

Employment Law Tracker

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Austria | Gerlach Rechtsanwälte

Impending Changes of Legislation: Austria: **Change in dismissal protection for newly hired employees aged 50+** Currently, Austrian employment law provides specific protection against dismissal to older employees aged 50 or over at the date of commencement of employment and who remain in employment for at least 2 years. This special protection will not apply for new employment relationships beginning on the 1st of July 2017.

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Belgium | Van Olmen & Wynant

Latest Case Law: Belgium: Can an employee renounce the suspension of his/her period of notice due to vacation or incapacity for work? Recently, the Supreme Court ruled that an employee can only renounce the suspension (and therefore extension) of a period of notice due to vacation or incapacity for work when this period has already expired or - if it is still running - only for the part of that period that has already expired. [» Read More](#)

Impending Changes of Legislation: Belgium: The new codex on well-being at work entered into force on 12 June 2017 The new codex - which codifies existing legislation on that subject-matter - has entered into force. [» Read More](#)
Belgium: Ecocheques: novelties The National Labour Council recently modified the Collective Bargaining Agreement on ecocheques (CBA n° 98), particularly with a view to adapt the list of products and services which can be purchased by employees with ecocheques. [» Read More](#)

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Canada | Filion Wakely Thorup Angeletti

Latest Case Law: Canada: Court of Appeal for Ontario upholds termination for just cause, awards costs to employer The Court of Appeal for Ontario recently upheld a trial judge's finding that the employer had just cause to dismiss a production supervisor with lengthy seniority after he was found to be responsible for a significant production incident and to have lied to the employer during its investigation of the incident. [» Read More](#)

Impending Changes of Legislation: Canada: Ontario government introduces Bill 148, proposes significant changes to labour and employment standards in the province. Bill 148 promises sweeping changes to Ontario's workplace laws,

going from significant minimum wage increases and vacation entitlements, to the expansion of card-based union certification to a number of new business sectors. [» Read More](#)

Other Observations: Canada: Harassment is an independent cause of action upon which a civil claim can be commenced An Ontario Court recently recognized the tort of harassment as an independent cause of action in civil proceedings. [» Read More](#)

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China | Zhong Lun Law Firm



Other Observations: China: The Ministry of Human Resources and Social Security Released the Circular on Implementing the Treaty between China and Switzerland on Social Security The Circular will mutually exempt certain individuals from the payment of various social insurance premiums. [» Read More](#)

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France | Flichy Grangé Avocats



Latest Case Law: France: On call duty not set out in the collective agreements or after consultation with the staff representatives, but set out in the work contract, are not mandatory On call duty (*astreinte*), the period during which the employee must be able to intervene at his employer's service without being at the

actual place of work, is not considered working time, but is still compensated. The French supreme court (Cour de Cassation) has once again ruled that this on call duty is not mandatory for employees if it is merely mentioned in the contract, but absent from a collective agreement or was not submitted to the consultation of the staff representatives. [» Read](#)

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Impending Changes of Legislation: France: Reinforcement of the methods against secondment fraud In order to reinforce the fight against fraud in secondment situations, the labour law of August 8, 2016 has increased obligations for employers and instruction-givers of seconded employees. Furthermore, the powers of controlling authorities in the matter of illicit work have been increased. Finally, new sanctions have been created for the non-compliance of regulations regarding secondment. Many of these measures will enter into effect on July 1, 2017. [» Read More](#)

Other Observations: France: The modalities of receiving alerts from employees and outside workers have been set out The procedures for collecting alerts issued by employees or external collaborators in companies with 50 or more employees have been established by decree. Companies have until January 1, 2018 to comply. [» Read More](#)

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Germany | Pusch Wahlig Legal

Latest Case Law: Germany: No obligation for employees to (temporarily) follow inequitable instructions of the employer? A turning point in the current jurisprudence could be ahead regarding the employee's obligation to follow inequitable instructions of the employer as long as they are not deemed inequitable by court. [» Read More](#)

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India | IndusLaw



Latest Case Law: India: Conditions incorporated under Ex Gratia scheme An appeal filed by an employee against his employer was disposed of, by holding that the employer cannot claim the benefits of an Ex Gratia scheme introduced by the employer, without complying with the conditions incorporated under the said scheme. [» Read More](#)

Other Observations: India: Clarification on provisions of Maternity Benefit (Amendment)

Act, 2017 The Government had notified the Maternity Benefit (Amendment) Act, 2017 on March 28, 2017 and the provisions of the Amendment Act came into force from April 1, 2017. Keeping in view queries received from various quarters, the Ministry of Labour & Employment, on April 12, 2017, had issued certain clarifications on various provisions of Amendment Act. [» Read More](#)

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Italy | LABLAW - Studio Legale

Latest Case Law: Summary of Recent Case Law in Italy It is irrelevant that the installation of a surveillance system has been previously authorized by all employees through a consent expressed in accordance with Privacy Law; the right to convene the Trade Union Assembly does not only belong to the RSU as a collective body, but also to its individual members. [» Read More](#)

Impending Changes of Legislation: Italy: New law strengthens Social and Economic Protection for Independent Contractors and develops Flexible Working Performance Arrangements The aim of this new law is to improve competitiveness and facilitating the reconciliation of working and living times. [» Read More](#)

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Luca Failla, Partner at LABLAW – Studio Legale (www.lablaw.com) at l.failla@lablaw.com.

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Mexico | De La Vega & Martinez Rojas S.C.

Latest Case Law: Mexico: Employers must prove the non-existence of dismissals for discriminatory reasons Second Chamber of the Supreme Court of Justice issued a binding opinion according to which when a female worker alleges having been dismissed due to her pregnancy, the defendant (employer) has the burden of showing in trial that the causes for dismissal were different. [» Read More](#)

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The Netherlands | Palthe Oberman

Latest Case Law: The Netherlands: The works council's right to be consulted regarding a company's restart in case of bankruptcy A recent court ruling held that a proposed decision of the bankruptcy trustee to restart a company, when there is a prospect for job retention, is a decision on which advice of the Dutch works council must be sought. [» Read More](#)

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We wrote this especially for you and we hope that it has proved both relevant and informative to your operations. For more information on these articles or any other issues involving labour and employment matters in the Netherlands, please contact Christiaan Oberman, Partner at Palthe Oberman (www.paltheoberman.nl) at oberman@paltheoberman.nl.

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New Zealand | SBM Legal



Impending Changes of Legislation: New Zealand: Amendment Bill to allow higher earners to contract out of the personal grievance provisions A bill is currently being considered by the New Zealand parliament, which would allow high income earners to contract out of the personal grievance provisions of the Employment Relations Act 2000. This intention behind the Bill is to remove the threat of costly personal grievance claims for employers on the basis that high earning employees should

arguably have the skills and bargaining power to be able to negotiate the terms of their employment and do not require the protection of the personal grievance regime. [» Read More](#)

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Norway | Storeng, Beck & Due Lund (SBDL)

Latest Case Law: Norway: State employee fired after he failed to follow orders A police attorney could be dismissed for failing to follow orders and because he failed to show up to work. [» Read More](#)

Norway: Actors lose their Sundays off Labour Court ruling held that actors from the actor employee organisation do not have the right to have their day off on Sundays. The Court ruled that theater shows on Sundays was not a

breach of the tariff regulations. [» Read More](#)

Impending Changes of Legislation: Norway: New Civil Servants Act The Parliament has finalized a new act regarding state employees to replace the Civil Service Act. The new legislation simplifies the process of employment and aims to reduce access to temporary employment. [» Read More](#)

Norway: Amendment Act regarding Whistleblowing The Norwegian Parliament passed an amendment to the Working Environment Act concerning the regulation of whistleblowers. With the amendment, businesses with five or more employees must draw up routines for whistleblowers. Also, the protection of contracted workers is improved. [» Read More](#)

Norway: New Act regarding approval of occupational qualifications There is a new act regarding approval of occupational qualifications for employees. The act aims to make it easier for workers from an EEA-state and Switzerland to work

in their profession in Norway.

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Norway: New Discrimination Act A new discrimination act was passed and will come into force January 1st 2018. The new act combines four different discrimination acts into one general act. Regulations regarding discrimination of workers are regulated in chapter 5 of the act. The act aims to simplify the discrimination legislation. [» Read More](#)

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Poland | A. Sobczyk & Współpracownicy

Latest Case Law: Poland: The employer must confirm gross misconduct before immediate termination The Employer may immediately terminate, within a month from confirming gross misconduct, not just from receiving information on such misconduct. [» Read More](#)

Impending Changes of Legislation: Poland: New limitations concerning temporary employment agencies As of June 1st 2017, new

limitations have been imposed as a result of amendment of Temporary Work Act (Journal of laws [Dz.U.] from 2017 position 962). [» Read More](#)

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Portugal | Morais Leitão, Galvão Teles, Soares da Silva & Associados (MLGTS)



Impending Changes of Legislation: Portugal: Law regulates the posting situation of workers in the framework of the provision of services In order to ensure the correct application of, and to monitor compliance with, the substantive rules on the terms and conditions of employment to be respected with regard to posted workers, undertakings that post workers in the framework of the provision of services are subject to certain administrative requirements and control measures. [» Read](#)

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Portugal: Law establishes measures for the uniform application and enforcement in practice of the right to free movement of employees Legal standing is granted to organizations whose purpose is to defend or promote the rights and interests of workers of the European Union and members of their families concerning the exercise of the freedom of movement. [» Read More](#)

Portugal: Law facilitates the recognition of professional qualifications and reduces the constraints on the free movement of persons within the territory of the Member States A European professional card is created, which facilitates temporary mobility and recognition under the automatic recognition system. Rules governing partial access to a regulated profession and recognition of professional traineeship in another Member State are also laid down. [» Read More](#)

Portugal: Law approves the scheme of professional valorisation of workers in public employment The scheme of professional valorisation of workers with public employment as a result of the reorganization and rationalization of workers proceeding is defined. The General Directorate for the Qualification of Public Employees was appointed as the entity responsible for professional valorisation management. [» Read More](#)

Portugal: Government sets the criteria, procedures and indicators to be followed when issuing administrative acts to extend collective bargaining agreements Regarding the concern to increase the minimum employee salary to a specific activity sector, the government considers that weighing the contribution of extension to the promotion of better levels of cohesion and social equality is fundamental, particularly from the viewpoint of gender equity and as an implementation of the constitutional principle of “equal pay for equal work”. [» Read More](#)

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Romania | Magda Volonciu and Associates

Impending Changes of Legislation: Romania: The Labor Code to be modified to fight undeclared employment A new project to modify the Labor Code has been published by the Labor Ministry. The project is subject to public debate and aims at reducing undeclared employment. [» Read More](#)

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Saudi Arabia | Clyde & Co LLP

Impending Changes of Legislation: Saudi Arabia: Midday work ban For a duration of 93 days from 15 June 2017, employees are not permitted to work outside at midday. [» Read More](#)

Saudi Arabia: Saudisation There have been various Saudisation initiatives taken over the last few months. [» Read More](#)

Other Observations: Saudi Arabia: Nitiqat

quotas Nitiqat quotas are expected to increase significantly in September 2017 which will have an impact on employers.

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Saudi Arabia: Unified Health Insurance Policy – final phase The implementation of the fourth stage of the 'Unified Health Insurance Policy' (Unified Policy) for private sector employers commenced on 10 April and requires employers with less than 25 employees to comply. [» Read More](#)

Saudi Arabia: 90 days amnesty period All expatriate individuals who are currently residing in the kingdom without valid documentation are permitted to leave the country without incurring any penalties for a 90 day period, which began on 29 March 2017. [» Read More](#)

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Sweden | Advokatfirman Cederquist KB

Latest Case Law: Sweden: A formerly employed accountant was found liable to pay half of his earnings due to a breach of a non-competition clause The Swedish Labour Court found that an accountant had to pay compensation to a former employer due to a breach of a non-competition clause in his contract of employment. The clause was not deemed unreasonable considering the accountant's transfer of his business to the employer at the

time of employment as well as the limited interruption the clause had on the accountant's future ability to earn income. »

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Sweden: A firefighter was found to have no right to demand transfer within the workplace or adjustment of work duties when his employment contract was terminated due to health issues The Swedish Labour Court found that an employer was not obligated to adjust the work duties of a firefighter with health issues nor give him a transfer within the workplace. The employer's requirement for all firefighters to perform certain work duties was not unreasonable, thus giving the employer the right to terminate the employment contract. » [Read More](#)

Sweden: A CEO's bonus was found to include vacation pay A CEO of a company received an annual bonus based on the company's financial result on top of his monthly salary. Even though the vacation pay was not specified when the bonuses were paid out, it was deemed to be included and the CEO had therefore received the vacation pay he was entitled to. »

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Impending Changes of Legislation: Sweden: A new Act on Posting of Workers gives increased rights for industrial actions The new Act on posting of Workers entered into force 1 June 2017. The new Act gives trade unions increased rights for industrial actions. » [Read More](#)

Sweden: Proposal for a new act on trade secrets suggests further criminal liability for employees The proposed changes to the Swedish legislation are necessary to implement an EU directive on the protection of trade secrets. The Proposal further suggests, independently of the EU directive, a provision on criminal liability for individuals who attack a trade secret to which they have lawful access due to employment or other similar grounds. » [Read More](#)

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United Kingdom | Clyde & Co LLP



Latest Case Law: UK: Deduction of wages for strike action The Supreme Court considered whether an employer could withhold one working day's pay, or one calendar day's pay, for employees who had been on a one-day strike. [» Read More](#)

UK: Restrictive Covenants: Non-compete clauses and the impact of a garden leave clause The Court found that a six month non-compete clause was valid and enforceable,

even after garden leave. [» Read More](#)

Other Observations: UK: Gig economy A parliamentary select committee has published a report on 'Self-employment and the gig economy'. [» Read More](#)

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United States | Jackson Lewis P.C.

Latest Case Law: U.S. Supreme Court: Plaintiffs May Not Voluntarily Dismiss Case to Appeal Class Certification Decision U.S. (June 2017): Plaintiffs may not voluntarily dismiss their class action claims upon receiving an adverse class certification decision and subsequently invoke 28 U.S.C. § 1291, the general rule that appeals can be taken only from a final judgment, to appeal the decision as a matter of right, the U.S. Supreme Court has ruled.

[Microsoft Corporation v. Baker, No. 15-457 \(June 12, 2017\).](#) [» Read More](#)

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