


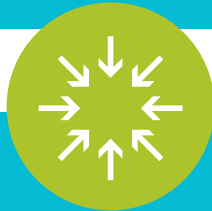



# On your radar

## - key employment issues across Europe

	Development	Description	Effective date	Impact and risk	Future actions
<p>» Belgium</p>					
	<p>New attempt ahead to improve Belgian competitiveness.</p>	<p>On 4 January 2017, a legislative proposal was presented to the Belgian Parliament to modify the Law of 26 July 1996 as to the increase of salary costs (remuneration margin), which is currently calculated according to specific criteria. This proposal to reform the system would lead to a more compulsory and effective maximum margin, by introducing a new calculation method for the remuneration margin to prevent any new unjustified increase in remuneration costs.</p>	<p><b>1 January 2017.</b></p> <p>Although the legislative proposal is still pending, the new legislation will most likely enter into force with retroactive effect.</p>	<p>Employers who exceed the maximum remuneration margin may have to pay a penalty administrative fine ranging between EUR 250 and EUR 5,000. The proposal includes scope for multiplication of these amounts per employee with a maximum of 100 employees.</p>	<p>The maximum margin for the increase in salary costs – salary indexation and seniority-based wage scales not included – is currently set at 1.1% for the years 2017-2018, but may be subject to further implementation at sectoral level. We recommend employers closely follow developments in their sector, and to not increase the total salary cost in 2017-2018 above the current maximum remuneration margin of 1.1%.</p>

Development



Employers should be aware of a new possibility of agreeing conditions that will apply to working time, rest and leave, and the rules impacting the validity of company agreements about these crucial issues.

Description



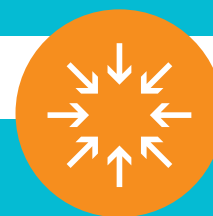
Generally, a company collective agreement must now be signed by trade union(s) representing more than 50% of the votes cast in favour of representative trade union organisations at the latest elections of the works council (or, failing that, of the staff delegates). However, an agreement concluded by trade unions representing more than 30% of the votes cast can still be validated by a referendum organised with employees on the initiative of the signatory trade union organisations, within a period of 2 months.

Effective date



These new provisions apply to collective agreements concluded from 1 January 2017.

Impact and risk



Company agreements now take precedence over national collective agreements for regulations governing working time, rest and leave of absence (overtime, lump-sum agreements, daily rest, night work, etc.). Companies wishing to take advantage of this opportunity to define their own rules on these matters should be considering this issue now, ensuring that collective agreements are approached carefully and in accordance with these new provisions in force.






Future actions



The new majority requirement for the validation of collective agreements will enter into force gradually and will apply to all collective agreements as from 1 September 2019.

» France

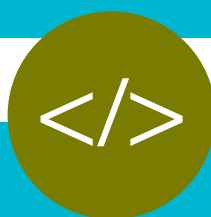
» Germany

Development	Description	Effective date	Impact and risk	Future actions
 <p>German Remuneration Transparency Act (Entgelttransparenzgesetz)</p>	 <p>This act is supposed to reinforce the existing principle of equal pay for men and women for equal work or comparable work.</p> <p>New duties regarding the disclosure of pay structures and promotion of equality will be established for businesses with more than 200 employees, impacting cooperation with works councils, management reports, and payment structures.</p> <p>Additional reporting rules will apply to those with 500+ employees.</p>	 <p><b>Expected in 2017.</b></p> <p>Larger employers having to report, will have to do this for the first time a year later, in 2018.</p> <p>Six months after the act comes into force, employees will be entitled to demand disclosure for the first time.</p> <p>If an employee demands disclosure within the first three years after the effective date, he/she may not demand disclosure again for the next three years. Afterwards, employees may demand disclosure every two years.</p>	 <p>This basic disclosure entitlement includes not only salary of comparable colleagues, but also additional (variable) components, such as bonus or company car. In the event of inequality, the employee is entitled to claim equal pay, including back pay for up to three years, and image damage.</p> <p>Furthermore, employers will be obliged to take steps to eliminate unequal treatment over time.</p>	 <p>Payment structures should be reviewed and adjusted where gender differences are found. Where large employer rules (500+) will apply, employers should prepare to discuss this with works councils, and consider establishing a special committee.</p> <p>We recommend establishing an appropriate process for meeting the demands for disclosure when the act comes into force, remembering that late or inaccurate disclosure might lead to an assumption of discrimination.</p>
<p>Reformation of the German Temporary Employment Act (Arbeitnehmerüberlassungsgesetz)</p>	<p>The reformation of this act leads to some recognisable alterations that imply a legal definition of temporary work and establishes new duties and provisions that might have a huge impact on drafting temporary employment agreements and employment structures.</p> <p>The maximum duration for temporary employment of the same person will be 18 months. Nevertheless, temporary employment periods prior to April 1, 2017 do not count with respect to the equal pay and maximum duration provisions.</p>	<p><b>The effective date will be April 1, 2017</b></p> <p>January 1, 2018 and October 1, 2018 are important dates to remember when the new duties such as the entitlement to equal pay and the maximum duration of temporary employment come into effect.</p>	<p>A deviation from the equal pay principle is in most cases allowed only for the first nine months; subsequently, temporary employees have to be paid the same as a core employee in most cases.</p> <p>Depending on the collective bargaining agreements and works agreements in the sector in question, it might be possible to depart from these provisions to a certain extent.</p>	<p>New duties of disclosure and ascertainment will be established.</p> <p>The consequences of a failure to comply with the provisions might, in principle, be a de facto employment relationship between the potential temporary employee and the user undertaking. This would include all rights and duties under employment law, such as protection against unfair dismissal and the like.</p>

	Development	Description	Effective date	Impact and risk	Future actions
<b>» Luxembourg</b>					
	<p>Reform of the criminal records legislation.</p>	<p>This revision changes the content and the organisation of criminal records. A new regime involving requests by employers during the hiring process or during employment will be implemented. In addition, new retention periods are established.</p>	<p><b>1 February 2017</b></p>	<p>There are new conditions of access to the criminal records of employees or future employees and new limitation periods to retain these criminal records.</p> <p>The criminal sentences are increased in cases where there has been a violation of the provisions of this law.</p>	<p>Only ask for the No 3 criminal records unless there is a real reason to ask for the specifics criminal records No 4 (with driving convictions) or No 5 (sexual convictions);</p> <p>If the applicant is hired, the criminal record has to be destroyed no later than a month after the work contract is signed; If the applicant is not hired: his criminal record has to be destroyed without delay.</p>
	<p>Reform of parental leave.</p>	<p>This reform amends substantially the previous mechanism in order to improve the conditions of education and to allow parents to combine their personal and professional lives. The main modifications are on eligibility, duration and compensation of the parental leave.</p>	<p><b>1 December 2016</b></p>	<p>Impact on HR management regarding procedure of notification and acceptance of a parental leave, its compensation and the rights of employees before, during and after the parental leave</p>	<p>Be aware of the new forms of parental leave (part-time, full time and fractionated); The new criterion of eligibility; The new protection of employees before and during the parental leave; The new regime of compensation.</p>

» Poland

Development



Appeal against termination of an employment contract.

Obligation to adopt a company's internal by-laws.

Description



The Polish Labour Code has been amended to increase the time for appeals against dismissal from 7 days to 21 days. The new deadline applies to both regular (with notice) and summary dismissals.

Thresholds for adopting internal by-laws, i.e. workplace regulations, remuneration regulations and social fund regulations have been increased from 20 employees to the new minimum level of 50 employees, to exclude small companies from this administrative burden.

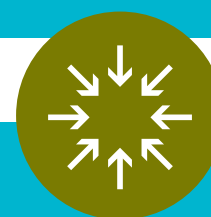
Effective date



**1 January 2017**

**1 January 2017**

Impact and risk



Employees who decide to challenge their dismissal will have more time to properly file a statement of claim in court.  
  
As a result, employees may be more willing to start court disputes related to their termination.

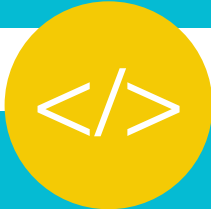


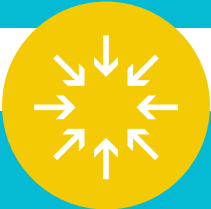

Companies with less than 50 employees may now decide whether they want to adopt internal by-laws (unless unionised, in which case the union may request this be done). This may encourage companies to hire more staff under employment contracts.

Future actions



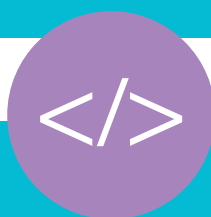
Employers should review their standard termination templates and update them to reflect this change, remembering that the termination letter must provide the deadline, and the appropriate court for filing an appeal.

Companies with fewer than 50 employees that originally adopted internal by-laws, may cancel the existing regulations.  
  
However, care should be taken to recognise work and pay conditions resulting from those regulations as long as they are not actively changed.

	Development	Description	Effective date	Impact and risk	Future actions
<p>» Portugal</p>					
	<p>Employment-Contract Measure.</p>	<p>Employers complying with certain conditions are being granted financial incentives when executing labour contracts for at least 12 months, with workers who are enrolled in the Employment Institute and Vocational Training (<b>EIVT</b>), and with the obligation to provide them vocational training.</p> <p>The employee cannot have had a previous work relationship with the company (or group company) in the last 24 months.</p>	<p><b>In force since January 2017.</b></p> <p>Applications may be submitted now for analysis before the EIVT where employers wish to take advantage of this new incentive.</p>	<p>This measure enables companies to reduce employment costs when hiring employees, ranging from EUR 3.791,88 to EUR 1.263,96 depending on the circumstances. These amounts may be increased by 10% if e.g. the worker is a single parent, or has a disability, or where the job is in a disadvantaged area.</p> <p>To protect payments, companies will have to remember the need to provide vocational training to these workers. Additionally, the incentives will be paid in stages.</p>	<p>Where a business feels it could take advantage of these new rules, it should prepare the relevant contractual paperwork for presentation to the EIVT.</p> <p>The EIVT will announce the date of opening and closing of the application period.</p> <p>(<a href="http://www.netemprego.gov.pt">www.netemprego.gov.pt</a>)</p>

» Spain

Development



Labour Court ruling on ill health dismissal following European Court of Justice (ECJ) preliminary ruling, changing Spanish law in this area.

Description



The European Court of Justice has confirmed it considers that long-term sicknesses that prevent an employee from performing his duties may be a disability for the purposes of Directive 2000/78/EC.

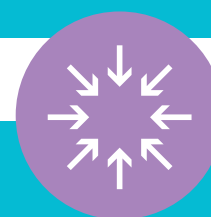
Therefore, in contrast to the existing case law in this regard, the Labour Court of Barcelona has declared discriminatory the dismissal without cause of an employee absent due to illness where this was expected to last several months.

Effective date



The preliminary ruling from the European Court of Justice is dated 1 December 2016 and the judgement from the Labour Court of Barcelona was issued on 23 December 2016.

Impact and risk



Traditionally, the dismissal without cause of an employee under a temporary incapacity was considered an unfair dismissal by the Spanish Supreme Court.

However, this new judgement tries to change the existing case law, in finding that the dismissal results in disability discrimination and, therefore, that the dismissal in such circumstances should be declared null and void.

Future actions



We will have to wait until the Spanish Supreme Court analyses a similar case.

However, this judgement could be the starting point of a new interpretation. Therefore, it is advisable to approach these cases with increased care now, and to ground on fair disciplinary or objective reasons the dismissal of employees who are subject to long-term sickness, so as to avoid reinstatement claims.

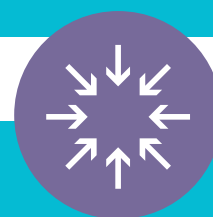
Development

Description

Effective date

Impact and risk

Future actions



» Switzerland

Employers must hand over documents to the controlling bodies responsible for issues pertaining to wage dumping. Wage dumping involves paying foreign workers less than the minimum required by Swiss standards.

Employers are obliged to hand over to the controlling bodies responsible for protection against social and wage dumping employment contracts and other relevant documentation relevant to wage and employment conditions (payroll accounting, working time records). This relates in particular to foreign workers temporarily dispatched to Switzerland.

**Immediately.**

Full cooperation is required. If the employer does not comply with a request, administrative and/or criminal sanctions may be imposed.

Save and provide appropriate documentation in particular for foreign workers temporarily dispatched to Switzerland.



» UK

Development



Gender Pay Gap Regulations.

Description



The Regulations apply to private businesses employing 250+ employees in the UK.

Employers will be obliged to publish the mean and median gender pay gap for pay and bonuses, the percentage proportion of employees receiving bonus by gender, and the number of men and women in each quartile of pay distribution.

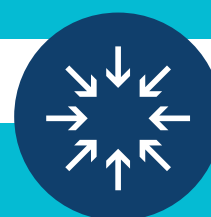
There is currently no requirement to produce actions plans to tackle the pay gap.

Effective date



Employers should conduct their first data analysis on 5 April 2017 and publish their results any time in the following year i.e. by 4 April 2018.

Impact and risk



Publishing a pay gap figure which is higher than industry average may give rise to negative publicity and may lead to individuals raising equal pay claims.

We expect directly linked litigation to be rare. The real risk is negative publicity, and wider impact in other areas of diversity.

A failure to publish may prompt enforcement action by the national equality body the EHRC.

Future actions



We recommend taking action now e.g. understanding what data systems can cope with and what issues may be encountered.

Employers are obliged to upload their pay gap figure to a government website where employers will be judged alongside competitors with their gender pay gap. It is therefore recommended that employers produce a statement to explain why they have a pay gap, and any measures being taken to reduce this.