European Employment Insights

> Geolocation data from company vehicles can be processed by employers as an exception, subject to strict compliance requirements, including informed consent and clear communication with employees.

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Introduction

European Guide to Support Employers
Employment of Managing Directors

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

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You may also be interested in:

European Employment Insights

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

December Issue **February Issue** **March Issue**

Context

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

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

Stay well informed and maintain your competitive edge with Andersen.

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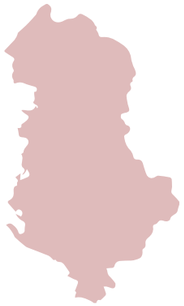
Albania



LAW
Alphabet Day added to the Law on Official Holidays and Memorial Days

On 15 February 2024 the Albanian Parliament ratified Law No.17/2024, On an Addition to Law No.7651 of December 21, 1992, On Official Holidays and Memorial Days (Law 7651), introducing a significant change by adding November 22nd as the Day of the Alphabet to the roster of official (public) holidays and memorial days in Albania. This day commemorates the anniversary of the Congress of Manastir, held in the city of Manastir (now Bitola, situated in North Macedonia) from November 14 to 22, 1908, during which the Albanian alphabet was unified and standardized. With the inclusion of this new public holiday, Albania's total count of public holidays now stands at 15 days per year.

Read More

Albania expands official holiday calendar with addition of Day of the Alphabet.

LAW
Albania ratifies agreement with Republic of Croatia on social security

The Albanian Official Gazette No. 38, dated 27 February 2024, published, among others, the Law No. 11/2024 on the ratification of the Agreement between the Republic of Albania and the Republic of Croatia on social security. This agreement will enter into force on the first day of the month after the ratification instruments are exchanged between both countries. According to this agreement, both countries regulate the social security obligations of citizens who reside in one country but work in the other country, are posted by their employer or run a business as self-employed.

Read More

New rules on the obligations of citizens working in both countries will come into force in the month following the exchange of instruments of ratification.

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Belgium

Candidates in social elections enjoy special protection against dismissal, as the lists of candidates are disclosed to the employer until the lists of candidates are publicly announced.

LAW
Employers must be careful with dismissal during the hidden protection period while organizing social elections in 2024.

In Belgium, social elections will take place in May 2024. The social elections are aimed at establishing the Works Councils and/or Committees for Prevention and Protection at Work in companies employing more than 50 employees. These are bodies in which both the employer and employee representatives equally take a seat. Candidates in social elections enjoy special dismissal protection seeing that the candidate lists are disclosed to the employer until the candidate lists are announced publicly. Before this date, the employer does not know which employees are candidates for the social elections. Candidates who are participating in social elections are protected from dismissal.

This protection starts before the announcement of the candidate lists; therefore, it is called the “hidden protection period”, which covers the period between X-30 (i.e. the 30th calendar day preceding the day the employer announces the social elections date) and X+35 (i.e. the day the candidate lists are submitted). This means that an employer is faced with a hidden protection period of 65 days.

The final candidate lists must be announced between 19 March 2024 and 2 April 2024 (X+35), depending on the date of the elections organized at the company, the candidates' dismissal protection starts more than 2 months earlier (X-30), i.e. from January 14, 2024.

Should an employer terminate an employee candidate during the hidden protection period, without compliance with the legal procedures as set out in the Act of 19 March 1991, the employee can claim a protection compensation amounting to 2, 3 or 4 years of salary depending on his/her seniority.

GUIDELINES
New circular regarding the calculation of the mobility budget and costs relating to environment friendly company cars

The mobility budget is provided by employers to employees who opt out of company cars, offering flexibility for various mobility solutions and housing costs. It empowers employees to arrange their commuting, combining

options like a more cost-effective company car with biking, carpooling, or public transport. The budget equals the annual total cost of ownership of the company car, covering financing, fuel, taxes, etc.

As of January 1, 2024, there are two calculation formulas for the mobility budget. The first, the "Lump sum formula" incorporates fixed and variable components based on the employee's commuting distance, multiplied by assumed costs per kilometer and working days. The cost per kilometer is set at 30% of the lump sum reimbursement for government officials. The second formula, the "Actual cost formula," relies on real expenses, excluding costs already covered in lease or rental contracts and mentioned in the employer's car policy.

These changes are outlined in the Circular Letter of February 15, 2024 (Cir. 2024/C/16).

LAW

New rules for motivation of dismissal in the public sector

A new law governing the dismissal of contractual workers in the public sector has been unanimously adopted and published, addressing a legislative gap identified by the Constitutional Court. Stemming from the harmonization of notice periods for blue-collar and white-collar workers in 2014, which inadvertently removed protections for blue-collar workers on indefinite contracts, this law mandates the provision of written notification of specific reasons for dismissal and the right to be heard prior to any decision. Similar to Collective Bargaining Agreement no. 109 in the private sector, the law applies to workers under employment contracts not covered by collective bargaining agreements and joint committees, excluding specific categories such as those employed for less than six months or dismissed for serious misconduct. Employers failing to provide automatic notification of reasons for dismissal may face compensation liabilities from up to 17 weeks salary.

Workers must prove dismissal was manifestly unreasonable unless reasons were not automatically communicated, shifting the burden to the employer. Additionally, workers have the right to be heard before dismissal, with penalties for non-compliance. Effective May 1, 2024, public sector employers must comply with the law, ensuring fair dismissal procedures, including timely hearings and clear communication of reasons for dismissal.

Read More

The new law ensures fair dismissal practices for public sector contract workers, mirrors private sector rights, and increases transparency and accountability in employment decisions.

COURT

Brussels Labor Court echoes CJEU ruling regarding wearing religious symbols at the workplace

In November 2023, the CJEU issued a crucial decision on religious symbols in workplaces, especially in Belgium's public sector, affirming the permissibility of a neutral policy without discrimination. This resonated in a recent ruling by the Brussels Labor Court.

The case involved a municipal employee's request to wear a headscarf, which the municipality denied, enforcing an "exclusive neutrality" policy barring conspicuous signs of convictions. Initially deemed direct discrimination by the Liège Labor Court, the CJEU clarified that while a ban on religious signs doesn't inherently discriminate, it could indirectly do so if disproportionately affecting certain religions.

Member States have discretion in promoting neutrality, with a consistent ban potentially justified. On February 15, 2024, the Brussels Labor Court upheld the ban, aligning with the CJEU's stance.

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Bosnia and Herzegovina

The Supreme Court of the Republic of Srpska emphasizes the right of employees to change their position and the strict requirements for evidence in labor disputes.

COURT
Dismissal based on termination of a work position

The Supreme Court of the Republic of Srpska has ruled that the termination of a work position automatically results in the termination of the need for the work of the employee assigned to that work position. Therefore, the employment relationship can be terminated because the employee's work is no longer required. However, an employee has the right to be assigned to another suitable position by the employer. If there is no other suitable position, the employee may be dismissed.

In a labor dispute, a dismissed employee who claims that there was another suitable work position with the employer to which he or she could have been assigned is obliged to specify that position. Allegations that the employer has hired new employees, without any indication of the specific work position to which the employee whose employment relationship has been terminated could be assigned, will not be sufficient for the court to grant the claim. In addition, the employee must prove that he or she meets the requirements for another work position to which he or she could have been assigned after the previous work position was abolished.

COURT
Notification on the reasons for the termination of the employment agreement

The Supreme Court of the Republic of Srpska has issued a verdict stating that the decision to terminate the employment relationship was unlawful because it was made before the employee had the an opportunity to respond to the allegations in the notice of the reasons for termination. The verdict found that the eight-day period given to the employee to respond had not expired, so there was no legal basis for terminating the employment relationship.

The procedure for terminating an employment relationship was confirmed by the judgment. Prior to terminating the employment contract, the employer must provide written notice to the employee outlining the reasons for termination.

The employer must state the grounds for termination, along with the facts and evidence that indicate the conditions for termination have been met, as well as the deadline for responding to the notification.

The employee must be given at least eight days from the date of receiving the notice to respond to the allegations. Before the end of this period, the employment agreement cannot be terminated.

The Supreme Court of the Republic of Srpska ruled that terminating the employment before the expiration of period in which the employee had a chance to respond to the allegations was illegal.

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Croatia

COLLECTIVE AGREEMENTS

A new Fundamental Collective Agreement for public services has been signed

On 1 March 2024 the new Fundamental Collective Agreement for public services was signed, and it has been in force since the same date (Official Gazette 29/2024). This Agreement establishes the rights and obligations arising from and based on the work of employees in public services to whom the Act on Salaries in State and Public Services applies, i.e. for whose salaries and other material rights funds are provided in the state budget. The new Act on Salaries in State and Public Services entered into force on 1 January 2024.

The Agreement was harmonized with the aforementioned Act in such a way that salaries and salary supplements were increased by a record percentage. In addition, the new Agreement ensured several new rights, for example, if the Government of the Republic of Croatia contracts material rights with state service unions more favorable than those contracted for employees in public services, these rights will be equally also apply to employees in public services (reciprocity between public services and the state service). First payments of such increased salaries are planned for April.

Read More

LAW

Abolition of the so-called "slave-holding contracts" in healthcare

Amendments to the Law on Health Care (Official Gazette 36/2024) regulate the specialization of health care workers like physicians, specialists, residents (hereinafter: physicians). The above amendments will enter into force on 2 April 2024. As a result of the aforementioned amendments, the costs of specialization will be reduced to the real financial costs only. Therefore, in case of termination of the employment contract before the end of the contractual work obligation, the physician will be obliged to reimburse to the health care institution only the real costs of specialization, without any other additional costs. On the contrary, prior to the aforementioned amendments, every physician was obliged to work in the hospital that sent him for specialization for the agreed number of years, but if they terminated the contract earlier, they were obliged to repay the costs of both salary and specialization, which amounted to up to EUR 100k. Therefore, this was an unfair burden for young physicians.

Read More

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Cyprus

LAW

Parallel employment

Only in limited circumstances can an employer effectively restrict an employee's statutory right to parallel employment.

Law 25(I)/2023 now expressly recognizes that an employer cannot prohibit an employee from taking up employment with other employers outside the working hours established with that employer, nor subjects the employee to adverse treatment for doing so.

Through incompatibility restrictions, employers can validly limit the employee's statutory right of parallel employment provided that they: (i) do not result in a blanket prohibition on parallel employment; and, (ii) are specified in writing at the commencement of employment; and, (iii) are supported by specific and objective reasoning; and (iv) are substantiated on grounds of health and safety, protection of business confidentiality, integrity of the public service or avoidance of conflict of interest.

LAW

Transition to another form of employment

An employee with at least six months of employment with the same employer which has completed the probation period (where such period is envisaged in the agreed employment contract) may request a form of employment with more predictable and secure working conditions where one is available and receive a reasoned written reply on such request by the employer.

Pursuant to Law 25(I)/2023, the employer must provide such reasoned written reply within one month of the employee's request. It is noted that: (i) the reply timeline of one month applies to all employers, including natural persons acting as employers and micro, small, or medium enterprises, and is not subject to a statutory extension; and, (ii) does not cater for, and is not permissible of, an oral reply by the employer, whether it relates to a first or to a subsequent similar request submitted by the same employee.

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Czech Republic

LAW
New requirements for the operation of employment agencies

The beginning of 2024 brought significant changes to the licensing of employment agencies. Applicants for agency licenses must prove that they are debt-free, have a clean criminal record and are competent to conduct employment agency business.

The requirement to be free of debt must be maintained throughout the duration of the agency business, and the Ministry of Labor is to review this requirement every six months. The requirement of no criminal record, which previously applied only to employment agencies as legal entities, now also applies to members of statutory bodies or representatives of legal entities, such as managing directors.

The requirements for the qualifications of the responsible representative of the agency have also changed. This person (who guarantees that the agency meets professional standards) is now required to have at least two years of experience (at least 50% of the working time) in the staffing industry in the last 10 years before applying for authorization.

COURT
New development in agency workers' right to similar pay

A recent judicial decision of the Supreme Administrative Court overrules a previous decision of the SAC. The law says that employees in comparable positions should be rewarded equally. However, the SAC's previous case law stated that unequal pay for temporary workers was permissible for a number of reasons, including their ability to operate machinery, level of experience, performance, reliability, degree of attachment and loyalty to the employer, or ability to deal with non-standard situations. That supported the argument that basic characteristics of agency employment, such as temporary nature, may be sufficient grounds for unequal pay.

The new decision emphasizes that if an employer intends to pay agency workers a lower wage, this disadvantage must be compensated by benefits similar to remuneration for the work performed. The SAC thus supported the need for equal treatment and also rejected the argument that standard non-monetary benefits are sufficient compensation.

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France

LAW
Unemployment insurance reform

The French government has announced that a new reform of the unemployment insurance system will be launched before the summer. The stated aim is twofold: to create budgetary room for maneuver and to further encourage people to return to work quickly.

Pell-mell includes several measures to reduce the rights of the unemployed: (i) reducing the duration of unemployment benefits, currently set at 18 months; (ii) aligning the duration of unemployment benefits for the over-55s, which is 27 months, with that of other unemployed, which is 18 months; (iii) strengthening the rules for the degressivity of benefits, which are paid the longer the period of unemployment; (iv) introducing rules for receiving unemployment benefits when several job offers are rejected: an increase in the Contribution Sociale Généralisée (CSG), a social contribution deducted from unemployment benefits each month, whose rate is currently lower than the CSG deducted from the salaries of working people.

A French Supreme Court decision mandates that severance pay for expatriates be calculated based on their last salary, including abroad, ensuring fair compensation upon dismissal post-expatriation.

COURT
Severance pay for expatriates

Severance pay for expatriates is always calculated based on the expatriate's last salary.

As a reminder, under French labor law, if an employee is dismissed by the subsidiary to which he or she is sent abroad, the French parent company, which was his or her employer before the expatriation, must arrange for his or her repatriation and provide him or her with a new job compatible with the importance of his or her previous duties. If the French parent company also intends to terminate the original French employment contract that existed before the expatriation, it must comply with the legal rules on dismissal.

In this case, according to a decision of the French Supreme Court dated March 6, 2024, the severance pay to which the employee is entitled in the event of his dismissal by the French company upon his return from the expatriation must be calculated by reference to the salaries received in his last job, i.e.

considering the salaries received during the expatriation.

Although the employee's French employment contract provided that, in the event of dismissal, severance pay would be calculated solely based on the reference salary paid in France, the French Supreme Court ruled that this clause was illegal.

COURT
Employee image rights

Companies are increasingly tempted to use employees' images to promote the company's values, working conditions, quality of life at work, etc. However, such use must be subject to the employee's prior consent, which must be obtained by the employer. Otherwise, the employee is entitled to compensation, as recently confirmed by the French Supreme Court in a decision dated February 14, 2024.

In this case, an employee claimed damages for the unauthorized use of his photograph in a presentation brochure distributed by the company to its clients.

The employer was unable to prove that it had obtained the employee's prior consent, which in itself constituted an infringement of the employee's image rights justifying compensation. Employers should be vigilant before publishing photographs of employees and never assume implied consent, which would be worthless in the event of a dispute.

The mere fact that an employee's image rights have been violated gives rise to a claim for damages.

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Germany

COLLECTIVE AGREEMENTS
Strikes and unions

In Germany only around half of all employment relationships are covered by collective agreements. In many sectors and in many companies there are no collective agreements at all, or only very limited ones. The many strikes that are currently taking place only affect certain sectors in which there is a very high level of collective bargaining coverage, particularly the public sector, local and long-distance public transport and air transport. There is also the difficulty that there are trade unions that only represent individual occupational groups.

Strikes may only be carried out and organized by trade unions. They may only serve the purpose of reaching a collective agreement on a specific issue. It is not permissible to strike for political or social reasons (a "climate strike" is not legally a strike). Collective agreements can be concluded between trade unions on the one hand and employers' associations or individual employers on the other. Lufthansa or Deutsche Bahn conclude collective agreements as individual employers. In other sectors (e.g. metal, chemicals), collective agreements are typically concluded with an industry association of employers. Collective agreements also often vary from region to region.

LAW
Recording of working time

Employers are obliged to record the working hours of their employees. This applies not only to overtime (this is already regulated by law), but also to regular working hours. This follows from the decisions of the European Court of Justice and the Federal Labor Court on working time. At present, there is still no legal regulation on how exactly working time is to be recorded (technical or manual recording). It is therefore currently sufficient for employees to record their working time themselves, e.g. in an excel sheet, and make this available to the employer. Larger companies have a time recording system anyway. It is expected that there will soon be a statutory regulation on time recording, in which technical specifications should then also be made.

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Greece

COURT
Usage of personal data as evidence in labor disputes

In a recent ruling, decision No. 714/2022, the Greek Supreme Court addressed the usage of personal data as evidence in labor disputes. It was determined that the acquisition of personal data, such as payroll receipts, of employees not involved in the dispute by the employee-plaintiff without the consent of the concerned data subject or the employer, who is the data processor, is deemed a violation of the personal data protection framework.

Consequently, the court declared that any evidence obtained in this way was illegal and could not be used in employment cases.

COURT
Geolocation data processing

The Hellenic Data Protection Authority has recently made two noteworthy decisions regarding the use of geolocation systems in company vehicles provided to employees for the performance of their duties. The decisions (6/2024 and 7/2024) addressed the issue of the lawfulness of processing location data outside working hours. The Data Protection Authority emphasized that as location data is sensitive in nature, there may not be an appropriate legal basis for processing it, and therefore, its use should be exceptional. Additionally, the Hellenic DPA reiterated the conditions of lawfulness for such processing. Employers must inform their employees of the purpose of the procedure, the type of data recorded, how long these data are kept, and the procedure for exercising the right to data protection by the employee of the right of access. The information must be individual and reasonably certified.

Geolocation data from company vehicles can be processed by employers as an exception, subject to strict compliance requirements, including informed consent and clear communication with employees.

LAW
New Immigration Code

Law 5038/2023, i.e., the new immigration code became effective on March 31, 2024. This new legislation offers several provisions that are of interest to employers, particularly those looking to recruit non-European Union personnel.

The new provisions build on the experience gained during the implementation of Law 4251/2014 (previous immigration code) and introduce new substantive provisions.

One of the most significant changes is the consolidation of all existing categories of residence permits into a single text, which promises to simplify the administrative process for employers and employees alike.

Additionally, new provisions have been introduced that extend the initial residence permit from two to three years. Overall, the new Immigration Code represents a significant step forward in the integration of non-European Union personnel into the Greek labor market. Employers and employees alike should take note of these developments and prepare accordingly.

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Hungary

LAW
Revised documents retention rules for social security pension benefits

According to the provisions of Act LXXXI of 1997 on Social Security Pension Benefits, which entered into force on 1 January 2024, employment documents, data and employment certificates relating to the insured person's insurance status and containing information on the length of the service or income taken into account for the determination of the pension benefit, must be kept for five years after the insured person or former insured person reaches the retirement age.

This obligation represents a significant administrative burden for employers in Hungary, as various valuable labor and social security documents were not kept electronically, despite their essential role in determining pension entitlements. This requirement for employers will be phased out under an amendment to the Act, effective 1 January 2025. Henceforth, the obligation to retain documents will only apply to those created up to 31 December 2024. The data necessary for determining retirement pensions are and will be stored in state registers.

LAW
Occupational safety training

On the basis of its Decree No. 6/2024 (8.II.), the Ministry of National Economy has already published the material on general occupational safety training topics that correspond to the compulsory occupational safety training. However, this material only covers office work, workplaces and teleworking with IT equipment in the context of organized work. In other words, this material covers only the safety requirements for workers using IT technologies, and can be applied to both office work and telework.

Occupational safety training for workers in these occupations can be replaced by providing workers with the above-mentioned material prepared by the Ministry of National Economy and is available in Hungarian on its occupational safety website. However, it is important to note, that in other cases, the provision of this material is not a substitute for occupational safety trainings.

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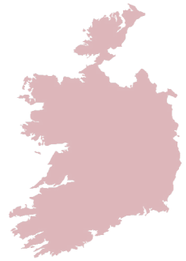
Ireland



COURT
Breach of Sick Leave Act

A staffing agency has become the first company in Ireland found to be in breach of new Sick Leave Act, which came into force last year. The Act provides that employers must pay a worker 70% of an employee's wages while out sick – subject to a EUR 110-a-day cap – for five days per year (the entitlement will eventually rise to 10 days' per year in 2026).

The complainant alleged he was not paid statutory sick leave in accordance with the 2022 Act and that the payments made were inaccurate. The complainant also alleged he was penalized for utilizing his sick leave entitlement.

The respondent fully accepted its failure in this regard and had paid the amount in full by the time the Workplace Relations Commission hearing commenced. In relation to penalization, the Adjudication Officer did not find any evidence of this, so the penalization complaint was not upheld. The Adjudication Officer accepted that the complainant was frustrated and upset and noted the effort it took to be paid his legal entitlement and as such, compensation was awarded in the amount of EUR 450.

LAW
Commencement of remote and flexible working provisions

The remote and flexible working provisions outlined in the Work Life Balance Miscellaneous Provisions Act 2023 have recently come into effect, following the release of a Code of Practice by the Workplace Relations Commission ("WRC"). All employees are entitled to request remote working arrangements, while parents and carers can request flexible working arrangements for caregiving purposes. Flexible working arrangements can be requested in two situations: to care for a child and to provide personal care or support for medical purposes.

The WRC's Code of Practice provides guidelines for employers on evaluating employees for flexible and remote work, allowing for compensation awards if requests are mishandled, with caps of 20 weeks for flexible and 4 weeks for remote work requests.

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Italy

Important legal frameworks introduced on March 3, 2024: one ensuring fair pay for contract workers across sectors, and the other mandating labor cost verification in construction contracts.

LAW
The responsibilities of principals in case of contracts for works or services have been stiffened

According to the March 3, 2024 decree (immediately enforceable but subject to conversion) staff employed in contracts for works or services (as well as sub-contractors' employees) shall be entitled to an economic treatment at least equal to that provided by the national and territorial collective agreements most widely implemented in the same business field and in the area whose scope of application is closely related to the activity covered by the services or work contract. In essence, the decree established a minimum remuneration parameter.

LAW
Verification of the adequacy of the incidence of labor on the value of construction works

According to the March 3, 2024 decree, in the context of construction works, principals (in private contracts) and respectively, project managers (in public contracts), shall have to verify the adequacy of the incidence of labor on the relevant construction work, before proceeding to complete payment. In private contracts with a value of at least EUR 500,000, payment of the final balance in violation of said verification shall be punishable with an administrative penalty of EUR 1,000 to 5,000 to be paid by the principal.

LAW
License based on health and safety points

As of 1 October 2024 companies who intend to operate within construction or civil engineering work sites will have to obtain a special points-based license. The license will be regulated by a decree of the Ministry of Labor, and to obtain it companies will need to prove compliance with training obligations, possession of the DURC (regularity of contributions), DVR (risk assessment), DURF (fiscal regularity) documents. The license will have an initial score of thirty points, that may be reduced in the event of violations; at least 15 points will be required to operate on construction sites.

Points deducted may be reinstated by following appropriate training courses. Points can be increased where violations and accidents are not incurred and also by having an organization and management model. The points-based license is not necessary for companies whose organization and quality have been certified.

COLLECTIVE AGREEMENTS
National collective bargaining agreement for employees of tertiary distribution and service companies

On 22 March, the employers' associations and the unions signed the renewal of the Collective Bargaining Agreement for tertiary and commerce employers, affecting more than 3 million workers. The renewal will now be submitted to workers' approval. It provides for increases distributed in six installments between 1 April 2023 and 1 February 2027. For employees graded "4th" level, the total increase will be EUR 240 per month, along with a one-time amount. The agreement regulates the possibility to offset increases with amounts already granted by employers.

The agreement also modifies various other contractual aspects, including leaves of absence for women victims of gender-based violence, the possibility of conciliations of labor disputes by remote or telematic means, grounds for fixed-term employment agreements longer than 12 months, the expansion of cases of seasonal fixed-term agreements, and an update of sample occupational profiles in the classification of workers.

COLLECTIVE AGREEMENTS
National collective bargaining agreement for food industry workers

On 1 March 2024, an agreement was reached to renew the Collective Bargaining Agreement for the food industry sector, which includes about 400,000 employees.

The agreement, among the rest, provides for an increase, over a four-year period, of EUR 214 (for the relevant reference grade), a 25% flexibility cap (of permanent contracts on a company basis) in order to assess the maximum use of fixed-term contracts, staff leasing and fixed-term temporary agreements, and an increase in the contribution to the relevant Health Fund, in favor of maternity and paternity, and the relevant supplementary pension fund.

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Liechtenstein

Craftsmen in Liechtenstein work a maximum of 48 hours per week, office workers 45 hours.

LAW
Maximum working hours in Liechtenstein

In order to protect the health of employees and guarantee them a social life, the Liechtenstein Labor Act stipulates minimum rest periods. There are exceptions to the maximum weekly working hours as well as to Sunday and night work.

Working time is defined as the time during which the employee must be available to the employer. However, the journey to and from work does not count as working time. If the work has to be carried out away from the usual place of work and the travelling time is therefore longer than usual, the difference in time is considered working time. By law, daytime work in a company may generally not start before 6 a.m. and may not last longer than 11 p.m. The start and end of the company's daily working hours can be set differently between 5 a.m. and midnight if agreed differently among the concerned parties. The maximum daily working time is 17 hours. The daily work of the individual employee, including breaks and overtime, must be within 13 hours.

The maximum weekly working time in Liechtenstein is 45 hours for employees in industrial companies, for office staff, for technical and other employees including sales staff in large retail companies (retail trade), 40 hours for young people between the ages of 15 and 18 and 48 hours for all other employees

However, the maximum limit does not apply to senior executives (those who, by virtue of their position and responsibilities have broad decision-making powers or can significantly influence decisions of major importance).

LAW
Employment law sources in Liechtenstein

Employment law basically regulates the relationship between employees and employers. Employment law in Liechtenstein is anchored in various legal sources. Broadly speaking, it can be divided into private and public employment law.

Private employment law is primarily governed by the General Civil Code (Allgemeines bürgerliches Gesetzbuch, ABGB) in § 1173a Art. 1 ff.

The individual employment contract is created by mutual declarations of intent between the employer and employee. In principle, the parties are free to formulate their contract as they wish, but the employment contract may not contradict mandatory provisions of the General Civil Code and the provisions of a collective employment agreement.

Claims under private employment law must be enforced in court.

Public employment law includes employee protection law. This includes, among other things, the Labour Act and the associated ordinances. Deviations from these mandatory minimum regulations may only be made in favor of employees. These protective provisions must be enforced ex officio.

The Liechtenstein Office of Economic Affairs is the competent authority for questions relating to public employment law.

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Lithuania

If illegal labor is detected, employers face consequences, such as being placed on the list of unreliable taxpayers, leading to severe restrictions on participation in public contracts, among other things.

GUIDELINES
Consequences of illegal work

Illegal work is harmful to the state, the employee, and the employer. Illegal work results in a fine of between EUR 1,000 and EUR 5,000 for the natural persons responsible (employers or their representatives). The employer – a legal person – is liable to a fine of between EUR 868 and EUR 2,896 for each person who works illegally.

On 12 March 2024 the State Labor Inspectorate of the Republic of Lithuania published a notice reminding employers of the negative consequences of illegal work. The notice indicates that besides fines, employers will be subject to additional measures. If illegal work is detected, employers will be added to the list of unreliable taxpayers, which will result in restrictions on participation in public procurement, denial of the status of beneficiary, denial of work permits and decisions on work compliance, and denial of temporary residence permits to foreigners whom they intend to employ. Employers should therefore be aware that illegal and undeclared work is not only a punishable offence but can also result in other restrictions.

GUIDELINES
Different types of leave

The Lithuanian labor law provides for different types of leave. Employees may be granted longer annual leave, extended leave, or additional leave, depending on the circumstances. The specialists of the State Labor Inspectorate note that, regardless of the specified holidays, in accordance with Article 138(5) of the Labor Code, labor legislation norms or employment contracts may provide for longer duration and other types of holidays, additional allowances for choosing annual holidays and higher payments for annual and special holidays than those provided for by the Labor Code of the Republic of Lithuania.

In addition, collective agreements may provide for additional benefits for employees, for example, medical leave, which are currently not regulated by the Labor Code. Employers should therefore note that they always have the possibility to create more favorable conditions for employees.

Disputes over fines imposed by the Labor Disputes Commission for failure to comply with its decisions should be handled through petitions rather than claims.

COURT
On the nature of a fine imposed by the Labor Disputes Commission for non-compliance with a decision

On 19 March 2024, the Supreme Court of Lithuania issued a ruling on the nature of an application for a fine imposed by the Labor Disputes Commission for non-compliance with a decision and on the court that has the right to consider the application.

In the decision, the court stated that an individual labor dispute over a law and a dispute (in the broadest sense) over the application of the consequences of non-compliance with a decision issued because of a labor dispute over a law - the imposition of a fine on the employer - cannot be identified. The issue of the imposition of a fine is not related to the employer's violation of its obligations arising from the employment relationship, but to the failure to comply with the decision of the authority that has resolved the labor dispute.

The court held that the appeal against the decision of a labor dispute commission, which, based on a request submitted by the employee, decided on the issue of imposing a fine on the employer, should be submitted to the court by way of a petition and not by way of a claim. Consequently, the rules of jurisdiction do not apply, and the territorial jurisdiction of the application is not regulated by law.

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GUIDELINES
The role and limits of non-competition clauses in employment contracts

The contractual ban on competitive actions, or in practice known as a non-competition clause, in practice is increasingly becoming an integral part of the employment contract for a large number of employees. It is a kind of mechanism and means of protection of interests against unfair competition. However, it should simultaneously protect the rights and interests of the employee and cannot and should not be used as a mechanism and remedy for intimidation or coercion towards employees in the context of exercising their employment rights.

If an employee acquires technical, production or business knowledge and business contacts in the course of or in connection with his work, the employer and the employee may agree in the employment agreement on the prohibition to perform competitive actions after the employment relationship is terminated (i.e. a non-competition clause).

The non-competition clause can be agreed for a maximum period of two years after the termination of the employment agreement, and only in cases where the employment agreement of the employee is terminated by her or his own will or fault.

If compliance with the non-competition clause prevents the employee from earning an adequate income, the employer is obliged to pay the employee monetary compensation for the entire period of compliance with the non-competition clause.

Non-competition clause balances between protecting business interests and ensuring employee rights, and shapes the post-employment landscape for both parties.

GUIDELINES
How many times probation period can be arranged with the same employer?

According to Article 60 of the Law on labor relations, when concluding an employment contract, the employer and the employee may agree on a probation period. The probation period may not exceed four months or three working days in the case of seasonal work. Probation employment may be continued only in case of justified absence from work (illness, etc.).

Probation period does not have to be agreed only when the employment relationship is first established with the same employer, but the employer can agree a probation period with the employee when a new employment contract is concluded for the performance of work obligations for a job in which the employee has not previously worked, and are for the purpose of checking the work abilities of the employee that the new job requires. This is because, when changing the workplace with the same employer, it is necessary to conclude a new employment contract which will determine the rights and obligations arising from the new workplace for which the employee will conclude a new employment contract.

The probation period may not exceed four months or three working days in the case of seasonal work.

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Norway

From 1 July 2024, employment agreements in Norway must comply with the EU Working Conditions Directive, necessitating detailed inclusions about wages, hours, work location, and employee rights.

LAW
Changes to the requirements for the employment agreement

There will be changes to the requirements for the employment agreement as from 1 July 2024, and employers should start preparing now. The changes implement the EU Working Conditions Directive.

The employment agreement needs to contain/refer to a number of items of information. The various salary elements must be stated separately. If daily and weekly working hours vary, this must be stated, as must arrangements for shift changes and arrangements for working beyond agreed hours, including payment.

If there is no specific place of work, the employer must inform that the employee can work in different places or that the employee is free to decide. The procedure for dismissal must be communicated. Information must also be provided about the right to skills development (training) offered by the employer and the right to paid leave. The employee shall be informed of benefits offered from employer for social security and names of the institutions delivering this.

New rules also on what needs to be included in the employment agreement for posted employees. If an employee is hired from a staffing agency, the hirer's identity must appear in the employment agreement.

The requirements apply to new employment agreements entered into on or after July 1, 2024.

COURTS
Supreme Court Decision on whistleblowing

In Norway we have recently had a case in the Supreme Court on what is to whistle blow under the Norwegian employment law. The question was whether an e-mail with critical content from an employee representative to the management was a report of an issue of concern within the meaning of the law. The court confirmed it was.

The court determined that it is not required that the employee representative must express themselves clearer than other employees.

It was also affirmed that there are no specific clarity requirements for notification, and the threshold for what is considered a notification is low.

The court also mentioned that a specific interpretation of the statement must be made. The decisive factor is whether there are reasonable grounds for the employer to perceive the statement as a warning of censurable conditions, based on, among other things, the words and context.

Whistleblowing includes critical emails from employee representatives to management, setting a low threshold for what constitutes a report.

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Poland

LAW
A four-day working week in Poland - is it possible?

The Minister of Family, Labor and Social Policy has recently announced that she would like to introduce a four-day work week during this year. At this stage, analyses of such a solution are underway at the Central Institute for Labor Protection, and programs to shorten the work week in some private entities are under observation. According to the Ministry's statement, it seems more reasonable at this point to shorten the work week to four days instead of reducing the number of working hours from 40 to 35 hours.

The Minister described shortening the work week as a social investment. Such a solution would, in her opinion, help improve occupational diseases and demographics.

It should be emphasized that the Minister spoke only on her own behalf and the above position is not that of the entire government. Nevertheless, the introduction of such a change would be a dramatic change for all employers and employees.

GUIDELINES
Flexibility in compensating private leave

On 22 February 2024, the Polish National Labor Inspectorate (GIP) updated its interpretation of Article 151 § 21 of the Polish Labor Code regarding private leave. It now supports the idea that employees can arrange to work additional hours in advance to "pre-compensate" for future personal time off, rather than compensating after the fact. While this allows greater flexibility for balancing work and personal life, it also introduces the possibility of unintentional overtime should the anticipated leave not be taken, for which employers would need to offer compensation. This pro-employee stance is subject to employer approval and must be outlined in company policies or agreements with workers.

LAW
Upcoming deadline for verification of personal data of employees with disabilities

On 4 May 2024, Polish employers must complete the first mandated review of personal data for employees with disabilities, as required every five years by the 2019 amendment to the Act on Vocational and Social Rehabilitation and Employment of Disabled Persons. This review targets data processed for employees with disabilities, including for contributions to the State Fund for Rehabilitation of People with Disabilities (PFRON), social security reimbursements, and additional employment costs. The scope of this audit extends to current and former employees, job applicants, and their families, addressing data processed under the Act. This initiative reflects the employer's dedication to the secure and ethical management of sensitive employee data, emphasizing the significance of thorough preparation and adherence to legal standards. It not only meets legal obligations but also underscores an organization's commitment to protecting the rights and data of employees with disabilities.

COURT
Effects of not keeping records of an employee's working time for a claim for overtime pay

According to the Polish Labor Code, employers are mandated to maintain accurate records of employees' working hours. A recent judgment by the Supreme Court, in case reference II PSKP 34/22, addressed the ramifications of an employer's failure to document working hours in the wake of an employee's claim for overtime. This decision underscores that an employer's lack of record-keeping does not automatically validate an employee's claim in disputes over overtime. The verdict clarifies that the absence of records alone does not permit the courts to solely rely on the employee's assertions regarding overtime work without further or overtime compensation.

LAW
Extended support for Ukrainian citizens in Poland

On 22 February 2024, Poland enacted amendments to the law aimed at assisting Ukrainian citizens affected by the armed conflict in their homeland. These revised provisions extend the legality of the stay for Ukrainian nationals until June 30, 2024. The rationale behind the legislation indicates ongoing efforts to further prolong protection until March 4, 2025.

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Portugal

Employers cannot deny remote work requests from employees who meet the legal requirements.

LAW
The right to remote working

As of 2021, the Portuguese Labor Code provides for the right of certain employees to work remotely.

In its original version, this right was provided, as a general rule, for employees who were victims of domestic violence, provided that a criminal complaint had been submitted and the employee had left the family home, as well as for employees with children up to the age of three. In both cases, the right to telework depended on the compatibility between the remote work regime and the activity carried out by the employee.

Currently, and since May 2023, the right to teleworking has also been extended to employees with children with disabilities, chronic illnesses or oncological diseases who live with them in a communal household, regardless of the child's age, where the requirement of compatibility between the teleworking regime and the activity performed also applies.

Finally, it should be noted that the request of employees who meet these requirements cannot be refused by the employer.

LAW
Working on digital platforms

Although Portuguese labor legislation already establishes the presumption of the existence of an employment contract upon verification of some of the characteristics set out in the Labor Code, in May 2023 a new provision was introduced that specifically regulates the presumption of an employment contract in the context of a digital platform.

Under this new provision, if the relationship between the activity provider and the digital platform (a collective entity that provides or makes available services at a distance, by electronic means) meets some of the characteristics set out in the law, an employment contract is presumed to exist.

The characteristics in question relate, namely, to the platform setting the remuneration for the work carried out on the platform; the exercise of power of direction and determination of specific rules by the platform on how the activity is carried out; control and supervision by the platform over the provider; restriction of the activity provider's autonomy in terms of the organization of work.

There are currently hundreds of lawsuits before the Portuguese courts, aimed at assessing the existence of employment contracts between digital platforms and activity providers, and it is expected that, by the end of the year, it will be possible to have a better understanding of how the courts will interpret these legal relationships.

Portugal updated its labor law to include a provision that presumes the existence of an employment contract between digital platforms and service providers if certain criteria are met.

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Slovakia

The bill raises the minimum monthly wage to 60% of the average wage in the economy two years ago.

LAW

Implementation of the European Union adequate minimum wage directive in the Slovak Republic

Following Slovakia's commitment to implement the Directive of the European Parliament and of the Council on an adequate minimum wage in the European Union, the government of the Slovak Republic has prepared a draft law amending and supplementing certain acts.

A significant change with a direct impact on employers resulting from the draft amendment is the setting of the monthly minimum wage at 60% of the average wage in the economy two years ago (currently the minimum wage is set at 57%).

The increase of the minimum wage will also have an impact on the increase in wage compensation, the provision of which is linked to the amount of the minimum wage.

Another important change is the reintroduction of the extension of the binding effect of so-called higher-level collective agreements by designating a representative collective agreement. Such a collective agreement should apply to entities in the sector that do not have their own higher-level collective agreement.

The draft amendment also regulates other areas, in particular to increase the level of collective bargaining coverage (the Directive requires 80% coverage), to improve the quality of social dialogue and to regulate other topical labor law issues.

The draft amendment has not yet been adopted by the Parliament and is currently subject to comments and negotiations between the social partners.

COURT

Impediments to work on the part of the employer

The Slovak Labor Code provides for so-called impediments to work on the part of the employer. One of them is the situation when the employee was unable to perform work due to impediments on the part of the employer other than those mentioned in the Labor Code; in this case, the employer must grant him or her wage compensation in the amount of his or her average earnings (e.g. this impediment should be applicable in the situation, when the employer does not want the employee at work because of loss of trust – especially during the notice period).

Court said that the employee may have another employment contract with another employer (during such an impediment) and this fact in itself does not cause the reconsideration of the employer's

Court said that the employee may have another employment contract with another employer (during such an impediment) and this fact in itself does not cause the reconsideration of the employer's impediment to the employee's impediment.

What matters is whether the employer has invited the employee to return to work and whether the employee is ready, willing and able to perform the work under the employment contract (e. g. even during the notice period).

The reasons for applying obstacles to work must be assessed separately for each employment relationship entered into by the employee.

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Spain

COURT
Application of non-competition agreement after termination of employment relationship

The Supreme Court ruling (Social Chamber) no. 144/2024 of 25 January 2024 analyzes a case in which an employee claims financial compensation based on a post-contractual non-competition agreement. The employee, who had served as content director for a media company, announced his resignation. Subsequently, the company informed the employee that, by virtue of the agreement signed by the parties, it would not exercise its right to maintain the validity of the non-competition agreement, which would lead the employee not to receive the compensation provided for therein.

While the Social Court upheld the employee's claim, considering that the company cannot unilaterally decide not to maintain the validity of the post-contractual non-competition agreement, the Social Chamber of the Superior Court of Justice of Madrid repealed this decision, arguing that the company has the right to exercise this option, since it was expressly provided for in the agreement and did not imply breach of a contractual obligation.

Finally, after the appeal filed by the employee, the Supreme Court determines that the contractual provision that allows the company to decide unilaterally on the validity or not of the post-contractual non-competition agreement is null, in compliance with the general principle (contained in article 1256 of the Code Civil) that prevents the validity and compliance of contracts from being left to the discretion of one of the contracting parties. In this way, the employee's appeal is upheld, and the ruling of the Social Court is confirmed, condemning the company to pay the compensation agreed upon in the post-contractual non-competition agreement.

LAW
Implementation of the LGTBI protocol

On 2 March 2024 it became mandatory for companies with more than 50 employees to implement measures and resources to achieve real and effective equality for LGTBI people, which includes a protocol for action to address harassment or violence against this collective. This obligation was introduced in Law 4/2023, of February 28, for the equality of trans people and for the guarantee of the rights of LGTBI people. The measures must be agreed upon through collective bargaining and must be agreed with the legal representation of the employees. Notwithstanding the above, we are still waiting for the regulatory development of this obligation in order to know the concrete measures and procedure that must be adopted.

COURT
The unjustified refusal of the employee's request for a working day adaptation

In the case prosecuted, the employee exercised her right to adapt her working day, in accordance with article 34.8 of the Workers' Statute, asking for working just in the morning shift, with the purpose of caring for her five-month-old daughter, combining it with the schedule in which she remained in the nursery school. The employee's former schedule consisted of rotating shifts from Monday to Saturday, alternating one week from 9:30 a.m. to 3:00 p.m. and another from 4:30 p.m. to 10:00 p.m. However, the company´s collective bargaining agreement (CBA) established that the right to adapt the working day must be limited to the assigned shift as this had been done until the date of this ruling.

The company denied the employee's request based on the provisions of the CBA, without alleging objective, organizational and reasonable grounds regarding the impossibility to accept the requested adaptation of the working day.

The Superior Court of Justice confirmed the ruling handed down at the lower court, understanding that denying this type of request based solely on the aforementioned conventional provision is unfounded and contravenes the literality of article 34.8 of the Workers' Statute. Finally, concludes that the corporate behavior also shows a clear lack of negotiating willingness on its part.

Judgment of the Superior Court of Justice of the Canary Islands, Las Palmas de Gran Canaria, (Social Chamber) no. 52/2024, of January 18, 2024, Rec. 1134/2023.

The Superior Court of Justice ruled against a company for unfairly rejecting a worker's request to adjust her working hours to care for her children, citing a lack of objective reasons and violating the Workers' Statute, highlighting the company's unwillingness to negotiate.

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Switzerland

Companies with an apprenticeship training permit have now the possibility to employ young people from the age of 15 for hazardous work, even as part of transitional training, under strict conditions.

LAW
Young workers will be allowed to do dangerous work as part of labor market integration measures

In principle, the employment of young people for hazardous work is prohibited. In practice, however, young people should be allowed to perform such work, particularly in the context of transitional training, such as pre-internships, integration pre-internships and training for young people with learning difficulties, disabilities or migration-related problems.

For this reason, and in response to a practical need, the Federal Council adopted an amendment of the Labor Law on February 14, 2024, which allows such work under certain conditions. Young people over the age of 15 will now be allowed to perform hazardous work as part of measures to integrate them into the labor market. The amendment came into force on April 1, 2024.

The new regulation takes these aspects into account and allows companies with an apprenticeship training permit to employ young people from the age of 15 for hazardous work, even as part of transitional training, under strict conditions. In addition, the cantonal labor inspectorate may grant a company an exceptional, temporary, fee-paying permit if the company meets the other conditions and has already taken the necessary steps to obtain an apprenticeship training permit within one year.

LAW
Temporary night and Sunday work permits in case of power shortage

Companies will now be able to obtain temporary permission to work at night and on Sundays if the authorities order measures to prevent or deal with a shortage of gas or electricity as a result of changes to the Labor Law Ordinance that took effect on April 1, 2024. These measures will be the first restrictions imposed by the authorities following calls for voluntary reductions in consumption.

The law now explicitly states that energy shortages constitute an urgent need justifying the issuance of temporary night and Sunday work permits by cantonal authorities. Companies with such permits will thus be able to employ workers in a way that saves energy or reduces peak consumption. This flexibility will make it possible to arrange working hours during periods of low energy consumption, i.e. at night and on Sundays. In the event of shortages, this possibility will help to avoid additional measures such as gas or electricity quotas or rationing, reduced working hours or other punitive measures.

Companies can now obtain temporary permits to work at night and on Sundays if the authorities order measures to prevent or deal with a gas or electricity shortage.

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