

Employment Law Insights and Solutions (ELIS)

Your guide to the worldwide workplace

Special Introductory Edition:
January - June 2017 Update

Introduction

In this special first edition of Dentons' new global publication, ***Employment Law Insights and Solutions (ELIS)***, we identify some of the most important legislative developments and court decisions in the employment arena from the first half of 2017.

The goal of ***ELIS*** is simple—to keep you informed of the latest developments so you can better manage the risks and opportunities arising from the ever-changing employment law landscape. We can customize ***ELIS*** to meet the particular needs of your business.¹

If you would like to learn more about ***ELIS*** and how it can help you and your business stay ahead of the curve, please contact Brian S. Cousin at brian.cousin@dentons.com or any member of the Dentons team.

¹ Please note that *ELIS* is for informational purposes only and is not intended to be a substitute for legal advice nor does it establish an attorney-client relationship with Dentons. If you have an actual legal issue, please consult with an attorney immediately before taking any action.



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Brazil

- **New Immigration Law Takes Effect in November:** Under Brazil's new Migration Law, which will go into effect on November 21, 2017, foreign workers will have the same rights as native-born Brazilians, including job access, social security eligibility, and the right to join labor unions and participate in strikes or protests. The law originally contained a provision that would have granted amnesty to the estimated 1 million foreigners now living illegally in Brazil, but President Temer vetoed that provision.
- **Labor Court Rejects 'Proof of No Criminal Record' Requirement:** On April 20, 2017, The Superior Labor Court, Brazil's highest appellate court for labor law issues, ruled that companies cannot demand proof that a job candidate does not have a criminal record. The ruling came in two cases involving employees who sued their employers for damages on the grounds that the demand for proof of lack of a criminal record constituted an invasion of privacy and offended their dignity.
- **Court Says Uber Drivers are Employees:** On April 14, 2017, a labor court judge in Sao Paulo ruled that a former Uber driver was an "employee" entitled to vacation pay, severance pay, and other benefits guaranteed by the country's labor laws. That decision was overturned in May by a Brazil appeals court. The ruling adds to the global debate over labor rights for drivers on the popular platform.
- **Supreme Court Ruling to Hike Social Security Taxes:** On March 29, 2017, the Supreme Federal Court ruled that all payments to employees, whether salaried or not, must be included in the calculation of employer social insurance liabilities. This decision ends a lengthy dispute on how the Federal Revenue Service calculates the 20 percent social security tax paid by employers.
- **Legislation Would Free Employers to Outsource All Jobs:** On March 22, 2017, the Chamber of Deputies, the lower house of Brazil's National Congress approved a bill that, if enacted, would legalize the outsourcing of jobs. Before, businesses could only outsource so-called "secondary" jobs. Under the new bill, businesses may outsource all jobs, thereby eliminating the need to distinguish between primary and secondary jobs. The bill is expected to be voted on by the Federal Senate.
- **Government Takes First Step in Promised Labor Reform:** On February 17, 2017, Brazilian President Michel Temer sent a bill to the nation's Congress that proposes to eliminate the 10 percent fine employers pay to the government for terminating an employee without cause. The bill proposes that the fine will be eliminated by 2027 by reducing the fine by one percentage point every year from 2018 through 2027.
- **Labor Court Suspends Controversial Termination Ruling:** On February 1, 2017, the Regional Labor Court of Espirito Santo suspended its previous ruling that a company cannot fire an employee without a valid reason under the International Labor Organization's Convention due to sharp backlash from the business community. The court will wait until the country's Supreme Federal Court holds a final vote on the issue before determining how its ruling should take effect.
- **New Concession on Safety Requirements for Machinery:** On January 12, 2017, Brazil's Ministry of Labor announced a relaxed government regulatory norm on machinery safety requirements by allowing companies to elect to have as long as 12 months upon ministry inspection to correct any safety violations in their machinery and equipment. Consequently, such companies will no longer be automatically fined for violations, which was the case before the government's announcement.
- **Minimum Wage Increase:** Effective January 1, 2017, the minimum monthly salary in Brazil increased from 880 reais (US\$270) to 937 reais (US\$287.67). The presidential decree setting forth the increase, in Portuguese, is available [here](#).

Canada

- **Alberta - Top Court Upholds Employer's 'No Free Accident' Drug Policy:** On June 15, 2017, Canada's top court held that an Alberta mining firm was within its rights to dismiss an employee for violating the company's "no free accident" policy on drug use (*Stewart v. Elk Valley Coal Corp.*, Supreme Court of Canada, No. 36636, 06/15/17). The ruling demonstrates that a properly written policy can provide the basis for discipline or dismissal for drug use in safety-sensitive jobs, despite drug and alcohol addiction potentially providing a basis for discrimination claims. Employers with safety-sensitive work environments should review their alcohol and drug policies and update them as appropriate to take advantage of the ruling, which is available [here](#).
- **Alberta - Comprehensive Revision of Labor Law Announced:** On May 24, 2017, Alberta announced it is planning to overhaul its workplace rules to update existing provincial standards on overtime, vacation pay, termination notice, leave times, youth employment, dispute resolution, union certification and other employment matters in order to align them with federal law. Proposed changes include: (i) extending maternity leave from 15 to 16 weeks, parental leave from 37 to 52 weeks and compassionate care leave from 8 to 27 weeks; (ii) new unpaid leave of 16 weeks for long-term illness and injury; and (iii) a raise in the minimum employment age from 12 to 13. If they pass, most of the changes would take effect on January 1, 2018.
- **Alberta - Fired Employee Not Entitled to Bonus Based on Contract Performance:** On January 4, 2017, the Alberta Court of Appeal made clear that bonuses need not be awarded to a dismissed employee who did not meet contractual obligations (*Styles v Alberta Investment Management Corporation*, 2017 ABCA 1 (Edmonton Docket 1503-0275-AC)). The court held the 19-page contractual bonus plan at issue gave the employer discretionary powers to deny bonuses when an employee did not meet contractual requirements. A copy of the trial court decision is available [here](#).
- **British Columbia - Court Says Post-Termination Retirement Request Invalid:** On May 12, 2017, the Supreme Court of British Columbia ruled that unionized employees cannot use retirement as a means to avoid just-cause termination. Advocates say the decision is an important tool employers can use to guard against employees seeking to abuse the retirement process to avoid just-cause termination consequences. A copy of the ruling can be found [here](#).
- **British Columbia - No Mandatory High Heels in the Workplace:** British Columbia has banned mandatory high heels at work via a new amendment to the footwear section of the Occupational Health and Safety Regulation under the Workers' Compensation Act. The purpose of the amendment is to address the risk of physical injury from slipping or falling in the workplace. A copy of the new amendment can be found [here](#).
- **Newfoundland and Labrador - Minimum Wage Increased in April and Going Up Again in October:** Effective April 1, 2017, the minimum wage in Newfoundland and Labrador increased to CA\$10.75 (US\$8.04) per hour and, effective October 1, 2017, it will rise to CA\$11.00 (US\$8.22). Overtime rates increased to CA\$16.13 (US\$12.06) per hour on April 1, and will rise to CA\$16.50 (US\$12.34) on October 1. Prior to the increase, Newfoundland and Labrador's minimum wage was Canada's lowest: CA\$10.50 (US\$7.85) per hour.
- **Ontario - Appellate Court Voids Termination Clause as Contrary to ESA:** In April 2017, the Ontario Court of Appeal awarded damages to an employee dismissed without cause during her three-month probationary period on the grounds that the termination clause in her contract violated the province's Employment Standards Act (ESA). The ruling confirms that termination clauses in Ontario employment contracts must meet the requirements of the ESA for their entire duration. A copy of the court's ruling can be found [here](#).
- **Ontario - Broad Employment Standards Overhaul Proposed:** The Ontario Legislature has proposed an overhaul of its Employment Standards Act and Labor Relations Act, including a two-step increase in the minimum wage (to \$15 CAD an hour), equal pay

for equal work for part-time and temporary workers, and expanded access to card-based certification of union bargaining units. Most of the bill's provisions would take effect on January 1, 2018. The changes will potentially have a negative impact on smaller businesses who operate on thinner profit margins and cannot absorb these changes as easily as larger businesses in the province. A copy of the bill is available [here](#).



Chile

- **Employer Contributions to Employee Pensions Could Become Mandatory:** On April 12, 2017, Chilean President Michelle Bachelet announced that new legislation will be submitted to the National Congress later this year requiring employers to contribute to workers' pensions. Under the proposal, employers, which currently pay nothing toward their employees' pensions, would have to contribute 5 percent of the employee's gross salary on top of the 10 percent paid by the employee.
- **New Law Allows Employers, Unions to Negotiate Four-Day Weeks, Teleworking:** Chile's labor authority has issued new rules that enable workers and employers to agree on alternative working arrangements without the need for government approval. These new arrangements may take the form of a four-day workweek (as long as the total hours in a workweek do not exceed 45 hours) or allow employees with dependents to work from home. These arrangements apply only to companies whose workforce is at least 30 percent unionized. In addition, employers and employees' unions would have to agree on making such new working arrangements through formal pacts outside of regular collective bargaining.
- **Unions Gain Say Regarding Non-union Employees' Share of Benefits:** On January 18, 2017, Chile's Labor Authority released Ruling 2709, the sixth of nine planned guidances relating to the implementation of new pro-union labor reforms that came into effect on April 1, 2017. The ruling determined that nonunionized employees can share benefits gained through collective negotiations when employers reach an agreement with the union and nonunionized members agree to pay the specified union membership fee. The Labor Directorate previously released guidance on collective negotiation, minimum services and emergency staff during strikes, the union's right to corporate information, and pacts with employers on special working conditions.

China

- **New Ratings Schemes Target Employers that Violate Labor Laws:** Effective January 1, 2017, two new measures began targeting employers that violate China's labor protections, putting foreign companies on notice to take extra care moving forward. Under "Measures for Announcing Major Violations of Labor Security," employers considered in "serious violation" of the law will be "named and shamed" by having their name, address and other key information published on the website of the Ministry of Human Resources and Social Security and in other mass media. Under "Measures for Credit Rating Evaluation of Enterprise Labor Security Compliance," companies will be publicly graded with an A, B or C based on their level of compliance with the nation's labor protections.
- **Despite Landmark Ruling, LGBT Rights Lacking in China's Workplace:** On December 30, 2016, a Guizhou court in China ruled that the dismissal of a female-to-male transgender worker was illegal. The ruling marks the first victory of a transgender individual in an employment case in China. However, the court only ruled for wrongful termination because of the absence of cause. The court did not touch on discrimination against transgender individuals in the workplace.

Colombia

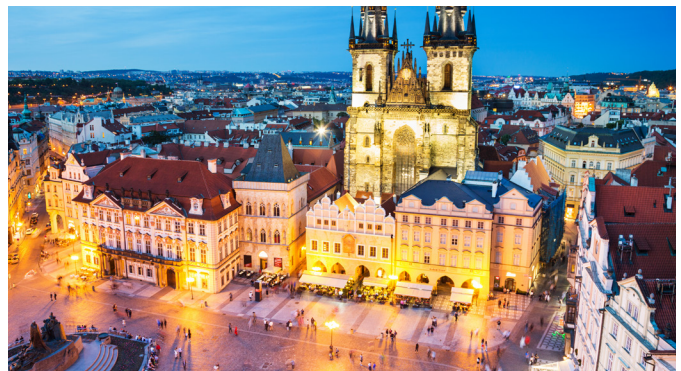
- **Minimum Wage Increase:** Effective January 1, 2017, the monthly minimum wage in Colombia rose from 689,455 pesos (US\$231) to 737,717 pesos (US\$247). In addition, employers have to pay more public transportation assistance (83,140 pesos, up from 77,700 pesos) to civil servants and individuals making at least twice the new minimum wage. (This public transportation assistance requirement only applies to employers in regions with available public transportation.)

Czech Republic

- **Paternity Leave Starting in 2018:** Effective February 1, 2018, paternity leave will be available to employees and self-employed individuals within the first six weeks of the birth or adoption of a child in the Czech Republic. New fathers will receive benefits equal to 70 percent of wages up to 28,000 koruna (US\$1,200), 60 percent of wages between 28,000 and 42,000 koruna (US\$1,900) and 30 percent of wages from 42,000 to 85,000 koruna (US\$3,800). This is a state-funded benefit that will not financially burden businesses. A copy of the new paternity leave legislation can be found [here](#).

Denmark

- **Dismissal for Smoking Justified, Court Rules:** On January 17, 2017, Denmark's Eastern High Court upheld a lower court ruling that a company's summary dismissal of a senior employee for smoking in a prohibited area was justified where (i) a personal, verbal warning was given to the employee and (ii) a subsequent reminder was given to all employees of the company's smoking policy. Before dismissing an employee for smoking, companies must first issue a warning, ideally in writing, that notifies the employee that summary dismissal may result from another breach. A copy of the ruling, in Danish, can be found [here](#).



Finland

- **Employment Contracts Law Updated:** Effective January 1, 2017, an amendment to Finland's Employment Contracts Act brought many changes to the rights and obligations of the nation's employers and employees. Among the changes are: (i) extending the trial (probationary) period within which new employees may be dismissed without notice or statutory benefits from four months to six months; (ii) giving employers the right to offer a new employee who has been unemployed in the last year a fixed-term contract of up to 12 months; (iii) reducing the time employers have to reemploy workers who were made redundant due to cost concerns from 9 months to 4 months; (iv) extending standard full-time working hours by 24 hours per year and 30 minutes per week for; (v) obligating companies with at least 30 employees to provide employees with more than 5 years of service who have been made redundant outplacement services of a value equivalent to a month's salary. The new legal amendment is available, in Finnish, [here](#).

Germany

- **New Pay Parity Legislation:** Effective January 1, 2018, a new law in Germany will allow employees working in a company with 200 or more employees to obtain information about how their pay is calculated, including information on average salaries and other forms of remuneration for up to five employees with similar jobs. The stated purpose of the law is to address the gender pay gap.
- **New Social Security Agreement With India:** On May 1, 2017, a new bilateral social security agreement between India and Germany went into effect. The pact calls for new regulations to prevent double payments for pension and unemployment insurance for posted employees.
- **Minimum Wage, Temp Worker Regulations Changed in 2017:** Effective January 1, 2017, the minimum wage in Germany rose from €8.50

(US\$8.90) to €8.84 (US\$9.26). Employers in Germany must also now pay temporary workers the same wages as they pay their regular workers unless: (i) the temporary worker has not worked at the same company for nine months or (ii) the employer and trade union have changed the nine-month requirement through collective bargaining. Information on the new regulations for temporary workers can be found [here](#).

- **Labor Ministry Opens New Social Insurance Portal for Employers:** In January 2017 Germany's Federal Ministry of Labor and Social Affairs launched a new social insurance portal that provides an overview of employer reporting and contribution obligations, and answers such questions as what steps employers need to take for new hires. More changes to the website are in the works, but there are no current plans to publish any of its content in English. The portal may be found [here](#), with additional information, also in German, [here](#).
- **Bank Bonus Clawback Period Extended by Two Years:** In February 2017, Germany's Federal Financial Supervisory Authority (BaFin) published a new "less onerous" draft directive which would extend the time period for lenders to claw back bonuses for staff who engage in misconduct to two years after the bonuses vest in full. The draft directive also would provide lenders with more flexibility in cutting staff and restructuring by allowing severance to be paid even when taken as a loss and, in some instances, severance will not be calculated in the cap limiting variable pay. A copy of this draft directive can be found [here](#)



Iceland

- **New Law Will Require Employers to Demonstrate Salary Equality:** A new law, effective January 1, 2018, will require Icelandic companies with at least 25 employees to prove that their employees receive equal pay for work considered "of equal value." The legislation will require companies to obtain official certification showing that their salary schedule and HR policies abide by an Equal Pay Standard developed jointly by labor unions, the Employers' Confederation and the government. A copy of the legislation, in English, can be found [here](#).

India

- **Simplified Employment Recordkeeping:** On February 23, 2017, India announced it is reducing the number of labor records businesses must maintain from 56 to 5. The five registers will have a total of 144 data fields to be filled, compared with the current 933 total data fields across 56 registries. The changes will affect recordkeeping rules under the Contract Labour (Regulation and Abolition) Act of 1970, the Equal Remuneration Act of 1976, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act of 1979, the Mines Act of 1952, the Minimum Wages Act of 1948, the Payment of Wages Act of 1936, the Sales Promotion Employees (Conditions of Service) Act of 1976 and the Working Journalists and Other Newspaper Employees (Conditions of Service) Act of 1955.
- **Employers Responsible for Contractors' Pension Fund Obligations:** On February 2, 2017, India's Employees Provident Fund Organization (EPFO) published a letter reminding principal employers they are responsible for ensuring (i) contractors are registered with the EPFO before awarding a contract, (ii) the contractor's details are recorded in the EPFO after awarding a contract, and (iii) the contractor paid provident fund payments or the employer deducted provident fund payments from the contractor's contribution prior to paying the

contractor. Failure to pay into the provident fund (retirement) may result in a fine of 10,000 rupees (US\$150) and imprisonment of up to one year.

- **New Code Proposed to Simplify Laws and Expand Social Security Coverage:** India's Labor Ministry proposed a new Social Security Code that will consolidate 15 existing laws and extend coverage to all categories of employers and workers. These efforts are intended to streamline the country's labor laws and ease the compliance burdens on employers. A copy of the new code can be found [here](#).
- **Paid Maternity Leave Increased to 26 Weeks:** Effective January 20, 2017, businesses in India must provide 26 weeks paid leave for an employee's first two pregnancies and 12 weeks paid leave for adoptive and surrogacy-commissioning mothers under the Employees' State Insurance (Central) Amendment Rules 2017. To be eligible for the extended benefits, female employees must work for a given employer for at least 80 days in the 12 months preceding the expected delivery date and must provide written notice to their employer 7 weeks before delivery. For a third pregnancy, and any subsequent pregnancies, the original 12 weeks paid leave will remain in place.



- **Government Makes Personal ID Mandatory for Pension Fund Members:** According to a notification dated January 4, 2017, members of India's Employees' Provident Fund Organization (EPFO) must present a copy of their government-issued "Aadhaar" unique identification card, or proof that they have applied for one, in order to receive the Central Government's contribution and subsidy under the Employees' Pension Scheme. Employers covered under the Employees' Provident Fund and the Miscellaneous Provisions Act of 1952 must also ensure that eligible employees receive their Aadhaar card and provide the relevant details to the EPFO. A copy of the notification can be found [here](#).
- **Businesses Must Prepare to Comply With New Disability Act:** In late 2017, India is expected to announce a new disability rights law that will require private businesses to create an equal employment opportunity policy and register the policy with the Commissioner for Persons with Disabilities. The new law will also require private businesses to provide barrier-free access to buildings, transport systems and other necessary infrastructure. Businesses will have to maintain records for persons with disabilities that address the terms of their employment, accommodations provided and other information that the government may require. There will be incentives to employers whose workforce is at least 5 percent people with benchmark disabilities. The new law will include a monetary penalty for failure to comply. The effective date is unknown.
- **Draft Rules Would Require Businesses With More Than 50 Employees to Provide Day Care:** India's Labor Ministry has proposed amending existing rules concerning at-work child care facilities to require that all establishments employing more than 50 persons ensure that there is a day care center within 500 meters of the facility. This proposal, like the one involving maternity benefits, is intended to spur the employment of more educated and skilled workers in order to power India's growing service economy. Employers affected by this amendment should ensure their workplaces are in compliance. The notification of amendment is available [here](#).

Ireland

- **Minimum Wage Increase:** As of January 1, 2017, the statutory minimum wage in Ireland increased from €9.15 (US\$9.66) to €9.25 (US\$9.76). This represented the first increase in 12 months following advice by the Low Pay Commission, which is tasked with making such recommendations under the National Minimum Wage (Low Pay Commission) Act of 2015. A copy of the new order can be found [here](#).

Israel

- **Parliament Extends Paid Maternity Leave and Adds Co-Parenting Provisions:** On March 21, 2017, Israel's parliament amended the country's Period of Birth and Parenthood Law to extend paid maternity leave to 15 weeks from the previous 14 weeks. The amendment also extends the time fathers can replace their partners on paid leave by reducing the minimum period from 3 weeks to 1 week. Another amendment, which would increase paid leave for up to 16 weeks, is expected later in 2017. A separate amendment to Israel's Women's Employment Law, granting full-time working mothers one hour off each day for four months after returning from maternity leave, also passed.
- **Court Prohibits Biometric Fingerprinting in the Workplace:** On March 15, 2017, Israel's National Labor Court ruled that employers can no longer require employees to submit fingerprints for biometric use. This decision came after the Knesset, Israel's parliament, enacted legislation a month earlier mandating the participation of Israeli citizens in a biometrics database. Under any implementing regulations, submitting fingerprints will be optional, but participants who don't submit fingerprints will get a smart identification card that is valid for only five years. Participants who submit both fingerprints and facial recognition will receive a smart identification card that is valid for 10 years. A copy of the March court ruling can be found [here](#).

- **Government Acts to Bridge High-Tech Employment Gap:** In January 2017, Israel's cabinet approved a \$235 million initiative to meet demand in the country's high-tech industry that includes hiring 500 scientists and engineers from overseas and increasing student numbers in academic and university programs. Due to the lack of software and engineering graduates within the country, a deficit of employees in the tech industry is expected. industry higher. With this initiative, the cabinet hopes to reverse this worsening talent shortage. A copy of the initiative can be found [here](#).
- **Ruling Protects Alleged Harassers, Not Just Harassed:** Under a new ruling by the Tel Aviv Labor Court, Israeli employers are required to investigate all sexual harassment charges directed at an employee. Failure to investigate a sexual harassment charge, whether formal or rumored, could result in the accused bringing an action for unjust damage to reputation for which compensatory damages are available. A copy of the ruling can be found [here](#).

Japan

- **Overtime Hours Capped:** On March 13, 2017, Prime Minister Shinzo Abe and the country's business and labor leaders agreed to cap overtime hours at 100 hours a month and 720 hours a year, provided the employer and employee sign an agreement on overtime and holiday work. Under the new agreement, overtime in two consecutive months cannot exceed an average of 80 hours and monthly overtime must be limited to no more than 45 hours during at least 6 months of the year.
- **Emergency Guidance on Overtime Hours Released:** In response to a spike in "karoshi" (suicides by overworked employees), the Ministry of Health, Labor and Welfare released new guidelines, effective April 1, 2017, requiring employers to set in-house guidelines for overtime work and to track employee work hours. The ministry may also publish the names of employers that have employees who committed karoshi and worked over 80 hours of overtime in a month.

- **Regular, Nonregular Worker Compensation Must Be Equalized, Prime Minister Says:** Prime Minister Shinzo Abe's cabinet adopted draft guidelines addressing the wage and benefits gap between regular and nonregular workers. The guidelines include changes such as providing regular and nonregular workers the same overtime benefits and bonuses for the same work. The guidelines reflect the first set of guidance the Japanese government has released addressing inequity in wages, bonuses, benefits, vacation and leave.

Kazakhstan

- **Foreign Executive Rules Clarified:** Effective March 10, 2017, a new law states that CEOs of subsidiaries and representative offices of foreign businesses must (i) be appointed by the governing bodies of the foreign businesses and (ii) have power of attorney to represent them or act on their behalf. The new law also allows employers to conclude workplace personal injury/employer liability insurance contracts electronically using digital signatures. Any electronic submissions must include annual payroll data. A copy of the new law can be found [here](#).
- **New Pension Payment Rules for Foreign Workers:** On January 5, 2017, the Kazakhstan government issued a decree that allows and sets out requirements for pension payments to foreign workers who have left the country. Such workers, if they wish to receive pension disbursements from their employers' state-run pension fund, must submit to the country's pension fund authority: (i) an application, (ii) a copy of their passport and (iii) a copy of their bank details. The application will be rejected if the worker's residence permit has not expired or if the worker is still living in Kazakhstan. A copy of the decree can be found [here](#).



Netherlands

- **Work Permit Waiver Program in Effect:** Effective July 1, 2017, a new waiver program allows Netherlands-based companies to bring certain foreign workers into the country without work permits. Under the new rules, companies may employ foreign workers on certain qualifying temporary projects concerning cross border trade, service or cooperation, provided they can demonstrate that the employees are needed for their specialized knowledge. The project may be a collaboration, a partnership or an agreement for the delivery of goods or services. No minimum salary requirement is specified apart from the minimum wage. Employers wishing to participate in the program must submit an application to get the specific project approved to the Dutch Employee Insurance Agency. A copy of the new rule (in Dutch) can be found [here](#).

Norway

- **New Whistleblower Rules Take Effect:** Recent amendments to Norway's Working Environment Act require companies with at least 5 employees to develop whistleblowing notification procedures and make clear that the notification requirement extends to subcontracting workers and that whistleblowers are entitled to have the confidentiality of their identity maintained. The amendments took effect on July 1, 2017. The Working Environment Act previously required employers to establish internal reporting routines and to give employees the right to report workplace breaches, but it was unclear whether these protections extended to temporary workers engaged through staffing agencies and whether employees had the right to full confidentiality when reporting misconduct to public authorities. A copy of the amendments can be found [here](#).

Peru

- **Sweeping New Immigration Law Implemented:** The Peruvian government has amended its Immigration Law to guarantee that foreign nationals working in Peru are eligible for the same health services, education and labor conditions as Peruvian nationals. The 66-article amendment became effective on January 7, 2017, and its 230-article implementing bylaws were introduced on March 27, 2017. This represents the first substantial change to the country's immigration law since 1991.

Poland

- **Minimum-Wage Increase:** Under a government proposal adopted June 6, 2017, the monthly minimum wage would increase to 2,080 zlotys (US\$558.90) from 2,000 zlotys (US\$537.40) and the hourly minimum wage would increase to 13.50 zlotys (US\$3.63) from 11.54 zlotys (US\$3.10). The proposed increases, which would take effect on January 1, 2018, are now subject to approval by September 15, 2017. The government announcement may be found [here](#).



- **Temporary Work:** An Amendment of the Act on Temporary Agency Workers took effect on June 1, 2017. The main changes introduced by this amendment are as follows: (i) temporary workers can work for the same hiring employer for a maximum of 18 months in any 36 month period (including periods of civil law contracts), (ii) contracts of pregnant temporary workers expiring after the third month of pregnancy will be extended to the end of the pregnancy, (iii) temporary workers are not permitted to do the same kind of work as performed previously by an employee whose employment was terminated in the prior 3 months for reasons not attributable to the employee, and (iv) employers are obligated to keep records of any temporary workers, indicating the name of the individual as well as the type and duration of the contract.
- **Minimum Hourly Rate for Civil Law Contracts:** Under the amended Act on Minimal Remuneration for Work dated October 10, 2002, as of January 1, 2017 the minimal hourly rate for independent contractors is PLN 13 gross per hour. This hourly rate shall be also subject to yearly valorization starting on January 1, 2018. In the case of civil law contracts lasting for a period longer than 1 month, payment shall be paid at least once a month.

Romania

- **Wage Increase:** Effective February 1, 2017, the monthly minimum wage in Romania rose 16 percent, from 1,250 lei (US\$294) to 1,450 lei (US\$341). The hourly minimum wage also changed to 8.735 lei (US\$2.06). The minimum wage applies to employees working a full schedule of 166 hours per month. Employers should keep these changes in mind as noncompliance can result in fines ranging from 300 lei (approximately \$71 USD) to 2,000 lei (approximately \$517 USD). Text of the minimum wage decision can be found (in Romanian) [here](#).

Russia

- **New Law Revises Work Time, Holiday Pay Rules:** Rules governing work time and compensation for weekend and holiday work have been amended by a new federal law signed by President Putin on June 18, 2017. Under the new law, employers are allowed to establish workdays and workweeks as short as they want. Additionally, employers are not required to provide a meal break to employees whose work shift is less than four hours. Finally, revisions to the Labor Code entitle employees to extra compensation for working less than a full day on weekends on public holidays. Full text of the new law (in Russian) is available [here](#).
- **New Regulation Enhances Rules for Hiring Disabled:** On May 12, 2017, the Russian government issued a proposal to facilitate employment of disabled people through 2020 by adding teeth to a requirement under federal law that businesses employing more than 100 employees must fill between 2 and 4 percent of positions with disabled employees. The proposal stipulates that regulatory authorities would tighten oversight procedures to monitor employers' compliance with the quota system, and would require the Labor Ministry to approve region-specific annual targets for hiring disabled employees. A copy of the proposal (in Russian) is [here](#).
- **Court Says Unjustified Executive Pay Can Be Annulled:** On May 10, 2017, the Supreme Court ruled that executive pay hikes that lack legal and economic justification can be annulled pursuant to Articles 10 and 168 of the Russian Civil Code. A copy of this ruling (in Russian) can be found [here](#).
- **New Employee Protections Announced:** On April 5, 2017, the Russian government announced the Employment Promotion Program for 2017 through 2019. Under the new program, employers are required to ensure workplace safety, protect employee rights in the event of layoff or unemployment, and give hiring priority to domestic workers.

- **Workplace Hazard Pay Not Subject to Social Tax:**

On March 9, 2017, Russia's Supreme Court held that payments made to employees for working in hazardous conditions cannot be subject to social levies. A copy of the ruling (in Russian) can be found [here](#).

- **Tax Authority Takes Over Mandatory Social Levies:**

On January 24, 2017, Russia's Federal Taxation Service released new guidelines on legislation requiring employers to make payments of mandatory social levies. Under the new guidelines, businesses were required to begin registering with the tax authorities and the tax authority was to begin issuing certifications of social levies paid by February 2017. In addition, the guidelines require employers to estimate their 2017 tax liabilities for the first quarter by May 2; for the first six months by July 31; for the first nine months by October 31; and for the full calendar year by January 30, 2018. A copy of the new guidelines (in Russian) can be found [here](#).

- **Convention on Workplace Carcinogens Ratified:**

Russia is a signatory to the International Labour Organization's Convention No. 139 concerning "Prevention and Control of Occupational Hazards caused by Carcinogenic Substances and Agents." On February 7, 2017, Russian President Vladimir Putin signed a law implementing the Convention, making clear Russia will (i) periodically determine which carcinogenic substances and agents will be prohibited or subject to authorization, (ii) replace carcinogenic agents workers may be exposed to with non-carcinogenic substances, and (iii) provide further protections and medical examinations for workers exposed to carcinogens.

- **CEO Compensation Limit Clarified:** The Russia's Labor Ministry released new guidelines on legislation limiting the compensation of executives of state-controlled corporations and state-run businesses and organizations. Under current law, the gap between CEO and average employee compensation cannot exceed certain limits approved by federal and local authorities. The new guidelines clarify that CEO compensation cannot exceed 8 to 10 times what an average worker makes. The guidelines also mandate that

CEO compensation for the earned year must be released by May 15 of the following year, and states that failure to comply with these provisions can result in termination of the employment contract with the state. A copy of the guidelines (in Russian) can be found [here](#).

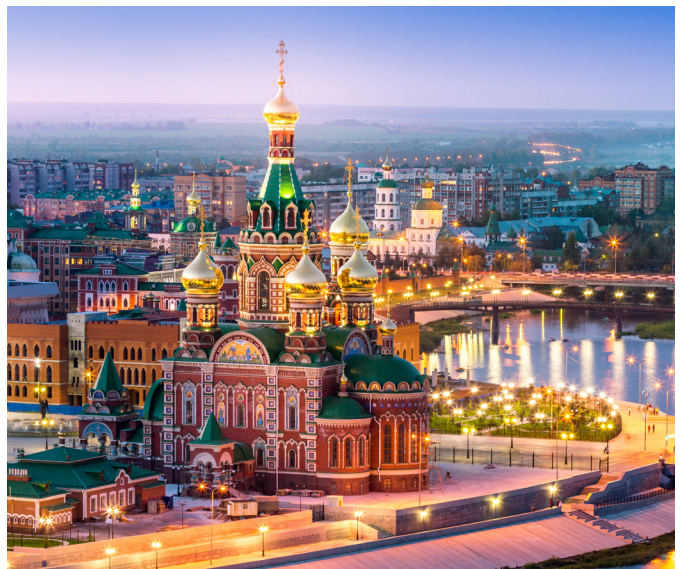
- **New Restrictions on Employment of Minors:**

Russia has amended its Labor Code (Articles 63, 92 and 94) to restrict the hours minors can work. Under the new amendments, which were signed into law by President Putin, workers under 18 years of age may not work more than 7 hours a day, workers and trainees under 16 may not work more than 5 hours a day, and workers and trainees 15 to 16 years of age may not work more than four hours a day. The full text of Federal Law No. 139-FZ (in Russian) is available [here](#).

South Africa

- **Minimum Wage by May 2018, Government**

Says: South Africa will introduce a minimum wage no later than May 1, 2018, according to Deputy President Cyril Ramaphosa. The new minimum wage would be 20 rand (US\$1.50) per hour. The deputy president said the proposal will allow businesses that cannot afford the minimum wage to apply for an exemption.



South Korea

- **Foreign Worker Flat Tax Extended and Raised:** South Korea has, once again, extended the period in which foreign workers may use the flat tax rate. Foreign workers who have worked in the country since before 2014 can use the flat tax rate until December 31, 2018. South Korea raised the flat tax rate from 17 to 19 percent (not taking local taxes into consideration), effective January 1, 2017. Foreign workers whose start date is between January 1, 2014, and December 31, 2018, can also use this rate during a consecutive five-year period even if it goes beyond 2018.

Spain

- **Employers Escape Work-Hour Recordkeeping Requirement (For Now):** On March 23, 2017, the Spanish Supreme Court ruled that employers are under no legal obligation to record regular working hours. According to the Court, under Article 35.5 of the Workers' Statute, a company is only required to maintain records for overtime hours worked. The Court, however, indicated a need for greater legislative clarity, and encouraged future legislation.
- **Top Courts See Maternity Discrimination in Denied Incentives, Promotions:** On January 27, 2017, the Spanish Supreme Court and Constitutional Court announced that denying incentive compensation or seniority-based job choices to employees on maternity leave constitutes gender discrimination. Both courts recognized in two separate discrimination cases that women, by reason of their gender, need time off for imminent pregnancy and childbirth while men have no such biological obligation. A copy of the Supreme Court ruling (in Spanish) is available [here](#). A copy of the Constitutional Court ruling (in Spanish) is available [here](#).
- **Minimum Wage Increase:** As of January 1, 2017, the monthly minimum wage in Spain increased from €655.20 (US\$681.76) to €707.70 (US\$736.39), the

daily minimum wage rose from €21.84 (US\$22.72) to €23.59 (US\$24.54) and the annual minimum wage rose from €9,172.80 (US\$9,544) to €9,907.80 (US\$10,309). The Labor Ministry's announcement (in Spanish) can be found [here](#).

Sweden

- **Monthly Reporting of Individual Employee Wages Coming Soon:** Effective July 1, 2018, employers in Sweden with at least 15 employees will be required to file monthly individual income declarations for each employee with the Swedish Tax Agency. Employers with fewer than 15 employees have until January 1, 2019, to begin complying with the new reporting requirement. The purpose of the reporting rule changes is to reduce tax evasion and avoidance. A copy of the new rule (in Swedish) is available [here](#).
- **Unpaid Sick Day To Be Abolished:** On May 15, 2017, Sweden's Social Affairs Ministry announced that, effective January 1, 2019, employers will be required to pay their employees from their first day of sick leave, but will be allowed to reduce paid sick benefits during certain time periods. Critics say this change will increase administrative costs for employers, and may result in higher sick pay costs for companies that employ a large number of employees on fewer but longer shifts.
- **Police Get New Workplace Inspection Powers:** On April 27, 2017, Sweden's Justice Ministry announced a proposed amendment to the country's Aliens Act which, if adopted, would grant new powers to Sweden's police to raid workplaces and crack down on illegal foreign workers. The new powers, which have no expiration date, include an increase in economic sanctions from 22,400 kroner (US\$2,500) per illegal employee to 44,800 kroner (US\$5,000). The proposal, which was open for comment until July 28, 2017, is due to become law on March 1, 2018.
- **Whistleblowing Law Now in Effect:** On January 1, 2017, a new law aimed at protecting employees who sound the alarm about irregularities at work

came into force. The Swedish Whistleblowing Act (2016:749) requires companies of all sizes to implement a mechanism for employees to report serious workplace breaches without fear of retaliation. The Act makes it illegal to retaliate against an employee for reporting wrongdoing. Additionally, the Act provides employees who believe that they have been illegally retaliated against the right to sue for damages. Provisions in employment contracts that contradict the Act are invalid. A copy of the Act can be found [here](#).

- **Anti-Discrimination Amendments Increase Companies' Obligations:** Amendments to Sweden's Discrimination Act require employers with 25 employees or more to take "active measures" to combat discrimination based on transgender identity or expression, disability and sexual orientation. These are in addition to the formerly protected categories of sex, ethnicity, and religion or other beliefs. The amendments, which took effect on January 1, 2017, also require Swedish companies to conduct internal investigations to evaluate risk of discrimination or harassment, to document their findings on an annual basis, and to conduct salary surveys every year. Companies may be subject to monetary penalties for noncompliance. A copy of the Discrimination Act (in Swedish) can be found [here](#).



Thailand

- **New Labor Law Postponed:** The Thai government on July 4, 2017, deferred implementation of new labor regulations intended to curb illegal hiring and human trafficking in order to give companies more time to adjust, as the new rules impose stiffer penalties for offending employers. The new regulations initially took effect on June 23, 2017, but quickly resulted in a worker shortage.

Turkey

- **Minimum Wage Increase:** Effective January 1, 2017, the monthly minimum wage in Turkey increased from 1,647 liras (US\$466.63) to 1,777.50 (US\$503.60). Taking taxes and deductions into consideration, the net monthly minimum wage increased from 1,300.99 liras (US\$368.64) to 1,404.06 liras (US\$397.84). This change is effective until December 31, 2017. A copy of the new announcement (in Turkish) can be found [here](#).

Ukraine

- **Employers Can Contest Disability Benefit Noncompliance Fines:** On May 19, 2017, Ukraine's State Social Insurance Fund released new guidance making clear that employers have a right to contest Fund-imposed penalties for alleged noncompliance with disability benefit obligations. Under the new guidelines, (i) the Fund must notify employers within 20 days if fines have been imposed; (ii) employers may file a petition contesting the assessment of penalties; and (iii) employers are not required to pay any assessed penalties until a ruling on their petition is issued. A copy of the new guidance (in Ukrainian) can be found [here](#).
- **New Protections for Employees Laid Off Near Retirement:** The Ukrainian Parliament adopted an amendment to the country's Labor Code, effective April 30, 2017, that provides employees nearing

retirement special protections against termination. Under the new law, employees less than three years from retirement cannot be made redundant before their younger counterparts. A copy of the new law (in Ukrainian) can be found [here](#).

- **Disability Benefits Subject to Income Tax:** Effective February 24, 2017, new guidelines regarding Article 34 of Ukraine's law on mandatory social insurance (No. 1105) provide that temporary disability benefits paid to employees are subject to personal income tax. Under the new guidelines, employers must withhold personal income taxes on these payments and report such taxes and payments to the State Social Insurance Fund (SSF). A copy of the guidelines (in Ukrainian) can be found [here](#).
- **Revised Work Permit Regulations Issued:** On February 3, 2017, Ukraine's Cabinet of Ministers released Decree No. 28, amending Decree No. 437, which outlines new procedures for issuing and renewing foreign workers' work permits. Under the new decree, employers are required to send the government (i) copies of employment contracts entered into with foreign employees within 10 calendar days of signing and (ii) signed labor contracts within 90 calendar days from the date work permits take effect. The decree further provides that work permits are good for one year, and must be renewed no earlier than 40 days and no later than 20 days prior to their expiration date. In addition, employers must first make work available to local workers before turning to foreign workers. The full text of the decree and the government statement (in Ukrainian) are available [here](#).
- **New Labor Code Approved:** Ukraine's Parliament approved a new Labor Code, submitted by the government, that will bring Ukrainian law into conformity with European standards. The new code addresses non-discrimination in labor relations, trade unions, and paid educational leave.

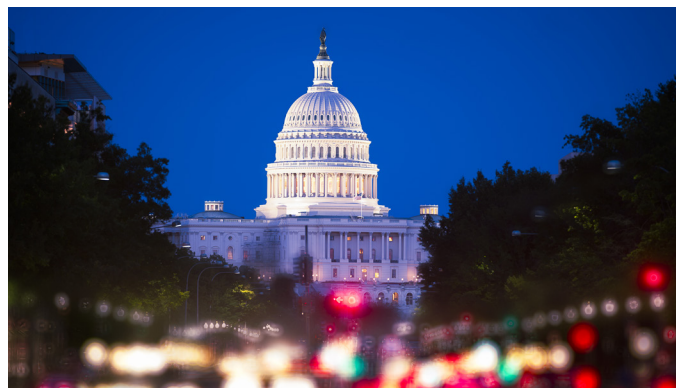
United Kingdom

- **The Rights of EU Citizens in the UK:** On June 26, 2017, the government published a policy paper setting out, in Prime Minister Theresa May's words, a "generous offer" to EU citizens and their families in the UK post-Brexit. (The government expects the offer to also extend to Norway, Iceland, Liechtenstein and Switzerland.) Irish nationals will not need to apply for the new status. The government also stated that there is no need for EU citizens anxious about securing their status post-exit to apply now for EU documentation under the free movement rules to prove they are exercising Treaty rights or have a current right of permanent residence. Nor will they need to apply for new British settled status before the UK leaves the EU. The offer is different depending on how long a person has been in the UK, and also addresses the rights of family dependents to apply for settled status. A detailed explanation of the offer can be found [here](#).
- **Multiple Claims Must Be Based on the Same Facts:** Rule 9 of the Tribunal Rules 2013 allows two or more claimants to utilize the same claim form so long as their claims are based on the same set of facts. But what does "the same set of facts" mean for purposes of Rule 9? That was the question before the Employment Appeals Tribunal (EAT) in *Farmah & ors v Birmingham City Council*, five equal-pay cases brought by female claimants doing different types of work. On June 20, 2017, the EAT held that Rule 9 requires a three-step approach: (i) identify the complaints being raised; (ii) identify the facts that the complaints are based upon; and (iii) determine whether the facts are the same for each complaint. The EAT concluded that doing different jobs requires different male comparators or bringing claims on a different basis. The EAT also provided guidance on a tribunal's discretion to strike out a claim or waive the irregularity if it considers it to be just (as provided for by Rule 6). Read more about the case [here](#).

- **Expectation at Time of Signing Key to Reasonableness of Restrictive Covenant:** On May 23, 2017, the High Court in *Egon Zehnder Ltd v. Mary Caroline Tillman*, granted an application to enforce an employee restrictive covenant that restrained the employee from working for a competitor for a period of six months from termination. The employee, who joined the firm as a junior employee but quickly rose through the ranks, argued that the non-compete went beyond protecting the employer's legitimate business interests. While agreeing with the employee that the point of signing the contract was the operative time for assessing the reasonableness of the covenant, the court took into account the wider circumstances of her recruitment, which showed an intention to groom and rapidly promote her, including providing access to clients and confidential information. The decision is therefore a reminder to (i) ensure that restrictive covenants are fit for purpose and (ii) updated on promotion, if necessary. Read more about the case [here](#).
- **Employees Not Under Duty to Disclose Plans to Set Up in Competition:** On May 16, 2017, the High Court in *MPT Group Ltd v Peel & Ors*, confirmed that an employee's duty to serve their employer with good faith and fidelity does not create an obligation to disclose their intention to lawfully compete with their employer post-termination. The court found that the law will, however, step in to prevent unfair competition, to hold employees to enforceable restrictive covenants and to protect confidential information. Read more about the case [here](#).
- **Redundancy following sickness absence not disability discrimination:** On January 12, 2017, the Employment Appeal Tribunal (EAT) upheld the Employment Tribunal's decision in *Charlesworth v. Dransfields Engineering Services Ltd* that Dransfields Engineering had not discriminated against the claimant by making him redundant after a period of disability-related sickness absence. The claimant was off work for three months after developing renal cancer, during which time Dransfields, which was looking to make cost savings, determined that it could operate effectively without his role. The EAT found that while there was a link between the sickness absence and the redundancy, the "absence is merely part of the context and not an effective cause" of the dismissal. Read more about the case [here](#).

United States

- **Federal Circuit Courts Split On Enforceability of Requirement to Arbitrate Employment-Related Claims:** In two recent cases now up for review before the United States Supreme Court, the Seventh and Ninth Circuit Courts of Appeals split from precedent in the Fifth Circuit and ruled that an employment agreement requiring employees to bring employment-related claims exclusively through individual arbitration violates the National Labor Relations Act and is unenforceable under the Federal Arbitration Act. Copies of the [Seventh](#) and [Ninth Circuit](#) opinions can be found [here](#).
- **Circuits Split on Title VII Coverage / Trump Administration Changes Course On Enforcement:** In 2015, the US Equal Employment Opportunity Commission (EEOC) issued an opinion stating for the first time that under Title VII of the 1964 Civil Rights Act (Title VII), the US federal law that prohibits workplace discrimination, the prohibition against "sex" discrimination includes a prohibition against "sexual orientation" discrimination. In April 2017, the US Court of Appeals for the Seventh Circuit agreed with the EEOC's interpretation of Title VII. However, in May 2017, the US Court of Appeals for the Eleventh Circuit disagreed, and held that Title VII does not include such protections. In June 2017, the US Court of Appeals for the Second Circuit declined to rehear the question or challenge its prior precedent excluding such protections. Most recently, in July 2017, the US Department of Justice filed an amicus brief saying that Title VII does not cover employment discrimination "based on sexual orientation." The issue is expected to make its way to the US Supreme Court.



- **US Department of Labor Seeks Additional Information For Overtime Rule:** In 2016, the US Department of Labor authorized a new set of regulations that would update the overtime rules under the Fair Labor Standards Act, increasing the salary threshold for overtime exemptions. The new rules were scheduled to take effect December 1, 2016. Days before the final rules went into effect, however, a federal court in Texas issued a nationwide preliminary injunction preventing the rules from taking effect. The Department of Labor appealed the order to the Fifth Circuit Court of Appeals. In June, the Department of Labor under President Trump notified the court that it intended to take further comment on, and conduct a review of, the overtime rules for any future implementation. On July 26, 2017, the Department of Labor published a Request for Information seeking input from stakeholders on any future regulatory changes.
- **US Circuit Court Limits Damages Available In Federal Age Discrimination Cases:** On February 15, 2017, the US Court of Appeals for the Fifth Circuit held that under Fifth Circuit precedent, damages for pain and suffering and punitive damages are not available in private actions under the Age Discrimination in Employment Act (ADEA). The Court affirmed a ruling by the lower court that the plaintiff, a nurse supervisor, could not seek such damages in her claim for age discrimination against her employer under the ADEA.

Uruguay

- **U.S and Uruguay Sign Social Security Treaty:** On January 10, 2017, Uruguay and the United States signed a social security treaty allowing the approximately 60,000 Uruguayans working in the US and the 6,000 Americans working in Uruguay to accumulate working years for their home-country's retirement benefits. This is the third such treaty the US has entered into with a Latin American country, the others being Chile and Brazil. A copy of the treaty is available [here](#).

- **Minimum Wage Increase:** Effective January 1, 2017, the monthly minimum wage in Uruguay rose from 11,150 pesos (US\$391.59) to 12,265 pesos (US\$439.75). This change also increased the daily minimum wage to 490.60 pesos (US\$17.23) and the hourly minimum wage to 61.325 pesos (US\$2.15). A copy of the decree (in Spanish) can be found [here](#).

Venezuela

- **Increased Minimum Wage Effective January 1:** Effective January 1, 2017, the monthly minimum wage in Venezuela rose from 27,092 bolivars (US\$2,674.68) to 40,639 bolivars (US\$4,012.12). The news release (in Spanish) can be found [here](#).

Vietnam

- **Labor Law Revamp Would Expand Union Rights, Increase Retirement Ages, and Provide for Automatic Employment Contract Renewal:** Vietnam is preparing a substantial Labor Law amendment to the Labor Code of 2012. The overtime cap of 200 hours per year would be raised to 600 per year. The current retirement ages of 60 for men and 55 for women would increase to 62 for men and 60 for women. In the past, only trade unions operating under the Vietnam General Confederation of Labor have had the right to represent employees. The new law would also allow independent unions to represent employees. The coverage of discrimination law would be defined to include pregnancy, marital status, and union activities. Currently, employees with definite term contracts become subject to an indefinite term if the contract expires without a new agreement. Under the proposed law, the contract would be automatically renewed with the same term if the employer does not have a new contract executed.

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