

Global Labor and Employment Law Strategic Topics

The ever increasing importance
of ensuring health and well-being
in the workplace in 2020

2020 Edition #1





In this issue, we focus on:

The ever increasing importance of ensuring health and well-being in the workplace in 2020

Editorial	4	India	25
Albania	6	Italy	26
Australia	7	Japan	27
Belgium	8	Kenya	28
Brazil	9	Lithuania	29
Bulgaria	10	Luxembourg	30
Canada	11	Netherlands	31
China	12	New Zealand	32
Colombia	13	Norway	33
Costa Rica	14	Peru	34
Cyprus	15	Poland	35
El Salvador	16	Romania	36
Finland	17	Russia	37
France	18	Singapore	38
Georgia	19	South Africa	39
Germany	20	Spain	40
Greece	21	Sweden	41
Guatemala	22	United Kingdom	42
Honduras	23	Contacts for Labor and Employment Law Services	44
Hungary	24	Recent EY publications	46

It is in difficult times like this, that we can fully appreciate the need for close collaboration between employer and employees to appropriately address the multiple challenges related to a pandemic.

As the spread of the novel coronavirus COVID-19 continues to accelerate in Europe and throughout the world, it is essential for employers to plan appropriately for contingencies both to protect the health, safety, and well-being of their employees and to minimize business disruption.

What steps should employers take?

- ▶ Communicate clearly and regularly with all of its people – employees, independent contractors, and external partners
- ▶ Keep on top of the latest government and World Health Organization guidance as it evolves
- ▶ Designate a person or team responsible for business continuity and the COVID-19 response as the situation develops
- ▶ Implement adequate health and safety measures, including specific measures for pregnant employees or those with existing health vulnerabilities
- ▶ Decide on an approach to working from home: encourage employees to work remotely if possible and require employees with symptoms to stay away from the workplace
- ▶ Decide on a plan to handle employees who are at high-risk or subject to quarantine; inform employees on special rules for those returning from high-risk countries
- ▶ Ensure that emergency contact details for all of its people are up to date

Editors' letter



- ▶ Put in place a contingency plan for workplace closure by making sure that employees have all necessary equipment to work remotely and encourage employees to take their equipment home with them every day
- ▶ Carefully monitor business and other travel as well as visitors to the workplace

Technology has permitted a shift toward a labor market where the boundaries between working time and personal time have become blurred. Indeed, the ultra-connected digital age which enables employees to be available 24 hours/7days a week/365 days a year and the pressures of responding to a tsunami of emails across different time zones, has its advantages and disadvantages.

We are now seeing some of the advantages, as many employees are able to work remotely and thus reduce the spread of COVID-19. However, the work-whenever-you-are mindset can also create a strain on the health and safety of employees.

So how can employers adequately safeguard the health and well-being of their employees? Employee health and well-being is vital for the success of any corporation; it is no understatement to say that it is one of key issues on the radar of HR professionals worldwide in 2020.

In this issue, we explore the rules and must-do advice for employers that require attention to ensure the well-being of human resources throughout 37 countries worldwide.



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Albania



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The importance of well-being in the workplace in 2020

The importance of well-being in the workplace remains a relatively underdeveloped area in the Republic of Albania. Although the legal framework in this area provides for appropriate measures to be observed, implementation challenges arise. The lack of periodic controls on legal implementation by companies and the lack of workers' awareness about the importance of safety at work are some of the major challenges faced in practice.

It is a fact that conditions in which work is carried out can adversely affect people's well-being. The most obvious and visible health damages are accidents at work, but of equal importance are occupational diseases.

Well-being at work can be affected by all aspects of health and safety in the workplace and conditions, including working hours, salary, maternity leave policies, health promotion and protection provisions.

In this respect, the Albanian legal framework tries to address the most common issues for the disruption of well-being at work. Based on the legislation in force for health and safety at work, the employer is obliged to:

- a) Implement and update the measures for the prevention of work risks and diseases
- b) Provide the risk assessment and prevention document that contains the technical and hygienic measures that need to be implemented
- c) Inform employees about potential risks
- d) Organize collective and individual protection
- e) Organize the place of work
- f) Design an evacuation plan and equip the workplace with the necessary lifesaving tools

None of the measures taken by the employer to protect health and safety at work shall have a financial impact on the employee.

In the event of accidents at work, the employer must compile reports and keep the relevant register available to the authorities.

Although health and safety measures are frequently subject to inspection by the Labor Inspectorate, employers still lack the necessary tools and policies to comply with law provisions.

Construction remains the industry that is top priority for the Inspectorate due to previous years' large number of noncompliance cases evidenced by labor inspectors. Construction sites also bring the most accidents at work.

Other factors influencing well-being at work can be found in the Albanian Labor Code, which provides for:

- ▶ A maximum of 40 working hours per week and reduced hours for dangerous work
- ▶ Increased hourly rates for overtime, night shifts and work performed during Sundays or public holidays
- ▶ Special protection for children under the age of 16, pregnant women and new mothers

Today, in many countries, workers are facing increased pressure to respond to modern-day labor demands. In this regard, it is crucial that employers take necessary measures to enhance well-being at work.

Albanian companies, especially those that are part of international groups or a network of companies, have increased their awareness toward the importance of not only the physical conditions at work but also the social environment in shaping work behaviors and retaining the workforce.

Implementing appropriate policies to ensure employee well-being should be a top priority for Albanian companies, and they should be duly monitored by the responsible public authorities.

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Australia



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Well-being and obligations for employers

The laws in this area require employers to ensure, as reasonably practicable, the health and safety of workers. These laws include:

- ▶ Work health and safety (WHS) legislation, regulations and codes of practice in each state and territory, including some with industrial manslaughter legislation
- ▶ The Fair Work Act 2009, which allows workers (as defined in WHS legislation) to apply for stop-bullying orders in relation to repeated unreasonable behavior directed toward a worker or a group of workers that creates a risk to health and safety
- ▶ Anti-discrimination laws, which protect workers from various types of discrimination and harassment in the workplace

What are the legally required actions an employer must take to protect its employees, especially regarding mental health?

A 2007 survey¹ suggested that one in five Australians experience a mental health condition at some point in their lifetime.

In accordance with general principles, employers must take all reasonably practicable steps to ensure the health and safety of workers, including the mental health of employees.

Recently regulators have developed guidance material around mental health, and there are pre-existing codes of practice around specific issues, such as fatigue from working long hours and workplace bullying.

A review of the model WHS laws in December 2018 recommended that parliaments consider introducing stronger protections for mental health, for example the development of additional regulations on how to identify psychosocial risks in the workplace.

What are the consulting obligations?

Employers have a duty to consult with workers by sharing relevant information and giving workers the opportunity to express their views, raise issues and contribute to the decision-making process relating to any WHS matter. There are no specific consultation obligations with regard to mental health.

Generally employees have rights to request health and safety representatives, and a health and safety representative of five or more employees can require a company to establish a WHS Committee.

What are the required documents?

Employers should have a detailed WHS policy and procedures, including a workplace bullying policy.

The right to disconnect

There are no specific rules about not contacting employees outside of work hours; however, it is recommended that employers implement a policy about interactions with employees on information technology and social media. Employers should also be aware of the risk of claims around bullying and unpaid entitlements, such as overtime or an on-call allowance.

Best practices

Employers should be guided by the Safe Work Australia guide for work-related psychological health and safety.

Companies should update their WHS policies and procedures, and officers should ensure they exercise due diligence as required by WHS legislation.

WHS should be considered a priority for boards of directors in Australia in 2020.

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Belgium



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Well-being at work

In the last 25 years, the scope of health and safety in the workplace has expanded to include the psychosocial aspects of work, ergonomics, hygiene and environmental measures, which all have an impact on well-being at work.

The Law of 4 August 1996 has placed the focus squarely on an employer's obligation to promote employee well-being at work on the basis of general prevention principles.

Focus on prevention and protection and dynamic risk management

The employer must perform a comprehensive analysis of risks at the workplace and, based on the result of this analysis, must combat the risks at their source. The employer must replace

what is dangerous by what is safe or less dangerous and prioritize collective protection measures rather than individual measures.

With the assistance of its (internal or external) Service for Prevention and Protection at Work, composed of prevention advisors, the employer must adapt work to the employee. The employer must prevent as many risks as possible using new technologies and provide employees with all information concerning both the risks at work and prevention measures that need to be applied to protect their safety and health as well as that of their coworkers.

Committee for Prevention and Protection at Work (CPPW)

Companies with at least 50 employees must establish a CPPW and organize, every four years, elections for the employees' representatives that will sit in the committee. The CPPW must be informed and consulted on all measures that may have an impact on the well-being of employees and, in general, actively contribute to the promotion of employees' well-being at work.

Stress, burnout and disconnecting from work

As stress and burnout are some of the most well-known manifestations of the psychosocial risks that employees may incur at work, it is hardly surprising that the employer must put in place a policy for a collective prevention and remedy to stress. This requires the detection of indicators, such as absenteeism, turnover or grievances to name but a few. It also requires an analysis of the scope

and characteristics of issues detected and determination of an action plan in collaboration with the CPPW, the Service for Prevention and Protection at Work, HR and management. In a small company that does not have a CPPW, employee involvement in the development of a stress-prevention policy will be a key factor to its success.

With a view to increase employer's awareness of the need to further reduce the risk of burnout, in March 2018 the Belgian Government introduced two new measures. First, a possibility for prevention initiatives introduced by the employer (or the Joint Labor Committees) to be financed by part of the special social security contribution for employee groups at risk. The royal decree needed to execute this provision has not yet been confirmed. The second measure concerns the disconnection from work. The employer must organize with its CPPW, the trade union delegation or, in the absence thereof, the employees themselves a consultation about disconnecting from work and the use of digital communication. This is not a "right to disconnect" but a consultation with a view to preserve employees' work-life balance, their entitlement to time off and vacation.

Sanctions

Noncompliance with workplace well-being rules and regulations can lead to criminal or administrative sanctions being imposed, not only on the company but also on any concerned person in the line of authority. A close examination of the well-being at work policies is imperative.

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Brazil



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The Brazilian occupational health and safety landscape

The Consolidation of Brazilian Labor Laws (CLT), published in 1943, introduced health and safety topics into the Brazilian market after the industrial revolution. The matters addressed included those related to the work environment and special payments due to risk exposure, all to better protect employee health. Another important milestone was the creation of Normative Rules in 1978 by the Labor Ministry, establishing several health and safety requirements for Brazilian employers. Currently, we have 37 distinct Normative Rules that have been reviewed and modernized by the Government in the past months.

In this context, workers' mental health has recently been a prominent topic, as behavioral and mental health disorders are already the third cause of work incapacity in Brazil (according to a study published by the Social Security Secretary in 2017). According to the Special Secretary for Labor and Social Security matters, in 2017 over 178,000 social security benefits were granted due to mental and behavioral disorders, most of them related to the work environment or conditions presented by the employer.

According to Brazilian Labor Secretary information, published in its website in 2018, anxiety disorder and depression are among the most common causes of work leave in Brazil. Another aspect that has resulted in several absences at work is the ergonomic risk present in some workplaces, including home office. Aiming to address this issue, the labor reform in Brazil in 2017 brought specific regulations for remote work. Current legislation indicates the need for a formal orientation to be provided by the employer to employees about health and safety precautions.

It is also important to highlight that companies operating in Brazil are required to prepare formal work health and safety programs and reports, evaluating the work environment and its conditions to measure the existence of biological, physical, chemical, ergonomic and accident risks, anticipating, recognizing, mitigating and indicating the protective actions to be adopted.

Also, depending on the risk to which an employee is exposed, the company may be subject to the payment of an additional social security contribution and the employee is entitled to retire in a reduced period, comparing to employees not subject to this condition. After the Social Security Reform recently implemented in Brazil, the special retirement in a reduced period will be granted only if the employee complies both with the minimum period of contribution and a minimum age.

Companies in Brazil must also elaborate for the Occupational Health and Medical Control Program (PCMSO), which establishes support for frequent medical exams to prevent, monitor and control possible damages to employees' health. It is important for employers to be aware of all regulations regarding health and safety in the workplace, not only to comply with the legislation – avoiding exposure to penalties and reputational damage – but also to ensure a healthy and positive environment for employees, which will have a favorable impact on productivity.

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Bulgaria



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Regulations and best practices

Employers in Bulgaria are responsible for their employees' health and safety at work and all other individuals on or near the working premises. The rules also apply to temporary employees and certain independent service providers.

Legal entities and individuals who use the services of temporary work agencies must also notify the latter about specific characteristics of the workplace, the potential risks and the professional qualifications required. Temporary work agencies provide the respective information to the affected employees.

Employers bear all health and safety costs. When a work site is used by several enterprises or organizations, they are jointly responsible and must coordinate their health and safety activities.

The appropriate measures of employers include providing information, training and appropriate equipment, as well as assigning tasks to employees in accordance with their competencies and professional experience. Specific hazards for employees who need special protection, including those employees with limited working capacity, must be considered. Employers must also ensure monitoring and control and restrict access to risk areas.

Bulgarian law does not introduce special rules related to IT tools and their use during off hours. There are also no special regulations related, by way of example, to the right to disconnect. General rules for overtime apply, whereby overtime is permitted in limited exceptional cases.

Employers must give employees the opportunity to participate in discussions and approve all measures concerning health and safety. Companies with 50 or more employees must establish committees responsible for health and safety. Employees who are appointed as representatives for these committees enjoy special protection from dismissal.

Employers are required to provide introductory and periodic health and safety briefings. Employers must also appoint special occupational health companies to monitor and provide general guidelines. Some specific industries (e.g., those related to special explosive works) may only commence work after obtaining a permit from the respective Labor Inspectorate. Employers are liable for damages suffered by employees in the event of a work accident, regardless of whether it was the employer's fault.

Challenges in the field of health and safety at work are related to demographic changes, such as the aging workforce, new forms of work organization and the trend to increase working hours and work intensity, as well as increased levels of workplace stress. This very important topic should be a major focus for the development of health and safety policies.

According to the European Union's calculation of the international return on risk prevention for companies: costs and benefits of investments in occupational safety and health, executed by the International Social Security Association, showed that for each euro invested by employers in health and safety, a return in the amount of two euros may be expected.

Some of the best practices in the field include seminars and workshops on health and safety methods, meetings with partners for knowledge-sharing, site visits by management with a focus on safe work environments, instrument and facility checks, and training, such as evacuation, first aid, rescue techniques, use of fire extinguishers, etc. Some companies organize "safety weeks" throughout the year with a focus on health and safety at work. Other more general measures may include an increase of annual paid leave and daily rests, the reduction of working hours and more. Bulgaria, alongside other neighboring countries, still needs to catch up with the above recent trends in other parts of Europe. Thus, there is still room for improvement.

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The importance of well-being in the workplace

General health and safety

Like most employment-related matters in Canada, well-being in the workplace (including general health and safety) is individually legislated by each of the provinces and territories. (The federal government legislates only in respect to employment matters in industries that are deemed federal undertakings). The applicable jurisdiction is generally the one in which the employees are working. While specific nuances and requirements may differ, many of the high-level principles are consistent across the different jurisdictions in Canada.

Hours of work, rest and job-protected leaves

Subject to certain exempt employees (e.g., lawyers and managers), employment standards legislation promotes employee

well-being by prescribing, among other things:

- ▶ A maximum number of hours allowed to be worked in a given day and week
- ▶ Minimum time off between shifts and breaks during shifts
- ▶ Job-protected leaves of absence (e.g., parental and sick leave)

Harassment

In many jurisdictions, general harassment (or more specifically, sexual or psychological harassment) is statutorily defined, while other jurisdictions rely on definitions developed in case law.

Similarly, some jurisdictions' statutory regimes prescribe specific requirements, such as required policies addressing harassment and processes or responses that need to be undertaken to address instances of harassment (e.g., reporting and investigation procedures). Other jurisdictions may rely on case law to dictate what reasonable actions employers should take to protect their employees and otherwise maintain their health, safety and freedom from harassment.

Workplace safety processes and procedures

Occupational health and safety legislation generally requires an employer to maintain the health and safety of its workers. While most employers are going to be required to have a health and safety policy, and a health and safety program to implement that policy, the content of each will vary depending on the types of risks that may arise at the employer's workplace. For example, one would expect a more rigorous policy or program for an employer engaged in manufacturing than one involved solely in office-type

work. Furthermore, employees have the right to refuse unsafe work that would put themselves or others at risk.

In addition to general workplace safety procedures, employers have an obligation to ensure the workplace itself is safe in accordance with applicable building codes and free from workplace hazards (ensuring stairs have railings, elevators are maintained, first-aid kits are readily available, etc.).

Training and administration

Employees must be appropriately trained, considering the workplace environment and the employee's role.

In addition, most employers are required to maintain and periodically consult with a health and safety committee, which generally handles these matters, including receiving reports of incidents or risks.

Best practices

While the applicable legislation and case law prescribes the minimum requirements to maintain the well-being of employees, it is generally recommended that employers go above and beyond to facilitate an attractive workplace. A workplace with employee well-being as a priority will contribute to improved employee morale, reduced employee turnover, reduced risk of workplace incidents and general increase of the employer's attractiveness. Some progressive practices include flexible work and vacation arrangements, anonymous whistle-blowing programs, generous paid leave-of-absence policies, state-of-the-art safety mechanisms and more.

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China



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General rules on employee's health and safety in workplace

China's labor laws specify that employers must implement the state rules and standards of labor safety and hygiene, and conduct labor safety and hygiene training among employees to prevent accidents and reduce occupational hazards. In addition, employers must provide employees with national standard safety and sanitation conditions and the necessary labor protection equipment, as well as carry out regular occupational health examinations for employees whose work involves occupationally hazardous substances.

Except for the general principle, there are hundreds of rules on workplace safety standards for different industries and different job positions.

Employers will face liability for their failure to maintain a safe and healthy working environment. If an employer's safety measures or health conditions do not meet the national requirements or if it fails to provide the necessary protective equipment or safety facilities, it will be ordered to rectify the situation and, moreover, a fine will be imposed accordingly (the amount of which depends on the severity of the violation) by the labor administration or other relevant authorities. In cases of severe violation, the employer may be ordered to suspend its operations to carry out the rectification process. Further, if an employer fails to adopt measures to prevent potential major accidents that cause death or property damage, the person in charge will be subject to criminal liability, according to criminal law.

Legal actions and documents required to protect employees

Employers must truthfully make known to employees the job descriptions, working conditions, workplace location, occupational hazards, work safety and other matters that employees are required to understand upon hiring.

The provisions of labor protection, working conditions and protections against occupational hazards are essential to the employment contract. Pursuant to Article 30 of the Law on the Prevention and Control of Occupational Diseases, the employer must, at the time of concluding an employment contract, inform the employee truthfully of all possible occupational hazards, their consequences, and the preventive measures against such hazards, as well as the relevant entitlement, without concealment or deception.

An employee engaged in a special occupation must receive special training and acquire the relevant qualifications.

Employers must purchase work-related injury insurance according to the law, and employers should establish and introduce appropriate labor protection rules to ensure the health and safety of employees based on the employers' own specific conditions.

Consulting obligations with trade unions or employees

When enacting, revising or deciding upon policies and procedures related to work safety, such matters or policies must be presented for consultation to an assembly of employee representatives or all employees by setting forth a proposal and opinion. Then it is determined through mutual and equitable consultations with the trade union or employees' representatives. If a trade union or employee finds decisions on important matters or the implementation of policies and rules to be inappropriate, they are entitled to raise such concerns with the employer, and such policies must be revised by means of mutual consultation and agreement. Employers must publicly display or advise those employees of the above policies and rules.

Conclusion

It is crucial for employers to comply with work-safety regulations and obligations, as various unsafe and unhealthy elements exist in production processes. If no measures are taken to protect employees, their personal safety and health will be endangered, and the normal operation and production of the employer will be significantly affected.

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Colombia



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Healthy well-being in the workplace

Background

Since 2017, employees' mental health issues have been a warning for the Colombian Ministry of Health and Social Protection. According to the second national Survey of Occupational Health and Safety Conditions, 33% of employees are at very high stress levels, which can result in mental health issues.

Based on the above, the Occupational Health and Safety Management system, created by Decree 1072 of 2015, has been used as the main tool to promote and prevent issues related to employees' health.

Main regulations and compliance

Law 1616 of 2013 outlines employers' obligations associated with employees' healthy well-being, including mental health:

1. Companies must create programs in order to prevent mental health issues and promote mental health.
2. Each measure should be included in the Occupational Health and Safety Management system.
3. Under Resolution 2404 of 2019, the Ministry of Labor imposed an obligation related to the creation of a matrix that will identify, evaluate and promote the continuous monitoring of psychosocial risk factors for employees. The implementation of the resolution's protocols are mandatory. Such protocols are related to the management of mental diseases once an employee is assessed and confirmed to have a mental health issue.

Companies with a high number of risks should file and review the committee's report each year. Meanwhile, companies with low or medium risks should file this obligation every two years. For this purpose, the Ministry of Labor has created software at the following website that will help companies to comply with this obligation at a low cost: www.fondoriesgoslaborales.gov.co.

In the National Mental Health PageGroup survey done by the Colombian Ministry of Health and Protection every year, 36% of employees surveyed stated there were several limitations to honest conversations among managers, C-suites and employees about this issue. To address these barriers,

the Ministry of Labor is offering training to appropriately handle employees with any mental health illnesses. Diversity and inclusion committees have also been analyzing how mental health issues should be considered, particularly with how leaders should treat employees and maintain a safe environment.

New technologies

In 2019, Colombia has increased flexible policies in the workplace, mainly for home office and teleworking. Home offices should be ruled by each company. Teleworking and its conditions, however, should be in compliance with labor risk parameters. In this case, it is advisable for entities to consider the eventual existence of mental health issues for home workers as well as employees at the workplace.

Best practices

1. Colombian companies must consider mental health issues as labor-related illnesses. Thus, when creating risk maps, additional factors should be determined, such as stress levels.
2. Companies will soon have to create safe spaces in which employees can notify the employer about the existence of any mental health issues affecting the correct execution of labor activities. Examples of this would be health and safety committees as well as diversity and inclusion committees.
3. Employers must identify risks associated with mental health, based on their company's core business and activities.

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Costa Rica



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Well-being in the workplace

Evolution on the matter of well-being in the workplace has been a constant struggle since the Industrial Age. The establishment of an eight-hour daily shift, the definition of basic rules for occupational safety, and the search for a correct balance between an employer's monitoring of employees vs. data privacy and freedom of speech are a few examples of how labor and employment law have adjusted to the market and the workforce. Modern times require labor and employment regulation, not only to continue its development but to do it faster and more efficiently. New technologies, trips that imply time-zone adjustments, constant communication, working remotely and a competitive market have allowed employees to be connected at all times to their work, wherever they are. The evolution of the

market is constant. Thus, authorities face the challenge of creating rules that are applicable and adjusted to this new reality. Correct handling of social networks and communication platforms is essential. Therefore, contacting employees through their personal accounts, especially on their free time, should be eliminated, not only for the correct management of confidential information and for adequately tracking corporate communications, but also to avoid mobbing or harassment, invasion of privacy claims and overtime requirements. For example, if the employer contacts an employee outside his or her shift, this requirement could entail the recognition of overtime payment (especially when it is considered as an instruction or task that should be attended by the employee right away).

In addition, according to a recent resolution by the Constitutional Chamber of the Supreme Court, WhatsApp or private communications may not be used as evidence if those communications were intended to be private. Therefore, backing any disciplinary measure on such communications could be deemed as an invasion of the employee's privacy.

On the matter of mental health, the Costa Rican Labor Ministry (specifically, the Council for Occupational Hazards) has labeled burnout as a work-derived illness, which develops as a consequence of an employer's incorrect handling of psychosocial employment risks.

Stress-related illnesses due to hostile work environments have been recognized as such by the National Insurance Institute (INS), institution that grants policies to cover employees from occupational hazards.

In addition, Costa Rican regulation requires employers to register their employees and their salaries before the Costa Rican Social Security Administration (CCSS).

All of this ensures that employees have access to health care and guarantees that medical attention is provided in case an employee suffers from these issues. Also, it is common for companies to start initiatives that measure employees' satisfaction and their perception of the corporate climate.

In spite of the above, currently, according to the National Institute of Statistics and Census (INEC), employment in Costa Rica without corresponding health coverage is at 31% of the total employment force. Employees without coverage who seek medical attention could result in the employer or the employee (if he or she is an independent contractor) to be directly charged the full medical costs due to noncompliance with their obligations.

Conclusion

Costa Rican labor and employment legislation has a lot of issues that are awaiting adequate regulation. These newly surfaced topics related to mental health are not necessarily covered or expressly mentioned by specific legislation. However, the law establishes a very comprehensive protection of employees. Current regulation allows employees to ask for the intervention of the authorities in cases of harassment, discrimination or any other violation of fundamental rights.

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Cyprus



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Employer compliance obligations

Health and safety at work is a wide area of law that is regulated by several legislative instruments, such as statutes, regulations and orders, each dealing with an aspect of health and safety in relation to certain types of work. However, the principal statute is the Health and Safety at Work Law of 1996 (89(I)/1996), which implements the principles and provisions of the EU Directive 89/391/EEC. According to the law, the term "health" in relation to work means not only the absence of sickness or disability; it also includes the physical, mental and psychological elements that have a direct bearing on safety and health.

Employers' rules and obligations

According to the law, there is a statutory obligation for every employer to ensure the safety, health and welfare at work of all employees. Employers must provide

the necessary information, direction and training in matters of health and safety, especially where the nature of work requires it (e.g., construction sites). Employers also have an obligation to execute risk assessments in the workplace and adopt and implement measures eliminating such risks. Due to the fast pace of technological advances, employers must monitor technological progress and replace dangerous equipment with safer and improved ones.

Maintaining and promoting employee mental health

The interrelation of physical and mental health is evident throughout the relevant legislative instruments. The purpose of employment law is to provide employees the minimum safeguards to maintain and promote their well-being.

Accordingly, the law imposes an obligation on employers to maintain a clean workplace; provide enough space to avoid crowding which may have a negative effect on employees; ensure adequate ventilation either by natural or artificial circulation of fresh air; install appropriate lighting; offer drinking water; and provide adequate equipment for first-aid, if needed.

Numerous statutes have been implemented regulating social insurance, working hours, annual, maternity and parental leave, force majeure, minimum salary (in certain occupations) and unlawful dismissal.

A vital aspect of well-being is the psychosocial environment at the workplace. The Equal Treatment at Work and Employment Law was implemented, which applies to both full-time and part-time employees and aims to eliminate any direct and indirect discrimination on the grounds of religion or beliefs, age, sexual orientation, and racial or ethnic origin. Furthermore,

the Equal Pay between Men and Women for the Same or Equal Work Law was enacted, imposing an obligation on employers to provide their employees equal payment for equal work regardless of gender.

Consultation

The obligation to harmonize with EU legislation lead to the implementation of the Establishment of a General Framework for Information and Consultation Law (78(I)/2005). The above law applies to businesses that employ at least 30 employees and gives employees the right to be informed and consulted on matters relating to the employer's affairs and on any decision that may substantially amend working conditions.

Documents

Under the the Management of Safety and Health Issues at Work Regulations of 2002, there is an obligation on employers to make a written assessment of the health and safety of employees.

IT tools

Cyprus has not yet implemented any statute regulating the ability of employees to be constantly connected.

Conclusion

Undeniably, maintaining a healthy workplace, both in terms of physical and mental health, is key to the development of both employers and employees. Abiding by the minimum law requirements is not enough. Employers should engage and invest in their employees' well-being to increase productivity and promote a spirit of unity and recognition for their efforts.

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El Salvador



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The importance of well-being in the workplace in 2020

For years now, the need for a good working environment in companies has been growing, a factor that is now taken into account when accepting a job. The average person will consider accepting a job that has, not only a healthy environment, but a safe one.

Employer obligations for employees' health and safety

In El Salvador employers must follow certain obligations to keep their employees healthy and in a safe environment. Regulation regarding occupational health and safety are spread out within different laws, among them we find the Labor Code, the General Law on the Prevention of Risks in the Workplace and the internal work regulations (IWR) that each company or entity designs specifically for their workplace.

The Labor Code establishes that every employer must fulfill at least the following obligations:

1. Be aware of all rules regarding the safety and the protection of employees established in the common and standard laws of El Salvador.
2. If there is an employee whose job description can be classified as unhealthy or dangerous, the employer must provide the employee and the work area all the protective mechanisms and equipment necessary.
3. In the case of underage employees (under the age of 18) and pregnant women, they must provide workspaces with all the protective measures necessary.

Furthermore, the General Law on the Prevention of Risks in the Workplace establishes that it is mandatory for every company to create an occupational risk prevention management program. The program must describe and develop the following topics:

- ▶ Evaluation of the program
- ▶ Control of health risks for employees emergency and evacuation plans and blueprints risks for each job description
- ▶ First aid, and complementary programs on mental health
- ▶ Sexual education and reproductive health, among others.

Legal actions an employer must undertake to protect employees

At the moment El Salvador does not require specific obligations regarding the protection of employees' mental health. There are only a few mechanisms through which an employer can encourage knowledge and the prevention of dangers involved in issues such as poor stress management at work, poor relationships with managers or colleagues, and

excessive workloads, among other issues that can affect mental health. These issues must be regulated in the general risk prevention program that each company must create and develop. However, it is up to each employer to raise awareness of the importance of mental health and the options available to confront these issues.

IT tools allowing employees' constant connection

El Salvador's regulations on labor matters have not changed in the last 20 years or more, and we do not have any regulations regarding the protection of mental health. Currently a bill has been proposed before the legislative assembly to create laws that allow the option of working from home.

Advice to employers

To support well-being in the workplace, we advise employers to take into consideration the certain aspects. First, establish in their occupational risk prevention management programs specific training to protect the mental health of employees and train HR departments on how to address this issue.

Second, encourage HR departments to promote a trustworthy environment in which employees can feel safe to express their opinions regarding mental health in the workplace. Third, have the option to stipulate in internal work regulations additional benefits from those established in common laws, and the implications of those benefits.

Finally, take into consideration that there is an obligation to hire a certain proportion of special-needs individuals, in which case the workplace must have the necessary physical features to facilitate the work of such employees.

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Proactive measures form the keystone

Working life is evolving due to digitalization and the introduction of new technologies and tools, which allow employees to be constantly connected.

This may cause psychosocial workload, which is affected mainly by factors related to the nature of work and the social dynamics of the work community.

In Finland, employee safety and well-being are principally regulated by the Occupational Safety and Health Act as well as the Act on Occupational Health Care.

Work safety offenses are stipulated in the Finnish Criminal Act, according to which an employer or a representative thereof who causes certain defects or faults contrary to work safety regulation will be sentenced for work safety violations.

Employer responsibilities

The employer's responsibility derived from the Occupational Safety and Health Capitalize is broad – employers are required to protect the health and safety of their employees at work with numerous measures.

Employers must continuously monitor their employees' work, working conditions and other aspects of the working environment, as well as employees' personal capacities to identify any risks and weaknesses associated with them. Employers must also monitor the impact of measures put into practice on health and safety at work.

Employers need to give their employees necessary information on the hazards and risk factors of the workplace and ensure they receive an adequate orientation to the work and working conditions.

Occupational health care must be organized by the employer to prevent and control health risks and problems related to work and working conditions. The work, working arrangements, personnel and workplace conditions must be taken into account in the organization and implementation.

Mental health

Employers have the same responsibilities for employees' psychosocial workload as they do for their health and safety in the workplace in general. Employers must prevent harmful workloads, not just manage their consequences.

Employers must know the psychosocial workload factors present in their employees' work environment and take actions if they are posing a risk to employees' health. For this purpose, risk assessment and analysis are among the most important tools to manage

these factors.

As there are no special rules or recommendations for limiting employees' access to IT tools, for example, company-specific instructions and practices are of great significance.

Documentation requirements

Employers are responsible for drafting an occupational health and safety policy to identify actions needed to promote health and safety, and thus maintain employees' working capacity.

In addition, a workplace survey must be drafted as a part of occupational health care. The survey report must set out conclusions on any workload factors that can affect employees' health and suggestions on how to address them.

Employer-employee cooperation

Employers and employees must work together to maintain and improve occupational safety in the workplace. The system of cooperation is based on the Finnish Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health in Workplaces. The employer is responsible for initiating the cooperation and setting up the occupational health and safety organization, which must cover all issues that can have an impact on employees' safety, health or work ability. In addition, employees must have a genuine opportunity to influence occupational safety in their workplace.

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France



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The protection of the health of employees has taken a prominent place in France with covid-19 and with respect to recent changes of French employment law. It also represents a highly discussed topic in the press.

The growing obligation to protect employees' health and well-being

All companies with employees working in France have a general obligation to ensure the protection of their health and safety. Employers must take all necessary actions to combat moral and sexual harassment, violence at work (including verbal assault) and sexism. However, beyond these legally defined practices, there is also an extended obligation to handle every risk that jeopardizes the employee's health. Indeed, the French social security body has expanded the illnesses it will recognize as occupational illness, "burnout syndrome," for instance.

In this context, the legislator and courts have increased the obligations for companies and have even introduced new legal concepts when necessary.

For example, in December 2019, a French criminal court, for the first time, used the notion of "institutional moral harassment" to find the top managers of a French-owned telecom company criminally liable for institutional bullying. The Paris Criminal Court has condemned the management methods which had led to 19 suicides, 12 suicide attempts and 8 depressions.

Key measures

What are the key measures to put in place to protect the physical and mental health of employees in cooperation with the Social and Economic Committee (the new works council) and the occupational doctor?

- ▶ First, companies must implement actions to prevent professional risks and harsh working conditions. They should carry out an assessment of risks, perform & diagnostic and define an action plan against these risks. It can relate, for instance, to working hours, the ergonomic improvement of workstations, the redefinition of functions or the work organization.
- ▶ Second, companies must inform and train their employees. All employers are required to organize practical and appropriate safety training for the benefit of employees.
- ▶ Third, companies must establish working and production methods that comply with the workers' health and safety. Failing that, a court may suspend a project if the company did not assess its consequences on the workload of the employees. An example is remote working where possible as a result of Covid-19.

The role of works council and occupational doctor

The role of occupational doctor is crucial when implementing these key measures. The Social and Economic Committee must also be involved in the risk management

of these issues and must be occasionally consulted on these topics (the nature and the number of consultation obligations depend on the headcount of the company).

The right to disconnect

Another issue is the hyper-connection of employees who are constantly using their company's IT tools, even in their personal life. Companies with at least 50 employees have the obligation to negotiate with their union delegates on this subject. Failing to reach an agreement, these companies must put in place a chart to regulate the reasonable use of IT tools. However, there is no specific obligation set by law. It can be either purely preventive measures (for instance, a pop-up window appearing when an employee checks his or her emails outside working hours), or action-based, as in shutting down these IT tools during specific time frames.

Best practice

Companies should be proactive with respect to their employees' health and well-being. It is essential to implement preventive actions and establish clear procedures, which aim to identify and remove risk factors within the workplace, in cooperation with unions and SEC. Failing that, the civil and criminal liabilities of corporate representatives and the company itself, as a legal entity, is at risk. The related financial and reputational costs can be detrimental. This is especially critical in managing the health risks arising from Covid-19.

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Georgia



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Occupational safety reform

Rules for employers

The Organic Law of Georgia on Occupational Safety entered into force for all employers on 1 September 2019. The law covers significant matters related to the rights and obligations of employers, employees and any third parties who are present at a workplace.

The law requires any person or entity performing heavy, harmful and hazardous work involving an increased level of danger to register the relevant activities with the Registry of Economic Activities. Special regulations, such as the prohibition to employ a minor or a pregnant or nursing woman for work involving danger, may apply to employers performing such activities.

To organize and manage occupational safety, every employer must appoint one or more occupational safety specialists. Obligations related to these specialists depend on the size of enterprise and number of employees.

An important novelty of the law is an obligation for an employer to provide an employee with insurance covering accidents that may take place at the workplace involving an increased level of danger.

Required actions to protect employees

To prevent accidents or occupational diseases, an employer has many obligations under the law, such as:

- ▶ Conducting periodic trainings and giving instructions on occupational safety to employees
- ▶ Ensuring that factors of physical, chemical and biological hazards do not endanger the health and safety of the working area
- ▶ Defining the obligations and responsibilities for employees and other persons present
- ▶ Ensuring that access to hazardous workplaces is allowed only to those persons who have had the appropriate training
- ▶ Ensuring the continuous and proper functioning of protection and control systems and equipment
- ▶ Providing preliminary and periodic medical examinations for employees
- ▶ Not allowing persons into the workplace under alcoholic, narcotic or psychotropic intoxication

Consulting obligations

Before making a decision, an employer must ensure the participation of employees or their representatives in matters related to occupational safety, which includes consultations with employees as well as the right for employees or their representative to initiate a proposal regarding occupational safety.

Required documents

The law specifies which required documents an employer must keep, including:

- ▶ A risk-assessment document
- ▶ Records of accidents, cases of occupational diseases and dangerous occurrences within the working area
- ▶ A policy of coherent preventive measures

Conclusion

One of the main challenges employers may face is having employees or other persons at the workplace who are in a state of alcoholic, narcotic or psychotropic intoxication. At a hazardous workplace, these people may bear danger for the entire working environment. While employers indeed are not exempt from liabilities, the law does not provide any rules on how to prevent such persons from entering the workplace. This may become especially problematic when nonattendance affects an employee's payroll.

To mitigate the related risks, it may be advisable for employers to include coherent preventive measures in their policy that detail rules on the examination of employees and other persons for alcoholic, narcotic or psychotropic intoxication before and after entering the workplace. The rules may also provide a detailed procedure of actions for cases when an employee is found to be in the state of intoxication or refuses to undertake the respective tests.

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Obligations for employers

Employers are obliged to protect the life and health of their employees. The German system for health and safety at the workplace has a dual structure: state laws and regulations regarding employers' liability insurance associations regulate occupational safety.

Legally required actions

The employer is obliged to carry out a risk assessment. All dangerous circumstances must be determined, and a decision must be made as to whether and how to implement occupational safety measures. The central question is which work-related illnesses and health problems can be triggered by working conditions. Within the framework of the risk assessment,

possible psychological factors, such as stress and fatigue, must be considered. However, individual psychological stress is not part of the risk assessment; it is rather a matter of objectively ascertainable criteria. The results of this risk assessment, the protective measures and their effectiveness must be documented. Furthermore, the employer is obliged to provide employees with an occupational medical examination. The employer is also obliged to instruct employees sufficiently and appropriately on health and safety protection. This is especially important when working in dangerous areas. Moreover, the employer is obliged to appoint medical officers and occupational safety specialists.

Civil law requirements must also be observed. It is the duty of the employer to organize the workplace and specific work in such a way that the employee is protected from health risks. Again, mental performance limitations must be considered. To comply, the employer is obliged to meet the requirements of the Workplaces Ordinance; for example, regulations regarding hygiene requirements, the protection of nonsmokers and the design of escape routes must be observed. Further obligations arise from the accident prevention regulations of the employer's liability insurance association.

If these duties of care are violated and damage occurs as a result, the employer may be liable for health and safety damages if it has neglected its duty. The employee may be entitled to refuse to perform work. There is also the threat of a report to the responsible regulatory authority.

Consulting obligations

The works council has a right of codetermination in regulations concerning the prevention of accidents at work and occupational diseases, as well as health protection. The works council also monitors compliance with occupational health and safety regulations.

No law requiring employees to disconnect

There is no law relating to the right to disconnect outside working hours in Germany. However, some companies have implemented corresponding policies, but there is no legal obligation to do so.

Conclusion

Employers should be advised to act proactively and thus avoid liability risks. The employer is obliged to create the organizational conditions for occupational health and safety. This includes the obligation to display the most important laws on occupational health and safety as well as carry out the risk assessment properly. It is advisable to set up a compliance management system to minimize the risk of a violation of the law. For this, it is essential to delegate the health and safety obligations to reliable and competent managers. However, there must be a clear distribution of tasks, and each person in charge must know exactly what to do. This should be ensured by appropriate training. Attention must also be paid to proper delegate supervision, otherwise the employer may be liable.

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Employer compliance obligations in the Greek legal framework

Rules for employers on the health and safety of employees

The basic legal framework in Greece related to health and safety in the workplace is outlined in Law 3850/2010 (Code of Health and Safety at the Workplace). The purpose of the code is to implement measures to promote the health and safety of employees at work. To this end, it contains general principles for the prevention of occupational risks and the protection of health and safety; the elimination of risk factors for accidents at work and occupational diseases; the consultation, balanced participation and training of workers and their representatives; and the rules for applying these general principles.

Legally required actions an employer must take to protect its employees

The Code of Health and Safety at the Workplace provides a wide series of obligations for employers. The basic ones are as follows:

1. To employ health and safety technicians and physicians according to preconditions set for each type of company (depending on the volume of the workforce, type of activities, the use of dangerous materials, etc.). Health and safety technicians and physicians bear an independent role safeguarding the implementation of the respective legislation; however, their role doesn't limit the responsibilities of the employer.
2. To have available a written occupational risk assessment, which shall include: (a) the identification of potential risks, (b) the assessment of such risks and (c) the assessment of the protection measures taken and related proposals.
3. For each employee, the health and safety physician must have access to an occupational risk booklet which records the results of medical and laboratory examinations every time an employee is subjected to a corresponding examination. The health inspectors of the competent Labor Inspectorate, the doctors of the social security organization to which the employee belongs and the employee are entitled to have access to the employee's file and personal book.

Consulting obligations

The employer is obliged to consult with employees' representatives on issues related to health and safety. Workers in companies employing more than 50 people have the right to form an Employee

Health and Safety Committee (EYEA) consisting of their elected representatives in the business, while analogical rights are awarded to employees working in companies with a workforce of less than 50 people. The employer is obliged to update the representatives mentioned above and provide them with any information relevant to business, health and safety issues.

Finally, it should be mentioned that employees and their representatives have the right to apply to the competent Labor Inspectorate if they consider that the measures taken and the means provided by the employer are not sufficient to ensure health and safety at work. Representatives of the company's trade union are entitled to be present during inspections carried out by the inspectors of the Ministry of Labor, and they may be immediately informed of any noncompliance related to health and safety obligations.

Best practices

Health and safety obligations should be a basic part of the HR agenda, otherwise they may result in severe liabilities against the employer. It is important for these issues to be handled by experts who have the capabilities to implement what is provided by law. They can also help to build an ecosystem where everyone can contribute to the establishment of a safe work environment.

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Guatemala



Ruby Asturias Castillo

The importance of well-being in the workplace in 2020

As is well-known, technology has blurred the line between work and home life.

Workplace well-being has become a priority and is trending for companies. We know that employees' good health delivers productivity within companies. It is important to remember that health not only depends on employees' habits but also on the work environment and culture that the company provides.

A company with a healthy environment provides opportunity to decrease stress in its employees as well as an optimal space that allows them better focus – promoting creativity, decreasing errors and improving productivity.

Governments, public and private companies and international organizations worldwide have dedicated many efforts to promote plans to improve workers' wellness. Some of these efforts are obligatory by law; others are voluntarily provided by companies. In Guatemala, the social security contribution provided partially by employers is an obligation that procures wellness. Through this institution, employees have access to annual consultations, medical treatment (including surgeries and medicine), paid maternity and parental leave, workers compensation for accidents and old-age pensions.

Other important rights that were established for employees' health and safety is regarding the vacation period. In Guatemala, the vacation period provides employees with instead of a paid rest of 15 days per working year. In addition, employers must fulfill the requirements of the Occupational Health and Safety Law, which established regulations to protect employees from occupational accidents, illness and injuries in the workplace.

For this law, compliance of the following requirements is mandatory:

- ▶ Each company must have health monitors per each workplace, depending on the number of employees
- ▶ Companies must record any accident and report it to the Guatemalan Labor Authority
- ▶ Depending on the number of employees, companies must have a bipartite safety committee per workplace that conducts frequent meetings to investigate occupational accidents and implement security protocols, adequately recording the result of each meeting

- ▶ Each company must have a plan for the prevention of health and safety risks

It is also important to mention that in Guatemala the Recreational Institute for Employees is an extraordinary investment that gives wellness to employees. It is an institution that has built amusement and aquatic parks as well as hotels and hostels for private employees' use. In the case of public employees' recreation, the Recreation Office for Public Employees has built recreational and rest places for their workers.

In recent years, the Government has approved a law that promotes internal tourism for employees who work within our jurisdiction, allowing a transfer of holidays to Monday or Friday so employees can take three continuous days off and travel internally in Guatemala.

Sophisticated wellness programs are in development. Companies and organizations are, more and more each day, developing programs that give value to sustaining a healthy environment within the workplace. Our recommendation is to go beyond full compliance with employees' rights established by law and proactively create policies and plans that are focused on improving wellness in the workplace. This way companies can optimize the health and safety of the employees, which also creates direct incentives for workers to add value and increase productivity.

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Honduras



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The benefits of well-being in the workplace

The workplace environment has evolved significantly over the past several decades. In Honduras, the labor strike of 1954 against the banana companies was the first great workforce achievement, which produced the Labor Code and other legislations that are oriented to grant workers their labor rights. If we compare those times to today, there obviously has been a major change in our awareness of the physical well-being of a worker and the impact it produces on the success of a company. Although advances in society and technology are not only improving our awareness of the physical status of a worker, we are now, recognizing the value of good mental health. The impact of these discoveries opens up more opportunities and obligations for

employers who must now ask: how can we provide an environment that does not diminish the physical and mental health of a worker?

In Honduras, the Labor Code states that employers must provide a healthy work environment and tools that guarantee the security and well-being for such employees. To do so, the employer must apply appropriate hygiene and security rules to reduce or eliminate occupational hazards according to the business scope of each company. The employer not only has to apply its internal rules, it also needs to apply the rules that the Ministry of Labor and Social Security dictate.

There are some obligations that only apply to certain employers; for example, only companies that have more than 10 workers must create special regulations for hygiene and security, and they must be approved by the Ministry of Labor and Social Security.

This special regulation must dictate rules that include issues such as:

- ▶ The personal hygiene and protection of the worker
- ▶ The prevention of work accidents and diseases; medical services
- ▶ The supply of safe tools depending on the type of business
- ▶ Protection gear; a labeling system and any other needs that the work environment demands.

The law obligations mentioned above only guarantee physical protections for employees, not mental ones. In Honduras there is a lack of awareness about mental health illness, where it is difficult to recognize mental health issues and even more to prevent them. This is likely due

to the nature of many jobs in Honduras, which often tend to require physical effort. This makes employers and authorities mostly focus on the physical protection and well-being of employees. The harder an employee works, the more benefits the company offers; more production equals more gains.

But what happens to companies that don't require physical effort? These businesses do not have the support of the law, and they must make internal rules to support good mental health for employees.

Most companies that apply their own rules to guarantee physical and mental security are identified as "great places to work". These types of companies go one step further and really make an effort to provide a work environment in which an employee not only has a perfect space to do his or her work, but also feels happy and comfortable doing it. Some companies, do not see the importance of these values. The fact that a worker is happy doing his or her job not only benefits the worker, but the employer too, because a happy worker is more productive.

It is evident that we need to raise more awareness on the importance of mental health. It is likely that the more we progress, the faster we will realize the impact and importance of mental health in the workplace. As a society, we must create an ideal work environment for everyone, so every company can be a great place to work.

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The importance of well-being in the workplace in 2020

Under Act I of 2012 in the Labor Code, employers are responsible for the implementation of occupational health and safety requirements. This responsibility extends to mitigate hazards that can adversely affect the employee physically and psychologically. But how far does the employer's duty of care extend when it comes to maintaining employees' well-being and mental health at work?

Under the Act XCIII of 1993 on Labor Safety and the Labor Code, employers are required to:

- ▶ Refer employees to the company doctor for a fitness-for-work assessment when joining the company and regularly thereafter

- ▶ Carry out health and safety risk assessments and, based on the result, put measures in place to mitigate health-related risks at work
- ▶ Inform and train employees on the health and safety policies and procedures of the company
- ▶ Provide employees with personal protective equipment (e.g., glasses for employees who spend more than four hours in front of the computer screen daily)
- ▶ Document circumstances and investigate the reasons that caused work accidents
- ▶ Enable employees to elect a work safety representative at the workplace to represent employees' interest regarding health and safety measures taken by the employer
- ▶ Allow the works council to review and comment on any new health and safety-related policies introduced by the employer
- ▶ Provide regular breaks and annual leave for employees when they are not required for work duties
- ▶ Pay special attention to vulnerable groups of employees, such as the young, disabled or pregnant, and ensure that enhanced health and safety measures are put in place to protect their health

Besides meeting the legal minimum of health and safety requirements at work, employers are more and more likely to facilitate the promotion of employees' well-being and the prevention of workplace-related mental health issues to engage their staff members and ensure a high level of productivity and good performance.

There are several ways to improve employee mental health well-being that might not be listed in the Labor

Code or in the Labor Safety Act but are recommended as best practices for the employers. They include:

- ▶ A work culture where everyone is treated with respect and dignity, and issues like bullying and harassment are not tolerated. The promotion of such culture may result in a reduction of sickness absence, complaints, employee fluctuation and claims for damages. A grievance policy may address these issues, coupled with line manager training.
- ▶ A widespread solution among employers is to launch employee assistance programs so employees can find tailored assistance to their needs. Again, a well-designed policy and processes are essential for operating such a support system.

Offering flexible working locations, such as a home office, remote work or flexible working time (e.g., part-time work, job sharing, a compressed workweek) can enhance work-life balance. When an employer is considering a rollout of flexible work practices, it is recommended to ensure that tailored employment contracts and policies are being prepared to support these flexible working arrangements. Beyond the right documentation, it is required for the success of new work practices to enable a cultural change, apply proper IT security measures and create clarity of expectations.

Employers should not underestimate the importance of promoting and facilitating employees' well-being at work. Proper planning and a holistic approach to introduce new work practices, such as flexible working arrangements, is key to the success of these new ways of working.

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India



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Importance of well-being in the workplace in 2020

Introduction

Safety, health, welfare and improved working conditions are prerequisites for employee well-being. The impact of the work relationship goes beyond the lives of employees and their families; it ultimately affects businesses, economies and nations.

Health and safety occupy a very significant position in India's constitution, which contains principles aimed at securing the health of workers and ensuring just and humane work conditions. In this regard, India reinforces occupational health and safety (OHS) by implementing laws relating to OHS at workplaces. Further, certain corporates in India have developed comprehensive wellness programs for their employees, which focus on their overall mental and physical well-being.

Legislative framework

Currently, India has several laws relating to health and safety provisions, some of which have existed for more than 50

years – for example, the Factories Act, 1948; Mines Act, 1952; Dock Workers (Safety, Health and Welfare) Act, 1986; Building and Other Construction Workers (Regulations of Employment and Conditions of Service) Act, 1996; and the Contract Labor (Regulation and Abolition) Act, 1970. Further, there are two main legislations dealing with compensation for occupational diseases and accidents, i.e., the Workmen's Compensation Act, 1923, and the Employees State Insurance Act, 1948. Despite the above legislations, at the ground level less attention has been paid to the health and needs of employees in various Indian industries. This, coupled with other factors such as changing job patterns and working relationships, makes the situation in India complex.

In this regard, the Ministry of Labor and Employment has rolled out a code on occupational health, safety and working conditions that aims to simplify, amalgamate and rationalize the relevant provisions of existing labor laws relating to the health and safety of workers. Further, the Government has also enacted the Mental Healthcare Act, 2017, and the Rights of Persons with Disabilities Act, 2016, both of which define mental health illness but do not include aspects such as depression and anxiety.

Employer obligations

Under the current labor law regime in India, different labor laws make provisions for different facilities, which are to be ensured by either the principal employer or the contractor. These include:

- ▶ Mines, plantations and building workers: provisions for drinking water, first aid, hours of work and wages for overtime work
- ▶ Beedi and cigar workers: provisions for ventilation, overcrowding, canteens, wages for overtime work and daycare
- ▶ Factory workers: provisions for protections from hazardous processes,

daycare, canteens, shelters, restrooms and drinking water

- ▶ Contract labor: provisions for canteens, restrooms and first-aid facilities
- ▶ Sexual harassment concerns: provisions for the protection against sexual harassment and raising complaints against sexual harassment
- ▶ Persons with disabilities: the 2016 Act provides a legal mandate for employers to ensure "reasonable accommodations" for conditions that are legally considered disabilities, including mental health

In addition to the above, Indian labor laws cast further obligations on employers to report instances of accidents causing death or bodily injury to the relevant authorities. They are also required to keep workers informed of dangers and hazardous processes. However, accidents, despite being witnessed in plain sight, are grossly underreported in India.

Conclusion

While there are several laws dealing with health and safety at the workplace in India, implementation has been lax.

To create a happy and healthy work environment, appropriate legislative amendments, coupled with the effective implementation of wellness programs by employers, is the need of the hour. Implementing policies by employers focusing on the psychosocial work environment, with an emphasis on stress management, employee recognition and staff involvement in decision-making, would go a long way in creating a healthy workplace and increasing the overall productivity of the workforce.

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Italy



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Health and safety according to law

In the interests of preventing accidents at work and occupational illnesses, Italian employers are required to adopt a system of precautionary measures as primarily regulated by both the Italian Civil Code and the Legislative Decree Law No. 81/2008.

In particular, Article 2087 of the Italian Civil Code specifies that the employer is required to eliminate present risks in the workplace by using existing technical knowledge, and when this is not possible, to reduce them to a minimum.

The majority of the rules governing health and safety at work in Italy are in the Legislative Decree Law No. 81/2008. This

decree transposes in Italy the European directive on the protection of health and safety of workers by coordinating them in a single piece of legislation that provides for specific sanctions against violations. The main provisions are related to the organizational procedures to improve health and safety: in particular, the employer is required to organize within the company a protective and preventive service aimed at identifying risk factors and measures for their elimination or reduction to a minimum. Employers are also required to provide employees with all the general information on the risks present in the workplace and specific information on the risks associated with the performance of tasks assigned to each work position.

Welfare as a measure of work development

In the last few years, Italian employers have realized that focusing on workforce well-being helps the bottom line and, even if there are no specific obligations provided by the law, companies gain from it in terms of an increase in reputation and affordability.

Through more and more innovative welfare programs, employers can increase the well-being of employees and their family through a different concept of remuneration, both in monetary benefits and in the provision of services. These can include health care, nursery schools and summer camps, but also food services (e.g. a cafeteria), school fees and scholarships, and shop discounts. Also, psychological counseling within the company premises can be an excellent tool of improving the well-being and the

satisfaction of employees.

However, the measure most appreciated by employees is time management (e.g., flexible working). Nowadays, time measures clearly represent the most widespread category of benefits. Options such as a part-time or flexible schedule to and from the workplace, and new measures introduced under the label of smart-working, are zero-cost benefits for the company, but they bring a priceless value to employees by increasing productivity and efficiency and facilitating the reconciliation of work and life.

In particular, Italian law entitles smart workers (digitally connected employees) with the right to disconnect, since the written agreement between employee and employer related to smart working must also regulate the rest periods of the employee and indicate the technical and organizational measures agreed upon by the parties to guarantee the worker's right to disconnect from company devices.

Well-being is good for business

By proactively supporting the well-being of their employees, employers can reduce absenteeism, increase their engagement, improve their productivity and morale, and attract new talent.

A safe and healthy workplace not only protects workers from injury and illness. The focus has shifted to a broader view of health and safety at the workplace, including the physical, mental, work and life components of well-being.

In other words, well-being is always good for business.

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Japan



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Well-being in the workplace and working hours management

Karoshi

In Japan, there is a word for death from overtime work: karoshi. This includes suicides due to mental health issues as well as brain or heart diseases. Thus, the first step to protect well-being in the workplace in Japan is to prevent chronic overwork.

Upper limitation under the new LSA

The new regulations on the upper limits of overtime working under the Labor Standards Act (LSA) took effect on 1 April 2019. On 1 April 2020, they will also apply to small and medium-size companies.

Under the LSA, an employer may have an employee work up to 8 hours per day and 40 hours per week. Any work exceeding this is "overtime work," which requires filing a labor-management agreement with an employees' representative.

Before the new regulations, there was no statutory upper limit of overtime working hours that the labor-management agreement could provide. The agreement cited a violation, but it was not criminally punishable.

Under the new regulations, an upper limitation is directly set by the LSA, and a violation of it is now a criminal offense. The following summarizes the new regulations on the upper limitation.

An employer needs to create and file a labor-management agreement with an employees' representative. This basic structure remains the same. The labor-management agreement must provide the ordinary upper limit of overtime work hours, which must not exceed 45 hours per month and 360 hours per year. The agreement may provide a special extension clause whereby the employer is allowed to have an employee work hours exceeding the ordinary limit for a time. However, the special extension clause must be implemented with the following conditions: i) overtime work hours must not exceed 720 hours per year; ii) the total hours of overtime work and work on days off per month must be less than 100 hours; and iii) the monthly average of the total hours of overtime work and work on days off must not exceed 80 hours over set work periods of up to six months. Further, the special extension clause can only be used for up to six months in one year.

Working-hour obligations under ISHA

At the same time as the amendments to the LSA were completed, the Industrial Safety and Health Act (ISHA) was also amended to protect employees' health from long working hours. Under the ISHA, an employer must have an employee be interviewed by and receive guidance from a medical doctor when the total hours of his or her overtime work and work on days off per month exceeded 80 hours, if he or she so requested. The amended ISHA requires an employer, when an employee's total hours of overtime work and work on days off per month exceeded 80 hours, to inform him or her of the amount. Also, an employer is required to ascertain each employee's working hours in an objective way, such as time-clock cards, and calculate working hours at least once a month periodically (and comply with the obligation to inform employees).

What's the first step for the compliance?

The regulations are complicated. This is especially true for multinational companies that do not have a local HR function in Japan.

A good starting point would be to start ascertaining employees' working hours in an objective way, such as using applications. From our experience, it is not rare in practice to find a company (especially a small subsidiary of a large corporation in a foreign jurisdiction) that does not ascertain its employees' working hours at all, saying that their high salaries sufficiently compensate for their overtime hours. Without properly ascertaining employees' working hours, any measures for compliance cannot be effective.

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Kenya



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Importance of well-being in the workplace in 2020

It is the responsibility of every employer to ensure the safety, health and welfare of all employees working in their establishments. The Occupational Safety and Health Act, No. 15 of 2007 and revised in 2010, provides for the safety, health and welfare of workers and all persons lawfully present at workplaces.

What are employer's obligations?

The responsibilities of the employer as provided under section 6 of the Act include, among other requirements:

- ▶ Guarantee safety and the absence of risks to health in connection with the performance of employees' duties
- ▶ Inform, train and supervise as is necessary to ensure the safety and health at work of every person employed

- ▶ Maintain a safe working environment and adequate facilities for employees' welfare at work
- ▶ Inform all employees of any risks from new technologies and imminent danger
- ▶ Ensure that every employee applies health and safety measures
- ▶ Carry out appropriate risk assessments on the health and safety of employees and, on the basis of these results, adopt preventive and protective measures to mitigate the probability of injury
- ▶ Take immediate steps to stop any operation or activity where there is an imminent and serious danger to health and safety

Mandatory employer obligations to guarantee employee mental health and welfare

It is the responsibility of employers to take care of the welfare of its staff. This means taking care of employees with pre-existing health issues and disabilities, as well as doing what they can to prevent new ones.

In Kenya, the law seems to place the onus of personal employee welfare on both the employer and the employee. The Employment Act only briefly mentions the employer's liability for employees' mental health. These are blanket provisions that do not clearly define the obligation nor liability in the event of injury. In any case, proving that an employer is responsible for the deterioration of an employee's mental health is not easy, hence the need to amend the principle law to protect employees. It is worth noting that Kenya is a signatory to the International Labour Organization and therefore ascribes to the minimum standards set therein.

Jurisprudence tends to suggest that the liability of an employer is apportioned

based on the steps they take in sustaining employee mental health. The Mental Health Act, 1989, is the principle legislation on matters of mental health, but it does not make adequate provisions regarding employers' obligations toward employee mental health. Currently, the Mental Health Amendment Bill, which seeks to widen the scope of liability, is being deliberated upon in Parliament and if it is passed, the law on employee mental health will definitely change.

Required documents

At the very least, both domestic legislation and international standards require employers to maintain the following documents with respect to employee welfare:

- ▶ Job descriptions
- ▶ Employment contract
- ▶ Performance appraisal contracts
- ▶ Employee files
- ▶ HR policy

Employees should have easy access to these documents at their request.

Conclusion

Employers must not confine themselves to the minimum standards set by law. Employees are businesses' greatest resource and should be optimized by making their welfare a priority.

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Lithuania



Vytautas Birmontas

More attention to mental health and private life needed

Employer's obligations

The main obligations for employers related to the health and safety of employees are provided in the Labor Code and the Law on health and safety at Work. The Labor Code stipulates that every employee should be provided with appropriate, safe and healthy working conditions. The law provides an exhaustive list of rights and obligations of employees and employers, the institutional assurance system for health and safety at work, and special provisions for the protection of individual employee groups, such as pregnant and breastfeeding employees, employees under the age of 18, and employees with disabilities. Furthermore, the Labor

Code establishes that the workplace and working environment of every employee should be safe, healthy and properly equipped, and work should be organized according to the requirements of health and safety regulatory laws. In addition, an employee has the right to refuse to work if there is a risk to his or her safety or health or to do a job that he or she has not been trained to perform safely. Such substantiated refusal to work shall not be deemed to be a violation of work duties.

Required documents

According to the Labor Code, an employer with 20 employees or more must inform and hold consultations with the work council in adopting decisions on the approval or amendment of the internal regulatory acts establishing health, safety and privacy at work. This includes procedures regarding the introduction of new technological processes, the use of information and communication technologies, the monitoring and control of employees at the workplace, measures to reduce stress at work, and the ascertainment of measures that may violate the protection of an employee's private life.

The scope of employees' health

It is worth mentioning that the scope of an employer's obligation to ensure a safe and healthy work environment also covers a necessity to pay attention to employees' mental health. For this purpose, the psychosocial climate at work may be assessed. Such assessment includes the following aspects: work conditions, such as night work or work with chemicals; work requirements, such as workload and the pace of work; deadlines for completing tasks; the organization of work, such as duration and remuneration; scope of work, e.g., influence on work

process and outcome, work monotony and meaningfulness of work; and relations between employees as well as between employees and the employer (support at work, conflicts). After collecting data on the psychosocial climate of a workplace, the data should be summarized and the psychosocial stressors at work should be identified. Then, the potential impact of them on employees' health and well-being is evaluated. The results of the assessment are then discussed with employees and their representatives, and recommendations on how to improve the quality of the health and safety climate at work are provided.

A right to disconnect

Although there are no specific regulatory laws establishing the right to disconnect, employers should follow general rules set in the Labor Code, such as a maximum working time and a minimum rest period, as well as the terms and conditions regarding working time established in a specific employment contract.

As the importance of employees' mental health currently is a hot topic in Lithuania, there is a noticeable trend to take actions and ensure that a proper attention to employees' mental health is paid (for example, some employers cover mental health services provided to their employees, such as psychologist consultations, etc.).

What could be improved?

To fully comply with legal requirements for health and safety at work, employers should adhere not only to rules for the psychological health and safety of employees; they should also focus on the mental health of their employees, as it is often forgotten in Lithuanian companies.

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Luxembourg



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Well-being and mental health for employees

Introduction

In Luxembourg, the Quality of Work Index, launched in 2012, carries out annual surveys on working conditions and well-being at work, and is aimed to measure and monitor this topic. In addition, the Government, through its agency in charge of safety at work (the Accident Insurance Association), also implements large prevention measures, such as guidelines, training and communication campaigns to reduce risks at work, including psychosocial risks, and foster prevention awareness across the country.

Obligations of employers

According to the Luxembourg Labor Code, the employer must ensure the health and safety of all employees in every aspect related to work. According to a decision on 21 June 2011 from the Luxembourg Court of Appeal, an employer is bound by an obligation to this area. In addition, general guidelines and principles on health and safety, mainly focusing on physical health, are defined by the Labor Code and Grand-Ducal Regulations.

However, no specific regulations exist in Luxembourg to protect mental health and prevent harassment of employees. This is despite the fact that an inter-professional agreement on the prevention of violence and harassment in the workplace was adopted in 2009 and has been included in major collective bargaining agreements for the insurance and banking sectors.

The Labor Inspector is responsible for the surveillance of health and safety in the workplace.

Legally required actions

The law provides that employers must take into account all the occupational risks encountered by their employees, provided that the nature and significance of these risks depend on several factors. Employers are responsible for the prevention of risks by implementing risk assessments and prevention measures (equipment, training, etc.).

To carry out these obligations, employers may be assisted by a trained employee, called a "salarié désigné," who will be in charge of health and safety within the company. Moreover, members of the staff delegation need to appoint a health and safety representative who must be consulted by the employer, particularly regarding risk assessments of the workplace.

The employer also must register its employees to the compulsory medical examinations, such as hiring examinations and regular examinations for workers under 21 years old, night workers, workers holding a position with specific risks, etc. Finally, the employer must set up a first-aid process in cooperation with the appropriate medical service. In terms of mental health and especially with moral harassment and violence, the employer is required to intervene to prevent any form of harassment in its company and to protect employees who have been victims of harassment. Since there are no specific provisions on moral harassment in the Labor Code, according to case law, employers' obligations are based on the principle of good faith deriving from the Civil Code.

Right to disconnect

The Luxembourg labor market is largely based on services and employees who are frequently provided with IT tools, allowing them to be constantly connected. The Luxembourg Court of Appeal recently recognized, for the first time, a right to be disconnected (Court of Appeal, 2 May 2019). It will be interesting to watch over the next few months whether this "right to disconnect" is confirmed in Luxembourg law or the courts.

Conclusion

From a legal standpoint, psychosocial risks and moral harassment are not yet defined in Luxembourg.

However, employees' well-being is a key issue that Luxembourg companies must address to ensure their employees stay in the company and remain motivated in a very competitive job market.

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Netherlands



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Employer's duty for health and safety

Human capital is one of the biggest assets of successful organizations. The health and safety of employees is therefore paramount. Dutch occupational health and safety laws grant employees a range of protections that create obligations for employers.

General responsibilities

The employer is required to ensure the protection of the health and safety of employees with respect to all employment-related aspects. This also applies to temporary workers, trainees, volunteers and self-employed persons who are in a similar position as an employee.

The employer is required to have a policy aimed at achieving the best possible working conditions, such as:

- ▶ Organizing the work in such a way that it has no detrimental effect on the health and safety of employees
- ▶ Avoiding or limiting the hazards and risks to the health and safety of employees
- ▶ Preventing or limiting the psychosocial workload of employees
- ▶ Adapting the design of the workplace, working methods, tools and content of the work to the individual needs of employees
- ▶ Taking appropriate measures regarding first aid for accidents, fire safety and employee evacuation

Information and training

With respect to information and training, the employer is obliged to:

- ▶ Ensure that employees are given appropriate information about their duties and the associated risks, as well as the measures in place to prevent or limit these risks
- ▶ Ensure that employees are given appropriate training for their specific tasks
- ▶ Ensure that – in the event protective equipment is supplied to employees and/or protective devices are fitted to tools or objects – employees are informed of their purpose and how the equipment and devices are used
- ▶ Monitor compliance with instructions and rules issued to prevent or limit health and safety risks, as well as the correct use of protective equipment and devices

Risk assessment and evaluation

Employers are in principle required to perform a risk assessment and evaluation from time to time. When performing the risk assessment and evaluation, the employer has to verify, among others, the risks that may occur during the execution of work by employees and the measures taken to avoid any harm to their health.

Notifying accidents

With respect to accidents at work, employers must notify the Dutch Labor Inspectorate when there is an accident that causes death, lasting injury or hospital admission, and they must comply with instructions given by the Inspectorate.

Labor Inspectorate

The Dutch Labor Inspectorate reviews compliance with health and safety regulations and can take corrective actions, such as imposing warnings, demanding compliance with the law, (temporary) shutdown of the business and imposing fines.

Employee's right to be disconnected

Dutch law does not provide an employee's right to be disconnected. A bill has been presented to the Dutch Parliament in February 2019 to introduce this right.

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New Zealand



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The importance of well-being in the workplace in 2020

Rules and obligations for employers

Employer health and safety responsibilities in New Zealand are governed by the Health and Safety at Work Act 2015 (HSWA). The HSWA aims to ensure that employers create and maintain a safe and healthy working environment by providing reasonable protections for employees against health and safety risks (both physical and mental). Workers in turn have duties under the HSWA to adhere to applicable health and safety policies or procedures established by their employer, take reasonable care of their own health and safety, and ensure their actions do not have a detrimental effect on those in their workplace.

Actions an employer must undertake for mental health well-being

Workplace practices that lead to stress or affect a worker's mental well-being

are viewed as hazards in the workplace, given that they are practices which, if not minimized or eliminated, may jeopardize the health and safety of workers.

As a result, employers are required to actively identify such mental health hazards and take steps to eliminate or reduce them as they are brought to their attention. Either failing to address an issue or investigate a concern may result not only in the employer facing liability under the HSWA; it also may pose ongoing health and safety risks to workers.

Consulting obligations

The HSWA requires that employers engage with workers and seek their participation regarding the organization's health and safety practices. This includes ensuring worker's views on matters that could affect their health and safety are taken into consideration, offering a clear and effective process for workers to raise their health and safety concerns and, if applicable, bringing in worker health and safety representatives.

In addition, the Employment Relations Act 2000 requires employers and employees to act in good faith, actively and constructively maintaining a relationship that is responsive and communicative.

Required documents

All employers should have a health and safety policy that is tailored to their organization's specific needs. The policy must be periodically reviewed to ensure it remains current and appropriate. An employer must also maintain a register of any incidents or injuries suffered by employees as well as "near misses" to identify and reduce both actual and potential hazards.

However, simply providing a policy to employees will rarely suffice in discharging an employer's duties. Rather, it will be necessary to provide training and information to workers so they both understand and can apply the policy and

work safely in their specific environments.

Employees' time off and mental health

Employees in New Zealand are entitled to take regular breaks during their working day, have at least four weeks of annual leave per year and request flexible working practices. Although there is no specific legislative requirement to ensure employees effectively "disconnect" from IT during this down time, employers should be constantly aware of the risks that a lack of rest poses to workers, particularly for their mental health.

Some practices adopted by employers include free and confidential counseling and psychologist assistance; periods of mandatory leave during which time employees are disconnected from system access; and developing communications and training on mental well-being.

Conclusion

Over the years there has been heightened focus on an employer's obligations to protect both the physical and psychological well-being of its workers. The New Zealand Government has sent a strong message that it takes mental health very seriously, with its plans to establish a Suicide Prevention Office, the establishment of the Mental Health and Well-being Commission, and the specific allocation of increased resources to mental health services.

Many employers focus on the provision of a safe working environment, rather than both a safe and healthy one. We would challenge employers to bear in mind that the assurance of both a safe and healthy environment requires more than a compliance mindset. Rather, it requires a focus on understanding and accommodating the diverse health and well-being needs of employees.

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Norway



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The importance of a healthy workplace in 2020

The tone from the top

A healthy workplace is crucial for all businesses. Employees who enjoy their work tasks, feel safe physically as well as social-psychologically, and experience a welcoming climate for expressing one's views are more likely to feel that they are highly valued by their employer. These core conditions are vital for retaining good employees.

Many factors contribute to a healthy workplace. The leadership is decisive. A good "tone from the top" – a management that is perceived as truthful, inspiring and positive – is key. Leaders' need training in leadership skills as well as training about employees' legal rights. The HR department has a vital role in this work.

An energetic, engaged and enthusiastic employer will usually affect the employees' motivation, productivity and willingness to work.

Legal basis

The Norwegian Working Environment Act (WEA) states that its purpose "is to secure a working environment that provides a basis for a healthy and meaningful working situation, that affords full safety from harmful physical and mental influences and that has a standard of welfare at all times, consistent with the level of the technological and social development of society."

The welfare of employees is one of the pillars of the WEA. It is stated as a condition in all collective agreements and is also a topic discussed with employee representatives. With this follows employers' legal obligations to ensure employee welfare at the workplace and that the working environment is fully satisfactory.

Leadership must create an efficient system to ensure the company fulfills its legal obligations that impact a good working environment.

Legal obligations

Various legal obligations that have an impact on a healthy workplace may range from topics such as working time, health, environment and security, equality and nondiscrimination, prohibition of harassment, and #Metoo awareness. A current topic is the matter of upskilling, which is the need for the further education and training of employees to stay fully qualified and up-to-date, in line with fast changes in the employment market.

The issue is increasingly relevant as the employment market is more digitalized and robotized. Identifying who has the relevant qualifications is part of all reorganization processes today.

A healthy climate of expression

As of 1 January 2020, the purpose of the WEA was extended to include the facilitation of a good climate of expression at the workplace. This change follows the legislators' wish to secure a climate of free expression at the workplace, especially toward the way critical issues, such as those brought up by whistle-blowers, are handled.

The legislator emphasizes that a good climate of expression primarily is characterized by a culture with great opportunities for an exchange of views and where criticism and other expressions are welcome as a basis for the improvement and development of the workplace. This type of climate can be crucial for whether a notification is made by a whistle-blower, and it can define how notifications are dealt with in practice. The legal rights of whistle-blowers were also strengthened as of 1 January.

Systematic work

It is our advice for enterprises to secure a healthy workplace that systematically includes all aspects of legal obligations, while also going beyond them to encourage the security and well-being of employees.

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Peru



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Promoting employee well-being in the workplace

Presently, there are many Peruvian companies that are focused on promoting the best work experience for their staff. This people management approach not only promotes the personal development and stress relief of employees; it also helps make the company compliant from a regulatory perspective.

Respect for labor rights in people management

The management of people aims to promote the welfare of employees and their well-being in the workplace. In Peru, there are several labor obligations that must be fulfilled by each employer, not only to avoid labor trials or fines imposed by the administrative labor

authority (SUNAFIL), but also to promote an healthy and safe working environment inside the company.

Compliance with obligations related to staff welfare

It is essential to promote an optimal working environment with appropriate regulations. The following are the main obligations that companies must observe to fulfill this purpose:

1. Job offers without discrimination

To recruit employees, companies need to observe objective criteria and avoid discriminatory acts. Law 26772 establishes a mandate of nondiscrimination to companies in the recruiting process. Because of that, it is not possible to make job offers that affect equal opportunities.

2. Management based on objective performance criteria

Companies are obliged to evaluate and sanction their employees in an objective manner. For these cases, Supreme Decree 003-97-TR and its proposal of regulation establish that sanctions, action plans to improve performance and performance evaluations should always be based on objective factors. In this way a labor environment based on meritocracy can be promoted, creating an atmosphere of well-being.

3. Payment of fair compensation

Law 30709 decrees that all companies must establish salaries based on objective parameters, without criteria based on gender or subjective aspects. An objective determination of salary promotes a good working environment and the retention of talented employees.

4. Penalties for sexual harassment

Law 27942 prohibits and sanctions sexual harassment at the workplace. Sexual harassment is considered a form of violence and a psychosocial risk, according to the law. It is necessary for the employer to have a preventive policy and an investigation and complaint process to avoid these behaviors. This is a legal mechanism to promote peace for employees in the workplace.

5. Protection of employees' health

Law 29783 requires companies to take preventive measures against occupational risks. Companies must identify the hazards and risks to which employees are exposed in order to avoid all kinds of accidents. It includes the evaluation of mental diseases generated as a consequence of work stress.

6. Employee disconnection

In Peru, there are no specific regulations regarding employee disconnection. Companies voluntarily decide to provide space for their employees so they can find a balance between their lives and their jobs. However, if needed, an employee may be required for a specific task after leaving the workplace in exchange for overtime compensation.

Best places to work

The well-being of a company's employees is based on a respect for labor rights and the establishment of people management processes as set forth by the regulations. This is the key to attracting and retaining the best employees for the best companies.

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What are employers' obligations for the health and safety of their employees?

Employers need to ensure there are appropriate protections in place for employees' health and life. This is reflected in employees having the right to refuse to provide work when there is a risk that may breach health and safety regulations.

The current legislation provides rules of conduct for the protection of safe and hygienic working conditions that prevent accidents at work and allow for emergency response (e.g. evacuation). However, there are no regulations directly referring to providing employees with conditions to protect their mental health. On the basis of the Polish Labor Code, the protection of an employee's mental health (the right to claim mental health violations) may be ensured only if the behaviors leading to a mental health problem of an employee could be the result of mobbing (long-term, repeated harassment).

According to the provisions of the Labor Code, the employer is obliged to protect the health and safety of employees by ensuring safe and hygienic working conditions, with specific attention to:

- ▶ Methods of work organization
- ▶ Compliance with health and safety regulations and rules within the company
- ▶ Methods of remedying deficiencies
- ▶ Response to health and safety needs and improving the existing level of protection of workers' health and life, taking into account changing working conditions
- ▶ The health protection of young, pregnant or breastfeeding workers and workers with disabilities as part of preventive measures
- ▶ Orders, recommendations and decisions issued by supervisory authorities
- ▶ Recommendations of the Social Labor Inspectorate

The employer must also organize health and safety training for employees before they start work and must obtain confirmation of their participation in such training. The employer is also obliged to perform health and safety training to the extent necessary to perform its obligations. This training should be repeated periodically.

What are employers legally required to do to protect employees?

The employer must take action to fulfill the health and safety obligations referred to above. However, the law does not indicate exactly what actions should be taken by employers to fulfill those obligations. This is because it depends on the specifics of the employer's industry, the size of workplace and other factors.

Excluding the obligation to counteract mobbing and the use of procedures in this respect, the employer doesn't have to implement other measures to improve employees' mental health unless it results from internal regulations (e.g., work regulations) or an agreement between employer and employees.

What are the consulting obligations?

Pursuant to the provisions of Labor Code, the employer consults with employees or with their representatives on all the actions concerning health and safety at work, particularly related to:

- ▶ Changes in the work organization, equipment, technological processes and chemical substances (also considering whether their mixture can pose a threat to the health and life of employees)
- ▶ An evaluation of the professional risk present in performing specified works and informing employees about the risk
- ▶ Establishment of the health and safety at work service, or assigning the performance of these tasks to others, as well as appointing employees to perform first aid and help with fire protection and evacuations
- ▶ Granting employees measures of individual protection as well as working clothing and shoes
- ▶ Training employees on health and safety issues

Steps for employers

The provisions relating to the health and safety rules in the workplace in Poland are not adapted to the changing realities and methods of providing work, since they concentrate mainly on physical risks, such as accidents.

It may be a good practice for employers to introduce internal policies aimed at reducing negative impact on the mental health of employees.

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Romania



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Well-being at the workplace

Recent trends in the Romanian labor market show that, when choosing their employer, candidates are more interested in well-being benefits in addition to salary. The Romanian benefits market has matured during recent years, as the number of online benefit platforms has increased and employers' budget for benefits has doubled. For example, according to recent studies, holiday vouchers were included in the top three benefits accessed by employees.

Although not formally recognized as such, Romanian employment health and safety legislation provides for certain well-being facilities. This article outlines the general health and safety obligations and some of the most important benefits that have an impact on employee well-being.

Employer health and safety obligations

Employers have a general legal obligation to prevent professional risks by evaluating work activities and implementing protective measures aimed at improving work security, informing and consulting employees, and performing regular health and safety trainings.

Flexible working arrangements

The recent developments of the Romanian labor legislation introduced telework, which allows employees who carry out their work duties by using information and communication technology to perform work outside the office.

Although intended to create a more flexible working environment, telework is still subject to certain legal restrictions. For example, the right to telework and the places where telework is allowed must be expressly provided in the employment contract. Also, employers should organize health and safety trainings specially designed for telework activities.

The Romanian Labor Code also provides for the possibility of the employer and the employee to agree upon a variable working schedule. This allows employees to either benefit from flexible hours of arrival and departure from work or benefit from a compressed working week (i.e., a short Friday). Such flexible working arrangements should be expressly mentioned in employment documentation (the employment contract, the collective bargaining agreement, internal regulations, etc.).

Similar to other European Union countries, Romania should also take steps for the integration of the EU Directive 2019 on

work-life balance. The directive introduces so-called flexible working arrangements by which workers with children of at least eight years old will have the right to request their employers for flexible working arrangements for caring purposes.

Additional days of paid holiday

Although not mandatory by law, it is frequently seen in practice that Romanian employers grant days of annual paid holiday, in addition to the minimum 20 days granted by the Romanian Labor Code. It is also customary for employers to compensate with free paid public holiday days that fall on weekends.

Tax incentives for employee benefits

In Romania, well-being measures are also encouraged by the fiscal legislation, which provides for various tax incentives for benefits granted to employees, such as: transportation to and from work, gym subscriptions, cultural and vacation vouchers, private medical subscriptions, and professional development courses. However, none of these benefits are mandatory by law.

Conclusion

Considering the challenges brought to the labor market due to a lack of qualified personnel and an increase of salaries in the public sector, employers should increase their focus on investing in well-being facilities, which would help reduce employee turnover, improve retention and increase work efficiency.

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Russia



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Obligations for employers on the health and safety of employees

Issues related to occupational health and safety are governed in detail by the Russian Labor Code and legislative enactments that cover separate industries. Employers have a considerable number of obligations aimed at ensuring that working conditions at each workplace meet work safety requirements, employees use individual and collective protective gear (if applicable) and employees observe the work and rest regime, for example. At least every five years all employers are obliged to carry

out special assessments of working conditions respective to each type of working place. The results must be included in each employee's employment agreement. Further, if the number of company employees exceeds 50 and the company is engaged in production activities, it is obliged to create an occupational health and safety service or add an occupational health and safety specialist with relevant training or experience in this field.

Scope and coverage of health and safety legislation

Russian occupational health and safety legislation explicitly covers only physical health. Accordingly, there are no specific obligations for an employer regarding the mental health of its employees. The Labor Code does not define the notion of health. Safe working conditions are defined as those that exclude the influence of harmful or dangerous industrial factors on employees or, if such factors are present, that the level of their influence on employees should not exceed statutory norms.

Company health and safety required documents

Every employer is required to develop an extensive set of various labor safety rules and regulations, as well as other documents relating to work safety, depending on company activities and the industry concerned. The labor safety policy is the minimum that should be adopted in every company, even if it is a very small organization of employees engaged only in office work.

Although all employees are generally covered by occupational health and safety guarantees, the employer is not obliged to undertake the special assessment of

occupational hazards and risks in respect to remote workers and a few other classifications.

Employer's consulting obligations

Employers have a duty to take into account the opinion of the elected trade union body or other employee-authorized bodies in cases of the expansion and adoption of labor safety rules and regulations.

The Labor Code also sets forth the right of trade unions to control the employer's compliance with labor legislation and other legal acts related to labor law, and the implementation of collective agreements.

Conclusion

Issues related to occupational health and safety are governed in considerable detail by the Russian legislation, however, the focus is primarily on physical health issues and the minimization of harmful industrial factors. Thus, the potential hazard of advancements in communication technologies are not currently matters regulated by law. Initiatives aimed at creating a culture that encourages the right to be able to disconnect from work and refrain from engaging in work-related electronic communications during non-work hours (such as the French "right to disconnect" law) is only being developed and brought up for discussion at the company level by some employers.

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Evelyn Ang

Workplace health and safety for the modern workplace

The Workplace Safety and Health Act (WSHA) and its subsidiary legislation are the primary statutes for regulating workplace health and safety in Singapore. These are supported by Codes of Practice issued or approved by Singapore’s Workplace Safety and Health Council. The council provides practical guidance on the minimum standards expected of employers to comply with their WSHA obligations.

General obligations

Under the WSHA, employers and principals have a duty to take all reasonably practicable measures necessary to ensure the health and safety of their employees and contractors at work. Such measures include:

1. Providing a safe work environment, with adequate facilities and arrangements for their welfare
2. Ensuring that adequate safety measures are taken
3. Ensuring employees are not exposed to any hazards arising out of their work
4. Developing and implementing procedures for dealing with emergencies that may arise while employees are at work
5. Ensuring they receive adequate instruction, information, training and supervision as is necessary for them to perform their work

Principals should note that the obligations mentioned extend to any direct or indirect subcontractor engaged by a contractor, as well as any worker employed by a contractor or subcontractor.

The WSHA generally adopts a nonprescriptive approach to what specific safety measures must be taken and allows organizations the flexibility to adopt suitable methods according to their business needs.

Emotional well-being

One aspect of workplace safety and health that is at times overlooked is the need for employers to provide an emotionally safe and healthy working environment for their employees. Employers are encouraged to take adequate measures to prevent and respond to cases of workplace harassment, such as implementing workplace harassment-prevention policies and effective grievance-handling policies. In this regard, the Tripartite Advisory on Managing Workplace Harassment is a good starting point for employers to evaluate their own practices.

Moving forward

Singapore’s workplace health and safety laws have traditionally been most concerned with blue-collar work and preventing workplace accidents and deaths. However, there appears to be a greater awareness and advocacy for the importance of managing mental health issues. Two members of Parliament raised the issue of mental well-being during Parliamentary debates on the most recent amendments to Singapore’s Employment Act. Similarly, in April 2019, Singapore’s Ministry of Manpower and the Workplace Safety and Health Council jointly released the WSH 2028 report, which lays out Singapore’s workplace health and safety strategies for the next decade. One strategic outcome identified by the report is the promotion of good workforce health, which includes the management of chronic diseases, such as diabetes and hypertension, as well as mental health. These sound bites, coupled with the increasing proportion of white-collar workers in Singapore, suggest greater scrutiny of employers’ practices in this space in the near future.

Today’s workplace health and safety landscape is characterized by strong Tripartite partnerships among the Government, employers and trade unions to promote and recognize good practices instead of driving compliance by punitive measures. Employers are thus encouraged to adopt a proactive and holistic approach to workplace health and safety, even if they are not legally obliged to do so. Robust systems can go beyond mere legal compliance to serve as an indicator of organizational excellence.

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South Africa



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A South African perspective

The South African Constitution (1996), as supreme law and cornerstone of democracy in South Africa, enshrines the rights of all South Africans and affirms the democratic values of human dignity, equality and freedom. In recognition and furtherance of citizens' right to equality is the Constitutional mandate under section 23, which provides for the right to fair labor practices. To give effect to and regulate this fundamental right, The Labour Relations Act, 66 of 1995 (LRA) was enacted. The purpose of the LRA is to advance economic development, social justice, labor peace and the democratization of the workplace.

A grounding ethic of the South African workplace is the achievement of equity to ensure the social and economic well-being of South Africans at their respective places of work. Having inherited a difficult history of racial segregation and exclusion, the attainment of a fair and equitable labor

system in South Africa is imperative to ensure the well-being and protection of the fundamental rights of every South African citizen.

To achieve this, the Employment Equity Act 55 of 1998 (EEA) was enacted, carrying the specific aim of promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination. Employers are obliged to implement affirmative action measures to redress the disadvantages in employment experienced by historically marginalized South African groups (black citizens, women and people with disabilities), to ensure their equitable representation in all occupational levels in the workforce. Every employer thus carries the duty and obligation imposed by section 5 of the EEA to take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice.

Recognizing that people living with disabilities experience physical, social and economic barriers that have caused their unfair treatment and discrimination, South Africa has taken efforts to formulate policies to protect the rights of people with disabilities. Through the Code of Good Practice on the Employment of Persons with Disabilities, employers are obligated to affirm the rights of persons with disabilities in the workplace by implementing affirmative action measures to redress discrimination. Similarly, with the increase in mental illness diagnoses in the workplace, employers, when aware of an employee's condition, must consider the potential impact of the illness on the employee and the workplace and apply the appropriate process, which includes a thorough examination of possible ways to accommodate the employee.

Other important statutory and regulatory instruments an employer must comply with to ensure the safety and well-being of its employees include:

- ▶ Employment Equity Regulations, 2014, which carry a duty for employers to prepare and implement Employment Equity Plans in the forms prescribed by the EEA
- ▶ The Code of Good Practice: HIV and AIDS and the World of Work, which seeks to assist employers in developing appropriate responses to manage HIV and AIDS, and other illnesses
- ▶ Code of Good Practice on Equal Pay for Work of Equal Value to achieve fairness in remuneration
- ▶ The Occupational Health and Safety Act 85 of 1993 to provide for the health and safety of persons at work
- ▶ The Mine Health and Safety Act 29 of 1996 to provide the health and safety of mine workers

Conclusion

Providing a healthy and safe workplace where employees feel their well-being is considered requires employers to actively engage their workforce and embed HR policies and strategies that are not static, but rather agile enough to accommodate and respond to evolving global market trends. As we are increasingly seeing in South African corporations, a well-considered and executed people agenda, which prioritizes the safety, security and well-being of its staff, is paramount. Creating an inclusive workplace culture principled on values of fairness, diversity and equity goes a long way in preparing the organization for long-term success.

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Spain



Raul Luis Garcia Gonzalez

Introduction

Increasing the protection of employees in the workplace has become a reality in Spain. There have been recent laws published to regulate this issue that goes beyond physical health concerns and include the right for employees to disconnect digitally to improve their mental health.

Obligations for the prevention of occupational risks

Safety at the workplace is part of the Prevention of Risks at Work (LPRL), established in 1995. This act constitutes the framework that sets the minimum conditions that must be fulfilled in workplaces in Spain and determines basic responsibilities for employers to establish an appropriate level of protection for workers.

The LPRL sets out these general principles:

- ▶ Prevention of professional risks
- ▶ Elimination or reduction of risks derived from work

- ▶ Information, advice, participation and training for employees in preventive matters

The employer has the responsibility to protect the life and health of its employees. The main functions of the employer to fulfill this responsibility are:

- ▶ Plan for the prevention of occupational risks that must include the organizational structure, responsibilities, functions, procedures and resources necessary for preventive action
- ▶ Evaluation of the risks, taking into account the activity, the characteristics of specific jobs and the workers who perform them
- ▶ Planning the preventive activity, including ways to carry it out, the responsibilities, the necessary material and human resources needed
- ▶ Consultation and participation of employees
- ▶ Training workers, from both a theoretical and practical point of view, in preventive matters
- ▶ Establishing actions in cases of emergency and serious and imminent risk

Worker health surveillance
In this sense, it is important to highlight the employer's obligation to draw up and keep at the disposal of the labor or health authority documentation of the prevention plan, the risk assessment, the planning of preventive activity, health surveillance checks on workers and the list of occupational accidents and diseases that have resulted in a worker being unfit for work for more than one working day. If this documentation is not available in the event of a labor inspection, the company will incur a serious infringement that could be punishable with fines up to EUR 820,000.

Obligations in terms of consulting

The law defines health and safety representatives as workers' representatives responsible for risk prevention at work.

Considering this role, they will be entitled to different rights, such as being informed by the employer of injuries caused to workers' health; being able to attend, even outside working hours, the scene of the accident to discover the relevant circumstances; to receive information on the persons or bodies responsible for protection within the company; and to carry out workplace inspections to monitor working conditions. With this objective, the representative should be allowed to enter any area of the workplace, be able to communicate with workers during working hours, and demand that the employer adopts preventive measures to improve the levels of health and safety protection for workers.

Digital disconnection and mental health

From a Spanish labour legislation point of view, the right of digital disconnection outside the working hours is guaranteed, which means the respect of the rest time of employees as well as their personal and family privacy. This is foreseen in a 5 December 2018 law for the protection of personal data and a guarantee of digital rights.

Considering the above, in case of a lack of further regulation, it will be mandatory that the employer, after a meeting with the employees' representatives, draws up an internal policy that notes procedures for exercising the right to disconnect and training actions for the staff on using technological tools to avoid the negative effects of excessive use.

Conclusion

In conclusion, this situation raises new challenges for the employers,, considering the digitalized and globalized economy, and it requires companies to adapt its workforce to the new situationlandscape.

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Sweden



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The importance of a healthy workplace

The Work Environment Act

Work environment matters in Sweden are governed by the Work Environment Act. The act aims to create a good working environment and prevent ill health and accidents at the workplace. The term “working environment” encompasses all factors and relationships at the workplace, e.g., technical, physical, organizational and social.

Since it applies generally to the labor market as a whole and has to suit many different sectors and workplaces, the Work Environment Act is supplemented by provisions issued by the Swedish Work Environment Authority.

In accordance with the Work Environment Act, an employer must work with the working environment in a systematic and planned way. This is a recurring process with the following central activities:

- ▶ Examination of the organization
- ▶ Assessment of the risks revealed by the examination
- ▶ Enacting measures to reduce risks
- ▶ Follow-up of enacted measures to ensure they have contributed to a better working environment

A structure for this process needs to be in place for all Swedish businesses.

Active measures

Though the notion of a healthy working environment is not a new one, the importance of a safe working environment for everyone has certainly been top-of-mind in recent years.

Since 1 January 2017, there is a requirement for employers to work with so-called active measures to promote equal rights and opportunities at the workplace, with the aim of creating a sustainable working environment.

Active measures mean that all employers are obliged to:

- ▶ Continuously apply a four-step approach (investigate, analyze, take measures and evaluate) within the following areas:
 - ▶ Working conditions
 - ▶ Salaries and other employment terms
 - ▶ Recruitment and promotion
 - ▶ Combining work and parenthood
- ▶ Promote gender balance in different types of work
- ▶ Establish, follow up and evaluate

guidelines to prevent harassment, sexual harassment and reprisals

- ▶ Carry out annual pay surveys

Employers with at least 25 employees are required to document their work on active measures in writing. Employers that have between 10 and 24 employees must document their work on pay surveys. This, of course, does not mean that employers with fewer than 10 employees are exempt from enacting active measures. The difference is that the work does not need to be documented in writing.

Well-being in the workplace

In past decades there has been a move toward a labor market in which the boundaries between work and home have become blurred.

Of course, there are risks associated with flexible working arrangements, among them the pressure to always be accessible when working in global organizations and across different time zones.

In recent years, we have seen other countries enact so-called “right to disconnect” legislation, with the aim of reducing employee stress. In Sweden, however, there seems to be a certain hesitancy to regulate the matter by way of further legislation. Instead, it is more likely that the right to disconnect will be regulated by parties in the labor market themselves.

To stay up-to-date with the latest regulations, employers must take a holistic approach to well-being at the workplace. For example, it may be advisable to adopt guidelines that clearly outline what is expected of employees with regard to accessibility and connectivity.

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The importance of well-being in the workplace

With the average person spending 90,000 hours of their life working, promoting and maintaining the health and well-being of workers should be essential. Without effective management by employers, poor employee well-being can seriously impact a worker's productivity, career prospects and wider health, as well as impact workplace culture and employers' financial targets.

Independent research has shown that a significant number of working days are lost due to ill health, with the total number estimated at 10 million. According to the UK's Office for National Statistics (ONS), one in six workers is likely to suffer from a mental health condition in any one year.

In the UK, there is a common law duty of care on all employers for the safety of their workers and a whole raft of legislation to support this, which imposes a statutory duty on employers to ensure the health, safety and welfare at work of all workers. These laws include requiring employers to minimize the risk of stress-related illness or injury by, for example, undertaking health and safety risk assessments with working time regulations, and ensuring that workers have a maximum amount of working time, sufficient rest during work, and time off away from work. Time off from work, including regular breaks during the day, is regarded as vital to promoting employee well-being. Workers are also entitled to statutory sick pay should they need to take time off for ill-health reasons.

These requirements have been brought under greater scrutiny, with an increasingly demanding society where instant access and responsiveness is expected through widespread use of mobile technology. The corresponding greater expectation that has been created by advances in mobile technology has come at a price of blurring the boundaries between work time and workers' private lives, which employers are now required to manage properly, fairly and lawfully.

Equality obligations in the form of discrimination laws provide further protection for workers who suffer mental health issues as a result of unlawful pressure from employers. Disability discrimination is unlawful, and employers must ensure that not only do they not discriminate against employees with disabilities but that they make reasonable adjustments to the workplace and tasks, too, taking into account particular

conditions to support employees in carrying out their roles. This includes, for example, allowing flexible working, amending the employee's workload, allowing a phased return to work or providing paid time off for counseling. While UK legislation ensures that employers abide by their statutory obligations, it is also important for employers to demonstrate their commitment to employee well-being by having in place appropriate workplace policies covering health and well-being, which workers can easily access. Many employers are now adopting such policies and making certain benefits available to employees to support their well-being. This goes way beyond the traditional equality and diversity policy. For example, to help address the issue of workers feeling that they are constantly connected to their working life, employers are introducing policies that address when contact outside of work hours is acceptable to reduce workplace stress.

In addition to well-being policies, employers are expanding the benefits they provide to employees, such as private medical insurance, gym membership and access to physicians, as well as access to training programs and support on health, work-life balance, sleep and nutrition. Some employers are holding regular meetings with employees to ensure that any issues are made known to the employer through focus groups and other forums, all of which help contribute to a culture of improving employee well-being. This is what all good employers should be striving to achieve.

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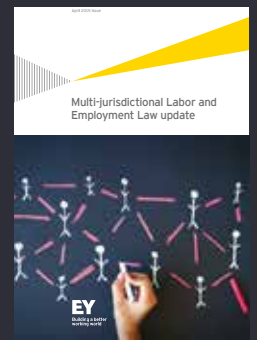
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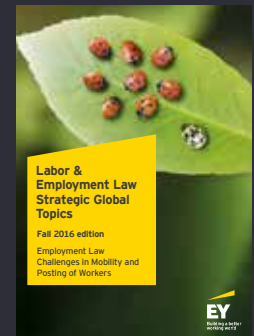
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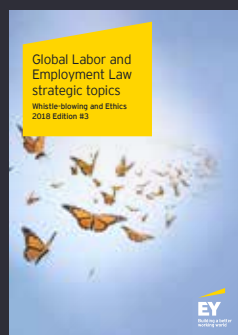
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