European Employment Insights

> The amendments to the Lithuanian Labor Code have come into effect, with some changes already in force since November 1, 2024.

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European Partner **Spotlight**

Employment law challenges in Germany

Cord Vernunft,
Partner

Andersen in Germany
Member firm of Andersen Global

Germany's employment landscape is undergoing significant transformations due to economic crises, emerging trends, and legal developments that are reshaping the way businesses and employees interact. To gain insights into the latest developments and their implications, Magdalena Patryas (Andersen in Poland) speaks with Cord Vernunft, Partner at Andersen in Germany.

Question: Cord, what are the key legal developments in Germany currently affecting employment law?

Cord Vernunfti: Several topics are currently dominating the employment law landscape in Germany. The most pressing include the current economic situation is forcing companies to downsize, the German Federal Labor Court's ruling on electronic time tracking, the requirements under the Whistleblower Protection Act. Additionally, the growing focus on the use of artificial intelligence in HR processes is becoming a hot topic, as it intersects with labor law compliance and data protection concerns.

Q: The economic crisis has led to significant job cuts across many industries. How are companies managing this from an employment law perspective?

CV: Job reductions present a complex challenge for employers, requiring careful navigation of both legal and HR considerations. In Germany, businesses must follow various proceeding and rules before terminating employees for business reasons, such as carrying out social selection to determine which employees are to be dismissed, hearing of the works council including negotiating reconciliation of interests and social compensation plans with the works council - where applicable - and involving the employment agency in the event of mass redundancies. Many businesses are also exploring alternatives to layoffs to keep talent, such as redeployment, retraining, or temporary reductions in working hours, to retain talent.

Q: What advice would you give to employers?

CV: Successful restructurings with staff reductions require close cooperation between management, HR and legal and early involvement of all stakeholders. Early planning with legal advice is a prerequisite for success. In view of the shortage of skilled labor, companies should not only focus on the current crisis, but also on long-term economic development. Once skilled labor has been lost, it may be difficult to find it on the market again later.

Q: How has the Federal Labor Court's decision on electronic time tracking changed employer obligations?

CV: The court's decision has made time tracking mandatory for all employees, which fundamentally changes how companies operate. Employers are now required to implement systems for precise time recording to prevent overtime abuse and comply with statutory working time limits. This poses challenges for businesses that previously relied on trust-based working models.

Moreover, companies must ensure that their time-tracking systems align with data protection regulations, adding another layer of complexity. Unfortunately, our current government has not succeeded in legislating for clarity here. After the new elections in February 2025, the new government must quickly provide clarity here and make working time legislation more flexible and adapt it to the needs of the labor market.

Q: The Whistleblower Protection Act has been in force for over a year. How has it impacted companies in Germany?

CV: While the act aims to encourage reporting of misconduct by protecting whistleblowers, its practical impact has been mixed. Many companies have established internal reporting channels, but the volume of cases has been lower than anticipated. Various businesses are struggling with the administrative burden and ensuring compliance with the complex legal framework. Employers must build trust with employees to encourage the use of internal reporting mechanisms rather than external ones, which could lead to reputational risks.

Q: We can observe in Europe that the use of artificial intelligence in HR processes is becoming more prevalent. What legal challenges do you foresee?

CV: The recently enacted EU AI Act introduces strict requirements for using AI in HR processes. Many AI systems for recruitment, performance evaluation, or workforce management are classified as high-risk. This requires companies to implement risk management, ensure data governance and transparency, and document regulatory compliance.

For instance, systems assessing candidates or monitoring performance must be designed to avoid biases and comply with anti-discrimination laws like the AGG. Employers should involve works councils early to address co-determination rights and align AI deployment with workplace agreements. Additionally, maintaining transparency with employees about AI usage and its limitations is crucial for building trust.

Cord Vernunft coordinates the Employment Practice at Andersen in Europe. With extensive expertise in labor law, he advises clients in structuring of labor relations on an individual and collective level, litigation, and strategic workforce planning. His practical insights guide businesses in navigating Germany's complex legal framework while fostering productive employer-employee relationships.

Belgium

Starting January 1, 2026, self-employed workers engaged via digital platforms in Belgium will be required to have accident insurance.

LAW
Mandatory accident insurance for self-employed platform workers starting in 2026

Royal Decree of 12 August 2024 regulates mandatory accident insurance for self-employed workers engaged via digital platforms, as required by the Act of 3 October 2022 on various labor provisions. The insurance covers bodily injuries sustained during, traveling to, or from activities performed for remuneration via a digital platform.

The decree defines key terms like insured, digital platform contractor, policyholder, platform operator, and accident. It sets minimum guarantee conditions for insurance agreements that digital platform contractors must provide, ensuring protection equivalent to the Occupational Accidents Act of 1971. Compensation covers: (i) fatal accidents: Includes funeral and body transport costs, with specific rules for adopted or disabled children, and limits for multiple beneficiaries and (ii) incapacity for work: compensation differs for temporary or permanent incapacity, with additional payments for those needing regular assistance or if the condition worsens.

Victims or their beneficiaries can file claims with the "Accident Fund for Self-Employed Workers of Digital Platform Contractors" if the platform operator or insurer fails to respond. Operators must provide accident information within ten working days.

The decree mandates legal assistance insurance in all agreements. It will come into effect on 1 January 2026.

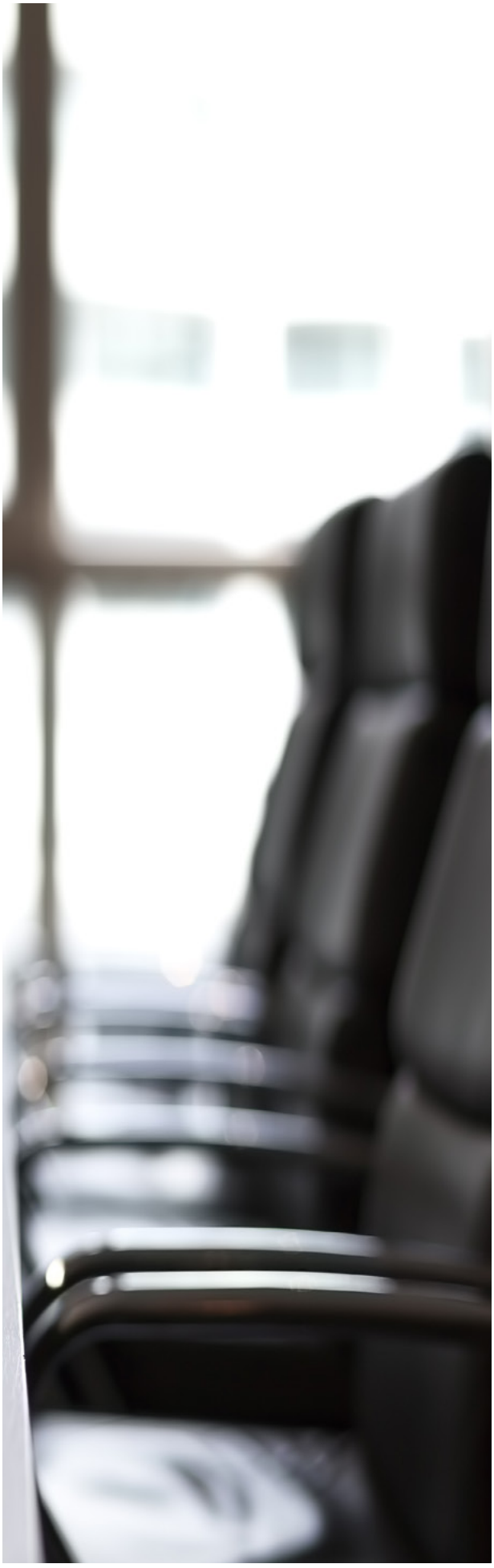
LAW
Deposit of training plans: additional 6-month deadline

The employee training plan is mandatory for legal entities (private sector) that employ at least 20 employees.

On September 2, 2024, the Royal Decree implementing Article 38 and Articles 46 to 48 of the law of October 3, 2022, containing various labor provisions, was published in the Belgian Official Gazette. Employers who had not taken the necessary steps before the publication of the decree will have additional six months from September 2, 2024, to submit their training plans.

This requirement covers training plans for the years 2023 and 2024, as well as those that will need to be created in the future.

Training plans must be submitted via the portal transfer.werk.belgie.be.



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Bosnia and Herzegovina

COURT
The employee's right to return to work

The decision of the Supreme Court of the Federation of Bosnia and Herzegovina stated that the loss of the employee's right to return to work as a result of the employer's unlawful dismissal is not caused by the employee's failure to submit a direct request to the employer to return to work, but by the employee's failure to submit a motion for execution to the competent court for enforcement of the decision to return to work.

If the employer does not return the employee to work within the time limit set in the court's decision, the employee is not obliged to approach the employer, but only to submit motion for execution to the competent court in order to return to work.

If the time limit for submitting a motion for execution in order to return to work is exceeded, the employee loses the right to return to work.

Decision of Supreme Court of the Federation of Bosnia and Herzegovina, January 18, 2024, case 65 0 Rs 083806 23 Rev.

COURT
Compensation instead of the annual leave

In its decision, the Cantonal Court in Tuzla stated that if the employee did not contact the employer in order to use the annual leave, in this case the annual leave did not remain unused due to „the employer's fault". Thus, the employer is not obliged to pay compensation instead of the annual leave.

In the specific case, the employee did not prove that he had approached the employer during the term of the three-month employment agreement in order to use the annual leave, and the employee did not accept the extension of the employment agreement offered by the employer. Subsequently, the employee filed a claim for compensation for the unused annual leave. In conclusion, the employer is not obliged to pay compensation in lieu of annual leave if the employee has not used the annual leave without the employer's fault.

Decision of Cantonal Court in Tuzla, February 12, 2024, case 33 0 Rs 089599 23 Rsž.

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Croatia

LAW
New rules for remote work in public service

The proposed new Regulation on Remote Work in Public Service, which has been sent for public discussion, envisions this mode of work as temporary or occasional. In the case of occasional work, civil servants will work at least one day a week in a remote location and at least two days a week in the office of the public body, with the remaining days working according to an agreement with their supervising officer or official. In other words, the new regulation will allow civil servants to work from home three days a week, including Friday and Monday.

On the other hand, temporary remote work is permitted under the Regulation for civil servants during a specified period, particularly for parents or guardians of children up to the age of eight, or caregivers according to specific legislation. A civil servant may be granted remote work for a period of at least one month, and up to a maximum of 12 months, after which they can submit a new application. The Regulation also specifies jobs that cannot be performed remotely, as they require collaboration with other civil servants and the use of equipment, including work with clients and handling classified information.

LAW
Minimum wage in 2025 will be 970 EUR gross

The government has adopted a regulation on the minimum wage for 2025, which sets the gross minimum wage at EUR 970 from 1 January 2025. This is an increase of EUR 130 or 15.5% compared to this year.

Parliament is also discussing a proposal to amend the Minimum Wage Act to bring it into line with the European Directive on adequate minimum wages in the EU. The deadline for implementation of the directive is 15 November this year, but Croatian legislation, in particular this law, is already largely in line with the directive. It specifies that an adequate minimum wage should be at least 50% of the average gross wage or 60% of the median wage in the member state. The amendments to the Act introduce two new criteria for proposing the minimum wage amount: trends in productivity and changes in the purchasing power of the minimum wage. Additionally, it is proposed to eliminate the possibility for employers and employees to agree on a lower amount than the minimum wage prescribed by law or regulation in collective agreements.

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Cyprus

LAW
Potential fair grounds for termination of employment

An employment relationship can be terminated, with or without cause, by the parties to same by mutual consent.

In cases of unilateral termination initiated by an employer, there is a statutory presumption that the dismissal is unfair unless the employer can, at the time of the employee's dismissal, substantively justify same on one (or more) of the following potentially fair grounds: (a) failure of the employee to satisfactorily carry out work (other than by reason of temporary incapacity); (b) statutory redundancy; (c) force majeure (including act of war, civil insurgence, act of God or non-deliberate destruction of work premises from fire); (d) lapse of fixed term contract or employee retirement occasioned by age (as retirement age may be fixed by custom, law, collective agreement, workplace regulations or otherwise); (e) conduct that renders the employee liable to termination without notice.

Where a potentially fair ground for dismissal is alleged, supporting evidence should be adduced by the employer that a fair procedure was equally followed to objectively establish that the fair ground exists and also to afford the employee an opportunity to be heard in relation to same.

LAW
Automatically unfair grounds for termination of employment

Dismissal of an employee on one (or more) of the following grounds is considered automatically unfair by statute: (a) trade union membership, participation in trade union activities outside working hours (or within working hours, if consented by the employer) or health and safety committee membership; (b) candidacy or tenure as workplace representative or any acts done at any time in such capacity (c) filing of a complaint, or participation in civil, criminal, administrative or regulatory proceedings, against the employer (d) race, colour, sex, marital status, religion, political opinion, national or social origin; (e) pregnancy or maternity; and (f) parental leave, carer leave or other leave on grounds of force majeure.

Moreover, it will be deemed automatically unfair to dismiss (or select for redundancy) an employee for asserting a statutory right (or an infringement of a statutory right) concerning health and safety, public interest disclosures (whistleblowing) or in the context of a transfer of undertakings.

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France

If the fraud has had no impact on the outcome of the elections, there is no need to cancel them and organize new ones.

COURT
Professional elections and fraud

In a decision handed down on October 9, 2024, the French Supreme Court issued a reminder that the annulment of elections to set up a works council (CSE in France) is not automatic in the event of electoral fraud. Indeed, if the fraud has had no impact on the outcome of the elections, there is no need to cancel them and organize new ones. In this particular case, the fraud was proven, since 76 voters were required to cast their ballots, there were 76 envelopes in the ballot box and yet, at the time of counting, there were 79 ballots and 1 invalid ballot. On the other hand, the discrepancies were such that the fact of having 4 ballots in excess could not have affected the result. There is therefore no reason to grant a request to cancel the professional elections in such a context. Note that with electronic voting, this kind of problem would not have occurred.

Decision of French Supreme Court, October 9, 2024, case 23-14.585

COURT
Demotion and disciplinary sanction

An employee found herself in a situation of professional inadequacy, which she acknowledged given the specific tasks required for the position of accounting manager to which she had been promoted. As a result, she requested, in a letter to her employer (which the employer assisted her in drafting), to return to her former position. Subsequently, the same employee requested that the demotion be reclassified as an unjustified disciplinary measure and claimed damages. However, the French Supreme Court rejected her claim, ruling that the employer's good faith in contracting had been demonstrated by granting the employee's request for demotion.

Decision of French Supreme Court, September 25, 2024, case 23-20.450

COURT
Altercation between an employee's partner and her line manager

In this case, an employee was dismissed for serious misconduct on the grounds that, according to her employer, she had been the cause of an altercation between her boyfriend and her superior in the company parking lot. For the French Supreme Court, no personal fault attributable to the employee could be imputed to her, which meant that her dismissal had to be considered without real and serious cause.

The judges pointed out that the altercation had taken place outside working hours and the workplace, and had pitted the employee's line manager against her partner. Consequently, the employee could not be punished for acts committed by her companion and not by herself. However, the solution might have been different if it had been established that the employee had incited her partner to use force, but this was not the case here.

Decision of French Supreme Court, September 11, 2024, case 23-15.406

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Germany

LAW

German parliament launches further bureaucracy relief act

Germany is known for being a country with many bureaucratic hurdles. On September 26, 2024, the German Bundestag passed the Bureaucracy Relief Act IV.

In human resources, the Act replaces the written form with the text form in many cases. Employment contracts can now be concluded via email if they are accessible, storable, printable, and employees acknowledge receipt. Exceptions apply to sectors like construction and hospitality to protect workers. Temporary employment agreements can also use the text form, making it easier to formalize arrangements. The text form is sufficient for fixed-term employment relationships with pensioners, but in all other cases the written form is still required for fixed-term agreements.

Job references can be issued electronically with employee consent. The text form also replaces the written form in applications for parental leave and care leave, simplifying these processes for employees and employers alike.

COURT

Employer liable for damages after unilaterally setting bonus targets

The German Federal Labour Court has ruled that employers cannot unilaterally set bonus targets with their employees, if the employment contract generally provides for a mutually agreed target agreement, but the employer can also specify the targets unilaterally. In the case, a Development Director at a shipholding company was promised profit-sharing bonuses based on mutually agreed-upon targets. The employment contract stipulated that three key criteria for these targets were to be negotiated annually after the probation period.

However, disagreements arose when the employer proposed targets the employee found unreasonable. After rejecting his counter-proposal, the company unilaterally imposed targets, citing a contractual clause allowing them to set targets at their discretion if no agreement was reached.

The BAG found this clause invalid under German law (§§ 305 ff. BGB), stating it unfairly disadvantaged the employee by bypassing the agreed negotiation process. As a result, the employer was held liable for damages of approximately EUR 97,000.

Therefore, if employers wish to set the targets themselves in case of doubt, they should provide for unilateral target setting by the employer in the bonus agreement. This remains permissible.

Decision of Federal Labor Court of 3 July 2024, case 10 AZR 171/23

COURT
No age discrimination through job advertisement

In a recent ruling, the Cologne Regional Labor Court decided that a job advertisement with the content 'initial experience in management positions' does not discriminate applicants regarding their age.

In the specific case, a 56-year-old applicant applied for a job advertisement with this content. After the employer turned him down, the applicant filed an action because, in his opinion, he was only not considered in the application process because he was too old.

The court rejected the action, stating that the phrase 'initial experience in management positions' does not refer to a specific age range. Furthermore, it is possible to gain experience in management positions at any age and there is no set of experience according to which such experience can only be gained within certain years in German companies. It is also not sufficient for the applicant to merely claim that he was not hired due to his age. Instead, the applicant must provide further evidence that suggests discrimination.

Decision of Cologne Regional Labor Court of 20 June 2024, case 6 Sa 632/23

COURT
Breach of non-competition clause justifies extraordinary dismissal

The Cologne Regional Labor Court has ruled that a sales employee who forwards his employer's customer emails to a competitor may be dismissed without notice.

The employee was employed as a sales manager. A non-competition clause was agreed in the employment contract. During the employment relationship, the employee repeatedly sent emails from customers to his brother, with whom he had founded a company in the same field as the employer's business a few months earlier. When the employer found out about the emails, he dismissed the employee without notice.

The court decided that the forwarding of customer emails was such a serious breach of duty that the employer could not tolerate it. The court also confirmed that the companies were in fact competitors because the employee's company advertised with its website on the same market as the employer.

Decision of Cologne Regional Labor Court of 6 June 2024, case 6 Sa 606/23

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Hungary

A Hungarian decree of October 25, 2024 establishes a consultative forum to set minimum wages, using a benchmark of 50% of the previous year's regular average gross wage.

LAW
New Economic Policy Action Plan in Hungary

In October 2024, the Hungarian government has launched its New Economic Policy Action Plan, one of the main pillars of which is to increase the purchasing power of incomes, in order to revive the Hungarian economy.

Under this pillar, the government has identified three different measures. First, under the control of the Minister for National Economy, a three-year wage agreement has been set for this year with employees' and employers' interest groups.

In addition, by November 30, 2024, the Minister of National Economy and the Minister of Culture and Innovation will jointly develop a so-called Workers' Credit Program, and the Minister of Finance will also submit a proposal this year to double the amount of the family tax allowance under the Income Tax Act.

Other key pillars of the action plan include improving housing and doubling the size of businesses in Hungary. A total of 21 measures in the New Economic Policy Action Plan are intended to contribute to economic growth in Hungary. This will also help the country's GDP to grow faster and continue to catch up with the European Union.

LAW
Minimum wage consultation in Hungary

On October 25, 2024, a government decree was published in Hungary to ensure compliance with Directive 2022/2041 of the European Parliament and of the Council on adequate minimum wages in the European Union.

The government decree designated the Permanent Consultative Forum to determine the minimum wage and the guaranteed minimum wage and established the detailed rules for the consultation on the mandatory minimum wage and the guaranteed minimum wage.

The regulation stipulates that the adequacy of the amount of the minimum wage and the guaranteed minimum wage should be determined, inter alia, with a view e.g. to achieving a decent standard of living, reducing in-work poverty, and reducing the gender pay gap.

The indicative reference value to be used for assessing the adequacy of the minimum wage and the guaranteed minimum wage to be pursued shall be 50 % of the regular average gross wage calculated by the Hungarian Central Statistical Office on the basis of the data available for the previous year. Thus, the minimum wage should not reach 50% of the average gross wage, but 50% of the regular average gross wage (the latter is lower because it does not include, for example bonuses and one-time payments), and it should be compared with the regular average wage of the previous year, not the current year.

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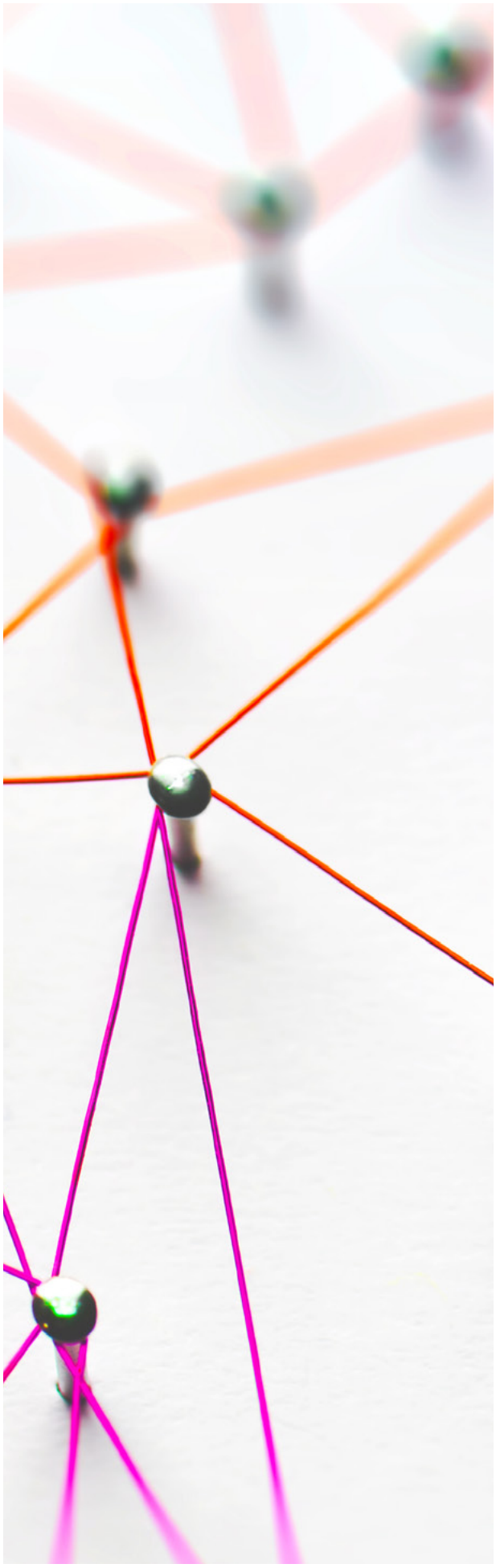


Ireland

New regulations will allow employees to postpone maternity leave due to health reasons and limit the use of non-disclosure agreements in cases of discrimination and harassment.

LAW
Maternity Protection, Employment Equality and Preservation of Certain Records Act 2024

The Maternity Protection, Employment Equality and Preservation of Certain Records Act 2024 ("the Act") was signed into Irish law on 28 October 2024.

It allows for the postponement of maternity leave in the event of a serious health condition.

The relevant employee can notify their employer that they intend to postpone their maternity leave for 5 to 52 weeks where a serious health condition poses a risk to life or health (including mental health) and requires medical attention. The employee must notify their employer in writing of the dates of the proposed postponement (and provide a medical certificate) and must do so two weeks before the date that the proposed postponement is to commence.

The employee is entitled to resume maternity leave for a continuous period after the postponement, once they have notified in writing the employer of such an intention as soon as reasonably practicable but no later than on the day on which the period of maternity leave recommences. Where the employee has already postponed their maternity leave, they may notify the employer in writing of their intention to postpone their maternity leave one further time.

The Act also amends the Employment Equality Acts by restricting the use of non-disclosure agreements in respect of allegations of discrimination, victimization, harassment and sexual harassment, whereby such agreements will be null and void unless certain conditions are met.

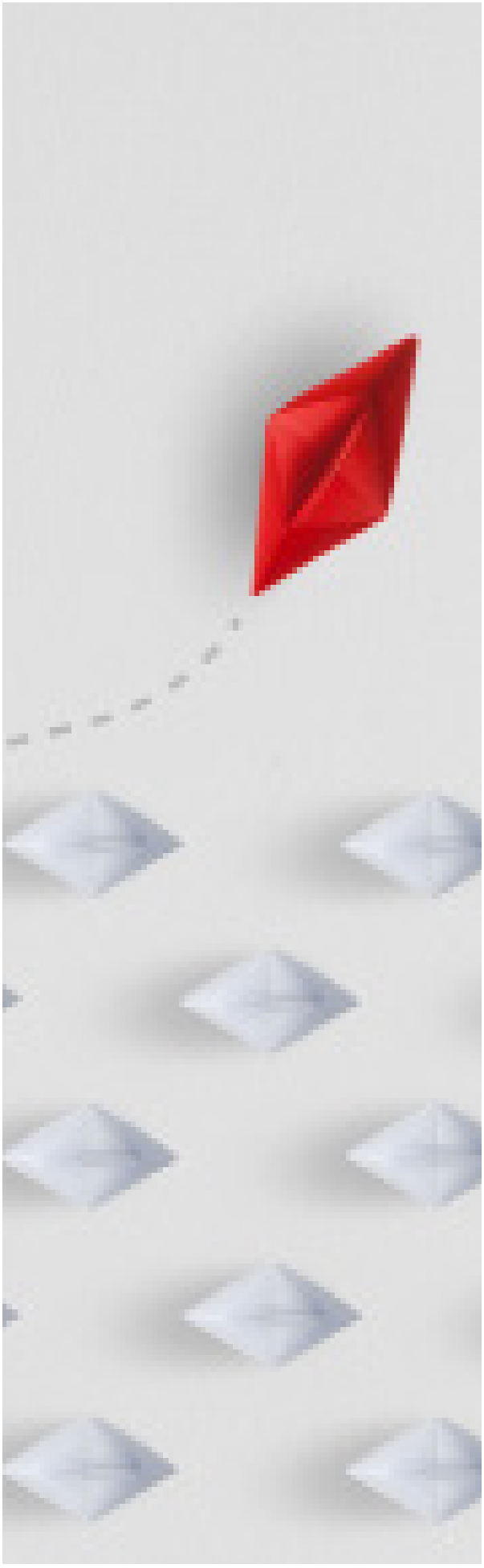
The Act has yet to be commenced.

LAW
Employment Permits Act 2024

The Employment Permits Act 2024, which commenced on 2 September 2024, consolidates and updates the existing employment permit regime in Ireland. It represents the biggest reform of employment permits legislation since 2006.

The Employment Permits Act 2024 applies to non-EEA nationals who wish to take up eligible employment and residence in the State. The non-EEA national must secure an offer of employment in the State before applying for an employment permit and applications will be subject to a range of conditions including for example, minimum remuneration, skills and qualifications.

The key changes include: (i) certain permit holders can switch employers after nine months (as opposed to twelve months, as was previously the case); (ii) the 50:50 rule will not apply where the non-EEA national will be the first employee of the employer; (iii) new permit introduced for sectors with seasonal needs, such as fruit picking; (iv) subcontractors are now eligible for employment permits; and (v) permit holders can be promoted within their roles without needing a new permit.



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Italy

It will be possible to convert seasonal work permits, upon their expiry, into permits for an indefinite type of employed or self-employed work.

LAW

Law Decree No. 145 of 2024: Immigration law amendments - immigration quotas.

On October 11, 2024, Law Decree 145/2024 amended immigration quotas, used to plan immigration of non-EU employees to Italy. In 2025, immigration quotas have been set at 70,720 entries for non-seasonal employment, 730 for self-employment, and 110,000 for seasonal employment. As of February 7, 2025, up to 10,000 out-of-quota applications may also be submitted for social care, elderly-care and disabled-care.

The dates for the submission of applications, known as "click days", are February 5, 2025 (for non-seasonal work); February 7 (for non-seasonal work, family and social care); and February 12 (70% of the quota for seasonal work in agriculture and tourism-hospitality); October 1, 2025 (the remaining 30% of the quota for seasonal work in agriculture and tourism-hospitality).

In light of frauds discovered in the past, the Law Decree required the use of a digital identity ("SPID" or "CIE") in order to submit applications and further required the pre-filing of applications between November 1 and November 30, 2024, via a dedicated web portal, in order to allow for more checks on the applications.

Employers will be able to file up to three applications, while additional applications may be filed either through trade associations or payroll professionals, who should check that the number of applications is consistent with the size of the applicant's business. Finally, it will be possible to convert seasonal work permits, upon their expiry, into permits for an indefinite type of employed or self-employed work.

GUIDELINES

Ministry of Labor, of the Interiors, of the Agriculture and of Tourism – guidelines on immigration quotas in 2025

With guidelines No. 9032, jointly issued on October 24, 2024, the Ministry of Labor, of the Interiors, of the Agriculture and of Tourism, outlined the specific numbers of temporary and permanent non-EU employees that shall be allowed to enter Italy in 2025.

The interministerial guidelines contain instructions for implementing the decree issued by the President of the Council of Ministers on September 27, 2023, which regulates the entry of non-EU employees for the period 2023-2025.

GUIDELINES

Data Protection Authority – A software to back-up employees' and commercial agents' emails and store them for three years after termination is not in line with the GDPR

With the October 22nd newsletter, the Data Protection Authority, informed of an 80 thousand euro sanction imposed on a company that had installed and used a software to back-up the email correspondence of their employees and independent contractors, such as commercial agents, for three years after termination of their agreements.

According to the Authority the company had not adequately informed their employees of the intended use of the emails back-up, mentioning only the need to ensure continuity in the absence of employees and not the possibility to investigate said correspondence, and in any event the authority held that continuity of service should be ensured through means other than maintaining a copy of all emails for three years after termination.

Moreover the Authority argued that the processing of emails data was in breach of the obligation to negotiate an agreement with the unions or obtain a prior labor inspectors' authorization to remotely control employees and that the forensic review of the emails could not even be justified by the need to use them in court, because the judicial use may be a valid ground only for pending litigation or pre-litigation situations.

RLS have to be designated/appointed in all business units, namely all articulations that are financially and functionally autonomous.

GUIDELINES

Workers' representatives for safety matters should be appointed in each production unit exceeding 15 employees

On October 24, 2024, the Commission for occupational safety rulings responded to a query from the Ministry of Infrastructure and Transport regarding the designation of workers' representatives for safety matters ("RLS" is the acronym used in Italian). The request was whether businesses that are articulated in several territorial branches should be considered as a whole. Additionally, the Ministry asked whether "RLS"s must be picked up among members of a company works councils, or whether they may be other employees, if designated by the works council.

The Commission confirmed that, in business units with more than 15 employees, the "RLS" has to be elected / designated among the works council's members and only if none exists, the RSL has to be elected among the employees generally. Regarding the minimum number of RLSs, the Commission confirmed that RLS have to be designated/appointed in all business units, namely all articulations that are financially and functionally autonomous.

COURT

Courts may reduce the liquidated damages agreed in a “parachute” agreement with an executive, also in light of the executive reasonable interests at the time damages are claimed

With decision No. 26465 of October 10, 2024, the Supreme Court had to decide on the breach, by a large company, of the minimum employment duration agreed with an executive, hired to manage a bank controlled by the employer.

The parties had agreed on a 36 months’ severance, in case of early withdrawal of the employer, or resignation for cause by the executive. The employer had breached the clause one month before the expiry of the agreed term and the merit court had granted the entire liquidated damages amount to the executive.

The Supreme Court turned down the decision by the merit court, reminding that under the law courts may always revise the amount of liquidated damages agreed between the parties and may do so not only in light of the situation existing at the time when the liquidated damages cause was agreed, but also those existing when the clause is invoked. In the case under review, according to the supreme court, a 36 months’ severance was excessive, having in mind that only one month of the “protected” period of employment remained to be performed.

Courts can adjust the amount of liquidated damages not only based on conditions at the time of the agreement but also on those present when the clause is enforced.

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Lithuania

The amendments to the Lithuanian Labor Code have come into effect, with some changes already in force since November 1, 2024.

LAW
Changes to Lithuanian Labor Code

Amendments to the Labor Code of the Republic of Lithuania will come into force, with some changes starting as early as November 1, 2024.

One significant update is the increased protection for employees in the event of a company's bankruptcy. Under these changes, employees who lose their jobs due to bankruptcy will be entitled to long-term employment allowances, determined by their continuous service with the company.

Furthermore, after the amendments take effect, employers will only be permitted to order overtime work with the employee's written consent. The legislation also strengthens the rule that employees must be given the opportunity to work one hour less before public holidays. If this reduced schedule is not provided, employers must compensate for that hour as overtime.

In addition to these provisions, the amendments provide greater protection against harassment and violence in the workplace. Employers will face stricter liabilities and a broader range of obligations to ensure a safe working environment.

Another key aspect is that employees will be able to submit their labor dispute complaints to any labor dispute board, regardless of their place of residence. These new obligations will require employers to review and update their internal policies and procedures to ensure compliance.

Read more

COURT
The importance of an internal teleworking policy

On October 8, 2024, the Supreme Court of Lithuania issued a decision that clarified the conditions for organizing telework. This ruling is crucial for future practice, especially regarding how employers organize daily work. The Court emphasized that teleworkers are not under constant supervision, making it essential for employers to establish clear procedures for telework arrangements. These procedures should outline the specifics of remote work, including methods and rules of communication, timekeeping practices, and requirements for the work environment.

Employers are encouraged to create detailed telework policies, ensure that telework agreements are documented in writing, protect employees' privacy and personal data, and provide guidance on safe and healthy remote working conditions.

Overall, having comprehensive internal policies is key to ensuring the proper and smooth organization of teleworking.

Read more

GUIDELINES
Misconduct and dismissal: what to know?

When it comes to dismissal, employees often challenge terminations initiated by the employer due to misconduct. This typically involves situations where the employee has committed a serious breach of their employment obligations or repeated the same offense within the past twelve months. According to the State Labor Inspectorate, in such cases, the employer can terminate the employment contract without notice and is not required to provide any severance compensation. However, the employer must first request a written explanation from the employee before making a decision to terminate the contract. Failing to request this explanation limits the employer's ability to consider all relevant factors, increasing the risk of facing negative consequences. While the request for an explanation can be made orally or in writing, in the event of a dispute, the employer bears the burden of proving that the request was made.

Read more

GUIDELINES
Employer liability for late payment of wages

The State Labor Inspectorate reminds employers that paying wages on time is not only a legal obligation but also a fundamental right of employees. If wages are paid late, the employer is required to pay interest at a rate of 0.1% for each day of delay, as stipulated by the Labor Code of the Republic of Lithuania. At the end of an employment contract, wages must be paid immediately unless both parties agree to a period of up to ten working days. Any delays in this process may result in liquidated damage. Interest and penalties for late wage payments can accumulate to the equivalent of an employee's monthly salary, making it critical for employers to ensure timely payment. Unpaid wages or other employment benefits are the right of the employee, who can file a claim with a labor dispute committee within three months of becoming aware of the violation.

Read more

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Malta

The Malta budget for 2025 announced amendments to extend paid parental and paternal leave benefits to self-employed individuals, along with planned changes to Wage Regulation Orders.

LAW
Parental leave and Wage Regulation Orders for 2025

In the Malta budget, the minister announced that there will be amendments to the law regulating the entitlement to leave in Malta, specifically parental and paternal leave. Currently, employees who are prospective parents undergoing an IVF treatment benefit from 100 hours of paid leave. By means of the new amendments, this benefit will extend to prospective parents undergoing an IVF treatment, who are self-employed.

Additionally, changes to paternal leave entitlement will also bring an additional benefit to self-employed persons. Currently, employees who have become fathers benefit from 80 hours of paid paternal leave. This benefit will extend to self-employed fathers. This payment shall be based on the minimum wage.

In 2025, the government is also planning to introduce amendments to the Wage Regulation Orders. These Orders provide for specific employment conditions, according to the employer's sector and the nature of the employment. These Orders tailor for the different requirements which certain jobs have in contrast with others and specifically deal with working hours, overtime pay etc. The amendments in such Orders are expected to address anomalies in relation to overtime work, pay on public and national holidays and others.

COURT
The letter of resignation in constructive dismissal

An employee filed a case against the Maltese Building and Construction Authority alleging that he was forced to resign from his position and thus claiming constructive dismissal.

The employee made an extensive list of the events which led to his forced resignation. On the other hand, in the letter of resignation, the employee did not make reference to any of these events and according to the Tribunal, the contents of the mentioned letter implied that the employment relationship between the CEO and the employee was a friendly one due to the fact that the resignation letter stated "It was a pleasure to have met you even for a very short period of time."

The Tribunal made reference to Selwyn's Law of Employment book wherein it is stated that "The employee must clearly indicate that he is treating the contract as having been repudiated by the employer, and if he fails to do so, by word or by conduct, he is not entitled to claim that he has been constructively dismissed." For this reason, the Tribunal deemed that this was not a case of constructive dismissal.

Read more

> **The employee must clearly indicate that they are treating the contract as having been repudiated by the employer; otherwise, they cannot claim constructive dismissal.**

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Poland

LAW
New consultation requirements for ESG reporting

A draft law on the implementation of the EU CSRD directive on corporate sustainability reporting has been recently submitted.

The amendment, which aims to unify Polish regulations on reporting standards, will impose additional consultation obligations on employers with respect to employees.

The proposed amendments include an obligation to consult employee representatives on information about sustainable development that is relevant to the entity's employees, as well as on the means of obtaining and reviewing such information, and to communicate the views of employee representatives to members of the supervisory board or other body that oversees the entity.

Government's Bill on Amendments to the Accounting Law, the Law on Statutory Auditors, Audit Firms and Public Supervision and Some Other Laws (Draft No. 726).

Read more

LAW
Revolution in employee's rights during sick leave

The Ministry of Family, Labor and Social Policy has published a draft law amending the prerequisites for losing the right to sickness benefit.

The amendments are intended to ensure that undertaking an activity, the omission of which could lead, among other things, to significant financial losses for the employer or contractor (such as signing invoices or other documents) will not lead to the withdrawal of social security benefits.

The draft introduces a stipulation that activities incompatible with the purpose of the layoff, leading to the loss of the benefit, will not be ordinary daily activities or incidental activities, the undertaking of which during the layoff period is required by compelling circumstances.

A key change is also to be the adjudication of the inability to work due to illness under a specific title. This means that work can be performed under another employment relationship even during a layoff, when the type of work does not justify an adjudication of incapacity in this case.

Government's Draft Bill on Amendments to the Law on Social Insurance System and Some Other Laws (Draft No. UD114).

Read more

COURT
Not every expatriate benefit is a travel benefit

According to a decision of the Social Insurance Institution, additional living expenses of a contractor providing services abroad are taxable.

The case on which the decision of the Social Insurance Institution was based concerned an entrepreneur who intended to conclude a contract with a Polish citizen. The subject of the contract, which was concluded for a period of 3 months, was the provision of home care services for a disabled, chronically ill or elderly person. The services were to be provided in one of the EU countries, but outside Poland.

In addition to a certain amount of remuneration, the entrepreneur undertook to cover the contractor's increased living expenses abroad in the amount specified in the regulations on business travel expenses within and outside the country, which, as a rule, do not constitute the basis for calculating social insurance contributions.

The Social Insurance Institution found that this exclusion did not apply because in this case the contractor was not on a business trip in the situation of long-term and regular work performed by the contractor abroad.

Decision of the Social Insurance Institution of 10 October 2024, ref. no. DI/100000/43/815/2024 and DI/100000/43/817/2024

COURT
Notification on the pregnancy during court proceeding does not deprive the employee of her rights

In a decision dated October 14, the Supreme Court ruled that a woman who becomes pregnant during her notice period can request reinstatement, even if she discloses her pregnancy only during the trial after a significant delay. The Court examined whether the standard 21-day limit for challenging employment termination applies when new information, such as pregnancy, comes to light during ongoing proceedings. It concluded that disclosing a pregnancy during the course of a trial does not count as an amendment to the original claim and is therefore not subject to this time limit. The ruling highlights the special, absolute protection granted to pregnant employees, ensuring that even if the employer was unaware of the pregnancy at the time of termination, the employee's rights remain safeguarded.

Resolution of the Supreme Court of 17 October 2024, ref. no. III PZP 1/24.

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Portugal

Employers can be held liable for increased compensation if safety rule violations contributed to an occupational accident.

COURT
Occupational accidents and the employer's liability

In Portugal, the employer is held liable for the repair of occupational accidents and must transfer this responsibility to an insurance company. In the event of an occupational accident, the insurer is responsible for providing the indemnities (monetary or in-kind) to which the employee is entitled as a result of the accident.

Liability may be increased in cases where the employer has culpably contributed to the accident - namely by violating safety rules - in which case the employee will also be entitled to compensation for the moral damage suffered. In this case, the employer will be responsible for the aggravation.

Until recently, the central discussion focused on the requirement to prove concretely that the occupational accident occurred because of this violation or omission (conditio sine qua non).

Last May, the Supreme Court of Justice ruled, in a landmark decision, that when accidents occur as a result of violation or omission of safety rules, it is sufficient to demonstrate that such failure increased the likelihood of the accident occurring. This is a significant change from previous criteria, which required proof that the accident would not have occurred without such a violation. The new ruling recognizes the need for a less rigid attribution criterion in order to ensure fairness in compensation for occupational accidents, even without precise proof of the dynamics of the accident.

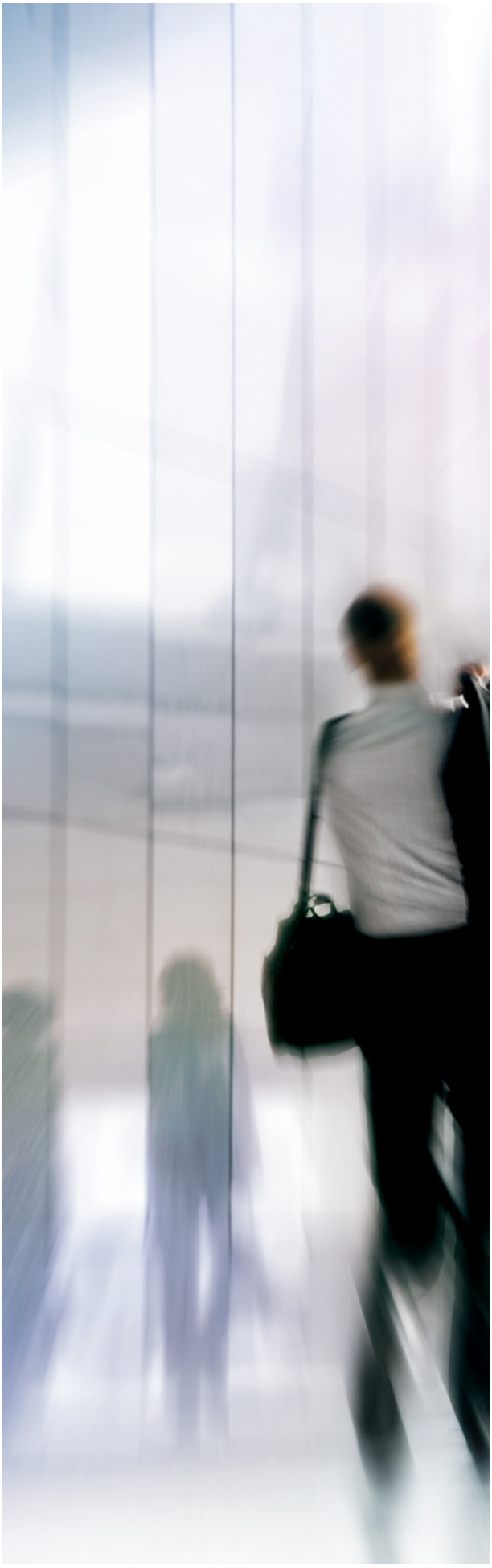
The ruling of the Supreme Court of Justice dated May 13th, 2024, ruled under case no. 179/19.8T8GRD.C1.S1-A.

GUIDELINES
Revisions to labor legislation

During the last parliamentary hearing, as part of the discussion of the 2025 State Budget, the Labor Minister confirmed that the government will revisit the legislative amendments related to labor legislation, promoted in May last year, which have been the target of harsh criticism.

This revision will be carried out with the social partners, according to the topics they have proposed, and it has been confirmed that the debate will focus on the presumption of the employment contract and work on digital platforms, the trial period, the waiver of labor credits, the suspension of dismissals by the Authority for Working Conditions, outsourcing, the bank of hours, and remote working.

The discussion will take place in the Standing Committee on Social Concertation, which will begin this November, although a list of priority topics has not yet been established. In addition to the topics proposed by the partners, the government will also indicate further topics to be addressed, while the Labor Minister has already shown concern about discussing subjects such as banks of hours, work on digital platforms, teleworking and the application of collective agreements to independent contractors.



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Slovakia

The tax-laden consolidation package will bring a number of changes which will significantly affect also the employment relationships.

LAW
The tax-laden consolidation package

From January 1, 2025 will be effective the tax-laden consolidation package (hereinafter "consolidation") which will affect not only the business sector, but also the position of employers and employees.
A new tax on entrepreneurs is being introduced, namely a tax on financial transactions, i.e. the tax will be paid when transferring funds from a bank account (with exceptions), cash withdrawals and using a payment card for business purposes. The employer will pay the mentioned tax, for example, also when paying employees' wages.

The consolidation also includes (i) an increase of social insurance limits from the current 9 128 EUR to EUR 15 730, (ii) reduction of child tax bonus; the entitlement to the tax bonus will be adjusted according to the age category of the child and income of the employee (the tax bonus for a dependent 18 years old child and over is abolished completely), and (iii) a change in the form of payment of the parental pension in the form of income tax assimilation; the taxpayer can transfer up to 4% to both parents in total, i.e. 2% to the father and 2% to the mother. The minimum amount of tax allocated to one parent is EUR 3.

LAW
Contribution to a sports activity of an employee's child

With effect from January 1, 2025, an amendment to the Labor Code is proposed, the content of which should be the amendment of the conditions for granting the child's sports activity allowance from the side of employer (hereinafter "allowance"). This allowance was introduced in 2020 as voluntary payment.

The aim of the amendment to the Labor Code, which is currently in the legislative process, is to introduce the obligation to provide an allowance at an employer with more than 49 employees.

According to the draft amendment to the Labor Code, at the employee's request, the employer shall provide the employee whose employment with the employer has been lasting for no less than 24 months without interruption with an allowance in the amount of 55% of eligible expenses but no more than 275 EUR per calendar year in the aggregate for all children of the employee.

If the employment relationship is agreed for a shorter working time, the highest amount of the allowance per calendar year shall be reduced in proportion to the extent of the employment relationship. Only expenses paid to registered sports organizations should be eligible expenses.

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Slovenia

LAW
Public sector wage growth

At the end of October 2024, the National Assembly adopted a new law on the common foundations of the public sector wage system, introducing a new pay scale. The new public sector wage law introduces a new pay scale, where the difference between pay grades will be three percent instead of the current four, with the ratio between the lowest and highest pay grade being one to seven. Under the new law, no one in the public sector will have a salary below the minimum wage. The lowest basic gross salary will be EUR 1,253.90, and the highest will be EUR 8,821.04 gross.

The law also defines a mechanism for wage adjustments based on inflation. Among other things, it includes changes to the promotion and reward system. Salary increases will begin to take effect gradually, from January 1, 2025, to January 1, 2028.

To implement the new wage law, additional documents are required. Government and union negotiators already initialed the collective agreement for the public sector, with its signing planned for the first half of November. They also intend to finalize a general agreement by then, and final negotiations are underway for collective agreements by sector, which will determine the placement of individual job positions on the pay scale.

LAW
The right to disconnect

Slovenia is one of the first countries to legally recognize the right to disconnect, with the adoption of an amendment to the Employment Relationships Act in November last year. The legally enshrined right to disconnect means that the employer must ensure they do not interfere with the worker's free time during daily or weekly rest periods, annual leave, or other justified absences from work. Employers must implement appropriate measures regarding the right to disconnect by November 16, 2024.

The right to disconnect means that during the exercise of the right to rest or justified absences from work, in accordance with the law and the collective agreement or general act, the employee will not be available to the employer. At the same time, the employer is obligated to adopt appropriate measures to concretize this right.

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Spain

LAW

Regulatory development of measures for equality and non-discrimination of LGTBI people in companies

In accordance with Law 4/2023 of 28 February 2023, companies with more than 50 employees are required to implement a planned set of measures and resources to achieve real and effective equality for LGTBI people. This includes the development of an action protocol to address any potential harassment experienced by LGTBI individuals in the workplace.

This obligation was on hold pending regulatory development. After several months of delays, the development has now been finalized in the form of Royal Decree 1026/2024, which came into force on 10 October 2024.

Although different drafts of the regulation have been circulating which implied a greater role for the negotiation of the measures to be applied within the companies (similar, although to a lesser degree, to that of the equality plans), finally, with some exceptions, the main playing field will be that of the negotiation of collective bargaining agreements.

COURT

Commencement of leave due to hospitalization or serious illness of a relative

The company argued that leave for the hospitalization or serious illness of a relative must begin on the exact date of the event. However, workers' representatives contended that, due to the lack of specific statutory or contractual rules, the start date should not be strictly tied to that moment.

The National Court (Audiencia Nacional) clarified that if the causative event occurs on a non-working day, the leave can begin on the next working day unless otherwise stated in the collective agreement. In this case, the absence of clear guidance in the agreement led the Court to conclude that the company's restrictive interpretation unjustly limited employees' rights.

Crucially, the Court emphasized the gender equality perspective, noting that caregiving leave is predominantly taken by women. By restricting the flexibility of leave, the company's policy perpetuates gender disparities, as it primarily affects women, who traditionally bear more caregiving responsibilities.

This approach not only reduces women's rights but also discourages men from sharing family caregiving duties, thus reinforcing the gender labor gap.

Therefore, the Court ruled that the purpose of such leave requires flexibility, allowing employees to adjust the timing within a reasonable period, to promote real equality and shared family responsibilities.

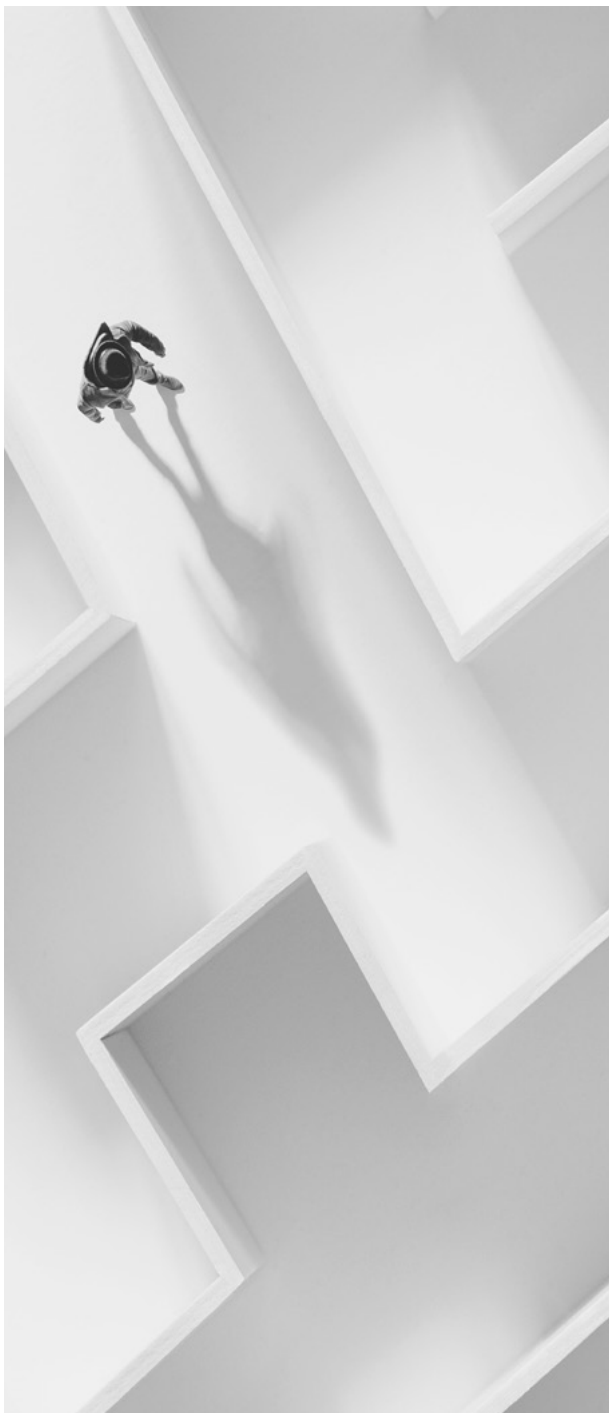
Judgment of the National Court of September 12, 2024.

COURT
Variable remuneration must include paid leave and disability days

The ruling deals with a collective dispute over the variable pay system at a company, where the company decided not to count days employees were absent due to temporary disability or paid leave as productive days. The plaintiff argued that this policy discriminates both directly and indirectly under Law 15/2022, which prohibits discrimination based on health conditions or gender, especially since paid leave is more often taken by women.

The court ultimately ruled that excluding disability and paid leave days from the calculation of variable pay is not only illegal but also unfairly impacts women, who are more likely to use such leave. The decision emphasizes that incentive systems should not penalize employees for using their legally protected rights, like paid leave. As a result, the company was ordered to compensate the affected employees, reaffirming the principle of equality in the workplace.

Judgment of the National Court of October 7, 2024.



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Switzerland

Participants can stay for up to 18 months to gain work experience and enhance their cultural and professional skills.

LAW

New Agreement for intern and young professional exchange between Switzerland and the USA

On October 11, 2024, Switzerland and the United States signed a new agreement in Bern to facilitate the exchange of interns and young professionals. This initiative aims to enhance mobility for Swiss and American youths aged 18 to 35, allowing them to gain valuable professional and academic skills during temporary stays. The new agreement, set to replace the previous one from 1980, will take effect on November 30, 2024.

The program is designed for young individuals who are currently in education or hold a professional diploma. Those without formal qualifications can also participate if they have relevant work experience. Participants will be granted residence and work permits for up to 12 months, with the possibility of extending their stay by an additional six months.

The updated agreement streamlines the visa process and broadens access to the exchange program, enabling participants to improve their language, cultural, and social understanding. Historically, this exchange has enabled over 100 young Swiss and Americans annually to benefit from work experience. However, numbers have declined since the 2000s due to stricter U.S. visa regulations. Overall, this initiative represents a renewed commitment to fostering international professional development.

COURT

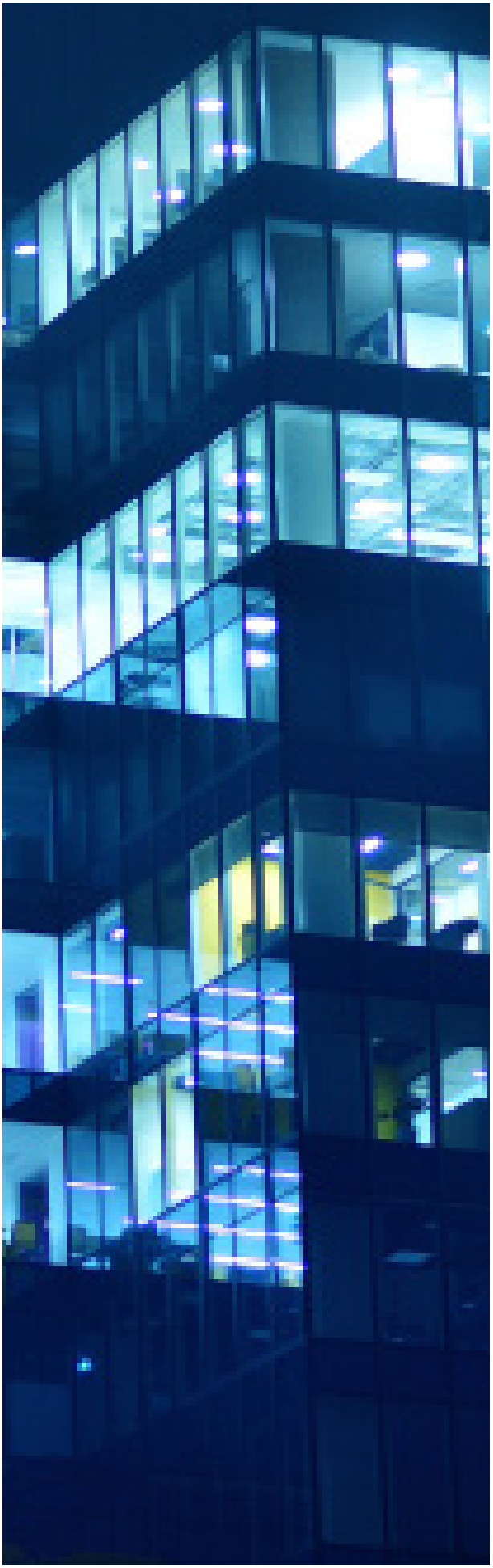
Legal protections for work-related incapacity and termination

Work-related incapacity and the legal protections against termination are crucial elements of labor law. When an employee is on sick leave due to issues specifically tied to their job position, such as stress-induced depression, the employer generally cannot terminate their contract during a designated protection period. However, a recent Federal Court's rulings clarify that this protection period does not apply if the incapacity is directly related to the employee's specific role.

The purpose of these protections is to ensure that employees do not face difficulties in securing new employment due to their illness. If an employee is able to perform similar work for another employer, the legal protections against termination are considered unnecessary. Furthermore, employers are not obligated to offer alternative positions to employees who are not classified as victims of workplace bullying.

The rulings underscore the importance of distinguishing between general incapacity and that which is specifically linked to the current job. Ultimately, the legal framework limits protections against termination to cases where employees are genuinely unable to perform their regular duties due to illnesses that arise directly from their job positions, ensuring a balance between employee rights and employer responsibilities.

The ruling of the Federal Court (1 C_595/2023) of March 26, 2024.



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Ukraine

The State Service for Labor will no longer be responsible for controlling compliance of the content of job advertisements.

LAW
Changes in the scope of authorities of the State Service for Labor

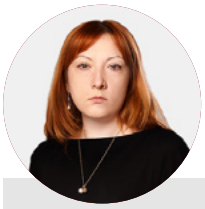
Ukrainian Parliament has passed a law divesting the State Service for Labor, the state regulator in the field of labor and employment relationships, of a number of non-core powers and transferring them to other state authorities.

In particular, the law provides for the transfer of powers to register and record heavy-duty vehicles and other technological equipment (bulldozers, loaders, road-building machines, etc.) from the State Service for Labor to service centers of the Ministry of Internal Affairs.

Furthermore, the State Service for Labor will no longer be responsible for controlling compliance with advertising legislation, specifically in relation to the content of job advertisements. This function will be transferred to the State Consumer Service.

In addition, the State Service for Labor is deprived of the authority to conduct technical investigations into the circumstances and causes of accidents related to the use of gas at home.

The changes shall become effective in May 2025.



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