



BE GLOBAL

A look ahead to key international employment law developments expected in 2015

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ASIA PACIFIC

Australia: Gender Equality Reporting Update

From April 2015, organisations with 100 or more employees will have additional annual gender reporting obligations to the Workplace Gender Equality Agency. These new obligations were originally due to come into effect on 1 April 2014, but their implementation was delayed to allow further stakeholder consultation. Further details can be found in our July 2014 Be Global. [Click here to read more.](#)

China: Predicted Increase in Collective Bargaining

The current unstable economic situation in China is predicted to impact employment relationships in 2015. We expect to see employers cutting costs, implementing redundancies and seeking to reduce salaries and benefits. In turn this is likely to lead to an increase in collective bargaining and labour disputes which, if not well handled, could result in strikes or collective arbitration/litigation.

The government is trying to manage the situation and has proposed certain measures, including a proposal to increase the threshold for redundancy dismissals. Under the proposal, which is open for comments until the end of January 2015, employers will be obliged to enter into more extensive talks with trades unions and employees, allowing more time before making mass redundancies, and avoiding making redundancies where possible. Effecting mass redundancies is already difficult in China and implementation of these proposed measures will make it even more so. Employers are therefore increasingly likely to rely on mutual termination as a mechanism for exiting employees in a redundancy situation rather than filing redundancy notifications.

The All China Federation of Trade Unions (ACFTU, which is under the control of the government) is expected to continue to put pressure on employers to establish trade unions within their companies and to enter into collective agreements, and for those with existing collective bargaining arrangements, to commit to more meaningful provisions in the collective bargaining agreements, when renewal is scheduled for this year.

China: Compliance with 10% Cap on Dispatch Workers

Significant restrictions on the use by employers of dispatch (temporary) workers have been implemented in China since 2013. An additional restriction will come into effect on 1 March 2016 which will require employers to ensure that no more than 10% of the hiring company's total workforce is made up of dispatched workers (including auxiliary, substitute and temporary

positions). Employers whose workforce currently exceeds this threshold should start planning, during 2015, for the introduction of this new cap to ensure that they are compliant by the March 2016 implementation date.

Hong Kong: Discrimination Law Review

The Equal Opportunities Commission (EOC) has launched a comprehensive review of discrimination laws in Hong Kong. The public consultation process has been extended due to overwhelming public interest. The EOC will make recommendations to the government in mid-2015. Key topics covered by the review include: whether to prohibit discrimination based on immigration and residency status; whether to widen marital status to include de facto relationships; whether to require reasonable accommodation for the disabled; and whether to consolidate the existing discrimination ordinances.

Hong Kong: Third Party Rights

A Contracts (Rights of Third Parties) Bill has been introduced which, if passed, will give a third party the right to enforce (i) a term of the contract of employment against an employer (but not an employee) and (ii) a term of an employment related contract against a party to that contract. As, under the Bill it is possible to contract out of the new law, employers should start reviewing their standard contracts, employee handbooks and other employment documentation and consider inserting clauses to either maximize the enforceability of an agreement by a third party where this is preferred or expressly exclude the law where it is not. It is expected that the Ordinance will come into operation in December 2015.

Hong Kong: Competition Law

Hong Kong's first cross sector competition law is predicted to come into force in 2015. This may have an effect on practices such as wage-fixing, non-solicitation agreements between competitors and the exchange of sensitive HR related information.

Hong Kong: Data Protection

Although the restrictions for transfer of personal data outside of Hong Kong are not yet in force, the Privacy Commissioner for Personal Data (PCPD) has published [Guidance on Personal Data Protection in Cross-border Data Transfer](#) to assist data users in understanding compliance obligations for cross-border data transfer once those restrictions come into effect (which could be later this year).

Hong Kong: Minimum Wage

Towards the end of 2014, the Minimum Wage Commission compiled a recommendation report on the Statutory Minimum Wage rate. Their recommendation has now been adopted and the rate will rise from HKD 30 per hour to HKD 32.50 per hour. Subject to the approval of the Legislative Council, the revised rate will come into force on 1 May 2015.

Hong Kong: Paternity Leave Legislation

In late December 2014, the Employment (Amendment) Bill was passed. This grants three days' paternity leave to male employees, who are employed under a continuous contract, in respect of the birth of each child of which he is the father. Provided the employee has been employed under a continuous contract for a period of not less than 40 weeks immediately before the period of paternity leave, the leave will be paid at four-fifths of the employee's average daily wages. Otherwise, it is unpaid. The new legislation will take effect on 27 February 2015.

Japan: Action to Increase Number of Female Managers

Japan is currently awaiting new legislation, to be enacted within this fiscal year, which is intended to increase the number of female workers in managerial positions. Included in the legislation will be a requirement on employers with more than 300 employees (employers with fewer than this are encouraged) to audit the current working conditions with respect to female employees (for example, percentage of female new hires, length of employment when compared to male employees, working hours and percentage in managerial positions). Further details can be found in October 2014's Be Global. [Click here to read more.](#)

Japan: New paternity leave rights from February 2015

In late December 2014, legislation was passed which grants three days' paternity leave to male employees who are employed under a continuous contract in respect of the birth of each child of which he is the father. Provided the employee has been employed under a continuous contract for a period of not less than 40 weeks immediately before the period of paternity leave, the leave will be paid at four-fifths of the employee's average daily wages. Otherwise, it is unpaid. The new provisions will come into force on 27 February 2015.

Japan: Changes to Rules on Dispatch Workers

Changes to the Japanese rules on dispatch workers are expected to come into force during 2015. Among the

anticipated changes are (i) amendments to the length of time that a company receiving dispatched workers can utilize such workers; (ii) the elimination of one of two types of dispatching license that are available (the less regulated and more easily obtainable dispatching licence); and (iii) a requirement on dispatching agencies to make offers of direct permanent employment to dispatched workers or take other measures to protect the employment status of dispatched workers under certain circumstances.

Singapore: Collective representation rights for executive employees

Amendments to industrial relations legislation will come into force on 1 April 2015. The most important change is that trade unions will be able to represent executive employees on a collective basis and on a greater number of individual matters, for example, re-employment disputes. The changes have come as a response to the realization that the Singapore workforce now has a greater number of professionals and executives and it is, therefore, no longer sustainable for such a large number of employees to be excluded from collective representation. Senior management and certain categories of executives (e.g. executive employees with access to confidential information, including in-house legal counsel) who have substantial managerial responsibilities will continue to be excluded from the right to collective representation.

Singapore: Retrenchment benefits available after two years

2014 saw legislative changes extending better protection to more workers and improving employment standards, while allowing flexibility for employers where there are practical business concerns. Most of these changes took effect on 1 April 2014 but with effect from 1 April 2015, the non-eligibility period for retrenchment benefits will be reduced to two years from three years, in line with shorter employment tenures.

South Korea: Implementation of Employee Retirement Pension Plans

The South Korean government is proposing to amend the Employee Retirement Benefit Securities Act to promote the implementation of employee retirement pension plans and to phase-out lump-sum severance payment schemes gradually, starting from the beginning of 2016 and to mandatorily adopt employee retirement pension plans by 2022. In order to reduce the financial burden related to such transition, companies will be allowed to maintain severance payment reserves accrued prior to the effective date of the proposed amendment to the Act.

South Korea: Fair Hiring Act

Under this new legislation, an employer with 30 or more permanent employees will be obliged to return documents submitted by a job applicant when asked by the individual to do so. Employers must also keep documents submitted by job applicants for a certain period of time (yet to be specified), to be able to respond to requests for return of the documents. An employer who violates these requirements may be subject to a corrective order and/or a monetary penalty not exceeding KRW 3 million. This change takes effect on 1 January 2015 for businesses with 300 or more permanent employees; on 1 January 2016 for those with 100 - 299 permanent employees; and on 1 January 2017 for those with 30 to 99 permanent employees.

EUROPE, MIDDLE EAST, AFRICA

EU Wide: Reform of the EU Data Protection Regime

In March 2014, the European Parliament approved proposals to reform and harmonise EU data protection laws across Europe. Key features of the legislation are that it will reinforce the right to erase data and require standardised information policies relating to the storage and transfer of data. Non-compliance may lead to fines of up to EUR 100,000,000 or up to 5% of annual worldwide turnover, whichever is greater. The timeframe has not yet been announced but we expect the revised Directive to be adopted during 2015; Member States will have 2 years to implement following adoption.

EU Wide: Directive on Trade Secrets

In December 2013, the EU Commission adopted a proposal for a directive to provide a standardised level of protection for trade secrets across Europe. The directive will include a definition of a trade secret and a limitation period of two years for claims and remedies for redress to prevent any abusive behaviour. The proposed directive is currently progressing through the European legislative process and it is expected that the final Directive will be published by the summer of 2015. If adopted, Member States will have a further two years to implement the proposals.

EU Wide: Directive on Gender Balance on Company Boards

To ensure gender balance on company boards, this proposed directive aims to achieve at least 40% of women in non-executive board positions by 2020 in all companies listed on EU stock exchanges, excluding small and medium-sized companies. Companies will be required to publish information on the gender

composition of their board annually. Companies who fail to achieve this will be obliged to specifically report on the reasons for this and the steps they intend to take to remedy it. The proposed directive is now with the Council for adoption but the latest update is that implementation may take longer than initially expected as the Council in December 2014 was not able to agree a general approach. Some Member States have submitted objections, pointing out that Member States have very different starting-positions, some requiring more time than others to attain the 40% objective. Seeking a compromise, the Italian Presidency proposed a flexibility clause and an extension of the deadlines for implementation and reporting. The revised implementation calendar would require Member States to implement the Directive no later than three years after its adoption.

Belgium: Harmonization of Occupational Pensions

During 2014, various legislative measures came into effect in Belgium to achieve the harmonization of blue-collar and white-collar worker status. As part of this process, the gradual abolition of differences in treatment in relation to occupational pensions is also being implemented. As a first step, from 1 January 2015, any newly implemented occupational pension scheme which distinguishes between blue-collar and white-collar workers will be discriminatory. All distinctions will have to be eliminated entirely by 1 January 2025.

Belgium: Limits on Benefit Entitlements

The conditions for entitlement to "unemployment benefit with a company allowance" (previously called a "bridge pension") have been tightened. From 1 January 2015, the age limit has been raised from 60 years up to 62 years. Also, the scope for sector level variations has been limited and it is no longer possible to provide a sector right to the benefit at age 58.

Also, as of 1 January 2015, employees who apply for a "non-motivated" career break are no longer entitled to allowances paid by the Belgian National Employment Office.

Changes to the automatic indexation of wages were announced in the coalition agreement of October 2014 which may result in automatic salary indexation being skipped in 2015.

Denmark: Abolition of Mandatory Retirement Age

The Danish Non-Discrimination Act has, until now, allowed for a mandatory retirement age of 70 years to be included in individual or collective agreements but this is being changed. An amended Act will come into effect on 1 January 2016 so that, going forward, use of a

mandatory retirement age in either existing or future employment agreements is likely to constitute age discrimination in respect of which an employee will be able to claim monetary compensation.

France: New Personal Training Account

From 1 January 2015, the individual right to training (DIF) has been replaced by the personal training account (CPF). Under the new regime, employees must be allowed to attend training courses which will enable them to acquire a first level qualification or develop their skills and qualification levels. The amount of time allocated to an individual's training account is based on their working hours (and overtime), and accrues at the level of 24 hours per year up to a threshold of 120 hours, and then 12 hours per year up to a maximum total threshold of 150 hours for full time employees. Employers must communicate to their employees their balance of DIF hours before 31 January 2015, otherwise, employees may be entitled to claim damages on the basis that they have suffered a prejudice.

France: Draft Bill on Activity Growth - "Projet de Loi Macron"

Currently under discussion in the French Assembly is the first major bill initiated by the new French Economy & Finance Minister, Emmanuel Macron. It contains a number of measures which aim to promote growth in French business activity. Labour topics proposed in the bill include scope for the relaxation of Sunday working rules; greater incentives to develop employee profit sharing; measures to reduce the length of proceedings before the Labour Courts, the possible replacement of criminal sanctions with financial sanctions where an employer obstructs a works council consultation process; and in collective redundancy situations (i) introducing the potential for employers to unilaterally apply selection criteria at a lower level than that of the undertaking (eg at site level), (ii) making internal redeployment within France the principle requirement and redeployment abroad the exception, and (iii) removing all administrative requirements in situations where less than 10 redundancies are made.

Germany: National Minimum Wage

The first nationwide minimum hourly wage of EUR 8.50 came into effect in Germany as of 1 January 2015. There are exceptions for interns, voluntary workers, young employees under 18 years of age and long-term unemployed people within the first six months of finding a new job. Click [here](#) and [here](#) to read more.

Germany: Family and Medical Leave

On 1 January 2015 revised regulations came into force in Germany aiming to reconcile family care duties and work. The revised regulations introduce rights for employees to short-term care leave; "care time" and "family care time" and gives special dismissal protection to individuals who exercise these rights. [Click here to read more.](#)

Germany: Reform of German Parental Allowance and Parental Leave Act

Following reforms during 2014 of the German Parental Allowance and Parental Leave Act, an additional option dubbed "Parental Allowance Plus" will be available for parents of children born on and after 1 July 2015. Under the new rules, employees will have a right to request up to 24 months of paid parental leave (instead of 12 months) or, if both parents decide to go on parental leave, they will be entitled to 28 months of paid parental leave (instead of 14 months) to be shared between the parents. Among other changes, parental leave may now also be taken between the child's third and eighth birthday for a maximum duration of 24 months, and parental leave may be taken at up to three different points in time (instead of two, as is the case under the current law). [Click here to read more.](#)

Israel: New Job Notification Requirements

With effect from 30 January 2015, employers in Israel will be obliged to provide written notification to job applicants regarding their progress in any screening process. This notification must be given, at the latest, two months from the date on which the candidate begins participation in any screening process and every two months thereafter, for as long as the process continues. Employers must also notify a candidate of a decision not to offer them a position no later than 14 days following the date on which another candidate is accepted for the post. These requirements will apply to all employers with 25 or more employees and in respect of all positions except for temporary ones.

Italy: Jobs Act - New Labour Laws to be Implemented in 2015

Significant new labour legislation is to be implemented in Italy during 2015. Although the detail is yet to be finalised through implementing decrees to be issued by the Labour ministry, the key aspects to be covered are: (i) for companies with more than 15 employees, there will be new rules on unfair dismissal which will apply to new hires only and will include, for example, compensation for unfair dismissal proportionate to length of service; (ii) there will be a reduction in the types of working contracts and simplification of the labour legislation; (iii) a

minimum hourly salary for all employment relationships is to be introduced on an experimental basis; (iv) in cases of company restructuring, there will be greater freedom for employers to change employee's job duties; (v) there will be amended rules relating to remote surveillance of employees activity in order to better balance an employer's requirements with employees' privacy protection; (vi) in the event of involuntary unemployment, uniform benefits are to be granted to all employees, based on their social security contribution position; and (vii) there will also be stronger protections for parents such as maternity allowance for all working women and also for atypical workers.

In addition to the new employment legislation, the recently approved Budget Law for 2015 also contains several important new labour measures including (i) a reduction in the regional tax on business by allowing employers to deduct total employment costs from their taxable base; (ii) social contribution exemptions for new hires; (iii) an option for employees to have end-of-service allowance paid annually instead of as a lump sum at termination; and (iv) a public fund to alleviate the financial burden.

Netherlands: Changes to Fixed-Term Employment Rules and Dismissal Legislation in 2015

2015 will see some of the most significant employment law reform in the Netherlands in almost 70 years. A number of changes were implemented on 1 January 2015 and further significant changes will take effect on 1 July 2015.

The changes from 1 January relate to fixed terms contracts and include: (i) a duty on employers to notify fixed-term employees with contracts of six months or more of any decision on whether or not to extend and under what conditions one month before the contract end date; (ii) a prohibition on the inclusion of a probationary period in a fixed-term employment contract of six months or less; and (iii) a prohibition on using non-competes in fixed term contracts entered into after 1 January 2015 unless they are necessary to protect a substantial business interest and this is expressed in writing. Also in terms of fixed term contracts, from 1 July 2015, the rules on the conversion of fixed-term employment contracts into indefinite term contracts will be amended.

Dismissal law will also change in July 2015. Under the current "dual dismissal system", if it is not possible to terminate with mutual consent, an employer can terminate by giving notice after receiving permission from the Dutch Employee Insurance Agency (UWV) or Cantonal Court. This system will be amended so that (i) new compulsory proceedings (Court or UWV) will apply

depending on the reason for termination (a dismissal on business economic grounds or based on long-term illness will be handled via the UWV, a dismissal for personal circumstances via the Court); and (ii) the Cantonal severance formula will be replaced by a "transition payment" the amount which will be based on the employee's length of service and will be capped at EUR 75,000 (or one year's salary if higher).

Qatar: Labour Law Reforms Expected by Early 2015

Following extensive commentary in recent months regarding the significant numbers of migrant workers based in Qatar to assist with preparation for the World Cup in 2022, the Qatari authorities have promised to reform the kafala system (under which there are stringent exit provisions in place and workers are required to obtain their employer's permission both in order to change jobs and before leaving the country). They also have promised to do more to strengthen the rights of the migrant workforce in Qatar. A number of reforms are expected to be enacted through new legislation in early 2015 and will be reported in future editions of Be Global.

Russia: New laws for Russian Work Permits - Foreign Nationals to Prove Knowledge of Russian Language and History

A new law came into force on 1 January 2015 which requires all foreign nationals who wish to live or work in Russia to demonstrate knowledge of Russian language, the history of Russia and a basic grasp of Russian law. Documentary evidence must be provided to the immigration authorities within 30 days of a work permit being issued. Individuals resident/working in Russia prior to 1 January 2015 must also submit relevant proof to have their permits extended. The new requirements do not apply to "Highly Qualified Foreign Specialists" who are subject to a special procedure for obtaining work and residence permits.

Russia: New Labour Lending Law

A new bill to ban the loan of labour (secondments) in certain circumstances was adopted by the Russian Parliament (State Duma) in 2014. It will take effect on 1 January 2016. Under the new law, secondments will only be permitted (1) by private (accredited) employment agencies; or (2) between related persons, including affiliates, parties to shareholders' agreements; and private agencies may only second workers in circumstances expressly specified by law (for example, to cover temporary absences). It remains to be seen how the regulator will implement the new regime in practice.

Russia: New Data Protection Law

A new Data Protection Law is expected to come into force in Russia on 1 September 2016. The new law introduces potentially game changing rules for most companies operating in Russia, so will require significant advance planning during 2015.

The main - and most controversial - component of the law is a new obligation on data operators (practically any legal entity operating in Russia) to ensure that personal data of Russian citizens is recorded, systematized, accumulated, stored, renewed, updated and extracted with the use of databases located in the territory of the Russian Federation except in a few prescribed circumstances. This appears to suggest that foreign companies will not be permitted to process personal data of Russian citizens on servers located outside of the jurisdiction, although the precise meaning (and whether the data can be replicated on foreign systems) has not yet been clarified.

The new law will impact any entities that process or intend to process the data of Russian citizens. Because of the uncertainties about the meaning of the new law, to date, most companies have taken a wait-and-see approach and have not yet undertaken active measures to implement the law, but that approach will need to change as the implementation date grows ever nearer.

Saudi Arabia: Increased Minimum Wage Proposed for Saudi Nationals Working in the Private Sector

Saudi Arabia is considering proposals to increase the minimum wage for both Saudi nationals and expats in the private sector. The proposals (if implemented) have suggested increasing the minimum wage for Saudi nationals from SAR 3,000 (USD 800) to SAR 5,300 (USD 1,412) per month while the minimum wage for expatriates would only be SAR 2,500 (USD 666.26) per month. The measures purportedly aim to combat the perceived inequality in the salaries of Saudi nationals working in the private sector (as compared to the nationals of other GCC countries) and more importantly encourage Saudis to enter the private sector as part of the on-going Saudization process.

Slovakia: New Whistleblowing Legislation

On 1 January 2015, the Act on Certain Aspects of Whistleblowing came into effect in Slovakia. The Act sets out the conditions where protection against victimization in an employment relationship will be granted to an individual who has reported a crime or other anti-social activities. The Act also deals with the rights and obligations of the individual when reporting anti-social activities. Further details can be found in our alert. [Click here to read more.](#)

South Africa: Changes to Employment Legislation

2014 saw rapid changes to South African employment legislation impacting on, for example, immigration and equality laws. For further details see previous editions of Be Global - [May 2014](#), [June 2014](#) and [October 2014](#).

This process of updating South African employment laws neared completion when further legislative amendments came into effect on 1 January 2015. Some of the most important amendments relate to employees employed through a Temporary Employment Service and fixed term employees. These employees will, in future, enjoy far greater protection than what is currently available to them. For more information on the impact of the amendments, click [here](#).

The Protection of Personal Information Act will also have a profound effect on employment going forward. POPI regulates the right to privacy and offers protection against the unlawful collection, retention, dissemination and use of personal information. A limited number of the provisions took effect on 1 April 2014 but most of its provisions will come into effect on a date still to be proclaimed.

Turkey: Changes to Severance Payments; Work Permit Rules and Data Protection

Between 2015 and 2017, the Turkish severance payment system is being changed, with the introduction of a new fund system based on individual employee accounts to which employers, employees as well as the government will contribute. This will make it easier for employers to pay severance payments. Unlike under the current system, all employees, including those with less than one year's service, will be entitled to severance payments.

Changes to immigration requirements are being implemented so that a foreign employee who has lived in Turkey continuously for more than 8 years under a long term residence permit or who has legally worked in Turkey for more than 8 years, will be granted an unlimited work permit. Also, foreigners working in Turkey must be registered by their employer for social security purposes after three months. However, the rules which apply under any bilateral social security treaties executed with foreign countries will continue to have effect.

On 1 May 2015, a new data protection law will come into force which includes, among its provisions, requirements in relation to the protection of personal data. Any breach of the new obligations may lead to administrative fines being imposed.

UAE: Abu Dhabi Global Market

2015 will see the formal launch of the Abu Dhabi Global Market (ADGM) which has been established to provide a broad-based financial services hub for local, regional and international institutions. ADGM is a financial free zone where registered institutions will operate within a regulatory framework with its own judicial system and legislative infrastructure.

UK: Holiday Pay

Following the decision of the ECJ in May 2014 that the calculation of statutory holiday pay must include commission where that forms part of a worker's remuneration, at a hearing currently listed for 4 February 2015, the Employment Tribunal will consider whether the Working Time Regulations can be read to provide that the calculation of statutory holiday pay includes commission where that forms part of a worker's remuneration. In response to the recent case law, the UK Government has also legislated to cap statutory holiday back pay claims to two years. This will give some welcome certainty to employers. The change in the law applies to claims lodged on or after 1 July 2015. For such claims, workers will only be able to claim statutory back pay for holiday for the two years immediately prior to the date they file their claim in the Employment Tribunal.

UK: Collective Consultation and Meaning of Establishment

In November 2014, the ECJ considered a reference from the Court of Appeal on the meaning of "establishment" in the EU Collective Redundancies Directive, in the light of the decision in *USDAW v Ethel Austin (Woolworths)* in which the EAT decided that the collective redundancy rules are triggered where 20 or more redundancies are proposed across an entire organisation, regardless of the employees' place of work. The *USDAW* case was heard together with two other references: *Lyttle & Ors v Bluebird UK Bidco* and *Canas v Nexea Gestion Documental*. The Advocate General's opinion is due to be given on 5 February 2015.

UK: Shared Parental Leave

A new system of shared parental leave will be available to parents of children due to be born or placed for adoption with them on or after 5 April 2015. Additional paternity leave and pay will be abolished from this date.

AMERICAS

US: NLRB Ends 2014 with Numerous Decisions Adverse to Employers

Directly challenging business models that rely on outsourcing, subcontracting, and/or franchising, the National Labor Relations Board has issued 13 complaints against a major US franchisor and certain of its franchisees as "joint employers" alleging 78 labor law violations – and more complaints against this and other franchisors are expected. The NLRB proposes to eliminate the distinction between direct, indirect or potential control over working conditions in order to find joint employer relationships wherever the "industrial realities" make it necessary for "meaningful bargaining". The results will be significant legal challenges for businesses that rely on these models, and significant liability for the labor relations decisions, including a duty to bargain with unions, and wage/hour violations.

This is one of a broad series of decisions which appear to promote unionization. During the last months of 2014, the NLRB found that employees are entitled to use their employer's email system to engage in organizing or other concerted activity, and also issued a notice of proposed rulemaking that would put union elections on an express track, essentially preventing management from conducting an effective campaign urging employees not to vote in favor of unionization. Employers should be aware that there may well be further NLRB decisions and prosecutions during the course of 2015 which could have an adverse impact on business.

Brazil: Expected Decision of the Supreme Federal Court on Outsourcing

A major concern for employers in Brazil involves liabilities arising from outsourced services. Even if the services are legally outsourced,

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