

Giving you global oversight

Our quarterly Global Employment
and Labor Law Update





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Welcome to this fourth edition of our quarterly Global Employment and Labor Law Update for 2020.

The challenges of COVID-19 continue to dominate the legal landscape. However, many governments and businesses are now looking beyond the pandemic and planning for the future. Our work across the globe and our insight into international developments allow us to identify consistent themes emerging to assist with that planning.

In this quarter, in addition to ongoing COVID-19 developments, other emerging themes include enhanced family-friendly rights for workers and developments in the area of equality.

We hope you find the practical information useful in managing your global employment challenges. Please do not hesitate to contact us if you wish to find out more.

COVID-19 policy responses

Many governments continue to provide measures to cushion the effects on employers and workers of COVID-19, and some of those measures are being extended or amended as the impact of the pandemic continues. Short-time working wage subsidies, the reporting of work-related virus infections to authorities, protections for workers caring for quarantined children or vulnerable family members and evolving guidance on COVID-19 workplace safety measures are consistent themes, particularly in European jurisdictions affected by recent resurgent infection rates. COVID-19 case law is also beginning to emerge as employees pursue legal complaints and issues arising from the pandemic are litigated in the courts.

Some wage and job support schemes are being extended for longer periods, reflecting a view taken by some governments that a return to "normal" is not likely in the short term. Employers need to be aware of tightening criteria for

accessing such support in some jurisdictions. For example, where larger businesses must evidence a loss of turnover, commit to maintain employment or agree not to make capital distributions, including dividends.

The shift to remote working is also expected to have longer term consequences with countries, including Spain, proposing or introducing new regulation which will last beyond the pandemic.

Drawing on the significant experience of our teams of lawyers across the world, we have created a number of resources to help multinational employers. Please see our [COVID-19 Hub](#), together with links to our multinational employer COVID briefings, tools and podcasts on our [COVID-19 boxset page](#).

Equality and family-friendly developments

Diversity pay plans, audits and reporting obligations continue to evolve with California and Spain introducing new measures. In the UAE, equal pay legislation has been amended to include equal pay for work of equal value for female employees. Changes to strengthen anti-harassment protection (China and Romania) are also reported.

More broadly, socio-economic equality also features with some jurisdictions announcing upcoming increases to minimum wages, Romania aiming to raise the statutory minimum to 60% of average earnings and a significant Czech Supreme Court judgment on regional pay inequality.

Family-friendly measures are also developing: Hong Kong has increased maternity leave to 14 weeks; UAE has a new five day parental leave; Switzerland will introduce 10 days' paternity leave; and Ireland is also increasing parental leave.

These changes underline the need to revisit employee benefits and policies, review pay equality, including the need to audit, to report and for action planning, and to assess the effectiveness of diversity policies in practice.

We hope you find the content in this document valuable and that the practical information is useful in managing your global employment challenges. Please do not hesitate to contact us if you wish to find out more.

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Africa

South Africa 8





South Africa

Subject matter/name of development	Summary
Resignations with immediate effect	<p>In the case of <i>Mthimkhulu v Standard Bank of SA</i>, the Labour Court determined the legal position where an employee resigns with immediate effect after the conclusion of a disciplinary hearing but prior to the imposition of a sanction of dismissal.</p> <p>The court held that in such situation, employees will be in breach of their notice obligation, in response to which employers may either (i) accept the repudiation, in which case the employment relationship will terminate, or (ii) reject the repudiation and hold the employee to their notice period. During this period, the employment relationship continues to exist and an employer may therefore proceed with dismissing the employee.</p>
Temporary Employment Services	<p>Whether an entity is a Temporary Employment Services ("TES") may be determinative of liability for employees. In the case of <i>David Victor & 200 others v Chep South Africa (Pty) Ltd and 3 others</i>, the Labour Appeal Court considered whether a company should be deemed a TES. Overturning the Labour Court decision, it found a tripartite TES relationship to exist and set out guidance for determining any trigger of the TES deeming provision under section 198A(3) of the LRA, namely:</p> <ul style="list-style-type: none">– whether the company has provided other persons to a client for a reward; and/or– whether the provider procured the workers for reward <p>Further, that the substance of the relationship is more definitive than its form and that where a client contractually controls the overall work process of persons who work at its premises, as well as their conduct and behaviour, the employees will ordinarily be deemed employed by the client and not the TES.</p>

Impact Date	Employer Implications/Action Needed	Employer Risk
18 September 2020	<p>Despite the fact that a resignation is a unilateral act, employers are not required to accept resignations with immediate effect. Instead, the employer may decide whether or not to accept the resignation (which constitutes a repudiation of the employment agreement).</p> <p>Employer's need not approach the court for an order of specific performance in the event that they wish to reject the employee's repudiation of their notice period obligation (by resigning with immediate effect).</p>	<p>No risk to employers.</p> <p>Employers should be aware that employees cannot simply resign with immediate effect. If and when employees do so, employers may decide whether to accept or reject the repudiation so that the employment ends immediately or reject the repudiation and hold the employee to their notice period.</p>
16 September 2020	<p>Where employers provide staff to their clients for reward or receive staff from external entities for reward, they should carefully consider the circumstances of the arrangement to determine whether the status may be determined as a TES. Considerations should include the degree of control as well as the extent of integration of employees.</p>	<p>If the deeming provision is triggered, then either (i) the employer will become the sole employer of the employees if the employer is the client in the TES relationship or (ii) the client/s of the employer will become the sole employer of the employees if the employer is the TES in the TES relationship. The effect will be that the liability for the employees will shift to the deemed employer.</p>



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China

Subject matter/name of development	Summary
Shared employees	<p>The PRC Ministry of Human Resources and Social Security have issued the Notice on Guidance and Service Regarding Employee Sharing (the "Notice"). The Notice includes, among others:</p> <ul style="list-style-type: none"> – subject to agreement by the employer and employee, where the employer arranges for its employee to work for another company (which lacks sufficient workers), such arrangement shall not change the employment relationship between the employer and the employee ("Employee Sharing") – a collaboration agreement shall be entered into among enterprises for Employee Sharing purposes (e.g. it may include the number, work location and remuneration of the shared employees and circumstances for returning them to the employer) – the employer shall negotiate with the employee to revise the original employment contract for the purpose of Employee Sharing (e.g. to specify the employee's new work location and more) – if a shared employee suffers a work-related injury when working for the company, the shared employee's employer bears the relevant liabilities for work-related injury insurance. The employer may agree with the company an indemnification in this regard
Trade secrets	<p>The Provisions of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Civil Cases of Trade Secret Infringement (the "Provisions") and the Supreme People's Court and Supreme People's Procuratorate's Interpretation on Several Issues Concerning the Specific Application of Law in Handling Criminal Cases of Infringement of Intellectual Property Rights (3) (the "Interpretation") have been published.</p> <p>The Provisions and the Interpretations provide guidance on the Anti-Unfair Competition Law of the PRC (2019 Amendment) in trials for civil cases and criminal cases, respectively. Among other things, they elaborate on the definition of "trade secrets", the illicit acts prohibited by the law, the potential administrative, civil and criminal liabilities faced by infringers and the rights to apply for injunctions against disclosure of trade secrets.</p>

Impact date	Employer implications/action needed	Employer risk
30 September 2020	Employers should follow the Notice to ensure legal compliance in relation to Employee Sharing. Where necessary, employers should consult with their competent local authorities on the specific guidance and requirements for Employee Sharing.	The Notice prescribes the channels for public complaints and tip-offs to prevent the infringement of employees' legal rights and interests under Employee Sharing. On this basis, failure to fully comply with the Notice and the specific requirements of local authority by employers will trigger potential liabilities/punishment.
12 September 2020 (the Provision) 14 September 2020 (the Interpretation)	<p>Employers should review their current measures for protecting trade secrets and ensure the appropriate measures are deployed, according to the Provisions.</p> <p>They should also revisit recruitment process and internal policies to ensure that trade secrets of another party are not brought into and used by the business as this may lead to liabilities on the business and relevant personnel.</p>	<p>Where insufficient or inappropriate measures are deployed for the protection of confidential information, the relevant information may not be considered as falling under the definition of "trade secret" and hence removed from the ambit of legal protection.</p> <p>Where employees bring the trade secrets of their previous employers with them and the employer uses such information, the employer could potentially face legal liabilities.</p>



Subject matter/name of development	Summary
Sexual harassment	<p>The PRC Civil Code has codified the prohibition of sexual harassment. This includes a non-gender specific prohibition against sexual harassment and a legal obligation on employers to adopt measures against sexual harassment.</p> <p>According to 1010 of the PRC Civil Code,</p> <p>(i) where, against one’s wish, sexual harassment takes place by means of words, images, physical behavior, etc., the victim has the right to request the perpetrator to bear civil liability in accordance with the law; and</p> <p>(ii) institutions, enterprises, schools and other organisations must adopt reasonable measures to prevent and curb the use of authority and subordinate relationships to commit sexual harassment, including prevention, acceptance of complaints, investigation and enforcement, etc.</p>

Impact date	Employer implications/action needed	Employer risk
1 January 2021	Employers should review their employment handbook, policies and internal structures and ensure that measures adopted satisfy the current legal requirement in relation to prohibition of sexual harassment.	Where employers do not have up-to-date internal policies against sexual harassment (either due to oversight or differing local laws), it is now under a clear obligation to adopt such measures, and may face scrutiny or even civil liability in case of failure.



Hong Kong

Subject matter/name of development	Summary
Guidance confirmed COVID-19 cases in the workplace	<p>If any employee has tested positive for CoVID-19 and has worked in the workplace during the incubation or infectious period, the employer should close the workplace and advise all employees who were present in the past two weeks to stay home.</p> <p>The employer should send to the Centre for Health Protection (CHP) a list of employees who attended the workplace in the past two weeks, and the CHP will usually require all close contacts of a confirmed case to go into quarantine.</p> <p>The employer should arrange for thorough cleaning of the workplace, which should remain closed until the CHP confirms that it can be reopened.</p>
No right of set-off against an employee bonus (case law)	<p>The Court of Appeal has held that section 32(1) of the Employment Ordinance (which prohibits deductions to be made by an employer from employee wages or other sums due) does not permit the employer to exercise an equitable set-off against its obligation to pay a bonus to recover money owed to it by the employee.</p>
Parent companies as joint employers (case law)	<p>A recent High Court case has found that that a Hong Kong listed company and its wholly-owned subsidiary were joint employers of an employee, who signed an employment contract with the subsidiary but mainly served as the company secretary of the listed parent company. The listed parent company, as the joint employer, was held jointly liable for unpaid wages and other employee benefits owed to the employee by the subsidiary.</p>
Increase to maternity leave	<p>The Hong Kong Legislative Council has passed the Employment Amendment Ordinance 2020, which increases statutory maternity leave from 10 weeks to 14 weeks. Maternity pay during the extra four weeks of leave will be capped at HK\$80,000, which will be paid by the employer and be reimbursed by the government.</p>

Impact date	Employer implications/action needed	Employer risk	Web link
30 July 2020	Employers should comply with current guidance, monitor the latest developments of COVID-19 and any future government guidance.	Failure to observe the government's guidance may result in the employer's negligence and/or failure to exercise a reasonable duty of care, which may lead to civil liabilities.	Coronavirus - Hong Kong Government Issues Guidance - Eversheds Sutherland
6 August 2020	A right of set-off against sums due to an employee must generally fall within one of the permitted exceptions to deductions from wages of section 32 of the Employment Ordinance. Even where there is a strong claim against the employee (e.g. gross misconduct), the employer should consider paying the sum due to the employee first and then bringing legal proceedings for recovery of the loss.	Breach of section 32 of the Employment Ordinance may give rise to criminal liability.	Hong Kong Court of Appeal upholds bonus payment and restricts - Publications - Eversheds Sutherland
17 August 2020	Entities that share the services of an employee within the same group may be regarded as joint employers of that employee even though the contractual arrangements may suggest otherwise. In the event that the employer is a listed company, and its company secretary is not its employee, the listed company should make a clear disclosure of the reasons for such arrangement.	A joint employer may be liable for the employee's wages and other employee benefits of employees of an insolvent joint employer.	Parent Company Held Liable as Joint Employer of Subsidiaries - Publications - Eversheds Sutherland
11 December 2020	Employers should review their maternity leave and paternity leave policies to align with the amendment ordinance. A relatively obscure point which employers should be aware of is a corresponding amendment which allows a male employee to take his five days of statutory paternity leave up to 14 weeks after the birth of his child, while currently the paternity leave has to be taken within 10 weeks after the birth of the child.	Failure to comply with the amendment ordinance when it is in force is a criminal offence.	Changes to Hong Kong maternity rights coming in December - Publications - Eversheds Sutherland



Singapore

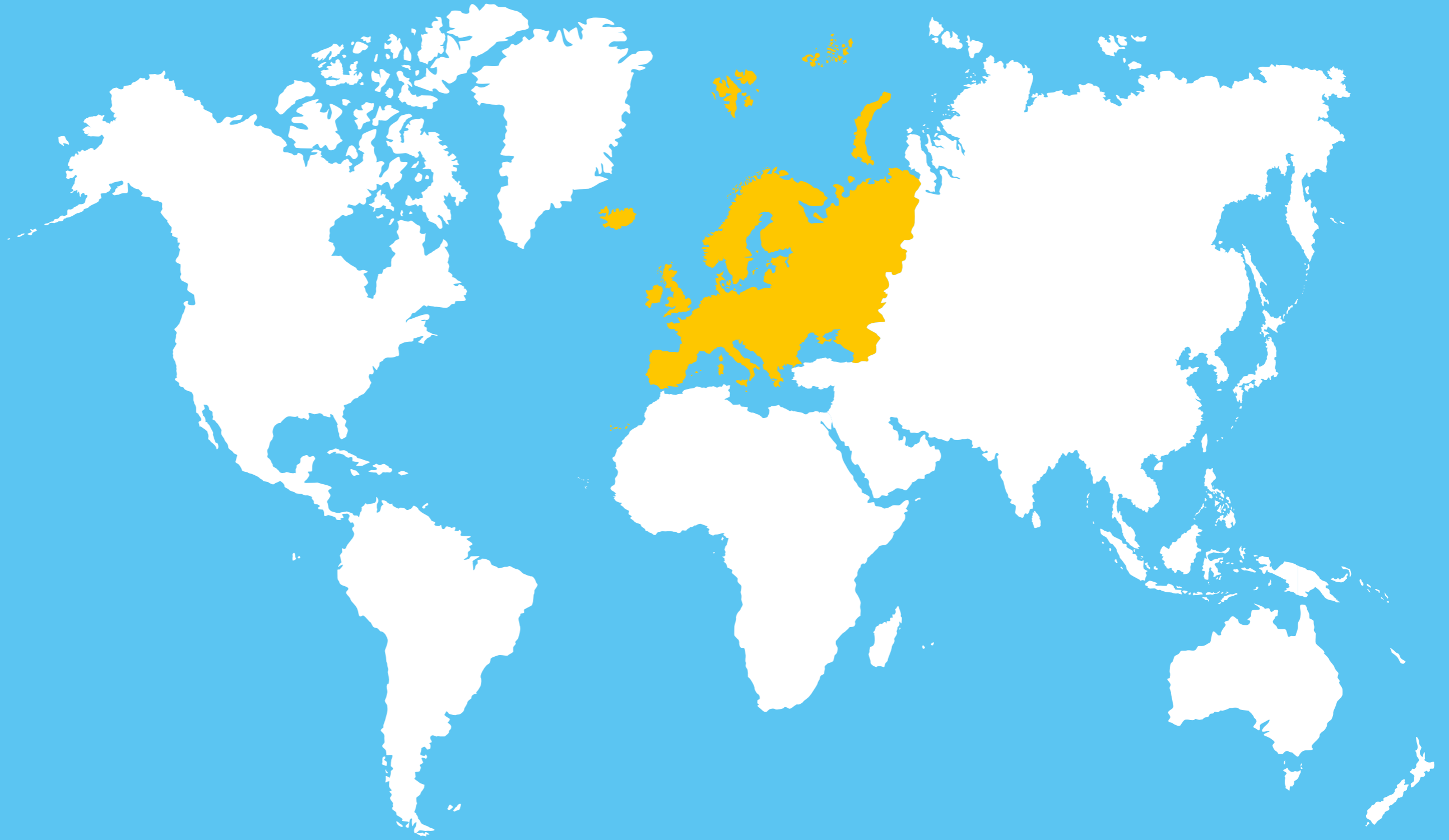
Subject matter/name of development	Summary
Jobs Growth Incentive Scheme (JGI)	Eligible employers increasing their overall local workforce between September 2020 to February 2021 will receive wage support. To be eligible for the JGI, there must be both an increase in overall local workforce size and of those within the local workforce earning is greater than or equal to S\$1,400/month, when compared to August 2020. The JGI is 25% (or 50% for mature local hires aged 40 and above and all persons with disabilities) of the first S\$5,000 of gross monthly wages, for 12 months from the recruitment date, if employers continue to meet the eligibility criteria.
Extension of the Jobs Support Scheme (JSS) (Covid-19)	The JSS (where the Singapore Government pays a percentage of local employees' wages up to a cap) was extended on 17 August 2020. The government will continue to subsidise the payment of wages of local employees (at reduced percentages) for wages between September 2020 and March 2021, subject to certain exclusions.
Updated guidelines on safe management measures for businesses (Covid-19)	Previous safe management measures prescribed that working from home should be the default mode of working for employees able to do so. The Singapore Ministry of Manpower has since updated the guidelines. While working from home remains the default, employees may return to the workplace to better support business operations for no more than half their working time, and with no more than half of such employees in the workplace at any point in time.

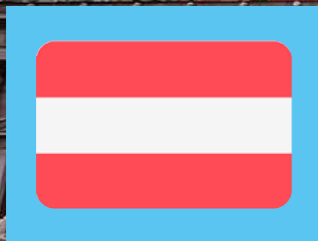
Impact date	Employer implications/action needed	Employer risk
Eligible employers are those established on or after 17 August 2020. New local hires must be recruited from September 2020 to February 2021.	The Inland Revenue Authority of Singapore will notify eligible employers by post of the amount of JGI payable to them. An eligible employer must meet the eligibility criteria for the entire 12-month period in order to receive the JGI throughout.	Employers should guard against inadvertent abuse of the JGI scheme, which will be viewed seriously by the Singapore Government. Offenders may have their JGI grants denied and can be charged under Section 420 of the Penal Code (see above). As with the JSS, JGI grants are calculated based on Central Provident Fund contributions, so employers should ensure the accuracy of their contributions.
September 2020 to March 2021	The Inland Revenue Authority of Singapore will notify eligible employers of the tier and amount of grant support. The JSS grant for wages from September to December 2020 will be paid in March 2021 and for January to March 2021 wages, will be paid in June 2021. It is possible for employers to submit an appeal to be considered for a higher tier pay out if they are part of the relevant sectors.	Employers should beware of inadvertently abusing the JSS. The Inland Revenue Authority of Singapore takes such abuse seriously and offenders may have their JSS grants denied and can also be prosecuted under Section 420 of the Penal Code, punishable with up to 10 years' imprisonment and a fine. JSS grants are calculated based on Central Provident Fund contributions and employers should ensure the contributions are accurate.
28 September 2020 onwards	For employees who can work from home, employers can request they return to the workplace, subject to the specified conditions e.g. split-team arrangements.	Employers must ensure that if they ask their employees to return to the workplace, safe management measures are implemented. These include: ensuring a safe distance of at least 1m between work stations; ensuring employees wear their masks as required; using Safe Entry to log the entry and exit of their employees and putting in place regular temperature checks.



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Austria

Subject matter/name of development	Summary
Proposed amendment of the Law on Residences (Niederlassungs- und Aufenthaltsgesetz)	If agreed, the Law on Residences will change to make it easier for applicants to get a Rot-Weiß-Rot card as they will not need a residence in line with local customs (ortsübliche Unterkunft) while undergoing the application process. There is also a simplified process for relatives.
Extension of special care for children or disabled family members	If the employee does not have leave entitlement and national education institutions are closed, the employer may grant the employee special care time (up to three weeks) for children under the age of 14 as well as for disabled family members providing the employee is not critical to the business.
Phase III of short-time work (Kurzarbeit)	Short-time work is the reduction of working hours for a certain period of time in order to secure jobs and is supported by the Austrian government. Short-time work can be extended up to six months within phase III, until 31 March 2021. There are some new requirements, such as a new threshold of 30%-80% of regular working time (it was 10%-90%). There is also an economic justification condition (why a business needs short-time work). Businesses with more than five employees must be examined by an accountant, tax consultant or an auditor. Employees must engage with further training if asked by the employer.
COVID-19 rules (COVID-19 Maßnahmenverordnung)	Provisions have been introduced on: hygiene; the requirement to wear facial coverings within certain establishments (e.g. restaurants or businesses where there is client engagement); and a safe distance of one meter between people, unless there is another suitable protective device for spatial separation between people which guarantees the same level of protection. However, in work establishments, such as office premises, where there is no direct customer contact, facial coverings must be mutually agreed.

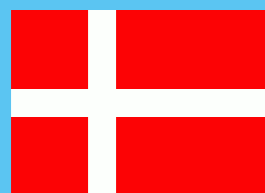
Impact Date	Employer Implications/Action Needed	Employer Risk
Not known – this is a draft law under review.	No action needed as yet as the change has not been confirmed.	Unknown at this time.
1 October 2020	If the employer wishes to grant special care time, 50% of the employer's costs are funded by the Austrian government. Within six weeks of the end of special care time, the employer must submit its claim to the state.	The employer may not recover 50% of its loss as the subsidy is capped.
Phase III started on 1 October 2020	Employers must file an application to qualify for the state subsidy and justify their need for using short-time work within their businesses.	Employers must comply with the short-time working regulations or risk repaying the state subsidy.
These changes came into effect on 26 September 2020	Employers must ensure that employees and customers are wearing mouth and nose protection when there is customer contact. A safe distance of one meter must be obeyed and, if this is not possible, other safety measures must be taken. In office premises, if the minimum distance of one meter cannot be maintained due to the nature of the work, the risk of infection must be minimized by taking suitable protective measures. It is important to note that it must be due to the nature of the profession or work being undertaken that the minimum distance is not possible. If the minimum distance cannot be maintained due to the available space, other spatial measures must be taken to ensure that the minimum distance can be maintained, or the number of employees in the room/area must be reduced to such an extent that the minimum distance of one meter can be maintained.	There are fines for people not wearing facial coverings (25 €) or not keeping a safe distance of one meter (50€).



Czech Republic

Subject matter/name of development	Summary
Important amendment of the Labor Code	The main changes of the Labor Code are: (i) new ways of delivering important documents to employees (ii) new rules on the recall (removal) of managers (iii) an updated TUPE definition (iv) a new way to calculate vacation (v) the introduction of a so-called "shared work place" (a form of job-sharing)
Significant court ruling on differential regional pay - (case law)	The Supreme Court has ruled that employees of the same employer, performing the same or comparable work in different regions of the Czech Republic, are entitled to the same amount of wages. Socio-economic conditions and the corresponding level of living expenses in the place where the employee performs work for the employer are irrelevant for the assessment of whether the work in question is the same work or work of equal value.
Closed schools drives changes to employee care benefits	Draft legislation proposes amendments to the care benefit entitlement rules. Currently, care benefit is paid for up to 9 days or 16 days in specific cases. The bill should, among other changes, extend the duration of support due to the COVID-19 closure of Czech schools from 14 October 2020. Some employees (with specific work agreements other than employment contracts) will also be entitled to the benefit under particular conditions.
"Kurzarbeit" – Government support for reduced working hours	The Government is working on a special support scheme for periods when employers cannot assign 100% work to employees. This will be a permanent support scheme and will replace the COVID-19 Programme. The aim of the "Kurzarbeit" is to help employers to retain employees when there is insufficient work.
Extension of the COVID-19 job retention programme	Part A of the programme (originally applicable until 31 October 2020) has been extended and, where premises close, the rules changed in favour of employers (100% compensation will be provided instead of 80% and the total cap per employee has been increased from CZK 39,000 to CZK 50,000 per employee per month). Extension of Parts B and C will be discussed by the Government.

Impact Date	Employer Implications/Action Needed	Employer Risk
Partially 30 July 2020 and partially 1 January 2021 (vacation and shared workplace)	Employers should adapt their internal policies and other documentation to reflect the new rules.	If documents are not adapted or the new rules are not complied with, the employer may be subject to penalties and possible employee disputes.
20 July 2020	If an employer has more than one site in the Czech Republic, there is an obligation to provide employees performing the same type of work with the same salary.	Employers risks a penalty up to CZK 500,000 (approx. EUR 19,300) and potential employee compensation claims for payment of unjustified regional differences in remuneration for the last three years.
Expected to be approved in 4th quarter of 2020	Employers must permit those employees entitled to the care benefit not to attend work. This period will be extended. The benefit is paid by the Government.	More employees will not be available to work because of the benefit, and for a longer period. Employers will need to consider replacements, as appropriate.
Expected to be approved in fourth quarter of 2020	Employees unable to work due to specific reasons will be able to receive 70% of their average net hourly earnings.	N/A.
1 October 2020	If a company has been affected by Government measures regarding COVID-19 and work could not be assigned to employees, it may apply for the subsidy. However, a time limit applies.	In case of a late application, the subsidy will not be granted.



Denmark

Subject matter/name of development	Summary
New reduced hours scheme (COVID-19)	The temporary salary reimbursement scheme expired on 29 August 2020. On 31 August 2020, the Government, the unions and employers' organizations reached agreement on a new temporary scheme. This allows all private companies to establish a division of work scheme for all groups of employees. It means that private companies can reduce employees' working hours and salaries for a temporary period of up to four months, provided that certain requirements are met.
Upcoming changes for posted employees	Draft legislation will amend the Danish Posting of Employees Act. The amendments are based on changes to the EU Posting of Workers Directive, which entered into force on 30 July 2020, and include: where employees are posted to Denmark for more than 12 months, they will become subject to certain mandatory Danish employment terms in excess of the choice of law applicable to the employment.

Impact Date	Employer Implications/Action Needed	Employer Risk
14 September 2020	Division of work can be established for a period of up to four months, provided that the scheme is established no later than 31 December 2020. The reduced hours must constitute at least 20% and, as a maximum, 50% of average working hours measured over a four week period, with the opportunity to change the given percentage for each four week cycle.	N/A
1 January 2021	The changes mean that after 12 months' posting employers must ensure that posted employees obtain the same working and employment conditions that are applicable according to mandatory law in Denmark. The 12 month period may be prolonged to 18 months. Excluded from the regulation is, however, legislation concerning the procedure, formalities and conditions in connection with entering into and termination of employment contracts, including non-competition clauses and payments to occupational supplementary pensions.	N/A



The EU

Subject matter/name of development	Summary	Impact Date
Brexit and immigration arrangements	Following the UK's withdrawal from the EU on 31 January 2020, the rules on free movement of labour continue to apply as if the UK were still a member of the EU until 31 December 2020. Thereafter, immigration arrangements will change fundamentally for EEA citizens in the UK and British citizens in Europe. From 1 January 2021, EEA citizens arriving in the UK for the first time will be subject to a new immigration system and, similarly, requirements will be introduced for British citizens seeking to live and work in the EEA. There will be new provisions for those who cross affected borders regularly to work.	31 December 2020
Whistleblowing directive	A directive provides EU-wide standards to protect workplace whistleblowers who reveal breaches of EU law in a wide range of areas. Whistleblowers are defined broadly, including the self-employed, shareholders and those working for contractors and suppliers. Certain organisations, including private companies with 50 or more employees, will need to provide an internal confidential reporting channel and respond to reports within a defined time frame. The directive encourages internal reporting by whistleblowers while also permitting external reporting to competent authorities where, for example, the person considers there is a risk of retaliation. Reporting publicly is more limited. Qualifying whistleblowers, together with some third parties such as colleagues, are protected against work-related retaliation and dismissal. Whistleblowers are also immune from liability in certain circumstances.	Member states have until 17 December 2021 to transpose the directive into national law (there is a phased implementation for private sector employers with 50-249 workers to establish internal channels).

Employer Implications/Action Needed	Employer Risk	Web link
Employers should conduct a recruitment and retention review to identify how they may be affected by more restrictive immigration policies. Right-to-work processes will need to be updated to reflect new requirements. Employers should also review the potential risks for cross-border workers and business travellers to minimise disruption.	Uncertainty, potential issues with recruiting and retaining workers and changes relating to business and cross-border travel between the UK and EEA.	
Less than half of EU countries (such as France, Hungary, Ireland, Italy, Netherlands and Sweden) provide comprehensive legal protection for whistleblowers. In other EU countries, protection is limited or applies to specific sectors or categories of employee. In addition, some EU legislation already regulates whistleblowing, such as in the financial services sector, and those rules will continue to apply. As a result, employers should anticipate significant change in some member states and should review their whistleblowing policies and procedures.	Once the directive is implemented, it will be more important than ever for employers to have confidential, responsive and trusted internal whistleblowing procedures which are managed by a named individual or department. If not, employers risk penalties and reputational damage, for example, where whistleblowers bypass internal channels to report their concerns externally. It will be for each individual member state to decide how the directive should be enforced and what the legal sanctions should be for non-compliance.	https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2019:305:FULL&from=EN#page=19



The EU

Subject matter/name of development	Summary	Impact Date
Transparent and predictable working conditions directive	The directive updates and extends existing EU legislation on written statements for employees. It requires employers to expand the categories of workers who must be provided with a written statement, provide it earlier on in the employment relationship (key content must be provided within 7 days of commencing work) and increase the information contained in the statement. It also establishes new minimum rights for workers in an employment relationship (including zero hour contracts and contracts to work more than 3 hours on average per week), including: a right to reasonable advance notice of work for those working unpredictable patterns as well as compensation for any work cancelled with late notice; a right to request 'more predictable and secure working conditions'; a 6 month limit on probationary periods (unless otherwise justified); limits on employers unjustifiably restricting employees from working for another employer; a right for compulsory training to be provided free of cost and to count as working time; and, protection from dismissal and retaliation for exercising these new rights.	Member states have until 1 August 2022 to transpose the directive into national law.
Work-life balance directive	A directive has been agreed which covers paternity, parental and carers' leave as well as flexible working including: 10 working days' paternity leave (paid at least at the level of state sick pay), 4 months' parental leave (2 months are non-transferable and paid at a rate set by member states), 5 days' unpaid carers' leave per year and a right to request flexible working.	Member states have until 2 August 2022 to transpose the directive into national law.

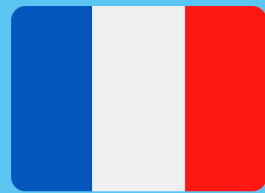
Employer Implications/Action Needed	Employer Risk	Web link
All employers should expect to change their current practices relating to the provision of written statements to employees upon commencing work, as well as ensuring that those working abroad are provided with minimum additional information. In addition, those employers who are heavily reliant on casual and 'gig' workers should monitor how the new minimum rights are implemented locally in member states, given that the directive provides some flexibility as to how certain measures are transposed.	It will be for each individual member state to decide how it should be enforced and what the legal sanctions should be for non-compliance. The new provisions are expected to increase workers' rights, as well as employer administration, costs and reduce flexibility. Whatever the legal consequences, there will also be reputational risks for defaulters. Employers should also be aware that the EU Commission has expressed support for ensuring that 'gig'/platform workers have the same rights, including collective bargaining, as other workers and will launch a public consultation later in 2020 to ensure that such workers can participate in collective bargaining without the fear of breaking EU competition rules.	https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L1152&from=EN
Employers should review any gaps between their existing work life balance policies and the new rights offered by the directive and consider how they will address any differences. Given the need to overlay the directive on top of existing provision in some member states, it will also be necessary for employers to understand how the directive will be implemented locally before finalising their response.	Many EU states already offer family leave rights and the directive sets a new floor of minimum rights which can be enhanced and also allows for some flexibility on implementation (including certain details over the scope and conditions of the new leave rights). It will be for each individual member state to decide how it should be enforced and what the legal sanctions should be for non-compliance. Whatever the legal consequences, there will also be reputational risks for defaulters.	https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2019_188_R_0005



Finland

Subject matter/name of development	Summary
Court ruling that an employee's pay claim was statute-barred (case law)	The Supreme Court has ruled that an employee's pay claim had become statute-barred and that the exception to the two year limitation period granted in the Employment Contracts Act did not apply. The employee's salary had been based on a CBA concluded by a trade union that was not qualified to conclude CBAs and the employee demanded that a higher salary based on another CBA should have been paid. A longer limitation period of five years (normally two years after the employment has ended) only applies if the provisions of the CBA on which the employee's claims are based are manifestly ambiguous and the exception did not apply in the case.
Court ruling on the obligation to consider alternative employment before terminating employment (case law)	The Supreme Court has ruled in a case involving an employee, a financial secretary, who had been sentenced to probation for aggravated embezzlement and whose employment was terminated. The Court confirmed that the employer did not need to explore alternative employment before giving notice, despite the crime having been committed in the employee's free time - it was such a grave breach that the employer could not reasonably be expected to continue the employment.
Court ruling on conducting lawful, simultaneous co-operation negotiations when employer is downsizing (case law)	The Supreme Court has ruled that an employer reducing its workforce may organize co-operation negotiations regarding different measures separately, without the need to combine the negotiations even if the final decision will not include different measures. In the case in question, the employer had negotiated separately with two different employee groups and announced its decisions after completing both negotiations. According to the ruling, the employer did fulfil its duty to inform employees and the separate negotiations did not constitute a breach of co-operation legislation.

Impact date	Employer implications/action needed	Employer risk
5 October 2020	The ruling consolidates the period of limitation applicable to employees' pay claims.	The ruling poses no apparent employer risks.
30 September 2020	The ruling clarifies the circumstances in which the employer may terminate employment on personal grounds without having to consider placing the employee in other work.	Incorrectly assessing whether the obligation to explore alternative employment applies may result in employers being liable to pay damages for unlawful termination of employment.
13 August 2020	The ruling may grant some added flexibility to employers as it confirms that they may not need to combine co-operation negotiations (assuming that this does not in practice breach the employer's duties as set out in the Act on Co-operation within Undertakings).	Failure to comply with the correct negotiation procedure may lead to liability to pay compensation. Therefore, it is important to review each case separately and ensure that the steps of the co-operation negotiations are taken correctly.



France

Subject matter/name of development	Summary
Long term Partial Activity (long term furlough)	<p>In addition to the existing partial activity system, open to all companies forced to reduce their activity, the legislator has created a specific scheme for long-term partial activity.</p> <p>This scheme is set up by collective agreement. It allows partial activity for 24 months over a period of 36 months (compared to 12 months for the normal scheme). In return, the extent of the reduction in working hours is limited to 40% and the employer must make a commitment to maintain employment. For unworked hours, employees are to receive 70% of the salary (the employer is reimbursed up to 60% of the salary).</p>

Impact date	Employer implications/action needed	Employer risk	Web link
29 July 2020	Companies whose activity is unlikely to resume at a normal pace in the coming months and which will face difficulties in renewing the normal partial activity scheme should consider setting up long-term partial activity.	N/A.	Activité partielle de longue durée (APLD)



Germany

Subject matter/name of development	Summary	Impact date
New figures for social security contributions and an increase to the minimum wage.	<p>The income threshold in the statutory health insurance increases from 1 January, 2021 to €58,050 per year (€4,837.50 per month). The compulsory insurance ceiling will then be €64,350 per year (€5,362.50 per month).</p> <p>The statutory minimum wage will initially be raised to €9.50 gross per hour from 1 January 2021, and will then increase in further steps to €9.60 gross on 1 July 2021, €9.82 gross on 1 January 2022, and €10.45 gross on 1 July 2022</p>	1 January 2021

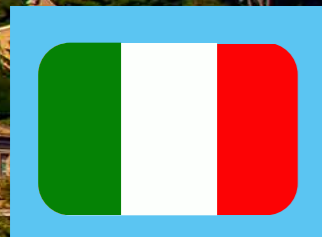
Employer implications/action needed	Employer risk	Web link
Employers must ensure that they comply with the new figures for social security contributions and in particular, the increase to minimum wage.	Violations of the minimum wage can result in fines and penalties	https://www.bmas.de/DE/Themen/Arbeitsrecht/Mindestlohn/mindestlohn.html https://www.bundesregierung.de/breg-de/aktuelles/beitragsbemessungsgrenzen-2021-1796480



Ireland

Subject matter/name of development	Summary	Impact date
Increase to parental leave	Parental leave has increased from 22 weeks to 26 weeks. Parental leave entitles employees to take unpaid leave to look after their children. The leave must be taken before the child's 12th birthday.	1 September 2020
Negotiating a settlement agreement (case law)	In a recent decision the Labour Court has found that a settlement agreement, purporting to waive claims under the Unfair Dismissals Act, was unenforceable on the basis the Court could not establish that (a) the agreement emerged from meaningful negotiations, (b) the employee was advised to seek legal advice and (c) the waiver was supported by adequate compensation or other consideration and (d) the employee was capable of giving informed consent.	5 August 2020
Increase in minimum wage	The Government has approved an increase in the national minimum wage by 10 cent per hour, from €10.10 to €10.20.	1 January 2021
Increase to parent's leave	Statutory parent's leave provides leave to new parents during the first year of a child's life (or within the first year of adoption) From April 2021, the period of leave will increase from 2 to 5 weeks for each parent and may be taken during the first 2 years of the child's life/adoption.	1 April 2021

Employer implications/action needed	Employer risk	Web link
Employers should consider updating their parental leave policy to take into account the increase in leave since 1 September 2020.	A failure to grant an employee their full parental leave entitlement can result in a claim to the WRC.	
When seeking a waiver of claims, employers should ensure that: (i) the employee is encouraged to seek independent legal or professional advice; (ii) the employee is asked, prior to signing, whether they have obtained prior legal or professional advice; (iii) if the employee has obtained advice this should be specifically referred to in the settlement agreement; and (iv) if the employee does not wish to take independent advice, the employer should ask the employee to confirm that they have read and understand the agreement.	For a settlement agreement to be relied upon, employers must ensure that the key requirements of informed consent are met. In the absence of informed consent, a settlement agreement will be considered invalid and an employee can pursue the employer for various claims.	https://www.workplacerelations.ie/en/cases/2020/august/udd2023.html
Employees will need to ensure that all employees are in receipt of the updated minimum wage of €10.20.	Failure to pay the minimum wage can lead to investigation and/or enforcement action via the WRC. In addition, if an employee is dismissed for seeking the national minimum wage, the employee may bring a claim for unfair dismissal.	https://www.gov.ie/en/press-release/abd19-government-approves-increase-in-the-national-minimum-wage-from-1st-january-2021/%23
From April 2021 eligible employees can take leave as one continuous period of 5 weeks or in single weekly blocks. Employers should consider updating their parent's leave policy to take into account the increase in leave from 1 April 2021.	A failure to grant the new parent's leave entitlement could result in a claim to the Workplace Relations Commission (WRC).	



Italy

Subject matter/name of development	Summary
Extending fixed-term employment contracts	By derogation of the ordinary rules, Law Decree n. 104/2020 provides that, until 31 December 2020, a single extension of a fixed-term employment contract will be permissible for a maximum period of 12 months (the maximum duration of the fixed term being 24 months) without the need to specify one of the mandatory reasons provided by Legislative Decree n. 81/2015.
Remote working for vulnerable employees and parents of disabled children	Law n. 126/2020, provides that: <ul style="list-style-type: none"> – parents with disabled children are entitled to work from home until 30 June 2021, if (i) it is compatible with their role and (ii) the other parent is not unemployed. In this scenario, by derogation of ordinary rules, there is no need for individual agreement with the employee; – vulnerable workers are entitled to work from home until 31 December 2020, including undertaking different tasks (in the same category or area of classification) or specific professional training activities.
Working remotely and special leave for parents	Law Decree n. 111/2020 provides that, where a child under the age of 14 is subject to a period of quarantine due to COVID-19, until 31 December 2020: <ul style="list-style-type: none"> – one parent may either work from home or take a period of leave for certain days of the quarantine period; – (only one parent at a time may exercise the right to take leave/work from home); – during such leave, pay will be 50% of normal salary. These provisions are confirmed by Law n. 126/2020.
Transnational posting of employees.	Legislative Decree n. 122/2020 has modified Italian legislation regarding employees posted in Italy by foreign companies by implementing EU Directive n. 2018/957 as follows: <ul style="list-style-type: none"> – extending current legislation to staff-leasing agencies, end-user companies and third companies/branches, based in different Member States; – applying Italian NCBA's to posted employees, where the provisions are more favourable; – reducing the maximum duration of the posting from 24 to 12 months, which can be extended to 18 months. At the end of the posting, the employment relationship will be regulated by Italian employment law, excluding provisions on dismissals, non-competition agreements and the social security contributions provided for each sector.

Impact date	Employer implications/action needed	Employer risk
Until 31 December 2020.	After 31 December 2020, extensions/renewals of fixed-term employment contracts will be subject to ordinary rules.	A failure to comply with the requirements for fixed-term contracts may lead to the contract being deemed permanent.
14 October 2020.	Parents with disabled children can work from home without the need for an individual agreement (provided the employer complies with its health and safety obligations). However, after 30 June 2021, remote working in such circumstances will be subject to ordinary rules.	An employee who is refused access to these rights may bring a claim against the employer.
9 September to 31 December 2020	The employer is required to accommodate these rights through individual agreement with affected employees in accordance with the regulations on working remotely (i.e. Legislative Decree n. 81/2017).	An employee who is refused access to these rights may bring a claim against the employer.
30 September 2020.	The Italian end-user company must inform the staff-leasing agency of (i) the working and employment conditions to be applied, and (ii) the place of work of the employee concerned.	Failure by the company to inform relevant parties of these changes may attract an administrative fine of between Euro 180 to 600, for each employee concerned.



Netherlands

Subject matter/name of development	Summary
Combined grounds for dismissal	Case statistics suggest that, where more than one reason for termination was relied upon by employers (combination grounds), the employer was unsuccessful in 21 out of 24 published judgments. The primary reason was that employers failed to substantiate, in combination, that the various grounds were sufficient to render a continuation of the employment contract impossible. In 3 cases the court granted full additional compensation (an extra 50% on top of the statutory severance payment). Frequently, combination grounds arise on a breakdown in the employment relationship but where this is not caused by serious culpable actions of the employee, additional compensation is likely to be awarded.
Coronavirus case-law	The first published COVID-19 case-law reveals the following trends: (i) employees in quarantine are entitled to 100% of their salary; (ii) sickness rules only apply if employees are actually sick; (iii) employers are not required to agree to an employee's request to amend a holiday which has already been set; (iv) the employer cannot unilaterally lower the employee's salary due to a lack of work, or unilaterally amend other benefits solely due to the pandemic; (v) the government's advice to work from home as much as possible does not equate to a right to do so.

Impact date	Employer implications/action needed	Employer risk
N/A	Employers should be aware that reliance upon the combination ground does not make it easier to terminate an employment contract.	Additional compensation amounting to 50% the statutory severance payment (on top of the statutory severance payment) is a real risk if the court allows a request for termination based on the combination ground.
N/A	Employers need to take into account emerging case decisions concerning the impact of the virus upon employment.	Failing to take into account the recent case-law may result in wage claims (including the statutory increase of 50%) as well as an increase in other claims from employees. Additionally, reputational damage could result.



Norway

Subject matter/name of development	Summary
New temporary layoff rules in connection with COVID-19	<p>The employer's duty to pay wages has been increased from the first 2 to 10 days after layoff.</p> <p>The period of layoff during which an employer is exempt from meeting its salary obligations will be increased from 26 to 49 weeks (the latter being within an 18-month period).</p> <p>A new "employer period II" of five days will be introduced for employees laid off for more than 30 weeks within an 18-month period. During the said period, the employer must pay the employee's salary.</p>

Impact date	Employer implications/action needed	Employer risk
The increase to the employer's obligation to pay wages during layoff took effect on 1 September. The changes to an employer's exemption period are effective as from 31 October 2020. Employer period II will apply from 1 January 2021.	Employer's should notify NAV (the Department for Work and Welfare) and discuss the layoff situation with employee representatives.	Ensure the new conditions for layoff are met.



Poland

Subject matter/name of development	Summary
Unlawful employment of individuals with maintenance payment arrears	The Labour Code has been amended to provide that where an employer fails to provide a written employment contract prior to commencement of employment, and the employee is in arrears with their maintenance payments, the employer can be fined. A fine can also be imposed where the employer pays such an employee higher remuneration than is due under the employment contract.
Minimum pay for work	The Council of Ministers has regulated the minimum wage and minimal hourly rates for 2021 as follows : - the minimum wage: PLN 2,800 (approx. EUR 624; in 2020 – PLN 2,600, approx. EUR 580) - minimum hourly rate for civil law contractors: PLN 18.30 (approx. EUR 4; in 2020 – PLN 17, approx. EUR 3,8).
Implementation of the updated Posted Workers Directive	Poland has implemented the updated Posted Workers Directive (EU Directive 2018/957, as revised by amending Directive 96/71/EC). Employees from other EU member states who are posted to Poland are now entitled to remuneration and other benefits in line with the Directive, instead of a right to minimum wage only. The guaranteed working conditions for posted workers will apply for 12 months, unless they are extended to 18 months by the employer notifying the Labor Inspectorate. The Labor Inspectorate has also been granted additional rights of access to information regarding working conditions.

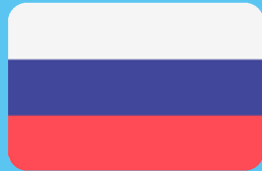
Impact date	Employer implications/action needed	Employer risk
1 December 2020	The employer must take these regulations into account when recruiting new staff, diligently perform payroll obligations by making required maintenance deductions and ensure that all employment contracts are confirmed in writing.	Non-compliance with these new provisions risks exposing an employer to a fine ranging from PLN 1,500 to 45,000 (approx. EUR 330 to EUR 10,000).
1 January 2021	Employers must adjust employment agreements and civil contracts to the new minimum pay requirements set for 2021.	Payment of remuneration below the minimum wage is subject to a fine from PLN 1,000 to PLN 30,000 (approx. EUR 220 to EUR 6,700).
4 September 2020	Employers posting workers to Poland must comply with the new provisions and guarantee work conditions accordingly. Employers should verify carefully existing postings and provide required pay and work conditions.	Non-compliance with provisions on posting employees to Poland may result in a fine ranging from PLN 1,000 to PLN 30,000 (approx. EUR 220 to EUR 6,700).



Romania

Subject matter/name of development	Summary
Draft Law for completing Law no. 53/2003	<p>Draft law regulating more flexible working structures, such as:</p> <ul style="list-style-type: none">– working hours banks: an employer and employee may agree to a total number of working hours per month with the actual working patterns to be determined on a weekly/monthly basis– compressed working hours On-call work– work as permanent shifts: employees who are “confined” to the place of work for longer periods of time (2-3 weeks); would be entitled to additional salary allowances– split work <p>The draft law also brings additional clarity regarding unpaid leave.</p>
Draft Law for completing art. 164 of Law no. 53/2003	<p>The ratio between the minimum gross base salary at national level and the average gross salary per economy will increase in equal annual tranches starting with January 1, 2021, so that on December 31, 2024 the minimum gross base salary at national level will represent 60% of the average gross wage per economy.</p>
Order of the Ministry of Labor no. 1376/2020	<p>Regulation of the procedure for claiming RON 2,500 (approx. EUR 512) benefit for teleworkers’ equipment and technology.</p> <p>Employers must submit a request for the benefit to the National Workforce Occupational Agency and are required to provide supporting evidence (e.g. invoices) within 30 days of receipt of funds.</p>
Amendments to the Government Emergency Ordinance no. 137/2000 on the prevention of all forms of discrimination - Law no. 167/2020 -	<p>The new legislation includes a more extensive definition of harassment at work, as well as a series of obligations for employers to implement adequate measures to minimize the risk of employees being subject to workplace harassment. The fines associated with the new regime are substantial, aiming to increase employers’ commitment and responsibility to ensure a safe, harassment free, working environment.</p> <p>No employee may be dismissed or subjected to detriment relating to their complaint of workplace harassment. Employers must take all measures necessary to prevent and respond to any complaints of harassment at work.</p>
Amendments to the Labor Code - Law 213/2020	<p>When negotiating, concluding or amending an individual employment contract, or during the conciliation of an individual labour dispute, each party may be assisted by an external labour law consultant or by a trade union representative Employers must organize their HR & Payroll activities by either: (a) assuming direct responsibility (b) delegation to one or more employees; or (c) by contracting specialist external HR & Payroll services, coordinated by an employment law expert.</p> <ul style="list-style-type: none">– employers and employees encouraged to resolve all disputes in an amicable manner via a regulated pre-contentious/dispute phase.– employers are expressly permitted to appoint an external employment law specialist to carry out disciplinary investigations.

Impact date	Employer implications/action needed	Employer risk
Pending procedure in the first chamber of the Parliament	Potential future need to update internal policies.	To be confirmed.
1 January 2021, pending approval by the second chamber of the Parliament	Changes, if approved, will need to be reflected in staff salaries.	To be confirmed.
13 September 2020	Employers wishing to access the teleworkers’ benefit should ensure they comply with the new procedure.	If the relevant documentation is not provided, the employer will have to reimburse funds received.
11 August 2020	Potential need to update internal policies to reflect the extended legal obligations and any measures taken to mitigate the risk of harassment at work.	Risk of fines for non-compliance.
3 October 2020	Employers should review and may need to update internal policies.	None identified.



Russia

Subject matter/name of development	Summary
Extensions of time to claim “moral damage” compensation	<p>Proposed amendments to the Labor Code of the Russian Federation are aimed at avoiding the situation where an employee wins their case, but then finds themselves out of time for claiming compensation for moral damage. (The need to address this issue was recently highlighted by the Constitutional Court of Russia).</p> <p>It is proposed that an employee will be able to claim for moral damage compensation:</p> <ul style="list-style-type: none">– either at the same time as their claim for restoration of rights or within 3 months from the date of the court order, fully or partially restoring those rights
Individual labor disputes on labor remuneration	<p>A draft Bill proposes that only courts shall have jurisdiction to hear cases concerning individual pay disputes. (At present, labor dispute committees may also deal with such matters). These changes are designed to prevent abuse by unscrupulous debtors and claimants.</p>
Remote working	<p>The State Duma of the Russian Federation has approved a Bill, which proposes that a temporary remote working arrangement may be made available when entering into a new employment contract or as a variation to an existing contract. The Bill also provides that the employment contract of a “remote” employee may only be terminated by the employer on the grounds set out in the Russian Labor Code.</p>

Impact date	Employer implications/action needed	Employer risk	Web link
The Bill is currently undergoing public consultation.	No actions are currently required, but employers should monitor developments.	Not yet known.	
The Bill is undergoing public consultation.	No actions are currently required, but employers should monitor developments.	Not yet known.	https://regulation.gov.ru/p/107513
The implementation date has not yet been confirmed.	No actions are currently required but employers should monitor developments.	Not yet known.	https://sozd.duma.gov.ru/bill/973264-7



Slovakia

Subject matter/name of development	Summary
Working time records	Employers should ensure that the time-keeping obligations highlighted in the decision of the Supreme Court of Slovak Republic in October 2018 (case number 3Asan/3/2018) continue to be met with new working arrangements, including the significant increase of employees working from home as a result of the pandemic. It is generally the employer's obligation to ensure adequate working time records are kept and, whilst an employee must provide any assistance necessary for the observance of such obligations, that obligation cannot be fully transferred to the employee.
Pension reform	The Social Insurance Act introduced the 13th pension payment in Slovakia, providing additional old-age pension benefit to pensioners. This pension benefit is currently calculated based on the average monthly pension received. It is proposed to reform this calculation method to take account of the amount of pension already received. Therefore, the lower the average pension received, the higher the 13th pension payment and vice-versa. The proposed legislative reform is currently making its way through the legislative procedure in the National Council of the Slovak Republic, although since it is a government initiative, it is expected to be approved.
Minimum wage	Amendments to the minimum wage legislation are currently making their way through the legislative procedure in the National Council of the Slovak Republic, although since the changes are government-driven, they are expected to be approved. The amendments include amending the automatic wage determining mechanism to ensure a higher minimum wage than would otherwise apply.

Impact date	Employer implications/action needed	Employer risk
Already applicable.	Time-keeping obligations cannot be fully transferred to employees. Therefore, employers often use various time-tracking tools to fulfil their statutory time-keeping obligations. Employees must comply with the use of such tools, the obligation to do so falling under the requirement of necessary assistance.	Time-keeping records are crucial in the assessment of working time limits and therefore one of the key areas considered by the Labour Inspectorate when carrying out inspections. In the event of irregularities or violations, financial penalties may follow.
31 October 2020	No actions needed, as pensions are paid by the state Social Insurance.	No risk for the employer.
1 January 2021 (although the amended legislation is effective from 31 October).	Employers who pay the minimum wage should monitor developments and ensure that the correct rates are applied from the impact date, which is expected to be January 2021.	Failure to pay at least the statutory minimum wage rate can result in financial and criminal sanctions.



Spain

Subject matter/name of development	Summary
Equal Pay	New legislation (Royal Decree 902/2020) guarantees and develops the equal pay between women and men principle. The obligations include a requirement to have a remuneration register. That register has to include the average values of salaries, salary supplements and extra-salaries of the workforce, disaggregated by sex.
Equality Plans	New legislation (Royal Decree 901/2020, of 13 October) regulates equality plans and their registration and develops the obligations established in March 2019.
COVID-19 - ERTes (temporary contract suspension/reduction of working time)	New legislation (Royal Decree-Law 30/2020 of 29 September). extends some of the exceptional labour measures due to COVID-19, as follows: <ul style="list-style-type: none"> Force majeure ERTes will be automatically extended to 31 January 2021; ETOP ERTes (i.e. ERTes on financial, technical, organizational and/or production-related grounds) can be extended after they have expired if a new agreement is approved during the consultation period; companies who are prevented from performing their activity due to impediment or limitation caused by COVID-19 restrictions after 1 October 2020 will be able to process new force majeure ERTes.

Impact date	Employer implications/action needed	Employer risk
14 April 2021 (although the obligation to establish a salary registry is already in force)	The new legislation applies to all employers, regardless of size and number of employees, and applies to all job roles including management positions and senior positions. Employers should therefore ensure that steps are taken to establish a process to gather and report the required remuneration data (see also entry below regarding equality plan requirements).	As above, fines can apply in the event of any decision, including a decision on remuneration, that may imply discrimination.
Depending on employee numbers, required implementation of measures by between March 2020 and March 2022	Employers should note the requirements for equality plans, including procedural requirements, how they have to be negotiated and minimum standards for their content. The legislation also develops the regulation of the Equality Plans Registry (where the equality plans have to be recorded). Employers should also note that companies that are obliged to have an equality plan are also obliged to include in that plan a remuneration audit. For such audit, companies will have to analyse the current remuneration practices and prepare an action plan to address inequalities.	Breach of the requirement to establish an equality plan in accordance with the statutory requirements could result in fines ranging from €6,251 to €187,515. Additionally, employees could request an additional amount depending on the specific circumstances, claiming damages for breach of fundamental rights.
29 September 2020	Employers seeking to carry out ERTes or extend existing ERTes should ensure that the statutory limitations and requirements are understood. It should also be noted that some of the provisions in this new legislation apply retrospectively (i.e. to ERTes carried out before the new legislation became effective).	ERTes carried out without following the statutory requirements risk being deemed invalid. As a result, the company would not be entitled to implement the measures and sanctions could be applied.



Spain

Subject matter/name of development	Summary
COVID-19 - MECUIDA Plan	The right to remote working and the alteration of working hours (known as the MECUIDA Plan, after its initials in Spanish) has been extended for employees where they are affected by exceptional circumstances related to actions necessary to prevent the transmission of COVID-19 (Royal Decree-law 28/2020, of September 22). Employees may request to alter their working arrangements in a number of ways (remote work, flexible working, modification of hours, reduction of 100% of the working time, etc.) to assist their family obligations. This would include, for example, where government authorities close schools for COVID-19-related reasons.
Remote working – general regulation	This new law regulates remote working and establishes rights and guarantees for employees working remotely (Royal Decree-law 28/2020, of 22 September). Among other obligations, companies will be obliged to provide the means, equipment, tools and consumables required for distance work to be carried out, as well as the necessary maintenance of equipment. It should be noted that this new law does not apply if the remote working arrangement has been compelled by the exceptional circumstances of the COVID-19 pandemic.

Impact date	Employer implications/action needed	Employer risk
22 September 2020 to 31 January 2021	Employers should note that employees have the right to adapt their labour conditions in a wide manner to assist their family obligations when exceptional circumstances occur.	Companies not complying with the extended provisions could be subject to a sanction amounting from €626 (minimum range) to €6,250 (maximum range) per employee.
13 October 2020	There are a number of protections provided for employees that should be noted by employers, as follows: <ul style="list-style-type: none"> – the remote work agreement must be in writing – employees will have the right to be provided with all means, equipment, and tools necessary to complete the remote activity – employees will have the right to full compensation of (direct and indirect) expenses – the employer can adopt appropriate measures for vigilance and control to ensure the remote worker is fully undertaking their obligations and duties at work, subject to observing data protection requirements It is recommended that employers review and amend remote worker policies and procedures to take account of the new requirements.	If the remote working rights and guarantees are not adhered to, the employing company may be fined up to €6.250 per employee.



Sweden

Subject matter/name of development	Summary
Parental leave and probation periods	The Swedish Labor Court (Arbetsdomstolen) recently held that an employer had acted unlawfully when it terminated the employment of an employee without converting the employment to indefinite term employment. The employee had been absent on parental leave during the majority of a six month probationary period. The court found that the company's actions were in breach of the Swedish Parent Leave Act, as the employer should instead have offered to extend the probationary period. Not doing so was deemed to amount to unfavourable treatment of an employee linked to their parental leave which was not a necessary consequence of the leave.
New guidance on short-time work allowance	The Swedish Agency for Economic and Regional Growth (Tillväxtverket) has issued new guidance stating that companies that have received any short-time work allowance in 2020 may not generally distribute dividends or make intra-group transfers based on any profits connected to the financial year during which the company received the allowance. Under the Agency's previous guidance, this restriction only applied to payments made during the same financial year that the company received the aid. Clarification is awaited from the Agency, although this new guidance may mean that during 2021 and possibly beyond, companies in receipt of the allowance in 2020 will be unable to distribute dividends or make intra-group transfers based on any profits made in 2020.

Impact date:	Employer implications/action needed	Employer risk
Announced on 30 September 2020.	If an employee is absent during the majority of their probationary period due to parental leave and the employer does not want the employment to be converted to indefinite term employment, it must assess the risks of a breach of the Parental Leave Act. Depending on that assessment, it may be that the employer should offer to extend the probationary period, however it should be noted that this is only possible in exceptional cases and agreeing to extend the probationary period may otherwise lead to the employment being automatically converted to indefinite term employment.	Damages for breach of the Parental Leave Act plus damages for any economic loss suffered by the employee.
Not yet clarified, at least during 2021.	Companies must be able to show temporary and serious financial difficulties in coping with the challenges resulting from COVID-19 to be eligible to receive state aid. Any employer that has received any short-time work allowance must be very cautious when distributing dividends or making intra-group contributions during 2021 and possibly thereafter. Further guidance from the Agency should be monitored.	Dividends distributed or intra-group transfers made on the basis of profits made in 2020 risks the company being ordered to pay back the short-term work allowance if done so in breach of the Agency's guidance.



Switzerland

Subject matter/name of development	Summary
Paternity Leave	<p>On 27 September 2020, the Swiss electorate approved an initiative to introduce an entitlement to 10-days' paternity leave.</p> <p>Until now, there has been no legal entitlement to paternity leave in Switzerland, although most companies grant the father 1 day off for the birth.</p>
Minimum Salary in the Canton of Geneva	<p>On 27 September 2020, the electorate in the Canton of Geneva adopted an initiative to introduce a minimum wage of CHF 23 [approx. EUR 21] per hour in all sectors and industries.</p> <p>Only few cantons have a general minimum salary. Normally, minimum salaries apply only for specific sectors in Switzerland.</p>

Impact date:	Employer implications/action needed	Employer risk
To be defined.	To comply with the legal requirements, take necessary planning actions.	Additional (and possibly unplanned) absenteeism with related financial impacts.
The minimum salary in the Canton of Geneva entered into force as of 1 November 2020.	To comply with the legal requirements.	Financial risk of additional salary payments based on claims of employees.



UK

Subject matter/name of development	Summary
COVID-19 – government support	The government support for employers struggling due to the pandemic has continued to evolve. The Coronavirus Job Retention Scheme (“CJRS”) was unexpectedly extended on 31 October 2020 until 31 March 2021, with the government paying 80% of employees’ usual salary for hours not worked, up to a maximum of £2,500 per month. The Government plans to review the policy in January 2021. Businesses have flexibility to bring furloughed employees back to work on a part time basis or furlough them full-time, with the employer paying National Insurance and employer pension contributions only. The Job Support Scheme (“JSS”), which was scheduled to come in on 1 November, has been postponed until the CJRS scheme ends.
Brexit and immigration	As a result of the UK leaving the EU, free movement of people is ending on 31 December 2020. From that date, having a sponsor licence will become essential for organisations who recruit both from outside of the EU and from within it.
Employment Bill	The awaited Employment Bill is expected to provide the right to: request a more predictable contract; one week’s unpaid carers’ leave; extended maternity protection on redundancy; flexible working as a default unless employers have good reasons not to allow it; protection of workers’ tips; neonatal leave and pay; and to pave the way for the creation of a single enforcement body.

Impact date	Employer Implications/Action needed	Employer Risk	Web link
1 November 2020	Given the late change in the CJRS, employers need to ensure that employment documentation is in place so that they can claim.	Failure to comply with the rules of the CJRS could result in claims being rejected. Failure to take account of employment law obligations, including relating to changes to working arrangements, could result in grievances and potential litigation.	https://www.gov.uk/government/news/furlough-scheme-extended-and-further-economic-support-announced Further extension of the Coronavirus Job Retention Scheme – The Chancellor’s Statement
31 December 2020 onwards	A review of contingency/recruitment arrangements will help to minimise disruption. Employers should use the EU Settlement Scheme, where possible, and review the need for a sponsor licence (if they do not have one) before the end of the transition period.	Uncertainty and potential issues with recruiting and retaining workers.	The new immigration system briefing Brexit Hub Brexit bulletin
Implementation dates are currently unknown (although indications are that neonatal leave will be April 2023)	The introduction of a single-enforcement body could prove significant in relation to future claims. Employers reliant on casual workers should anticipate a new right to request a more predictable contract. All employers should assess the potential impact of the new leave provisions and changes that will make flexible working the default position.	Failure to take account of the changes once implemented could result in grievances and potential litigation.	



UK

Subject matter/name of development	Summary
Modern slavery	A number of recent allegations involving potential worker exploitation in domestic supply chains have brought the issue of modern slavery into the spotlight. The Government has confirmed that it will strengthen modern slavery reporting requirements, to increase transparency and compliance.
Ethnicity pay reporting	The UK government committed to introducing ethnicity pay reporting. A consultation in relation to the proposal closed in January 2019, with the outcome yet to be released. With the increased awareness of racial inequality in society, ethnicity pay reporting remains a hot topic. The Commission on Race and Ethnic Disparities is due to report before the end of 2020, which may include proposals on ethnicity pay reporting.

Impact date	Employer Implications/Action needed	Employer Risk	Web link
Currently unknown	Employers should ensure that they review current modern slavery procedures and ensure they are robust and remain fit for purpose. Such review should include consideration of processes to assess risk, ensuring adequate annual reporting (applicable to larger employers) and mechanisms to enable concerns to be raised.	Failure to ensure robust processes are in place and/or to comply with legal requirements risks adverse publicity and investor withdrawal as well as legal, financial and operational risk.	Modern slavery webinar Anti-slavery training.
Currently unknown	Employers should review the effectiveness of diversity and inclusion initiatives. Further, prepare for ethnicity pay gap reporting through auditing current arrangements and considering voluntary ethnicity pay gap reporting.	Failure to ensure effective diversity and inclusion within a workplace could result in grievances and potential litigation.	Bridge the gap guide



The Middle East

UAE

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UAE

Subject Matter/Name Of Development	Summary	Impact date
Dubai one-year virtual working programme	This programme allows an individual to reside in Dubai (along with their family) and work remotely, while remaining employed in the individual's home country. The virtual working programme is valid for 1 year. It costs US\$287 plus medical insurance with valid UAE coverage and processing fee per person. Individuals on the programme can access all required services, including telecoms, utilities and schooling options.	14 October 2020
Equal pay amendments	The law has been amended in relation to equal pay provisions for female employees (Decree Law No. (6) of 2020 amends Article (32) of the UAE Labour Law (Federal Law No. (8) of 1980)). Previously, Article 32 required an employer to pay a female worker the same wage as a male worker for undertaking the "same work". The Article has now been amended to include equal pay for work of "equal value" for female employees. It also requests that the Ministry Of Human Resources and Emiratization develops systems to support that evaluation. This is a progressive step toward greater pay equality in the UAE.	Effective 26 September 2020 (law was issued 25 August 2020)
Paternity leave for private sector employees	A new Article has been introduced to the UAE Labour Law providing an entitlement of five working days paid parental leave to care for a child (Decree Law No. (6) of 2020). The leave period can be taken anytime from the date of the child's birth until the child is six months of age.	Effective 26 September 2020 (law was issued 25 August 2020)

Employer implications/action needed	Employer risk	Web link
Further guidance is awaited on the programme, however applicants will require the following: <ul style="list-style-type: none"> – passport with minimum 6 months validity – health insurance with UAE coverage validity – proof of employment from current employer with a one-year contract validity, a minimum of US\$5,000 per month salary, last month's payslip and 3 preceding months' bank statements – or, if a company owner, then proof of ownership of that company for one year or more, with an average monthly income of US\$5,000 per month and 3 preceding months' bank statements 	Employers should review the implications of the scheme once the final details are known. Since it is likely that the employer would be outside the UAE, the practicalities and efficiency of remote working from an overseas location should be considered.	Global workforce reorganization – part 2: working across jurisdictions
Employers should identify and evaluate any pay differences between female and male employees performing the same or similar roles.	Failing to comply with the equal pay requirements could result in litigation risk. To mitigate that risk, employers should therefore proactively review current pay practices and address any inequalities.	
Employers are required to allow employees their statutory entitlements, including the new paternity leave entitlement. Practical steps to incorporate the change may include notifying the employees of the entitlement and updating workplace policies, handbook or the employment agreement.	Failing to allow employees their entitlement to paternity leave may result in litigation risk.	

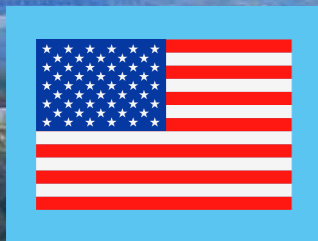


North America

US

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US

Subject matter/name of development	Summary
Pay Reporting (California)	Recent California legislation requires that private California employers with 100 or more employees must annually report to the state detailed pay data categorized by gender, race, and ethnicity. The report must be filed on March 31, 2021 and every March 31 thereafter. Employers with more than one establishment must submit a report for each establishment.
Independent contractor classification	The Department of Labor (DOL) has proposed a new employer-friendly rule to address independent contractor classification. The new proposed rule looks to the “economic reality” of each workplace relationship by evaluating five factors to determine whether the worker is economically dependent on the “employer”. Importantly, the rule places focus on two “core factors”: 1) the extent of control exercised over key aspects of the work; 2) and the opportunity for profit or loss.
COVID-19 – reporting obligations	The U.S. Occupational Safety and Health Administration (OSHA) has released updated FAQs addressing when an employer must report employee hospitalizations in light of COVID-19, seeking to address recent confusion on the issue. OSHA clarified its position in a September 30 update, stating that employers are only required to report in-patient hospitalizations to OSHA if the hospitalization “occurs within 24 hours of the work-related incident.”

Impact Date	Employer Implications/Action Needed	Employer Risk
March 31, 2021 and every March 31 thereafter	Employers must review their systems to ensure that such a report can be created with some degree of efficiency. Additionally, given that the goal of the report is to uncover any wage disparities, we recommend a review of internal audit systems to ensure that there are no hidden disparities that cannot be defended by legitimate business rationale. Any such analysis should be under the aegis of attorney-client privilege to avoid discovery in the event of litigation. Further, while the current law only impacts California employers, employers should look out for similar laws in other states.	If the employer fails to file the report, the Department of Fair Employment and Housing (DFEH) may recover costs associated with seeking the compliance. Further, the employer may be subject to investigations to ensure that the failure to file is not intended to cloak any unlawful pay practices.
Currently under a 30-day comment period.	No immediate action is required. The proposed rule was delivered with some urgency, but is likely to be challenged following the election, because a change in administration may choose to pursue a more stringent test.	While the test doesn’t pose additional burdens on the employer, misclassification can generally result in significant penalties and back-pays.
Ongoing	An employer has to report employee hospitalization due to COVID-19 within 24 hours of the hospitalization, but only if (1) there is an in-patient hospitalization, and (2) the employer knows that the employee contracted the COVID-19 at work. Employers must also check with state and local health and safety agencies for compliance directives.	Failure to report can result in penalties.



Global workforce reorganization

With the recent global shift in the working landscape, many employers are considering re-shaping workforces. For multinational employers, this has the added complexity of different laws and practices. Our teams across the world have been supporting employers steer through the legal and practical employment implications. Our extensive global footprint means that we are well placed to help employers, wherever they have a presence.

To assist multinational employers, our teams have produced a variety of materials to support business reorganizations. We have pulled together all of our latest resources on global reorganizations in this 'boxset' of materials.

Briefings

Part 1: Global workforce reorganization planning tool



Part 2: Working across jurisdictions



Part 3: Legal compliance considerations of new working arrangements



Part 4: Information and consultation obligations



Part 5: Discrimination, diversity and inclusion considerations



Podcasts

To assist multinational employers, our teams have produced a variety of materials to support business reorganizations. We have pulled together all of our latest resources on global reorganizations in this 'boxset' of materials.

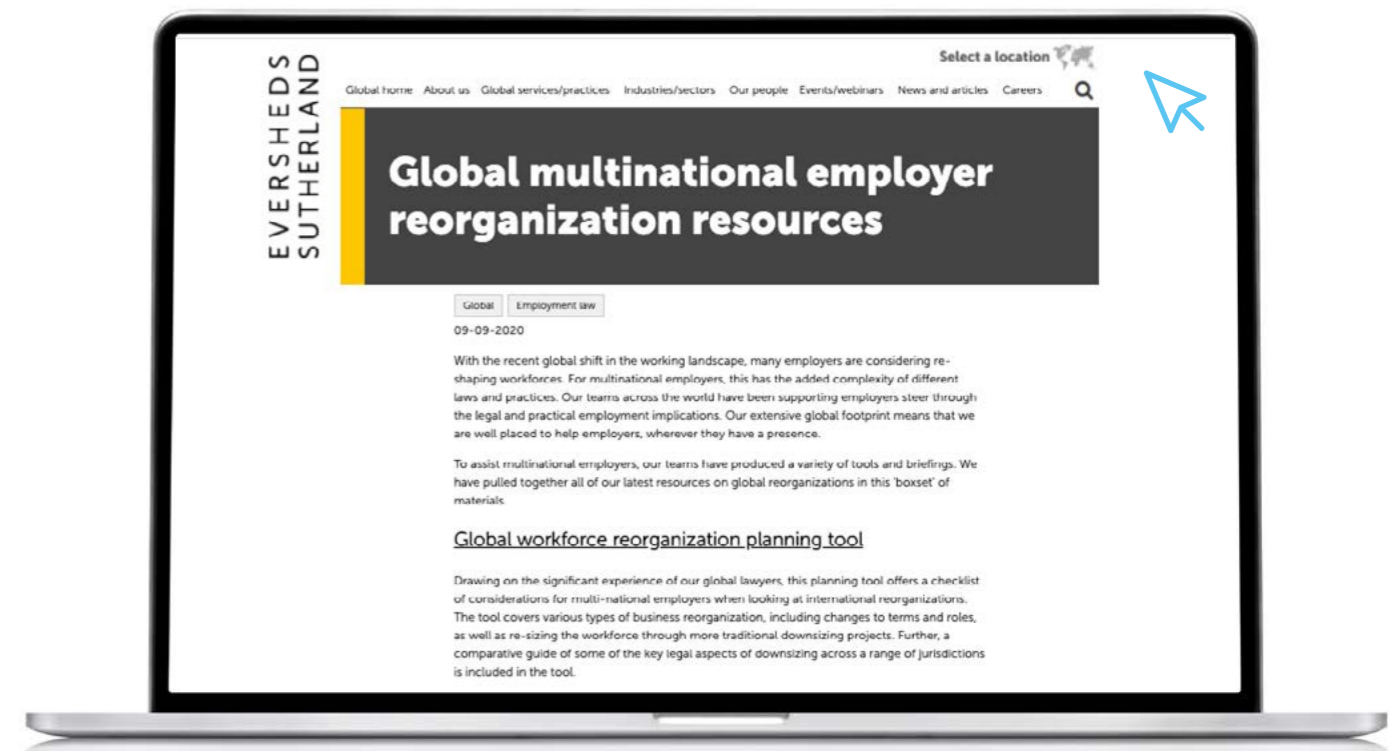
Reshaping workforces for multinational employers – insight from the Netherlands



Reshaping workforces for multinational employers - insight from France



For more information please see our [multi-national employer reorganization resource](#)



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