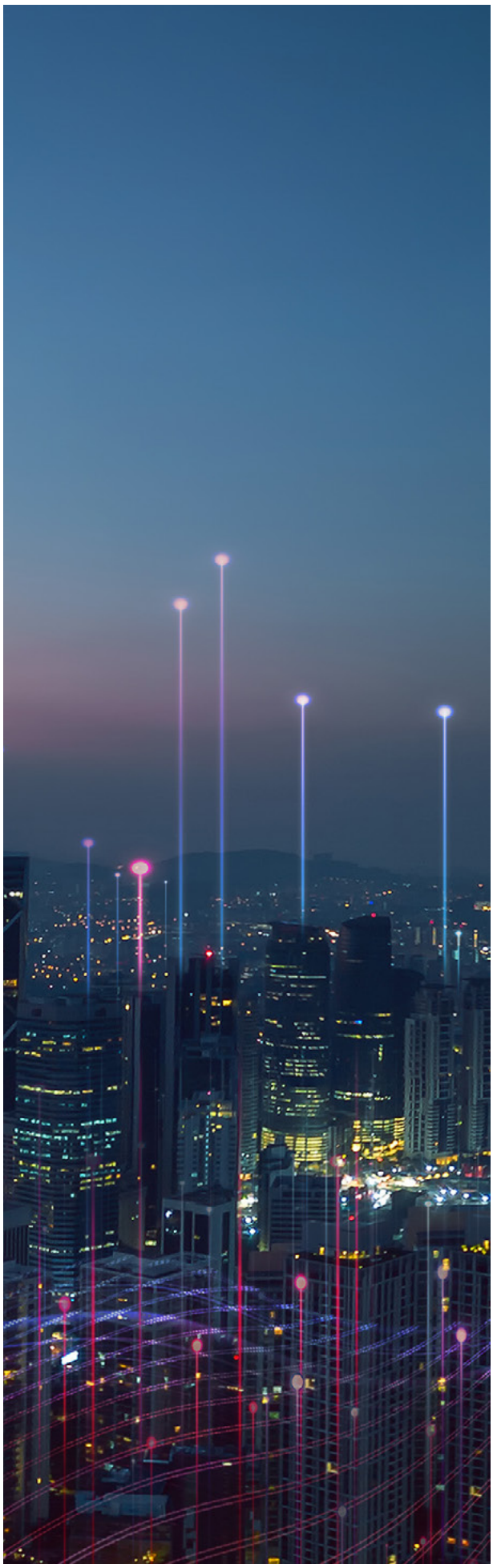


Ukraine

LAW
Housekeeping services will become subject to labor laws

Recently, the Labor Code of Ukraine has been supplemented with a new section governing labor of persons providing housekeeping services. As of 24 August 2024, when the amendments will come into force, housekeepers may be engaged by households under a written employment agreement. It is unclear, whether entering into the employment agreement will become mandatory, or provision of housekeeping services under a civil law services agreement will remain possible without requalification risks.

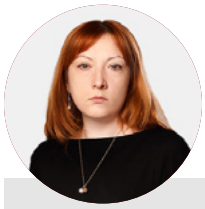
The housekeeping labor is defined as any work performed for a household under the employment agreement. However, if such work is performed irregularly and for less than 40 hours per month, it shall not be considered as housekeeping labor.

The Labor Code requires entering with housekeeping workers into a written employment agreement, establishes its mandatory provisions and termination conditions. Termination of employment shall be documented by a written termination agreement.

The Labor Code stipulates that housekeeping workers are entitled to equal labor rights and interests. It also provides for additional guarantees related to the protection of their privacy and dignity.

Also, the regulation of working time of housekeepers may have some particularities and may deviate from standard requirements due to the particularities of this work. For example, housekeepers may be required to have stand-by hours during which the housekeeper is not expected to perform any work but must remain available for the employer. Payment for such stand-by hours may not be less than a statutory minimum salary.

Entering into the employment agreement with a housekeeping worker and termination thereof shall be subject to a prior notification of the state tax authorities.



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