

**Changing direction?**  
Employment law  
highlights for In-House  
Lawyers



**Recent and forthcoming European employment law highlights for In-House Lawyers**

Key developments summarised	Impact on employers
<b>United Kingdom</b>	
<p>A combination of new <b>corporate governance</b> standards and new <b>reporting duties</b> aim to strengthen employee engagement and diversity. This includes a new duty to report the pay ratio between CEOs and average employees. The reforms apply to financial years starting on or after 1.1.19.</p>	<p>The changes are focused on larger listed or quoted companies, but some also affect private companies. Companies impacted need to review their employee engagement mechanisms and diversity policies, how they will report on them publicly and prepare to report on the CEO/staff pay gap.</p>
<p>The countdown to <b>Brexit</b> continues. It is not expected to result in a roll back of EU-derived employment rights in the UK. There is an exception: employers with European Works Councils (EWCs) should anticipate legal change.</p>	<p>Employers with EWCs should take advice as options vary depending on the EWC. Immigration remains a key people risk, reflecting uncertainties over whether and how businesses will be able to recruit the workers they need after Brexit. <a href="#">Read our latest update.</a></p>
<p>A number of cases involving self-employed contractors arguing that their <b>legal worker status has been misclassified</b> will have their appeals heard before the end of 2018.</p>	<p>Success for the claimants could encourage others to pursue similar claims. Those who engage individuals on a non-employed basis should consider carrying out a review and risk assessment.</p>
<b>European Union</b>	

<p>Legal protection for individuals who “<b>blow the whistle</b>” varies enormously within the EU. To address inconsistency, the EU Commission has sought feedback over the summer on a draft Directive aimed at setting minimum standards of employment protection across EU states.</p>	<p>It is likely to be some months before the Directive is approved and its provisions may have to change in order to secure legislative agreement. However, if agreement is reached, it is expected to introduce significant change across the EU. <a href="#">Read our briefing.</a></p>
<p>The EU has finalised a revision of the <b>Posted Workers Directive (PWD)</b> which may affect some multinational employers who move their workers around Europe to perform temporary assignments and have hitherto remained largely unaffected by the PWD’s employment protections.</p>	<p>The PWD focuses on guaranteeing statutory minimum rates of pay and working conditions only for posted workers. The revision introduces a new equal treatment rule which extends this guarantee to include potentially higher pay rates contained in certain collective agreements. <a href="#">Read our briefing.</a></p>
<p>Similarly, the Commission’s proposal for new <b>work-life balance</b> legislation remains under negotiation within the EU, although the aim is to reach final agreement this year.</p>	<p>If the work-life proposal is agreed, it will extend parental leave rights and introduce EU wide rights to carer's leave, paternity leave and for parents to request flexible work arrangements.</p>
<p><b>France</b></p>	
<p>The ‘right to disconnect’ and recent case law have added to employer obligations in relation to the management of <b>employee working time, workloads and wellbeing</b>. For further information, <a href="#">read our briefing.</a></p>	<p>Employers should consider reviewing employees’ workloads, their compliance with the so-called ‘right to disconnect’ and assess what preventative measures they have in place, for example, to prevent harassment and bullying.</p>
<p><b>Germany</b></p>	
<p>In its decision dated 18 September 2018, the Federal Labour Court has ruled that <b>limitation periods in employment contracts</b>, which do not exclude a claim for the Minimum Wage (Mindestlohn) according to the Minimum Wage Act (Mindestlohngesetz), are invalid.</p>	<p>This means that thousands of limitation periods in employment contracts are ineffective. Limitation periods are commonly agreed in employment contracts and generally amount to three months (considerably lower than the limitation periods provided by law). Companies should urgently revise their employment contracts and include an appropriate clause.</p>
<p><b>Italy</b></p>	
<p>The “Dignity Decree” was implemented with effect from August 12, 2018 and makes significant changes to Italian labour relations. Several new provisions on</p>	<p>Employers should review the hiring and management of fixed term and agency workers, including the reasons for their use and extensions or renewals, together with a check</p>

<p>fixed term employment, temporary agency workers, young workers and to compensation for unfair dismissal have been implemented.</p>	<p>on the numbers of agency workers, so as not to exceed the cap. For further information, <a href="#">read our briefing</a>.</p>
<p><b>Netherlands</b></p>	
<p>In the NLs, an employer may only dismiss an employee if there is a reasonable ground for dismissal and the duty to try to reassign the employee within a reasonable period of time has been fulfilled. The Dutch state agency (the UWV) processes applications for <b>dismissal permits</b> and has issued new guidelines on the duty to reassign based on business-economic reasons (such as arising from a reorganisation).</p>	<p>The new guidelines have provided further clarity for employers who are preparing for a reorganisation, but complexity remains for international employers. For further information, <a href="#">read our briefing</a>.</p>
<p><b>Russia</b></p>	
<p>An employment contract is a special type of contract governed by the Russian Labor Code. Employers are not allowed to use other types of contract (such as service contracts under the Civil code) as a replacement for formal employment contracts. However, employers have increasingly been using such contracts, leading to increased unannounced inspections by the Labor Inspectorate.</p>	<p>To reduce the risk of being held in violation of labor law, employers should review whether employees are subject to appropriate employment contracts. Where a civil law contract is used, employers should be prepared to prove both the necessity and the reasonableness of this choice. For further information, <a href="#">read our briefing</a>.</p>
<p><b>Spain</b></p>	
<p>A Spanish High Court has decided that some transfers entail joint and several liability for any employment debts prior to the transfer, despite a limitation of liability in favour of the transferee in the collective bargaining agreement.</p>	<p>As this decision is contrary to current case-law, a new ruling from the Supreme Court is expected in the forthcoming months. For further information, <a href="#">read our briefing</a>.</p>

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