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January 29th 2015

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China: Incentives for employers who prevent or minimise mass layoffs

China's Ministry of Human Resources and Social Security has issued draft regulations on company mass layoffs. In an attempt to safeguard employment, the regulations encourage employers to adopt certain measures as an alternative to mass layoffs. The draft regulations will be subject to public comment and feedback until January 31st 2015.

In order to avoid mass layoffs, the regulations recommend that employers consider training, reducing working time, adjusting wages and rotating jobs. Government subsidies will be available to employers who adopt these measures to help cover the associated expenses (e.g. cost of training courses, employee living allowances and social insurance contributions).

The regulations also clarify what will be considered a mass layoff and what procedures must be followed by employers if they decide to go ahead with a mass layoff. For more information on these details please see the section [China > Termination](#) in our HR Knowledgebase.

France: Reduced reporting obligations for monitoring employee calls

The French data protection authority, CNIL, has adopted a new Simplified Norm which requires less information to be provided to the CNIL when a company monitors and records employee telephone calls in the workplace in certain circumstances.

For companies to benefit from the reduced reporting obligations, they must monitor and record employee telephone calls in the workplace only periodically and not on a permanent or systematic basis. In addition, they must only be recording employee telephone calls for the following reasons: employee training, assessing employees' performance and improving the quality of the service. The processing of data by organisations whose mission it is to collect sensitive data is excluded from the scope of the Simplified Norm as are audio-visual recordings and screenshots of employees' computers.

Companies must delete telephone recordings within six months of the recording being made and they must also ensure that any documents that contain analyses

of these recordings are not retained for more than one year.

Hungary: Law banning Sunday working in retail sector

A law prohibiting Sunday working in the retail sector in Hungary will come into force on March 15th 2015. The law applies to both permanent and occasional retail activity but does not apply to pharmacies, shops at airports, train stations and bus stations, markets or petrol stations.

Under the law, retail stores may open between 6am and 10pm on business days but may not open on Sundays and public holidays. Some exceptions do apply, however, for example stores will be allowed to open on Sundays during Advent and on the run up to New Year. In addition, shops selling baked goods and dairy products may open from 5am on business days and between 5am and 12am on Sundays and public holidays.

Retail stores opening in violation of the law will be sanctioned with temporary closure.

Romania: Significant amendments to annual leave rules

Last week the president of Romania, Klaus Johannis, signed a law amending and supplementing the Labour Code. The law, which came into force on January 25th 2015, makes changes to the rules regarding annual leave and the salary rights of temporary employees.

The law establishes that, in determining the amount of annual leave an employee is entitled to, periods of temporary incapacity, maternity leave, maternal risk leave and sick child care leave will be considered periods of activity. In addition, if any of the above leave types interrupt a period of annual leave, annual leave

will be stopped and postponed until the other leave period has ended. If this is not possible the postponed annual leave will be rescheduled to another time. The new Labour Code also guarantees annual leave even when an employee is absent due to sickness for an entire calendar year. In such cases the employer is obliged to provide the annual leave due within 18 months of the employee's return to work.

As regards temporary workers, two new paragraphs have been introduced into the Labour Code. These state that the salary received by an employee hired through a temporary work agency may not be inferior to the salary received by an employee hired directly by the user company performing the same or a similar job. If the user company does not directly employ such an employee, the salary of the temporary worker will be determined by taking into account the salary that would apply to a worker employed under an individual labour contract to perform the same or similar job role, as specified in a collective agreement applicable to the user company.

Singapore: Most employers offer more annual leave than legally required

Singapore's Minister of Manpower, Tan Chuan-Jin, has stated that the Ministry of Manpower has no plans to increase the minimum annual leave entitlement stipulated under statute. In his response to a parliamentary question on the matter the Minister claimed that minimum labour standards should remain basic. He further supported his response with the results of a recent survey conducted by the Ministry of Manpower, which showed that most employers in Singapore grant their employees more than the minimum leave entitlement.

Under the Employment Act, an employee who has worked for an employer for at least three months is entitled to a minimum of seven days' paid annual leave

for the first 12 months of continuous service with the same employer. For each subsequent year of service with the same employer they are entitled to one additional day of paid annual paid leave — up to a maximum of 14 days per year.

According to the results of the Ministry of Manpower's survey, over 50% of employers in Singapore grant their employees more than the statutory minimum annual leave entitlement and 35% of employers provide their employees with 14 or more days of annual leave.

South Africa: Greater employment protection for vulnerable groups

The Labour Relations Amendment Act is now in force in South Africa. The Act gives greater employment protection to part-time workers, employees engaged on fixed-term contracts and employees hired through a temporary employment service provider. However the protection only applies to workers earning below a statutory income threshold, which at present is 205,433.30 South African rand (17,772.82 US dollars) per year.

Under the Act, fixed-term employees employed for longer than three months and earning below the earnings threshold will be considered to be employed for an indefinite duration unless their employer can prove that there is a justifiable reason for employing them on a fixed-term basis, or unless the nature of the work is of a limited duration. A fixed-term contract will be justified in some specific cases — such as where a worker is replacing another employee who is temporarily absent from work.

Additionally, the legislation states that employers must not treat part-time employees on the whole less favourably than comparable full-time employees who fulfil the same or similar work duties, unless there are valid reasons for differential treatment.

As regards employees who are employed by temporary employment service providers and who earn less than the earnings threshold, the Act makes the clients of the temporary employment services jointly and severally liable for any breaches of employment law affecting these employees.

Thailand: Increased red tape for work permit applications

Employers in Thailand will now face more stringent documentation requirements when applying for work permits and work permit extensions.

Under new rules, which came into effect on January 19th 2015, all documents required in the work permit application process must be duly certified by the relevant government agencies. Previously, photocopies of the original documentation were accepted by the One Stop Service Centre for Visas and Work Permits.

Although the process for applying for work permits has not changed, the new rules will increase the administrative burden on employers. Employers should be aware that it may take three to ten days to obtain these certified documents from the relevant government agency and some agencies may charge for producing these documents.

UK: Australian employee allowed to bring claim for unfair dismissal in UK courts

The UK Employment Appeals Tribunal (EAT) recently agreed that an employee who worked remotely for a UK company abroad was entitled to bring a claim of unfair dismissal against their employer in the UK.

The case involved an Australian citizen who was originally employed in London. As a result of an illness

in the family she returned to Australia and continued working for her employer remotely from there. She periodically returned to London for business matters. Subsequently, she resigned and brought a claim for constructive unfair dismissal and whistleblowing.

The employee was unable to bring her claim in Australia, therefore the key question was whether she was entitled to bring it in the UK. The Employment Tribunal held that, as she had requested to be posted to Australia and had been treated as an Australian resident for tax and pension reasons, the link with the UK was not satisfactorily strong for her case to be heard by them.

The EAT, however, overturned this ruling. They held that there was a sufficiently strong link with the UK for the case to be heard by the tribunal. The reasons given by the EAT were as follows: the employee's work was solely for the benefit of her employer in the UK; the employee had no right to make a claim in Australia; and, although she had raised her grievance while in Australia, the hearing had been held in London. [Lodge v Dignity & Choice in Dying and another [2014] UKEAT 0252_14_0212]

Pay, Tax and Benefit Trends

BELARUS: The national minimum wage in Belarus increased to 2,100,100 Belarusian rubles (119 euros) per month on January 1st 2015.

CANADA/UK: A new double taxation treaty between Canada and the UK has now entered into force. In the UK, the treaty is effective in respect of withholding taxes on sums paid or credited on or after January 1st 2015. Regarding corporation tax it is effective for any financial year beginning on or after April 1st 2015 and in terms of income tax it is effective for any year of assessment beginning on or after April 6th 2015. In Canada, the treaty is effective in respect of all

withholding taxes on sums paid or credited on or after January 1st 2015 and regarding other taxes, for any tax year starting on or after January 1st 2015.

FINLAND: According to Statistics Finland, the sum of wages and salaries in the private sector in Finland grew by 1.6% in the period from September to November 2014 as compared to the same period in 2013. The previous year-on-year increase during the period September to November was just 0.7%. The sum of wages is influenced by both employment levels and earnings levels.

HONG KONG: The Chief Executive in Council has approved recommendations made by the Minimum Wage Commission to raise the statutory minimum wage in Hong Kong. Subject to approval by the Legislative Council, the hourly minimum wage will increase from 30 Hong Kong dollars (3.87 US dollars) to 32.5 Hong Kong dollars (4.19 US dollars) on May 1st 2015.

LUXEMBOURG: Since January 1st 2015, employers in Luxembourg are no longer able to benefit from a 100% reimbursement of wages paid to employees during 'linguistic leave' (leave given to learn Luxembourgish). Employees are entitled to receive their average hourly wage (up to a maximum of four times the minimum hourly wage for unskilled workers) during linguistic leave. Whilst the state used to reimburse the full amount paid to employees during this leave, under a new law employers may now only benefit from a 50% reimbursement.

LUXEMBOURG: The parliament in Luxembourg has agreed to increase the national minimum wage by 0.1%. This decision will be retroactively applied to wages from January 1st 2015. As a result of the rise, the minimum wage for unskilled workers is now 1,922.96 euros per month and the minimum wage for skilled workers is 2,307.56 euros per month.

RUSSIA: On January 1st 2015 the national monthly minimum wage in Russia increased by 411 rubles (5.42 euros) to 5,965 rubles (79 euros). In Moscow, the monthly minimum wage increased to 14,500 rubles (191 euros) and will increase again to 15,000 rubles (198 euros) on April 1st 2015.

SLOVENIA: Average monthly net earnings in the private sector in Slovenia were 931.28 euros in the period January to November 2014, according to the country's statistical office. This is 1% higher than in the first 11 months of 2013 when the average monthly net earnings were 922.06 euros. Average gross earnings in the period January to November 2014 were 1,421.81 euros per month — 1.4% higher than in the first 11 months of 2013 when average gross monthly earnings were 1,402.16 euros.

USA: Labour costs in the private sector in the US have increased, according to the Bureau of Labor Statistics. For the twelve months leading up to September 2014, wages and salaries increased by 2.3%. Employer costs for health benefits rose by 2.6% and the cost of benefits went up by 2.3%.

USA: President Barack Obama is calling on the US Congress to pass a draft law that would allow workers to earn up to seven days of paid sick leave per year. Presently, there is no federal law that grants paid sick leave for employees in the US, although some states and municipalities have now passed sick leave laws. Employees may be eligible for leave under the Family and Medical Leave Act, which provides up to 12 weeks of leave if they or a family member are ill, however, this leave is unpaid.

Other Global HR News in Brief

BELGIUM: Between January and December 2014, 111 companies in Belgium announced an intention to collectively dismiss employees. This affected a total of

10,862 employees. According to statistics published by Belgium's Ministry of Employment, 3,488 of the employees affected worked in Brussels, 4,515 in Flanders and 2,637 in Wallonia. As regards sectors, the metal processing industry and distribution sectors saw the greatest number of workers affected by collective dismissals during 2014.

EUROPEAN UNION: Guidance for employers about protecting the health and safety of workers from the potential risks linked to using nanomaterials at work has been published by the European Commission. This guidance aims to help employers in fulfilling their obligations under the Framework Directive 89/391/EEC and the Chemical Agents Directive 98/24/EEC. You may access the guidance [here](#).

NORWAY: A number of minor changes have been made to Norway's occupational safety regulations. The changes include a new requirement for medical examinations to be carried out 'by or under the control of a competent physician' under section 14-1 of the Regulation on Organisation, Management and Participation, and the expansion of the documentation requirements under section 7-1 of the same Regulation to include plans and measures triggered by risk assessments. Other changes concern the requirements that apply to machines before and after January 1st 1995 and medical examinations for workers who may be exposed to hazardous working conditions affecting hearing. The changes came into force on January 1st 2015.

PERU: With 91 votes for, 18 against and 5 abstentions, Peru's Congress has repealed its Youth Labour Law. The law, which was approved on December 16th, aimed to create a special labour regime to encourage the employment of young people aged 18 to 24 years. Although young workers would have enjoyed many employment law rights under the regime, they would only have had the right to 15 days of annual leave and would not have had the right to any bonuses or

compensation for time of services (Compensación por Tiempo de Servicios).

PORTUGAL: The Portuguese Parliament has approved a proposal to add gender identity to the prohibited grounds of discrimination stated in the Labour Code. This will provide transsexual workers with equal access to employment.

PUERTO RICO: It has been revealed that in the 2014 financial year 926 complaints of sex discrimination in the workplace were made to the Puerto Rican Department of Labor and Human Resources. 417 of these complaints were based on gender discrimination and 103 were based on sexual harassment. 18 of the complaints were made by men.

SPAIN: The Superior Court of the Basque Country in Spain has ruled that an employee who suffered from anxiety and depression as a result of a prolonged conflict with her superior must be considered to have suffered an occupational accident. The employee in question was on sick leave for ten months. She had not had any previous or similar psychiatric diseases and there were no other external conditions to explain her

condition. The court found that her depression and anxiety was solely due to work issues and as such it constituted an occupational accident. [Case heard October 26th 2014]

UK: The UK Home Office has updated its employer's guide to carrying out right to work checks. [Click here](#) to access the guide on the government website. The guide is also available in our HR Knowledgebase under the section [UK > Resourcing > Right to work checks](#).

VIETNAM: Certain individuals undergoing intra-company transfers to Vietnam may now be eligible for exemption from the normal work permit requirements. This exemption is available to transferees in a managerial, specialist or technical role who have been employed by a foreign entity for at least one year before being transferred to Vietnam. A further eligibility requirement is that the transferee must work for a Vietnam-based company in one of 11 specified industries. These include business services, construction and related engineering services, distribution services, educational services, environmental services, financial services, health and social services, and transportation services.

Dates for your diary:

February 27th 2015: From this date, eligible male private-sector employees in [Hong Kong](#) will be entitled to three days' paternity leave under statute.

March 15th 2015: A law prohibiting Sunday working in the retail sector will come into force in [Hungary](#).

April 1st 2015: Changes to rules on preliminary medical examinations become effective in [Poland](#).

April 5th 2015: Eligible parents of children due to be born or adopted on or after April 5th 2015 will be entitled to share parental leave and pay in the [UK](#).

Latest news for business travellers:

In light of the attack in Paris, France of the satirical publication Charlie Hebdo, many countries in [Europe](#) are on high terrorism alert.

Commuters in London, **UK** may face severe travel disruptions and delays as bus drivers will be staging three 24-hour strikes next month. Unite, Britain's largest union, has announced that the strikes will take place on February 5th, 13th and 16th.

All travel to Crimea in **Ukraine**, including transiting through the airports in Simferopol and Sevastopol, is advised against due to security concerns. Warnings have also been issued against travel in other parts of **Ukraine**, including Donetsk, Luhansk Oblasts and Kharkiv Oblast.

Business travellers are advised to exercise a high degree of caution overall in **Colombia** and not to travel to the departments of Antioquia (except Medellín), Arauca, Caquet, Cauca, Chocó, Córdoba, Guaviare, Huila, Meta, Nariño, Norte de Santander, Putumayo, Santander, Valle de Cauca (except Cali), and Vichada due to the high threat of terrorist attack and high levels of violent crime. Travellers are advised to fly between cities in the country and to avoid using the roads in rural areas, particularly at night.

Many flights to and from Baghdad, **Iraq** remain suspended until further notice due to security concerns. A plane was shot at just before landing at Baghdad International Airport on Monday night, which has prompted many airlines to cancel their flights this week. Flights to other Iraqi cities are unaffected.

Travellers to **Malawi** should be aware that serious flooding, particularly in the south of the country, has affected key infrastructure including roads.

FedEE news:

NEW HONG KONG OFFICE: We are pleased to announce the incorporation of FedEE Global in Hong Kong. Details of the new address and telephone number are now available on our website.

NEW MEMBERSHIP SECRETARY: We would like to take this opportunity to welcome our new Membership Secretary, Cassandra Lu, who has taken over from Angelika Rivero. All enquiries concerning membership should now be directed to Cassandra at cassandra.lu@fedee.com or on +44 (0)117 975 8611.

ADVICELINE ENQUIRY FORM: Please note that all enquiries on matters of employment law, pay data or other HR-related issues must now be submitted via our new [Adviceline Enquiry Form](#) which can be found on the top toolbar in the Members' Area.

NEW GUIDANCE NOTES: We recently published two new guidance notes on [trade unions](#) and [trade union trends](#) around the world. These are accessible in our [guidance notes section](#) of the Knowledgebase. You will also find in this area of the Knowledgebase a recently updated guidance notes on [post-termination non-compete clauses around the world](#).

NETWORK WITH OTHER FEDEE PROFESSIONALS — AND MORE: FedEE's new face-to-face networking community (called butN) is now 'live' and both members and non-members have started signing up for it around the world. This is a good opportunity to meet other professionals — particularly during business trips. The community also needs your support to make it thrive. Join up today at <http://www.but-n.com>.

FOLLOW US: Follow us on [Twitter](#), [Facebook](#) and [LinkedIn](#) for news on upcoming events and discussions on global employment law and HR issues.

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