European Employment Insights

> “Employment income may partially be paid in kind with the consent of the employee.”

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Reshaping employment disputes in Hungary

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Hungary's employment law has undergone significant changes in recent years, leading to a sharp decline in employment disputes brought to court and slights swift to change of contents of the employee claims. To explore the reasons behind this trend and its impact on employers and employees, Magdalena Patryas (Andersen in Poland) speaks with Szilvia Fehérvári from Budapest Office (Andersen in Hungary) who shares her insights on how legal reforms and new practices are reshaping the landscape of workplace conflicts.

Question: Could you elaborate on the key legal changes in the 2012 Employment Code and the 2018 Civil Procedures Code that most significantly impacted the volume of employment disputes in Hungary?

Szilvia Fehérvári: The mentioned regulations did not make it easier for employees to bring their claims to court. The new Employment Code has changed the basic characteristics of the legal consequences of wrongful termination, such as their extent and conditions of application. Before 2012 employees could generally apply for reinstatement and were entitled to claim a high and non-fixed amount of compensation, whereby the length of litigation just increased the amount of the claim.

As per now the employees may only apply for compensation in narrow and predetermined cases of serious infringements (such as unlawful termination, breach of personal rights or equal treatment, or abuse of employer's rights). In addition the current Employment Code caps the amount of compensation that may be claimed in case of unlawful termination – employees can only receive up to 12 months' absentee pay as compensation.

Q&A

Q: In your opinion, what are the main factors driving the decline in employment litigation? Is it primarily due to legal reforms, or have market and workplace practices evolved as well?

SF: Primarily due to change of laws. As the quantitative risk of wrongful termination has been defined and significantly reduced, the employers can avoid and/or mitigate the legal consequences of wrongful termination via applying termination agreements more frequently and due to this, the latency of the termination cases is increasing. Nowadays market practice shows that instead of unilateral termination the termination agreements are more and more common. While a termination agreement reduces the risks of a lawsuit it also helps the parties create a win-win situation where employee also can estimate in advance his/her maximum claim in case of litigation.

Q: You mentioned that termination agreements are becoming more common in Hungary. What advice would you give to employers when negotiating these agreements to ensure both legal compliance and a balanced resolution with employees?

SF: Employers should get more and more careful with handling their HR matters as the supply and demand side of the employment market changes. In case employer is uncertain regarding the termination reasons and whether those would stand at court the assistance of inhouse counsel or external attorneys are recommended in order to decrease the number of employment disputes and financial and reputation risks for the employer.

Q: How have employees responded to the changes in legal remedies for wrongful termination?Do you think the reduced compensation caps have discouraged employees from pursuing legal action, and if so, what are the potential long-term consequences of this shift?

FM: Yes, certainly. As employees may only receive up to 12 months' absentee pay as compensation and in the case they find a new job that offers them a higher salary during the litigation, they can only claim a fraction of that compensation. What is new though that more and more employees are trying to also ask compensation for "loss pain and amenity" in the hope of a better settlement outcome. However, the Hungarian courts are very strict to interpret whether mobbing or other type of infringement of personal rights had happened and compared to the USA's practice the actually awarded compensations are far less significant.

Q: Looking ahead, are there any anticipated legal reforms or trends in employment law that employers in Hungary should be aware of to continue minimizing disputes and improving workplace relations?

GM: The next interesting questions shall be the implementation of the Equal Pay Directive in Hungary which certainly will change the practice regarding the workplace relations and atmosphere and shall be a big challenge for employers.

Szilvia Fehérvári is a Partner and heads the Employment and Global Mobility practice in Andersen in Hungary. With over 20 years of experience, she specializes in labor law, focusing on equal treatment, GDPR compliance, executive contracts, terminations, whistle-blowing, anti-corruption policies, collective bargaining matters, workforce hiring, outsourcing, global mobility, mergers, and employment law mediation and litigation.

Bosnia and Herzegovina

New employment support programs in the Republic of Srpska and the Federation of Bosnia and Herzegovina are offering financial backing for employers hiring young professionals and training the unemployed in 2024.

GUIDELINES
Program of support for employment of young people in the Republic of Srpska

The Employment Service of the Republic of Srpska is implementing the "Programme of Support for Employment of Young People with Higher Professional Education as Trainees in 2024", with a total budget of BAM 5 million, funded by the Republic of Srpska.

The public call for applications was published on 29 August 2024 and was open for 15 days, with a submission deadline of 16 September 2024.

This program reaffirms the authorities' commitment to supporting employers in hiring young people entering the labor market for the first time.

The allocated BAM 5 million is divided into two categories: one part is dedicated to the children of deceased war veterans, and the other is for all other trainees.

In this way, the policy of the authorities of the Republic of Srpska to provide the necessary support to employers in hiring young people who are entering into employment for the first time was confirmed once again.

Read More

GUIDELINES
Program of support for employment of young people in the Federation of Bosnia and Herzegovina

The Federal Employment Service published a notice that from September 6, 2024, it will continue to receive new applications from unemployed persons registered in the Federation of Bosnia and Herzegovina for the issuance of training vouchers under the program "Labor Market Training 2024".

Unemployed persons who participated in training, i.e. used a training voucher in 2023 and 2024, cannot participate in this public tender.

The employer submits the application for a public call together with the necessary documents to the cantonal employment office according to the place of residence of the unemployed person.

An employer can receive co-financing for the training of a maximum of 25 unemployed persons in 2024.

The call is open until the funds are exhausted, but no later than 15 November 2024.

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Croatia

COLLECTIVE AGREEMENTS

The Collective Agreement for trade has been signed

On Wednesday, September 25, 2024, the Croatian Trade Union and the Trade Association, as representatives of trade unions and employers, signed the Collective Agreement for Trade, which implements the basic standard for work in the industry and the improvement of working conditions in order to preserve jobs and protect activities, as well as to increase the competitiveness of the trade sector.

Trade is the fourth activity in the private sector in which a sectoral collective agreement has been signed, and the trade sector has more than 28,000 registered legal entities and almost 227,000 employees in them, more than 23,000 of whom are employed by craftsmen, and represents the sector with the largest number of employers.

In order to achieve the common interests of employers and employees, the collective agreement for trade activities will be applied in accordance with the decision on its extension by the Minister of Labor, Pension System, Family and Social Policy.

LAW

Future changes to the Aliens Act have been presented

Details of the upcoming changes to the Aliens Act were presented, which will extend the residence and work permits of foreigners for three years and introduce for their accommodation standards. Namely, the residence and work permit will be extended from the current one year to three years, depending on the length of the contract. The aim is to facilitate easier transition between jobs with the same employer and simplify the process of changing employers.

The new criteria will include the obligation of minimum monthly turnover on the giro accounts of agencies that import foreign labor and limiting the number of requests in relation to the number of permanent employees in these agencies. Also, the amendments to the Aliens Act define the conditions for the accommodation of foreign labor for the first time. Thus, the Ministry of Internal Affairs will adopt a rulebook that will regulate the standards of accommodation of foreign workers in Croatia.

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Cyprus

Employment income may partially be paid in kind with the consent of the employee.

LAW
Employment income in money's worth

Employment income may be paid in money's worth rather than money alone. Where the employee consents to such substitute payment arrangement, a part (but not all) of the employment income may be paid by the employer in kind, provided the money's worth is valued fairly, is suitable and benefits the employee (or the employee's family). As the aforesaid part is not quantified by statute, it is advisable for any clause validly seeking to extend such flexibility to express same by way of a fixed or maximum percentage over the employment income, as well as to stipulate how same may be exercised. The money's worth does not necessarily need to entail something that is capable of being converted into money at face value by the employee (such as vouchers or credit tokens). The discharge of a debt owed by the employee to the employer could amount to money's worth as it has a fair monetary value.

LAW
Cash payment exception of wages for new hires

The Protection of Wages Law 35(I)/2007 establishes wire transfers and cheques as the principal methods for the payment of wages. By exception, an employer may validly settle any wages due to a new hire in cash where such employee's current bank account (or payments bank account) opening is pending. The cash payment of wages cannot exceed four months from the employee's start date, unless the employee can provide supporting evidence that the account opening application was rejected by the credit institution. The employer is obliged to maintain a register of all employees whose wages are paid in cash, supplemented by any supporting evidence provided by the employee.

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Czech Republic

Nine non-EU countries now have unrestricted access to Czech labor market.

LAW
Changes to the employment of foreigners

Several amendments to Czech labor law regarding the employment of foreigners were introduced this summer. Their main purpose was to simplify administration and facilitate access to the labor market for foreigners from certain third countries.

The process of hiring foreigners will be accelerated due to general shortage in the labor market. The amendment abolished the general obligation to carry out the labor market test (a 30-day period during which EU citizens could apply for a reported vacancy on a priority basis) for employee card holders and applicants (blue card holders/applicants are already exempt since July 2023). This test is therefore waived by default and may be requested only ad-hoc in certain cases. The job vacancy still has to be published in case of card applicants.

The category of people with unrestricted access to the labor market was expanded to include citizens of these nine countries: Australia, Canada, Japan, South Korea, New Zealand, Singapore, the United Kingdom, the United States and Israel.

The obligation to report the employment of foreigners to the Labor Office remains, but the procedure was simplified. This obligation can now be fulfilled by filling in an online form.

COURT
Entitlement of former employees to bonuses

The Supreme Court recently addressed the issue of extraordinary incentive bonuses.
In the case in question, employment lasted until the end of 2021. In March 2022, the employer, a major Czech bank, announced an extraordinary bonus of EUR 1,000 based on the holding group's good results in 2021. To be eligible for the bonus, employees were required to have worked at least three months in 2021 and still be employed by 31 May 2022. The former employee claimed the bonus, arguing that the purpose of the bonus was to reward work performed during 2021.

The bonus was part of the non-compensatory component of the salary, granted based on discretion of the employer. However, such discretionary decision must respect the principle of equal treatment of employees.

According to the court, the employee in question was not in a situation comparable to that of her former colleagues, since the bonus was also intended as an incentive for the performance in next period. The court thus ruled in favor of the employer.

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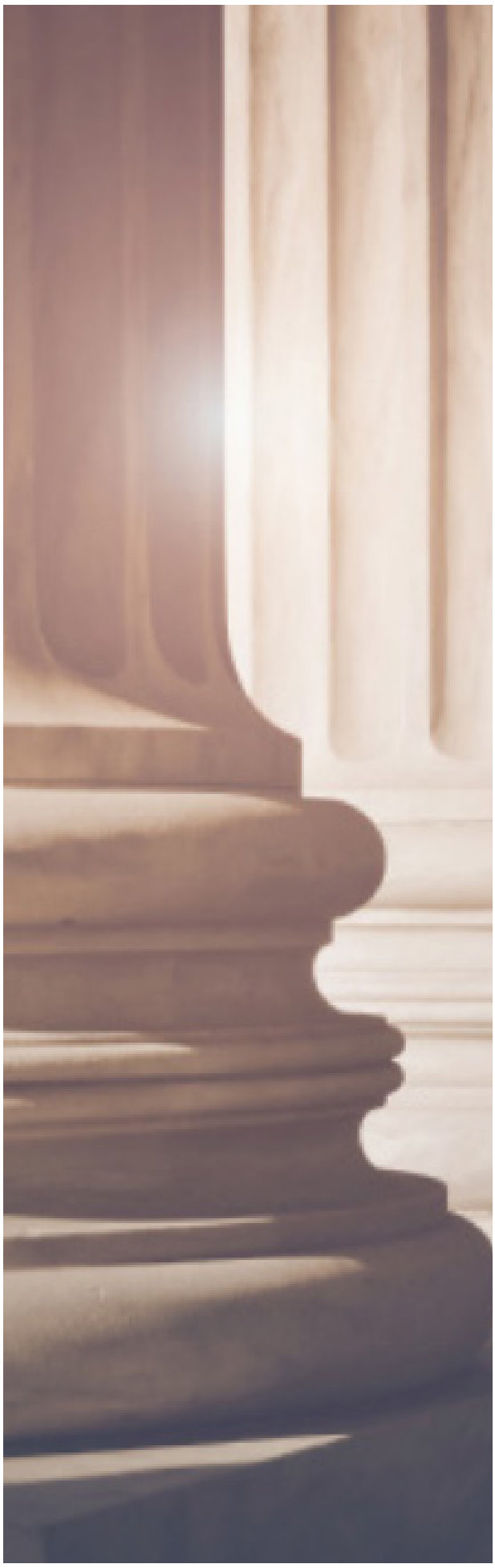
Former employee is not in a fully comparable situation to the employees who remain in work.



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Finland

A new study has been launched to assess the conditions or limitations under which administrative employee representation could be reduced based on the number of employees.

LAW

Study on revisions to employee representation in the Co-operation Act begins

Minister of Employment Arto Satonen has appointed Jukka Ahtela to carry out a study on the need for changes to the administrative representation. The study will assess the conditions or constraints under which it would be possible to reduce the scope of the administrative representation of staff based on the number of employees.

In addition to possible legal constraints, the study will examine how employee participation could be adapted in practice to the various management and decision-making bodies of companies with fewer employees than at present.

The goal is to also compare the organization of employee representation in Sweden, Denmark and Norway.

Employee representation means that employees have the right to participate in the discussion of important issues concerning the business, the economy and the status of employees in the employer's bodies.

The provisions on employee representatives in the Co-operation Act currently apply to companies with at least 150 employees in Finland.

COURT

Equality Ombudsman finds employer breached equality act in parental discrimination case

The Parent, who had not given birth to their child, had taken parental leave of around nine months shortly after the end of the company's 2022 financial year. The Parent had not received RSUs (Restricted Stock Units) for the financial year in question, although they considered that they had met the conditions.

The case was assessed under discrimination law as to whether there was a presumption of discrimination and whether it was sufficiently likely that the Parent would have received the employment benefit in question if they had not exercised their right to family leave. It was also assessed whether the prohibition of discrimination under the Equality Act applied.

The Equality Ombudsman found that the employer had acted in breach of the Equality Act. The Parent, who had suffered discrimination, was therefore entitled to compensation under the Equality Act for breach of the prohibition of discrimination.

On the basis of all the evidence in the case, the Equality Ombudsman considered it likely that the Parent had been unfairly disadvantaged as a result of their use of family leave. The employer was unable to provide evidence of the Parent's performance in the case as a whole that would rebut the presumption of discrimination that had arisen. This was in particular due to the partial opacity of the remuneration system and to the fact that the reasons for not rewarding the Parent had changed during the process.

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France

Depending on the circumstances, the employer may not be required to conduct an internal investigation in the event of a harassment report.

COURT
Moral harassment and internal investigation

Harassment is a serious problem in the workplace, often requiring an internal investigation. However, a recent decision by the French Supreme Court clarifies that, depending on the circumstances, the employer is not obliged to conduct an internal investigation in the event of a reporting harassment. This decision stems from a case in which a former HRBP criticized her employer for failing to conduct an internal investigation following her denunciation of moral harassment. In the judges' view, this was not necessary, as the employer had reacted promptly by taking a position on the disputes and responding to requests for clarification. The employer had thus complied with its safety obligation, and this court ruling is a reminder that an internal investigation is never compulsory.

COURT
Admissibility of evidence

Can employer use evidence from an employee's personal USB key, which may not be connected to the work computer, but was found in the workplace? In a decision handed down on September 25, 2024, the French Supreme Court ruled that evidence infringing on an employee's private life may be produced, provided that such production is essential to the exercise of the right to evidence. In this particular case, the evidence contained on the employee's personal USB key was essential to demonstrate the employee's disloyalty. It was therefore declared admissible, and the judges rejected in its entirety the argument that the evidence was unlawful.

Decision of French Supreme Court, September 25, 2024, case 23-13.992

COURT
Accuracy of the dismissal letter

In French employment law, the dismissal letter sets the limits of the dispute. Care should therefore be taken to include everything in the letter of dismissal, in order to secure the employer's position in the event of subsequent litigation. However, in a decision dated September 24, 2024, the French Supreme Court ruled that the precise dating of the facts is not a necessary element

if the letter of dismissal sets out precise and materially verifiable reasons. The judges also ruled that the employer was able to subsequently justify the reasons given in the letter of dismissal with factual circumstances that would allow these reasons to be dated. It is therefore not necessarily necessary to be exhaustive when drafting the letter of dismissal.

Decision of French Supreme Court, September 11, 2024, case 22-24.514

COURT
Remote working abroad without employer's consent

In a decision handed down on August 1, 2024, the Paris Employment Tribunal upheld the dismissal for gross misconduct of an employee who had chosen to remotely work from Canada without first obtaining her employer's agreement. What's more, the judges noted that the employee had clearly concealed the fact that she was in Canada from her employer.

Having discovered this, the employer immediately gave notice to the employee to cease working remotely and return to her on-site position in France. The employee's refusal to comply with the formal notice constituted insubordination, and a further breach of her contractual obligations, since the concealment of her remote working situation in Canada already constituted in itself a serious enough breach to justify the immediate termination of her employment contract.

Decision of the Paris Employment Tribunal, August 1, 2024, case 21/06451

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Germany

Public employers can exclude applicants for fixed-term positions with whom a fixed-term contract cannot be concluded due to previous employment.

COURT
Exclusion of applicants for fixed-term positions

The Federal Labor Court decided that a public employer is entitled to exclude applicants for a fixed-term position if such a contract is not possible for the specific applicant due to previous employment

The case involved an employee who had worked as a student assistant and later applied for a position as a social worker. The public employer excluded her from the selection process due to her prior employment, aiming to avoid legal uncertainties associated with the fixed-term contract.

Under the German Part-Time and Fixed-Term Employment Act (Teilzeit- und Befristungsgesetz, TzBfG), employers are prohibited from offering fixed-term contracts without objective justification to individuals who have previously been employed by them. The Court determined that when a public employer opts for this type of contract, it is within their rights to exclude candidates whose prior employment could invalidate the fixed-term. Public employers have a wide discretion when it comes to the establishment and detailed organization of posts. This also includes the decision as to whether a contract is concluded on a fixed-term or permanent basis.

Decision of Federal Labor Court, July 25, 2024, case 8 AZR 24/24

COURT
Holiday entitlement during maternity and parental leave

The Federal Labor Court has ruled that a reduction in the entitlement to leave compensation for untaken leave entitlements acquired during parental leave is not permitted.

The employee worked for the employer from 2009 to 2020. Starting in 2015, she alternated between maternity and parental leave, accumulating 146 days of unused leave. After her parental leave ended, she resigned and requested compensation for the untaken leave.

The employee is entitled to compensation for all 146 days of leave. The Court emphasized that during maternity protection periods and parental leave, any previously accrued but untaken vacation does not expire. Under the Federal Parental Allowance and Parental

Leave Act (BEEG), employers may reduce annual leave by one-twelfth for each full calendar month of parental leave. However, this reduction applies only to paid annual leave, not to leave compensation upon termination. The employer may only notify the employee of any reduction during the ongoing employment relationship and not after it has terminated. If the employer fails to do so, he no longer has the right to subsequently reduce the leave compensation. Employers are therefore well advised to declare the reduction of leave during parental leave as soon as the parental leave is confirmed.

Decision of Federal Labor Court, April 16, 2024, case 9 AZR 165/23

COURT
Dismissal due to sexual harassment at a company party

The Siegburg Labor Court ruled that a slap on a colleague's bottom and holding her against her will can justify extraordinary dismissal, even if it occurs during company events outside regular working hours

At a company party, the employee slapped the bottom of a passing colleague. When she pushed his hand away, he pulled her towards him and told her to take it as a compliment. The employer dismissed the employee without notice.

The court ruled that the extraordinary dismissal was effective. It emphasized that sexual harassment is a significant violation of the duty of care owed to colleagues and can justify dismissal without prior warning. Employers have a legal obligation under German law to protect their employees from such behavior, and failure to act could result in liability.

The judgement shows that sexual harassment in the workplace must not be tolerated and gives employers the right to dismiss employees without notice.

Decision of Siegburg Labor Court July 24, 2024, case 3 Ca 387/24

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Hungary

COLLECTIVE AGREEMENTS
Draft minimal wages 2025-2027

Representative organizations of the Hungarian employers and employees reached agreements on a number of issues at the latest meeting of the Permanent Consultative Forum of the Competitiveness and Government Sector (PCF). On the one hand, the PCF shall become institutionalized with respect to the EU Minimum Wage Directive. Until now, this consultative forum has operated on the basis of a tripartite agreement, but in the future it will take the form of legislation, i.e. it will be authorized to set the minimum wage and the guaranteed minimum wage. On the other hand, the annual (2025) minimum wage increase could be in the range of 11-12% and from 1 January 2027, the minimum wage must reach 50% of the regular average gross wage. The related legislation has not yet been published.

LAW
Golden-visa change

Effective as of September 1, 2024 the Immigration Act regarding the rules of the residence permit for guest investor (so called “golden visa”) has been changed.

As per the original Immigration Act a residence permit for guest investor may be granted to a third-country national whose entry and stay in Hungary is in the national economic interest due to his/her investments realized in Hungary whereby one of the following three investments realized shall be considered as being in the national economic interest: (i) acquisition of an investment fund share of at least EUR 250,000 issued by a real estate fund registered by the Hungarian National Bank; (ii) acquisition of ownership interest over a property, concerning a residential property with a value of at least EUR 500,000, located and registered in Hungary and free and clear of all liens, claims and encumbrances; or (iii) a financial donation in an amount of at least 1 million EUR and for a purpose of educational, scientific research or artistic creation activities, to a higher education institution maintained by a public trust with a public-service mission.

The recent change is regarding the acquisition of ownership interest over a property as this investment option can only be relied on after January 1, 2025. In other words: this type of investment can only be used for a golden visa application if the property in question was acquired after January 1, 2025.

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Italy

LAW
Credits-based health and safety license

As of 1 October 2024 companies and self-employed individuals who intend to operate within construction or civil engineering work sites have to obtain a special credits-based license, for health and safety purposes.

The license was introduced by law 56 of April 2024, and now, with regulation 132 of September 16, 2024, the requirements needed to obtain it have been outlined (including, e.g. compliance with training, social security, risk assessment obligations).

Both the application and the issuance of the license are handled through a web-portal. Workers' representatives for safety, managers responsible for safety at works sites, companies willing to award works will have access to the license information stored in the web portal.

The license will have an initial score of thirty credits and the regulations outline the actions (e.g. safety investments, training) through which companies may obtain more credits, up to a maximum of 100. Credits may be lost in case of breaches to safety and the license itself may be suspended or revoke in case of serious accidents. At least 15 credits will be required to operate at construction sites.

LAW
Revision of the Insolvency Code and impact on employment matters

With legislative decree 136 of September 13, 2024, the Insolvency Code was refreshed, amending some of its provisions. Regarding the employment matters the new provisions clarified that the special collective redundancy procedures applicable to employers with at least 250 employees do not apply in case of insolvency. The new provisions also clarify that the deadline for employees made redundant to apply for unemployment benefits, starts to run either from an employee's resignation or from the trustee's notice of termination.

LAW
Fixed-term contracts: courts may raise statutory damages if below actual losses

With law decree 131 of September 16, 2024, courts were granted the possibility to increase the statutory damages due to employees hired for a fixed term, under those circumstances in which their agreements are transformed into agreements for an indefinite term.

The law previously provided that in case of transformation of a fixed term agreement into an employment for an indefinite term, courts should award damages to the affected workers, ranging

between 2.5 and 12 months' salary. In 2023 the EU Commission issued a reasoned opinion to Italy, according to which Italy had failed to properly implement EU directive 1999/70 on fixed term agreements, because Italian law did not sufficiently prevent or punish abusive uses of fixed term agreements in the public administration.

The law decree applies to all fixed term agreements and not only those in the public administration. The law decree will expire unless converted into law no later than November 15, 2024.

COURT

Shift and compensatory allowances must be included in annual leave pay calculations

With decision No. 21604 of September 27, 2024, the Supreme Court upheld a merit decision that the remuneration of annual leave should include also a shift-work allowance, as well as compensatory allowances (agreed upon between an employer and the unions, to replace previous "discomfort" allowances for specific duties).

The employer, a transportation company, had argued that those allowances were meant to remunerate specific duties and therefore similar to occasional and variable compensation. The court noted that the remuneration of annual leaves should comply with principles laid down by the EU court of justice, according to which annual leave remuneration should not be less than the normal remuneration that the worker receives during periods actually worked, so as not to encourage a worker not to take the annual leaves. Therefore, according to the court, annual leave remuneration should include any and all amounts connected with the performance of duties.

LAW

Italy implements Directive on protecting workers from reprotoxic risks

With legislative decree 135 of September 4, 2024, Italy implemented Directive (EU) 2022/431 on the protection of workers from the risks related to carcinogens, mutagens, and reprotoxic substances. This implementation strengthens the prevention of risks from reprotoxic substances, introduces new exposure limit values, improves risk assessments, enhances worker information and training, and ensures periodic monitoring and review of the exposure limits set by the directive.

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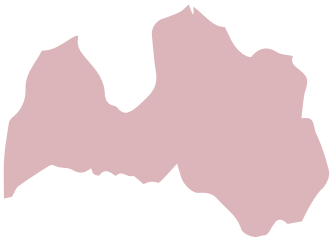
Latvia



LAW
Strengthening national language use

On 19 September 2024, the Parliament of the Republic of Latvia adopted, in its final reading, amendments to the Labor Law aimed at strengthening the use of the national language in the labor market and protecting employees' rights against discrimination due to unreasonable foreign language requirements in job duties.

The amendments stipulate that foreign language knowledge is not considered justifiably necessary for performing job duties if the work involves the production of goods, provision of services, or other activities within Latvia's internal market. An exception to this rule can apply if foreign language skills are objectively required for the position, such as when the job involves relations with foreign countries.

If a job posting includes foreign language skills, a justification must be provided. Additionally, during interviews, employers cannot inquire about foreign language proficiency unless essential for the job.

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COURT
Severance pay

Severance pay is required when employment is terminated under specific conditions outlined in Section 112 of the Labor Law. The employer must pay severance if they initiate the termination (including based on a court decision) for reasons unrelated to the employee's misconduct. Severance must also be paid if it is agreed upon in the employment contract, collective agreement, or in a separate agreement between the employer and employee.

If an employee resigns, the employer must pay severance if they agree that the employee's reason for leaving is significant. In case of a dispute, the employee can go to court to claim severance.

When reviewing a claim, the court assesses whether the employee's resignation was justified by a significant reason, such as unreasonable inconvenience or suffering caused by continuing employment. Relevant case law includes a Supreme Court judgment dated 16 December 2021.

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Lithuania

Notification of the employment of a one-person management body will be mandatory.

LAW
Employment Act changes

Article 56 of the Employment Act of the Republic of Lithuania defines undeclared work and outlines employer liability. Under the current version of paragraph 1(1), illegal work occurs if an employer fails to inform the territorial department of the State Social Insurance Fund Board about an employment contract and hiring at least one working day before they begin work.

On September 20, 2024, the Seimas of the Republic of Lithuania passed an amendment to Article 56, introducing an additional requirement. Employers will now also be liable if they fail to notify the territorial department of the State Social Insurance Fund Board at least one hour before the start of work when hiring a single-member management body of a legal entity. Employers should be aware of this new provision to avoid substantial legal and financial penalties.

Read More

LAW
Minimum monthly wage in 2025

The Government of the Republic of Lithuania has taken an important step towards increasing employees' salaries next year. Considering the opinions expressed by representatives of trade unions and employers' organizations in the Tripartite Council, the proposal from the Bank of Lithuania, and updated economic forecasts, the Ministry of Social Security and Labor proposed that the Government to adopt a compromise decision on raising the minimum monthly wage.

In this context, the Government of the Republic of Lithuania, by its Resolution of August 28, 2024, "On the Minimum Wage for 2025," agreed to increase the minimum monthly wage in 2025 by 12.34 percent, or EUR 114, to EUR 1,038 (before taxes). Meanwhile, the minimum hourly wage will increase from EUR 5.65 to EUR6.35 (before taxes), reflecting the government's commitment to improving the financial well-being of workers while balancing economic considerations.

LAW
Construction with multiple contractors

As of November 1, 2024, a significant amendment to the Law on Occupational Safety and Health of the Republic of Lithuania will enter into force. It establishes

the liability of the builder/developer, construction supervisor and safety and health coordinator who, through their actions or omissions, violate occupational safety and health regulations and, as a result, fail to provide safe and healthy working conditions. They will be subject to administrative liability and fines of between EUR 240 and EUR 880. These legislative changes should be of particular concern to individual house builders who use the services of independent contractors. Where more than one self-employed person (contractor) is involved in the construction of a single house, the owner (builder) is required to appoint a health and safety coordinator, failing which the builder may be subject to administrative liability.

Read More

LAW
New language requirements for foreign nationals and employers

Employers should be aware that the Seimas of the Republic of Lithuania has approved amendments to the law that will require foreigners and the companies employing them to serve clients in Lithuanian. The proposed amendments stipulate that manufacturers, sellers, and service providers must provide key information about goods and services in the national language, as well as label goods accordingly. Exceptions may apply where the requirement to use of Lithuanian would constitute an unreasonable restriction on the right to work. If these amendments to the Law on State Language are adopted, they will come into effect in January 2026. Employers should remain attentive to ongoing discussions and forthcoming decisions, as these changes could have a significant impact on business operations, requiring thorough preparation to meet the new language obligations.

Read More

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Malta

COURT

The Maltese Industrial Tribunal reinstates former MFSA COO and awards damages

In the case of Ruben Fenech vs. Malta Financial Services Authority (MFSA), the Industrial Tribunal ruled that the applicant, who was the Chief Operations Officer of the MFSA, was unfairly dismissed. The Tribunal found that the proper procedures outlined in the MFSA's Staff Handbook were not followed by the CEO during the dismissal process. It claimed that the CEO, as the head of MFSA, had a responsibility to be objective and truthful in his working relationship with the applicant – something that the Tribunal deemed had not occurred. Additionally, the reasons cited for Fenech's dismissal were found to be legally insufficient.

The Tribunal took into consideration the far-reaching and serious effects that the unfair dismissal had on the applicant, given the high-profile position he had on a national level, which limited his prospects for a new career. In this regard, the Tribunal decided to reinstate him in his formal position as COO. It also awarded him damages for payments he would have received if he had not been unfairly dismissed, as well as moral damages.

Read More

COLLECTIVE AGREEMENTS

A new sectoral agreement for independent schools approved

Following the new collective agreement reached between the Government and the Malta Union of Teachers ('MUT') earlier this year, the Government has now reached another collective agreement with the Association of Independent Schools ('ISA'). This agreement includes an investment of EUR 27 million to be used as financial support for independent schools until 2029, thus ensuring stability in the sector.

Through this agreement, independent schools may offer competitive salaries without increasing fees. In addition, fee increases will be capped between 6% and 12% to ensure that parents are not overburdened financially. The agreement also covers the one-time payment and all back-payments owed to teachers under the previously signed collective agreement with the MUT. The government has stated that this agreement also recognizes the value of educators and ensures that independent schools are sustainable, and that Malta's education quality is preserved.

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Norway

The employer has both a duty to prevent harassment and to deal with a specific case of reported harassment.

COURT
Employer's duty to prevent harassment under Norwegian law

A recent decision by the Norwegian Discrimination Tribunal provides important clarification on the legal duty of employers to prevent harassment as set out in the Equality and Anti-Discrimination Act. The decision outlines both the preventive and active responsibilities of employers in dealing with harassment in the workplace, with a particular focus on ethnic and racial discrimination.

The case involved a kindergarten employee who experienced repeated racial harassment from children, including being called offensive names related to her dark skin tone. Colleagues witnessed these incidents but failed to intervene. Despite the employee raising the issue multiple times with her employer, no significant action was taken to resolve the situation. The employer lacked written anti-harassment policies and did not develop a specific plan to address or follow up on the incidents.

The Tribunal concluded that the employer had breached its legal duty to prevent harassment. It noted that the absence of clear policies and training made it difficult for staff to recognize and respond to harassment. Furthermore, the employer failed in its active duty by not adequately investigating or resolving the issue after the employee reported it. The Tribunal underscored that it is the employer's responsibility to investigate and take action in cases of harassment, not the harassed individual's responsibility to intervene promptly.

Decision of the Discrimination Tribunal (Sak 22/1516)

LAW
Supreme Court Decision on occupational injury compensation

The Norwegian Supreme Court recently clarified the scope of occupational injury compensation under Section 13-6 of the National Insurance Act, specifically regarding injuries sustained during meal breaks while working from home.

The case involved a hospital doctor who, during a remote weekend shift, took a meal break at her home. While eating in her garden, she tripped and suffered a permanent foot injury. She sought to have the injury recognized as an occupational injury, but both the Norwegian Labor and Welfare Administration (NAV) and the National Insurance Court rejected her claim. Although the Court of Appeal ruled in her

favor, the Supreme Court overturned that decision.

The main issue was whether the doctor was "at work" at the time of the accident, as Section 13-6 covers injuries occurring "while at work, at the workplace, during working hours." The Supreme Court's majority held that there must be a connection between the work performed and the injury. Since the doctor was on a meal break and not actively working, the injury was not considered work-related. The majority also noted that the rules for breaks at traditional workplaces cannot be directly applied to home offices.

The minority disagreed, arguing that meal breaks should be covered even in remote work settings. Nonetheless, the ruling confirms that injuries sustained during breaks at home while working remotely do not qualify for occupational injury compensation.

Decision of Supreme Court, September 2, 2024, HR-2024-1571-A

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Poland

Employers cannot dismiss employees based solely on suspicion of a crime.

LAW
A special flood law will grant employees additional rights

The new "Flood Special Law," signed by the Polish President on October 4th, introduces several support measures for those affected by the recent floods. For workers directly impacted, the law provides 20 days of fully paid leave to deal with the flood's aftermath. The costs of this leave will be partially covered by the Employee Guaranteed Benefits Fund, helping employers manage the financial burden.

Employers who retain staff despite partial destruction of their business can apply for reimbursement of costs to maintain jobs through the local employment office. Additionally, the law allows for forgiveness of previous refunds for workplace equipment that was destroyed by the flood. These requests must be submitted by December 31, 2024. Employers are also protected from penalties if they miss insurance contribution deadlines due to the disaster.

Flexible work options are introduced, including reduced hours and hourly leave. Employees affected by the floods will not be obligated to work overtime or travel for business. This law aims to support both employers and employees as they recover from the flood's impact while maintaining economic stability in the affected regions.

COURT
Disciplinary dismissal of an employee and suspicion of a crime

The court recently ruled on the legitimacy of terminating an employment contract in cases of suspected criminal activity. In the case at hand, the employer reported a suspicion that the employee had committed a crime and issued a termination notice citing fault on the employee's part. The employee was subsequently arrested and charged with offenses unrelated to their job duties, leading to their dismissal.

The employee challenged the dismissal, and the court ruled in their favor. The court found that mere suspicion of a crime is insufficient grounds for termination based on fault. For such a dismissal to be valid, there must either be clear evidence of the crime or a final judgment establishing the employee's guilt.

This decision reinforces the importance of carefully assessing the legitimacy of disciplinary dismissals in the Polish legal system, ensuring that actions are based on established facts or conclusive legal judgments rather than mere suspicion.

Judgment of the Regional Court in Sieradz of 10 July 2024, ref. no. IV Pa 80/24

COURT

Pregnancy and employment contracts: court confirms validity despite social security benefits

The court, in case VII U 1359/23, revisited the issue of pregnancy in the context of employment and whether it could render a contract illusory. In this case, a company hired an employee, who was the wife of one of the partners, due to increased workload. Shortly after being hired, the employee became pregnant and began receiving social security benefits. The Social Insurance Institution (the Authority) argued that the contract was a sham, aimed solely at securing the employee's right to benefits. As a result, the Authority ruled that the employee was not subject to compulsory insurance. The employee appealed this decision.

The court, however, found no evidence that the contract was a sham or that either party intended to misuse the social insurance system. It emphasized that the contract was genuine and implemented properly. The ruling confirms that pregnancy does not invalidate an employment contract, and claiming benefits soon after the contract's conclusion does not affect its legitimacy.

Judgment of the Regional Court Warsaw-Praga in Warsaw of 24 July 2024, Case No. VII U 1359/23

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Portugal

LAW
New initiatives to support the professional integration of immigrants and youth and support for hiring

At the end of September, four new ordinances were introduced to promote employment, with a focus on integrating emigrants and young people. The "INTEGRAR" program aims to improve employment access for unemployed immigrants from third countries or those seeking their first job or training.

Additionally, four new measures were introduced:(i) Estágios INICIAR: Support for young people and other unemployed individuals with qualifications at levels 4 or 5 of the National Qualifications Framework (NQF) to help them integrate into the labor market, (ii) +EMPREGO: Financial support for employers who offer indefinite, full-time employment contracts to unemployed individuals registered with the Institute for Employment and Vocational Training, (iii) Estágios+Talento: Support for unemployed youth aged 35 or under with qualifications at level 6 or higher on the NQF to enter the labor market, (iv) Emprego+Talento: Financial incentives for employers to sign full-time, indefinite employment contracts with unemployed youth aged 35 or under, who hold qualifications at level 6 or higher on the NQF.

LAW
National minimum wage updates until 2028

As we approach the date of discussion and approval of the 2025 State Budget, Social Concertation meetings have been held to discuss the next updates to the national minimum wage.

According to the Minister of Labor, the figure proposed by the government is now fixed at 870 euros for the minimum wage in 2025, which is higher than the figure provided for in the income agreement signed two years ago, where the minimum wage for 2025 was expected to be 855 euros.

The government's proposal also includes updates for the coming years, which have yet to be confirmed, indicating an increase to 920 euros in 2026, 970 euros in 2027 and an increase of 50 euros in 2028, which means that the government is proposing that the national minimum wage will be 1,020 euros in 2028.

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Slovakia

LAW
Key changes to foreign employment regulations

The amendment to the Employment Services Act has eliminated the possibility of employing third-country nationals (foreigners) for training purposes, whether directly by an employer or through a temporary employment agency. According to the transitional provisions, foreigners hired for training before July 1, 2024, may continue their training at the same workplace for a maximum of eight consecutive weeks, ending no later than September 15, 2024.

The amendment also introduced a new form of accelerated employment for foreigners while their temporary residence permit is being processed. Employers may now hire a foreigner if two conditions are met: (i) the foreigner has submitted a complete application for a temporary residence permit, and (ii) the labor office has confirmed that the position can be filled by a foreigner.

During this period, the foreigner can be employed temporarily without needing a residence permit for employment purposes, until a final decision is made on their temporary residence permit.

Furthermore, the amendment requires employers to submit applications for a certificate of vacant positions exclusively through electronic means.

COURT
Transforming invalid terminations into mutual agreements

The Supreme Court of the Slovak Republic ruled that when an employer informs an employee that they do not wish to continue the employment relationship, this notice can turn an invalid immediate termination into a valid agreement between the parties.

The employer has the option to either challenge the employee's immediate termination in court or waive that right by notifying the employee that they do not insist on further employment. Once this notice is given, the employer can no longer pursue a court ruling on the validity of the termination.

By issuing this notice, the employer prevents the court from addressing the issue of whether the termination was valid. Instead, the notice effectively creates an agreement between the employer and employee to end the employment relationship.

The ruling of Supreme Court of June 30 2024, case no. 9Cdo/196/2020

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Spain

The Spanish "Equality in the Company" award recognises employers that promote gender equality in various areas, including working conditions and organisational models.

LAW
"Equality in the Company" award and 2024 application process

The Order IGD/954/2024, issued by the Ministry of Equality on September 5, 2024, outlines the process for awarding the "Equality in the Company" distinction. This award recognizes companies and entities committed to gender equality through their policies on working conditions, organizational models, and other areas like services, products, and advertising.

The regulations specify the eligibility criteria for candidates, the application submission process, required documentation, and the procedure for selecting recipients. Applications must be submitted within one month from the publication of the Order in the BOE (Boletín Oficial del Estado), which occurred on September 13, 2024.

LAW
Enhancing health and safety in family home services

Royal Decree 893/2024, of September 10, regulates the protection of safety and health in the field of family home services, establishing a regulatory framework to extend labor protection to a historically neglected sector, in alignment with ILO Convention 189 on domestic work.

Employers are required to conduct an occupational risk assessment in the home environment, similar to what is mandated in other labor sectors. Home workers will be entitled to receive personal protective equipment necessary for performing their tasks safely. It is also mandatory for employers to provide occupational risk prevention training to ensure that employees are trained to identify and prevent potential hazards. Health surveillance may include medical examinations that take into account all risks identified in the risk assessment to which the worker may be exposed.

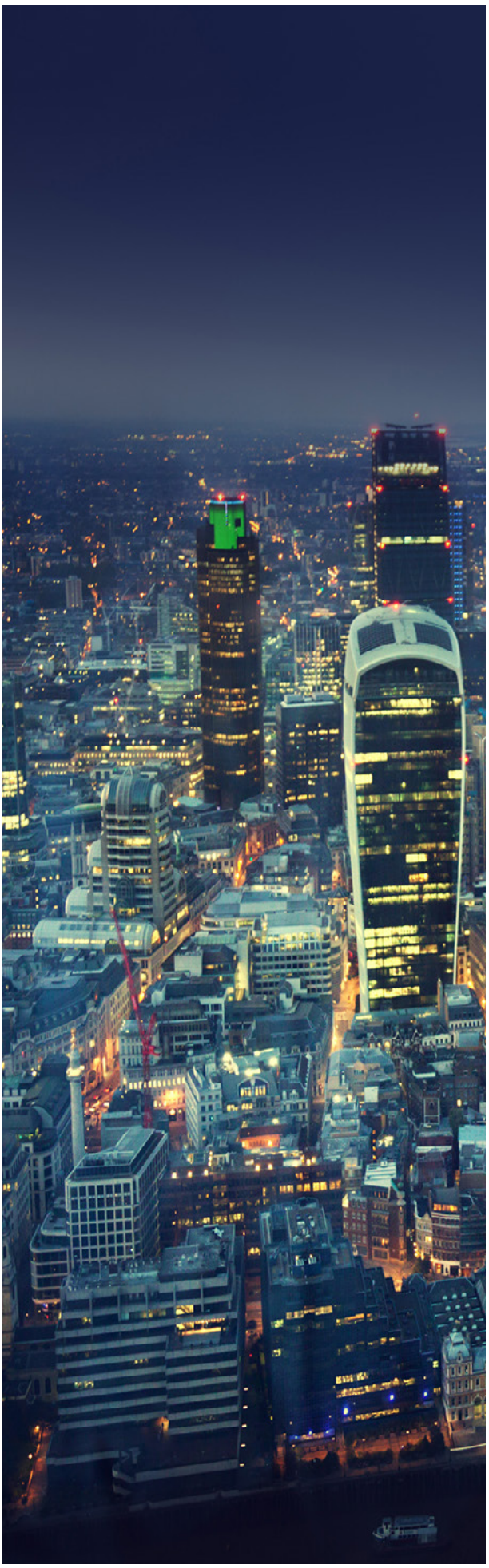
This decree not only improves occupational health and safety in the domestic sphere but also represents an opportunity for the occupational risk prevention sector by encouraging the formalization of employment and fostering a culture of prevention.

COURT

A graphic designer with post-covid syndrome to be absolutely disabled

The High Court of Justice of Castilla y León, in a judgment dated July 24, 2024 (Rec No. 379/2024), confirms the previous judgment of the Social Court that upheld the claim filed by a worker against the National Institute of Social Security and the General Treasury of Social Security, alleging that the presence of chronic post covid headaches and cognitive disorders prevented her from exercising her profession as a graphic designer, as well as obtaining adequate performance in any other profession, justifying the recognition of absolute permanent disability (together with the payment of the benefit associated with this condition).

The judgement of High Court of Justice of Castilla y León, July 24, 2024 (Rec No. 379/2024)



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Ukraine

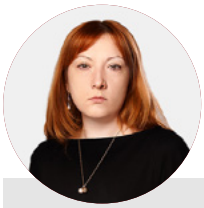
As of 27 September 2024, Ukraine's Labor Code allows dismissal for two new reasons: conviction for a crime against national security and failure to comply with non-disclosure rules.

LAW
New grounds to dismiss an employee at the employer's initiative

The Ukrainian Labor Code has been amended to include two new grounds for dismissal at the employer's initiative, effective 27 September 2024. These new grounds are: the entry into force of a court verdict convicting an employee (except for release from serving a sentence with probation) for committing a crime against the national security of Ukraine; and the employee's failure to comply with the company's internal labor regulations in terms of the obligation of non-disclosure of classified information.

In light of this, the Labor Code now permits companies to incorporate into their internal labor regulations rules of conduct containing provisions on, in particular, employees' obligations not to disclose classified information, including information constituting a state or commercial secret, as well as on the conditions for dealing with confidential information.

The introduction of such rules of conduct shall be mandatory for companies of strategic importance to the economy and security of the state of Ukraine and/or critical infrastructure facilities or operators.



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