

# Global Employment Lawyer

## Global Employment & Labor Quarterly Review

Grow | Protect | **Operate** | Finance

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### WELCOME TO THE FIRST QUARTERLY EDITION OF 2022 OF OUR GLOBAL EMPLOYMENT AND LABOUR REVIEW.

More than two years after COVID-19 first manifested, most of the world is now seeing the light at the end of the tunnel; many countries have started to scale back COVID related restrictions and adopting a “living with COVID” policy as global vaccination rates continue to rise. Employers around the globe are starting to contemplate the best way to get their work force to return to the office after long periods of working from home. Challenges still lie ahead, in particular, in relation to the issue of mandating vaccines at the work place. We expect to see further legal development and possibly more litigation on this topic this year. Some countries have introduced laws and

regulations on remote working and the “right to disconnect” to balance the interests of employers and employees suffering from pandemic fatigue. Suffice to say that in many parts of the world, a return to a “normal” working environment is unlikely to look like what it was before the pandemic.

In our “*In Conversation With*” feature, we introduce Ruth Nocka, Dentons’ Partner in our Employment and Safety practice in Sydney. We conclude a round-up of relevant Dentons news and upcoming webinars and events.

If you have any feedback on the content please do let us know. In the meantime, we wish you a happy and healthy 2022. We hope you enjoy reading this first edition of 2022.

## IN THIS ISSUE

### Legal updates

#### **03** **Africa**

ANGOLA  
MAURITIUS  
MOZAMBIQUE  
NIGERIA

#### **06** **Asia**

CHINA  
HONG KONG  
INDONESIA  
KAZAKHSTAN  
SINGAPORE  
SOUTH KOREA  
TAIWAN  
UZBEKISTAN  
VIETNAM

#### **11** **Australasia**

AUSTRALIA  
NEW ZEALAND

#### **13** **Central And South America**

ANTIGUA AND BARBUDA  
ARGENTINA  
CHILE  
COLOMBIA  
COSTA RICA  
ECUADOR  
GRENADA  
HONDURAS  
NICARAGUA  
PERU  
URUGUAY

#### **20** **Europe**

FRANCE  
GERMANY  
HUNGARY  
ITALY  
NETHERLANDS  
POLAND  
ROMANIA  
RUSSIA  
SLOVAKIA  
SPAIN  
TURKEY  
UNITED KINGDOM  
UKRAINE

#### **30** **Middle East**

KUWAIT  
UNITED ARAB EMIRATES

#### **32** **North America**

CANADA  
UNITED STATES OF AMERICA

#### **34** **In conversation with...**

#### **36** **Dentons news and events**



# Legal updates

## Africa

### ANGOLA

**No reinstatement where a disciplinary process is ruled to be null and void** – The Angolan Supreme Court of Justice has decided against compulsory reinstatement of a worker by their employer, despite the fact that they found irregularities in the disciplinary process which meant the worker's dismissal was null and void. Previously, this would require mandatory reinstatement of such employees and repayment of any lost wages during the period they were dismissed (up to a maximum of six months). This decision by the Supreme Court means employers now have the option to pay compensation to workers instead of reinstating them. It recognised that, in some cases, the employment relationship suffers such tension that it would be impossible to continue the relationship.

In this decision, the worker received compensation equal to six months' salary, including any applicable bonus payments, plus compensation equivalent to 50% of the value of their basic salary.

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### MAURITIUS

**Ban on any temporary or permanent reduction of the workforce** – The ban on the permanent and temporary reduction of the workforce has been extended from 31 December 2021 to 30 June 2022. However, this will only apply to the following employers:

- exempted employers, including Air Mauritius Limited, Airmate Ltd and Emirates; and
- employers who have applied for financial assistance from prescribed institutions because they have been adversely affected by COVID-19 but such application has not been accepted.

**Special leave for COVID-19 vaccination** – From January 2022, the government has introduced a special leave for employees in the private and public sectors to get their COVID-19 vaccination. This special leave will not be deducted from their monthly salary or their holiday and/or sick leave entitlement.

**Additional remuneration for increased cost of living** – From 1 January 2022, all full-time workers who earn a basic salary up to MUR13,000 must be paid an additional sum of MUR500 per month, and all full-time workers who earn a basic salary above MUR13,000 per month must be paid an additional sum of MUR400 per month to compensate for an increase in the cost of living.

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## MOZAMBIQUE

**New legal regime for Labour Courts** – The law governing the Labour Courts has been amended to establish the Legal Regime of the Organisation, Functioning and Competencies of Labour Courts, in response to the current legal and socio-economic framework, and to strengthen access to justice for Mozambique's citizens.

The most significant changes are:

- **the Provincial Labour Courts now have jurisdiction to hear claims valued** at up to 50 times the national minimum wage (NMW) and, similarly, the District Courts now have jurisdiction to hear claims up to 25 times the NMW without appeal;
- the Labour courts now have jurisdiction to hear cases regarding labour accidents where there is non-pecuniary loss;
- the introduction of criminal sanctions for a party that does not comply with court decisions within 30 days; and
- the deadline for submitting a defence under the Preventative Suspension of the Dismissal has been reduced from eight to five days.

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## NIGERIA

### **Increased remote/hybrid working** –

Following the outbreak of COVID-19, employers have begun to adapt to the remote work culture by updating employment contracts and staff handbooks to regulate employees working remotely.

**Mandatory vaccination practices** – Currently, there are no laws in Nigeria allowing employers to mandate vaccination of their employees, nor are we aware of any plans to introduce such laws. However, the Nigeria Centre for Disease Control Guidelines require employers to carry out COVID-19 screenings, such as temperature checks and hand sanitisers, at all workplace entrances. The federal government has also approved a mandatory vaccination policy requiring federal civil servants to show proof of their COVID-19 vaccination status before gaining access to their offices. Some employers, including a handful of multinational companies, have made COVID-19 vaccination mandatory for employees to return to the office. A few employers have even said they would ask non-vaccinated employees to leave the company.

**Unfair labour practices** – A recent decision by the National Industrial Court held that wage and benefit disparity between local employees and foreign staff could be considered discriminatory and an unfair labour practice. Discriminating against or dismissing an employee for testing positive for COVID-19 is also considered an unfair labour practice.



**Paternity leave** – A 14-day paternity leave period was recently approved for fathers employed by the federal government. Until recently, leave was only recognised and practised by certain states in Nigeria, such as Lagos and Enugu.

**Exemption from tax for NMW wage earners** – The federal government has passed a law exempting those who earn the national minimum wage or less from paying income tax. This exemption was granted by the federal government in light of the COVID-19 pandemic as relief for less privileged workers.

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# Asia

## CHINA

**Parental Leave** – On 20 July 2021, it was proposed for parental leave to be launched on a pilot basis. Following this guideline, 14 provinces have added a parental leave of five to 15 days for each parent. Most provinces only offer parental leave to couples with children under the age of three.

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## HONG KONG

**Personal Information** – On 1 November 2021, PIPL, the first piece of personal information protection legislation in China, came into effect. It establishes the general rule that personal information shall be processed under the principles of lawfulness, legitimacy, necessity, good faith, openness and transparency. It also states that the processing of personal information must be for a clear and reasonable purpose, directly related to the processing purpose and in a manner that has the minimum impact on the rights and interests of individuals.

Of particular relevance to Hong Kong employers are the rules on cross-border provision of personal information. Under the PIPL, where a personal information processor in China transfers personal information outside the jurisdiction, there are strict notification, consent and safeguarding requirements on the employer.

Hong Kong employers who receive any personal information from a Chinese personal information processor will also have to pass the processor's personal information protection impact assessment, regarding the purpose and method of processing, the impact on individuals' rights and interests and the security risks, and whether the security protection measures taken are legitimate, effective and appropriate to the degree of risk.

In light of the above, Hong Kong employers who hire Chinese employees and collect personal information from such employees should carefully review their practices on cross-border transfer and processing of personal information and take appropriate steps to ensure compliance with the PIPL.

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## INDONESIA

**Job Creation Act** – Indonesia enacted the Job Creation Act (JCA) in 2020 which amended the Labour Law. In 2021, the government implemented further regulations under this Act, including:

- **Extension of limits on fixed term contracts**
  - Previously, the maximum duration of Definite Period of Employment Contracts (PKWT), including any extensions and renewals, was three years. The new regulation extends this to five years (and this can be extended further for certain job types). Despite this, the new regulation has introduced a new obligation for employers of PKWT-based workers who are paid at the end of the PKWT or upon completion of the work. The amount they are obliged to pay will depend on the length of their employment (e.g. only applies to those who have worked at least one month continuously) and is not applicable to foreign workers.
- **Less limitations on outsourcing** – While the JCA still recognises the existence of outsourcing companies, it has removed the limitation on the types of work that could be outsourced. In theory, all types of work can now be outsourced. However, in practice, the Indonesian Manpower Law still implies that any type of work that is considered “permanent” in nature (i.e. performed under an indefinite employment contract) cannot be outsourced.
- **Termination of employment** – The new regulation introduces new reasons to terminate employment and a new calculation for severance packages.
- **Protection against loss of work** – The JCA has added “Protection against Loss of Work” as a social security provision to employees on termination of their employment.

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## KAZAKHSTAN

**Classification of civil law contracts as employment agreement** – In December 2021, the Supreme Court ruled that civil law contracts between couriers and large delivery company must be recognised as labour relations, and the contracted individuals must be considered employees. The court ruled that civil law contracts are sham deals, aimed at covering labour relations where contractors are hired de facto on a permanent basis based on special working and payment schedules. Although the Supreme Court ruling does not set a precedent, this decision may substantially change the practice of treating couriers as independent contractors. They are more likely to be classified as employees, and therefore entitled to certain benefits such as paid holidays, medical insurance, etc.

**COVID-19 restrictions** – From January 2022, the state has strengthened its COVID-19 restrictions, so that only 20% or 30% of employees can attend the workplace (depending on the region), with the remainder working remotely. However, the expectation is that this rule will expire in February 2022. In addition, unvaccinated employees can only attend the workplace if they can present a negative PCR test every seven days.

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## SINGAPORE

### New COVID-19 restrictions in the workplace

- The Singapore government has announced that, effective 15 January 2022, only employees who are fully vaccinated, certified as medically exempt or have recovered from COVID-19 within 180 days can return to the workplace. It is no longer sufficient for unvaccinated employees to attend the workplace with a negative COVID-19 test.
- Employers can allow unvaccinated employees to work from home if their working arrangements sufficiently meet their operational/business needs.
- The Singapore government has indicated that, from 15 January 2022 onwards, for employees whose jobs require them to be on-site, their employer can either redeploy them, place them on unpaid leave based on mutually agreeable terms, or, after exploring these options, terminate their employment with notice. This will not be considered wrongful dismissal if the termination is due to the employees' inability to be at the workplace.
- The Singapore government has made it clear that special consideration should be given to employees who are pregnant or medically exempt from taking the vaccine.
- Vaccinated Travel Lane – The Vaccinated Travel Lane (VTL) was introduced to permit quarantine-free travel into Singapore for vaccinated individuals from specific countries/regions. Work pass holders working in Singapore would still need to apply for a Vaccinated Travel Pass. While travelers arriving on the VTL may be subject to routine supervised testing upon arrival in Singapore, those on work passes or short-term business travelers can now travel to and from Singapore with greater ease.

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## SOUTH KOREA

### Enforcement of major health and safety legislation

– On 27 January 2022, the Serious Accident Punishment Act (SAPA) came into force as part of the government's plans to demand greater accountability from corporates involved in serious/large-scale accidents. SAPA's objective is to specify management's responsibility to ensure occupational health and safety, and to impose more significant sanctions for non-compliance. SAPA applies to incidences of death or multiple injuries suffered by workers in the workplace or the public. The "managerial responsibility holder" (i.e. business owners and CEO) could face a minimum of one year's imprisonment if found to be at fault, and individuals may be fined up to KRW 1 billion. SAPA's wide-reaching scope and low threshold for causation have led to concerns in companies across all industries, and many have obtained professional consulting and legal advice in response.

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## TAIWAN

**Night Work** – Since 1 January 2022, hours worked by employees at night or outside their regular working hours will accrue and be subject to statutory limits on working hours and overtime payments under Taiwan's Labour Standard Act.

**Adjustment to the basic wage and labour insurance** – From 1 January 2022, Taiwan's basic monthly and hourly wage has increased. In light of this increase, labour insurance and pensions amounts have also skyrocketed.

**Gender equality and working hours adjustment for parents** – A new policy was launched in mid-January 2022 to introduce:

- Leave for pregnancy appointments increased from five to seven days.
- Any leave for pregnancy appointments and paternity leave exceeding five days will be subsidised by local government.
- Employers with 30 or more employees should allow employees with a child under three years old to reduce their day by one hour (without pay) or otherwise adjust their working hours. Employers hiring fewer than 30 employees may adopt the same arrangement with mutual agreement.

**Labour Occupational Accident Insurance and Protection Act** – Taiwan's parliament passed a new occupational accident insurance act, which will come into effect on 1 May 2022. The key points of the new Act are:

- Enterprises with 50-99 employees, whose role involves special health hazards, shall carry out employee healthcare services.
- The lower limit of the insured salary for occupational accident insurance will be adjusted to the basic salary, and the upper limit will be raised to NT\$72,800.
- Employees suffering occupational accidents can apply for a rehabilitation allowance (up to 180 days).
- When employees finish medical treatment after time off for illness, employers should put in place a plan to assist their return to work.

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## UZBEKISTAN

**Mandatory vaccination** – The COVID-19 Commission has announced that employees can no longer attend the office if they are not fully vaccinated. Employers will be held responsible and liable if they do not police who can and cannot go to the office. The Ministry of Health ordered employees to make sure all their staff were fully vaccinated by 20 January 2022.

**New collective agreement template** – The Federation of Trade Unions created a new collective agreement template. This template includes several recommendations such as providing a day off to certain employees on the day they get vaccinated against COVID-19 and providing other employees with a paid couple of days' leave in case of emergency, such as quarantine or isolation.

**Number of staff for individual entrepreneurs** – To qualify as an individual entrepreneur, employees used to only be able to employ a maximum of three employees. This has now increased to five.

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## VIETNAM

**Retirement age increase** – retirement age for both men and women will increase each year until to 2028 when retirement age will be 62 for men and 60 for women.

**Social insurance contributions increase** – From 1 January 2022, both employers and foreign employees working in Vietnam must pay a social insurance contribution equal to 8% of salary for the employee and 14% for the employer. This will be paid into the retirement and death benefit fund, though foreign employees working in Vietnam and contributing to the compulsory social insurance can withdraw a one-off amount of social insurance allowance if they so wish.

**Increase in pensions and social insurance allowance** – From 1 January 2022, there will be a 7.4% increase in pension and social insurance allowance, as well as the monthly allowance paid to employees who lost their job due to COVID-19.

**Increase in the amount of mandatory deposit required for labour export service providers** – Labour exporters are now required to maintain a deposit amount of 2 billion Dong, an increase from 1 billion Dong prior to January 2022. The deposit can be held at any bank or a foreign bank branch that is lawfully established and operating in Vietnam.

**Brokerage fees** – Brokerage fees can no longer be collected from workers sent to work overseas.

**Overseas workers do not have to pay double tax** – People working overseas no longer have to pay their home social insurance or personal income tax if Vietnam and the host country have signed an agreement on social insurance or avoidance of double taxation agreement.

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# Australasia

## AUSTRALIA

**Mandatory vaccination** – The Fair Work Commission (FWC), the quasi-judicial body which deals with employment-related disputes in Australia, has handed down a decision which provides guidance to employers considering relying on work health and safety obligations in implementing a vaccination mandate.

The FWC gave the following guidance for employers:

- employees must be given an opportunity to express their views and be heard;
- employees' views must be taken into account;
- the consultation must be "real", not merely a formality;
- employees must be given notice of the subject matter of the consultation before any final decision is made or any course of action is undertaken; and
- the consultation must occur before a proposal is implemented.

Effective consultation requires employers to listen to employees' views, but employers are not required to change their proposals because an employee disagrees. Proper consultation should assist employers in implementing appropriate workplace policies.

Employers who have already implemented mandatory vaccination policies but did not comply with consultation requirements can draw some comfort from the FWC's finding that the reasonableness of a direction is a question of fact determined by the particular circumstances of the workplace in question. Additionally, this decision was not in relation to an unfair dismissal claim. The impact of this decision on claims of unfair dismissal by employees dismissed because of a failure to comply with a vaccination requirement is uncertain. To date, no employees have brought a successful unfair dismissal claim in relation to a COVID-19 vaccination policy.

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## NEW ZEALAND

**Wages and holiday pay** – A Court of Appeal decision has overturned an earlier decision that the minimum wage must be paid to workers who remain ready, willing and able to work despite being stood down by employers because of a lack of work connected to COVID-19 lockdown restrictions. Separately, the Court of Appeal settled longstanding controversy over whether bonus payments should be taken into account when calculating holiday pay. It ruled that bonuses will not be contractual “gross earnings” when calculating holiday pay as long as the employer has a discretion not to pay.

**Protection for whistleblowers** – Additional protections for whistleblowers are on the horizon for 2022, with new legislation expected early this year. It will clarify the definition of “serious wrongdoing” which whistleblowers can disclose in accordance with the statute, and protect the disclosure of the misuse of public funds and resources. Whistleblowers will also be able to report serious misconduct at any time to certain authorities and there will be new process requirements for receivers of disclosures.

**Mandatory Vaccination** – The government has mandated vaccinations in the workplace for sectors which deal with vulnerable populations or who may be more likely to be exposed to COVID-19. These sectors include border services, health and disability, education, fire service, police, defence and correctional services. For sectors which do not fall under the government’s vaccination mandate, it may be possible for employers to decide that vaccination is necessary for particular workers, but usually subject to performing a health and safety risk assessment. The government has introduced new statutory rules providing for a minimum four weeks’ notice of termination for those dismissed for non-compliance with a mandate, and the right to return to work if they get vaccinated within that period.

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# Central And South America

## ANTIGUA AND BARBUDA

**New rules for contract workers** – The term “contract worker” has now been defined by statute as being a “person engaged for a fixed term in order to perform a specific task”. This definition excludes consultants, management personnel and regulated professions such as lawyers, medical practitioners, pharmacists etc. Such fixed-term contract worker agreements cannot be lawfully issued for a position which is permanent in nature, and a contract worker will be deemed a full-time employee instead if their contract has been renewed twice or more for a total period of more than one year.

**Severance pay and the new employer** – A person who has been continuously employed for more than a year and whose employment is terminated by reason of redundancy, or resulting from the sale or transfer of their employer’s business to another entity, will now always be entitled to severance pay. Previously, severance pay was not due if the employee was offered the same employment by the new employer (i.e. the buyer or the transferee). However, that is no longer the case and an employee will be entitled to severance pay despite having been offered alternative employment by the new employer. Surprisingly, the fact that the employee accepts the severance pay does not take away their right to be hired by the new employer on the same terms and benefits that they had under their previous contract of employment.

**Backlog in the Industrial Court** – Previously, only the President of the Industrial Court could preside over hearings of the court, which meant that concurrent hearings were not possible and, due to the high level of claims, there was a significant backlog. In order to prevent this issue, a new statute recently created the role of Vice President. The Vice President may also preside over Industrial Court hearings.

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## ARGENTINA

**Lift of the prohibition to dismiss and suspend employees** – The prohibition on dismissal or suspension of employees without cause, either due to lack or reduction of work or to force majeure, has been lifted.

**Double severance compensation reduced** – As of 1 January 2022, employees dismissed without cause are only entitled to additional compensation equal to:

- 75% of severance, if dismissed between 1 January and 28 February 2022;
- 50% of severance, if dismissed between 1 March and 30 April 2022; and
- 25% of severance, if dismissed between 1 May and 30 June 2022.

This additional compensation cannot exceed AR\$500,000. This measure applies only to employees hired before 13 December 2019.

**Health pass** – From 1 January 2022, the government is mandating production of a health pass to attend certain places which pose “high epidemiological and health risk”. In Buenos Aires, this will include employees whose role involves customer service, both in public and private entities. These employees will need to prove they have had two doses of the COVID-19 vaccine in order to attend their workplace.

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## CHILE

### **Mandatory vaccination is not discriminatory** –

A Supreme Court ruling confirmed that it is not illegal or arbitrary for employers or companies to require an individual to have a Mobility Pass (which is available to those who are fully vaccinated). The Supreme Court noted that the restrictions in place for unvaccinated people are proportional to the objective of preventing the spread of the virus.

### **Home working for people with special**

**circumstances** – A new article was added to the Labour Code, which states that the employer shall offer the possibility of working from home, when a state of emergency or pandemic health alert is declared, to the following persons: (i) those who have under their care minors in pre-school when educational establishments must close or attendance is prevented and (ii) those who have in their care persons with disabilities.

**National Registry of Alimony Debtors** – A new law created a National Registry of Alimony Debtors in order to reduce unpaid child support/maintenance. This law establishes a series of obligations for both the employer and the employee. The most important being that, at the end of the employment relationship, the termination letter (which must be signed by the employee and employer) must contain information as to whether the employee is required to withhold part of their salary in order to pay child support. Additionally, employers that do not deduct such child support amount from their employees' salaries will be held liable and fined.

**Time off for vaccination** – All employees who are getting vaccinated will be offered a paid half day's leave, which will be considered as worked for all legal purposes.

In order to exercise this right, the employee must give notice to their direct supervisor two days prior to the date on which the leave is to be used. Likewise, the employee must present to the employer, after the vaccination, proof that they were vaccinated on the stipulated date.

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## COLOMBIA

**Right to disconnect** – Parliament has approved a new law that protects a worker’s right to disconnect from work by establishing that employees should not be contacted (whether in person, by phone or by email) outside working hours (i.e. before and after work, at the weekends and whilst they are on annual leave).

Employers are tasked with drafting and implementing an internal policy which must include information about how employees can complain if their right to disconnect is not respected by their employer.

The right to disconnect will not be applicable to specific roles, with serving members of security forces and certain medical workers among those excluded. Additionally, employers will have the right to contact workers out of hours in the event of an extraordinary vital task necessary to the normal operation of the company.

**Isaac Law** – A new law (the Isaac Law) entitles one of the working parents, or carer, of a terminally ill child paid leave for 10 days. The leave must be agreed between the employer and the employee and the 10 days do not need to be continuous.

The Health Service Provider Entity to which the parent is affiliated will be responsible for paying the worker’s salary during these 10 days.

Additionally, the employer and employee can also agree to allow the parent to work from home during the child’s illness, provided that their duties can be undertaken remotely.

**Tree planting** – A new law requires medium and large companies to plant two trees per employee they have on their payroll. The trees must comply with some guidelines which are detailed in the new law. The cost of planting the trees must be assumed by each company.

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## COSTA RICA

**New national holiday commemorates Afro-Costa Rican culture** – A new law was implemented which declared 31 August as an official national holiday. It commemorates the “Day of the Black Person and Afro-Costa Rican Culture”. Employers are not required to pay their staff during this holiday if they choose not to work that day but, if they do decide to work during this holiday, then they will be entitled to receive their ordinary daily salary.

**Minimum wage increase** – An increase of 2.09% of the minimum wage was approved for the private sector, effective from 1 January 2022 onwards. Additionally, once the 2.09% has been applied, several increases will also be applied to the minimum wages of the specific categories of workers.

**Reform of the pension system** – On 14 December 2021, the Costa Rican Social Security Fund decided to make several amendments to the current pension system. These changes should take effect in January 2024.

The most significant amendments are:

- employees are entitled to retire with an old-age pension at the age of 65 if they have at least 300 months of contributions;
- early old-age pension now excludes men; and
- disabled active workers no longer need to work for so long, nor have as many months of contribution to be able to retire.

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## ECUADOR

**Fast-track dismissal process** – In cases of gross misconduct, employers are entitled to end an employee's employment contract without having to pay compensation. In order to do so, the employer must file a petition with the Employment Authority. Previously, the Employment Authority would take up to 30 days from the moment the petition was filed before making a decision – this would substantially slow down the process. However, things have changed and the Employment Authority can now decide whether the employee's employment can be terminated as soon as they have undertaken an investigation hearing.

**Preferential hiring in the Amazon Territorial Circumscription** – Companies looking to hire employees in the Amazon Territorial Circumscription (i.e. Morona Santiago, Napo, Orellana, Pastaza, Sucumbíos, and Zamora Chinchipe) must give preference to candidates originating from these provinces. Such companies' workforce must constitute at least 70% of individuals from the Amazon Territorial Circumscription.

**Return to work guidance** – Since the start of the pandemic, many employees have been working from home, as it has been one of the most effective ways to reduce exposure to COVID-19. However, in order to boost the country's economy, the Employment Authority recently issued guidelines for the progressive and safe return to office work activities for the public and private sectors.

Employers must keep in mind that the Ministry of Labour will be carrying out health and safety checks to make sure employees are protected from the virus. Employers must keep their health and safety policies, risk assessments and procedures updated and make sure that their staff undergo appropriate training to help them take steps to prevent COVID-19 spreading in their workplace.

Additionally, according to these guidelines, employees must agree to return to office work when requested by their employers, regardless of whether they are fully vaccinated or not.

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## GRENADA

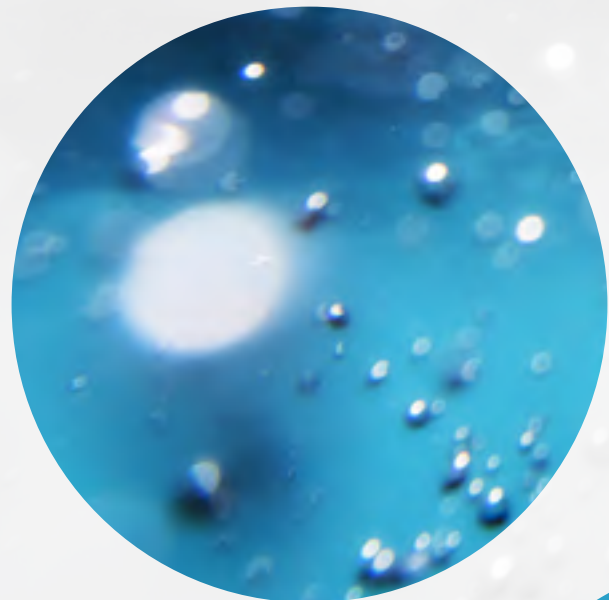
**Introduction of mandatory vaccination** – In October 2021, as part of its fight against COVID-19, Grenada took the bold step to introduce regulations which require employees in several sectors – mostly sectors where it is difficult to prevent direct contact with customers – to be fully vaccinated in order to work.

Employees that do not provide their employers with valid proof of vaccination will not be allowed to go to the office.

### **New bill on sexual harassment in the workplace**

– A bill on sexual harassment is currently before government for consideration. If the bill is passed, employers will have a duty to ensure that the workplace environment is free of sexual harassment. In Grenada, sexual harassment is defined as “unwanted or unwelcome physical, verbal and non-verbal conduct of a sexual nature or based on sex, which is offensive to the person being harassed”. The bill also requires employers to prepare and distribute a policy on sexual harassment in the workplace (how to prevent it and what steps to take) to all their staff.

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## HONDURAS

### Extension of emergency provisions –

The government has decided to extend the country's State of Emergency due to COVID-19. The State of Emergency has been in place since March 2020 and is set to last until December 2022. It has several implications:

- Employees cannot be temporarily suspended from their job due to force majeure for more than 120 days.
- Employees cannot refuse to be temporarily suspended.
- Every "suspension authorisation" request made to the Ministry of Labour by employers should have one of two outcomes:
  - The Ministry authorises the suspension, which means contracts are legally suspended and no further claim/grievance should be raised by employees.
  - The Ministry rejects the request, which implies employers must retroactively pay the salaries of every employee whose employment was suspended.

**New government** – Xiomara Castro became president on 27 January 2022. The new Minister of Labour and Social Security is Sarahí Cerna, who has not taken office yet. She will be responsible for negotiating the new minimum wage rates for 2022, which has been delayed by the outgoing government.

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## NICARAGUA

**Increase in minimum wage** – Nicaragua has a government-mandated minimum wage, and no worker in Nicaragua can be paid less than this mandatory minimum rate of pay. Whilst most countries have a nationwide minimum wage, Nicaragua's minimum wage is set for nine different economic sectors. On 1 March 2021, more than 200,000 workers have had a 3% adjustment in their salary.

Under Nicaraguan law, minimum wage had to be adjusted every six months in accordance with economic growth and accumulated inflation in Central America. However, it has now been decided that there should only be an annual adjustment instead of a semi-annual one, in order to allow for more consistency in salaries.

Rates for 2022 are currently being reviewed by the government and are bound to increase, which will have a direct impact on employees and employers.

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## PERU

### **Mandatory vaccination for on-site workers**

– Since December 2021, every employer with 10 employees or more must ensure that all its on-site workers are fully vaccinated. Staff are required to provide their employers with their proof of vaccination before they can undertake any on-site work. Whilst workers can be vaccinated outside Peru, not all vaccines are approved by the government and staff must make sure their vaccination is recognised. Employees that fail to provide a valid proof of vaccination to their employer must, to the extent possible, work from home. If the nature of the service provided by the worker renders remote working unfeasible, the worker will be offered unpaid leave until they can prove they are fully vaccinated. It should be noted that, at this time, there are no medical or religious exemptions to this rule and every single on-site worker must be vaccinated.

### **Remote Working Regulations – extension of temporary measures**

– Back at the start of the pandemic, on account of the National State of Emergency and the impact of COVID-19 on the world of work, the Remote Working Regulations came into force and gave employers the right to implement remote working when possible. The Regulations were due to expire on 31 December 2021. However, in light of the number of confirmed cases at the start of this year, the government has had no option but to extend some of the temporary measures for an additional year, until 31 December 2022. The government is reserving the right to further postpone the expiration of the Regulations if needed.

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## URUGUAY

**Longer maternity and paternity pay** – In November 2021, the government enacted a new law stating that, after birth, if the baby presents conditions, diseases, comorbidity which involves risk or difficulties with life, maternity pay may be extended until the baby is six months old. In such cases, paternity pay can also be extended to up to 30 days.

**Leave postponement** – In Uruguay, employees must usually use up all of the annual leave accrued in one specific year by the end of the following year. However, in light of the pandemic, the government enacted a new law allowing employees to postpone taking the days of leave accrued in 2020 up to December 2022.

**COVID-19 certification** – The Labour Ministry and the Health Ministry created a new disease certification procedure for employees infected by COVID-19. This new procedure allows employees to obtain their COVID-19 certification faster, by only having to register on a website.

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# Europe

## FRANCE

**New rules around COVID-19** – Companies that fail to implement the mandatory Health Protocol as a whole (which does not only include working from home, but also social distancing and making sure that surfaces are clean) will be held liable. Companies that choose not to change their practices after formal notice will need to pay a fine of €500 per employee up to a maximum of €50,000 per company.

**Flexible furlough scheme** – Employers have been warned that investigations into how flexible furlough has been used during the pandemic can be undertaken, going back up to three or even five years if there is proof of fraud. In France, many employers had no other choice but to put their staff on flexible furlough back in 2020 and 2021 during the several lockdowns. Flexible furlough entitled employers to only pay their employees in full for any hours that the employee worked, and the government would pay for the hours that were not. Employers will be deemed to have committed fraud for flexible furlough claims if they claim wages for employees on days that they are actually working and such employers will be at risk of criminal sanctions. Investigations actually started back in 2020 and many employers have already been found guilty of fraud. Employers that voluntarily reimburse moneys overclaimed will not face penalties.

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## GERMANY

Unlike other European countries, Germany is reluctant to lift COVID-19 restrictions and the pandemic remains a hot topic in the workplace, reflected by the following two key developments.

**Compulsory vaccination for certain groups of employees** – As of 15 March 2022, COVID-19 vaccinations will be mandatory for individuals working in hospitals, nursing homes, dental offices and other healthcare institutions in order to ensure that the most vulnerable citizens are protected at the highest standard. The new regulation is highly controversial as an estimated 5% of healthcare employees are not yet vaccinated. In a market where skilled employees are a rare commodity, the new rules will pose difficulties. From an employment law perspective, in particular, there is debate as to whether and under which circumstances defiant employees can be terminated. For example, prior warning might be required and it is also unclear whether or not the employee will be entitled to salary payments during the notice period. German labour courts are expected to provide clear guidance over the coming months.

**No remuneration claims in public lockdown** – German employers have welcomed a recent and somewhat unexpected decision by the Federal Labour Court. According to the ruling, an employee is not entitled to salary during a COVID-19-induced lockdown period imposed by local authorities preventing the employer from opening their business. The decision comes as a surprise, especially since the lower instances had held in favour of the employee and the majority of legal experts had supported this view. As a bottom line, German employees maintain their right to remuneration as long as the circumstances which make working impossible fall in the employer's risk sphere. The new ruling makes it clear that the employer's risk sphere has its limits.

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## HUNGARY

**Rules around remote work** – Last summer, the rules on remote working were amended during the state of emergency period, which has now been extended. This means that “home office” (i.e. remote work) must be subject to the parties’ agreement in the terms of the employment agreement. Therefore, if there is no mutual agreement in place on remote work, the employer may unilaterally order the employee to work from home only under the general rules granting limited rights to do so.

**Mandatory COVID-19 vaccination in the workplace** – Last November, additional job protection measures were introduced, aimed at mitigating the adverse effects of the COVID-19 pandemic.

Under the new rules, employers have the right to mandate vaccination for employees, if they consider it necessary for the safety of their workers. Health reasons may exempt employees from mandatory vaccination.

If the employee fails to get their vaccination within the time limit set by the employer, their employer can unilaterally place them on unpaid leave. The employer may immediately terminate the employment

relationship with an employee with notice if one year has passed since the date they were put on unpaid leave and the employee has still not provided proof of vaccination to the employer or a medical certificate evidencing exemption from vaccination. In terms of data protection issues, the employer may process proof of vaccination or exemption-related data only to the extent and for the time necessary to achieve the purpose, and only while the government-imposed pandemic-related state of emergency is in effect.

To comply with the new rules, employers must:

- assess whether, in the interests of health and safety and the particular characteristics of their workplace and employee roles, it is necessary to mandate vaccination (i.e. in a written risk assessment);
- inform employees electronically or in writing of the relevant measures, deadlines and of the possible legal consequences of not complying with a vaccination mandate; and
- publish a data protection notice on the processing of employee personal data in connection with mandatory workplace vaccinations.

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## ITALY

**Mandatory vaccination for over 50s and “Super Green Pass”** – Italy has made it mandatory for people aged 50 or over to be vaccinated against COVID-19. Additionally, the government also tightened its workplace vaccination rules and, from 15 February 2022, people aged over 50 who are in jobs, either in the public or private sector, will have to present a health pass proving immunisation or recovery from COVID-19 (the so-called “Super Green Pass”). Employers have a duty to verify that their staff (and any third party that carries out work for them) who are over 50 have a Super Green Pass or are exempt from vaccination. Employees that do not have the Super Green Pass will be regarded as absent. Under employment law, such absence will be unauthorised and they will not be entitled to receive their salary or any other compensation. The unauthorised absence will be effective immediately, until the relevant employee can produce a valid Super Green Pass. Employers, however, cannot discipline or dismiss employees for failure or refusal to provide proof of their Super Green Pass.

**Budget Law 2022** – On 30 December 2021, the Italian government issued the Budget Law 2022. The Budget Law provided for several tax measures

and made significant changes to employment law, including but not limited to:

- increasing the amount of workers who can benefit from the governmental Redundancy Fund and reducing the amount of days an employee must have been with the company from 90 to 30 days in order to be able to access such Redundancy Fund;
- introducing provisions to encourage the hiring of certain categories of workers (such as people that used to work for a company which has become bankrupt, apprentices, young mothers etc.) by reducing the amount of tax and social security contributions that employers must pay; and
- introducing measures to promote corporate social responsibility by making companies with more than 250 employees planning to close business activities or autonomous departments which will result in redundancies, at least 90 days in advance, communicate these plans in writing to several organisations, including the Ministry of Labour and Economic Development.

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## NETHERLANDS

**Gender balance on management and supervisory boards** – The Dutch senate approved a bill aimed at creating a more balanced ratio between women and men in management and supervisory boards. The act is aimed at large public and private companies, as well as publicly traded companies, and will impact shareholders, directors, commissioners and employees.

The bill includes an ingrowth quota of at least one-third male and one-third female for the supervisory boards of Dutch listed companies with a listing in the Netherlands. Any appointment (of a supervisory director) after 1 January 2022 that does not make the mandatory gender ratio will be null and void. In addition, such companies are required to set their own “appropriate and ambitious” targets for promoting gender diversity within the management board, the supervisory board and among employees in senior managerial positions. According to the bill, “appropriate and ambitious” means that the existing board (and its size) must be taken into account and the target should be aimed at making the existing situation more balanced.

There are some exceptions to these rules, but they will only apply in exceptional circumstances. The law will be reviewed in five years (i.e. in 2027). It will automatically expire after eight years.

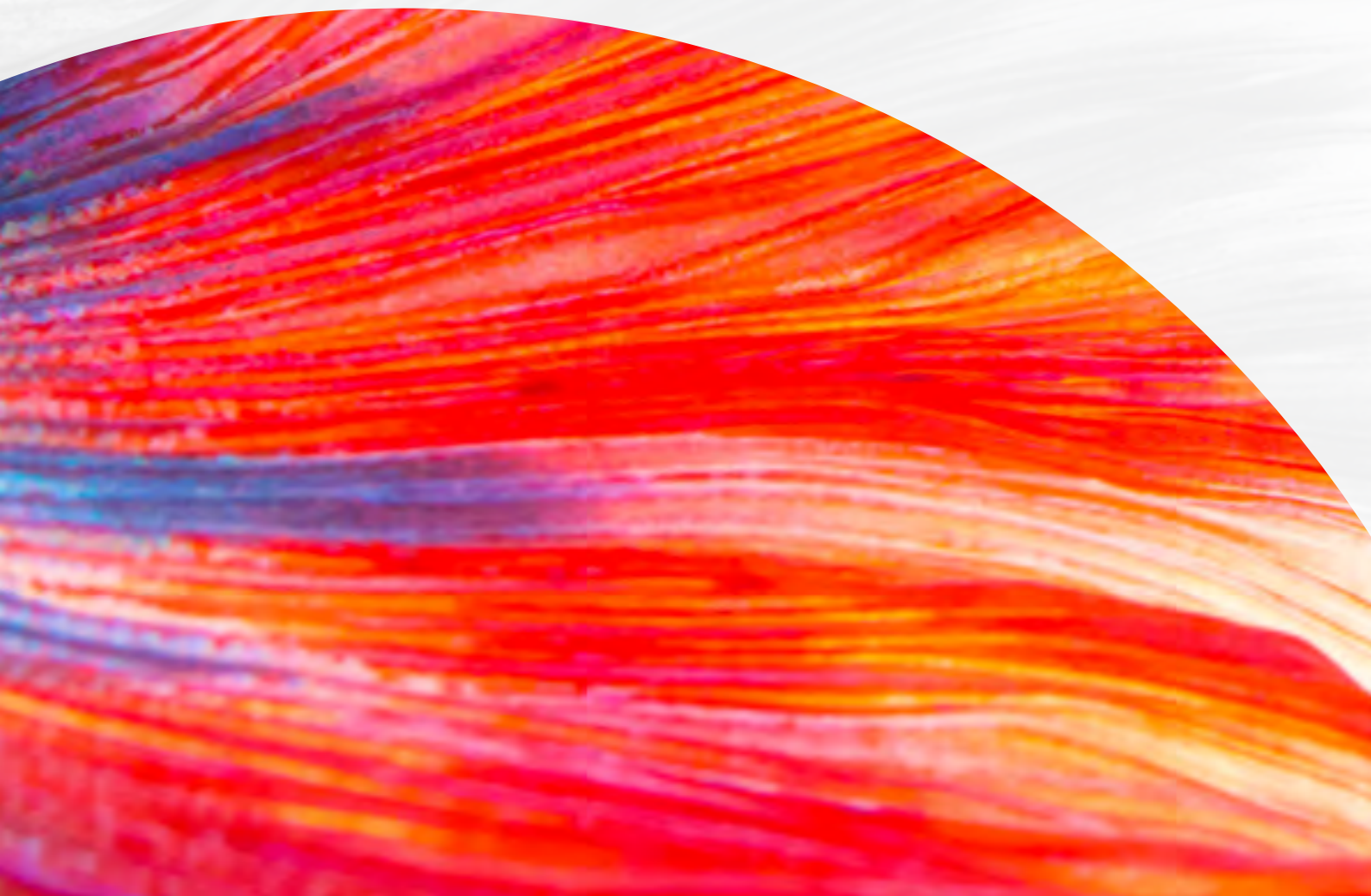
**Employment law changes** – The Dutch Works Council Act was amended and the two most important changes are:

- Flexible workers (mostly made available through a temporary work agency) will be deemed to be engaged by the company once they have been with the company for a period of 15 months or longer. Workers used to need 24 months’ service.
- Employees are eligible to vote and be elected into a works council as soon as they have been with the company for three months or longer. Until now, employees needed to have six months’ service in order to be eligible to vote and 12 months’ service to be elected.

Every company must review its internal Works Council Regulations in order to make sure that it complies with the new rules. It is possible for an employer to opt out of these new rules, but it must be approved and expressly stated in its Works Council Regulations.

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## POLAND

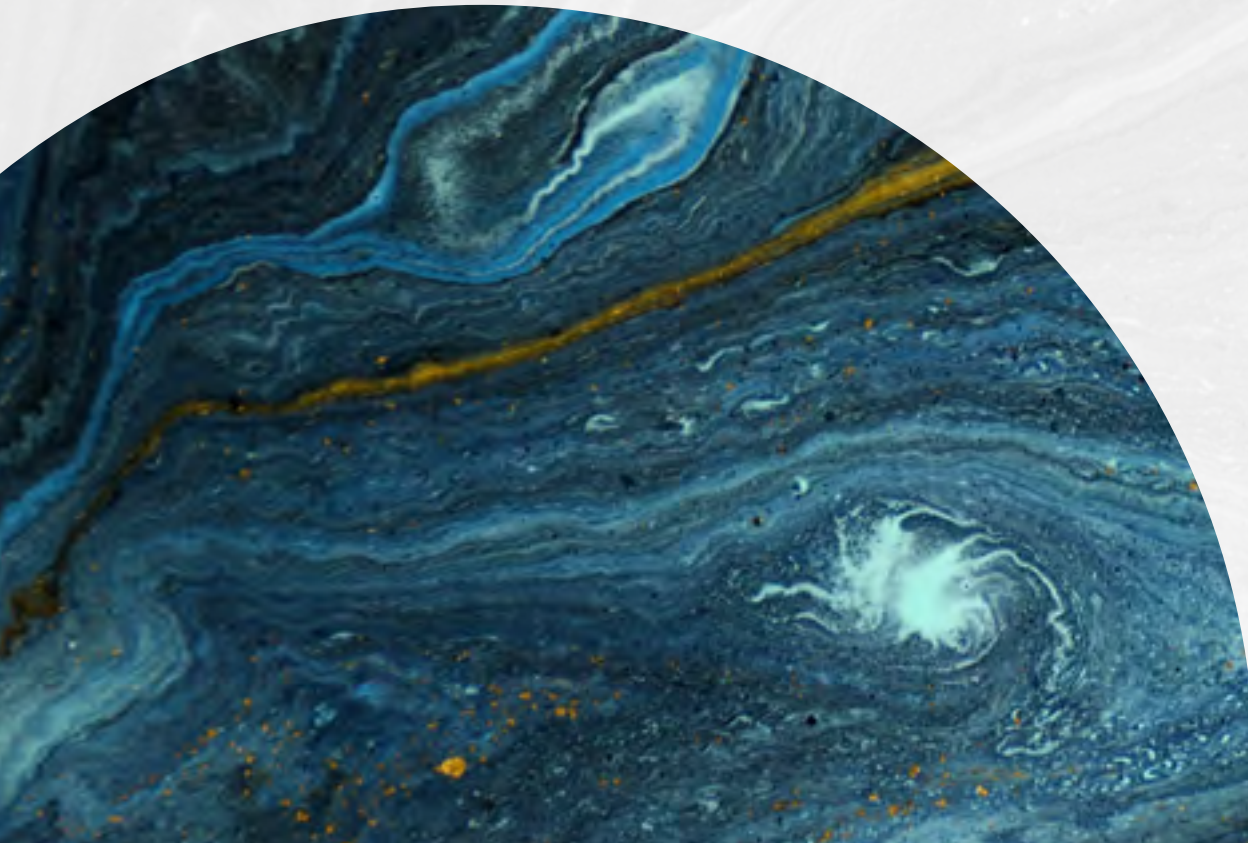
**The New Polish Deal regulations** – At the start of 2022, the Polish government enacted numerous legislative amendments collectively referred to as “the New Polish Deal”. The following are the most significant changes for employees:

- **Health Insurance Contribution:** Employees’ contribution remains 9% of their salary. However, it is no longer possible to deduct 7.75% from employees’ personal income tax. In practice, this will significantly increase employees’ tax burdens.
- **Tax Relief:** In order to mitigate the potential loss of income caused by the new regulations, a new “middle class relief” was created which entitles most individuals who earn between PLN68,412 and PLN133,692 per year to be eligible for tax relief. The deduction is directly applied by the employer. Additionally, further tax relief schemes were created. These include, but are not limited to, relief for taxpayers who have worked abroad for at least three years; relief for families of four or more members; relief for retired employees; relief for employees with income from a non-agricultural business activity; etc.
- **Tax Free Bracket:** The Tax Free bracket rose to PLN30,000 per year.

**Whistleblowing legislation** – The Polish government is currently working on implementing the Whistleblowing EU Directive. The Directive aims to provide common minimum standards of protection across the EU to whistleblowers who raise breaches of EU law with their employer. It requires employers to introduce internal channels and procedures, and to ensure that the whistleblower’s identity is kept confidential. Member states needed to have implemented the Directive into their domestic law by 17 December 2021, but most, including Poland, have now missed the deadline. The Polish government has yet to announce the date of implementation.

**New COVID-19 bill** – The bill’s aim is to prevent coronavirus from spreading in the workplace. If the bill is passed, employers will be allowed to require their staff to get tested. Employees will be exempt from testing if they can provide proof of vaccination or proof that they have recently contracted COVID-19. The State Treasury will cover the costs of the tests. Employees who refuse to be tested may be required to work remotely. If that is not possible, they may have to undertake different duties which do not require them to be tested and their salaries might be impacted by the new type of work they will be undertaking. The bill also addresses data protection regulations, allowing employers to administer testing and process the results.

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## ROMANIA

**Undeclared work** – The concept of undeclared work was introduced alongside a penalty concerning the granting of a higher net salary than the one established in the payroll and in the monthly tax return submitted to the tax authorities. It is sanctionable with a fine ranging from RON8,000 (currently approximately €1,620) to RON10,000 (currently approximately €2,000) for each identified employee. Employers may also be exposed to other penalties if: (i) their part-time employees are exceeding the working hours contained in their employment agreement; and (ii) they are late for salary payments for more than a month.

**Electronic signatures for employment documentation** – It is now possible to conclude employment-related documents by using an electronic signature alongside an electronic time stamp and the authorised electronic seal of the employer.

When employment authorities conduct controls or investigations, they are required to accept documents concluded in electronic form without requesting them in hard copy.

**Job Descriptions** – Providing candidates and/or employees with job descriptions is not mandatory for micro-enterprises, companies with fewer than nine employees, companies that achieve a net annual turnover or hold total assets of less than €2 million. However, should the employee request a job description, it must be provided by the employer. Additionally, these companies are not required to draft internal regulations in consultation with trade unions or their employee representatives.

**Confidentiality obligation whilst working from home** – Employees who work from home are compelled to observe and ensure the confidentiality of the information and documents to which they have access for work purposes.

**Technical unemployment indemnity** – Employees whose activity has ceased or been reduced because of COVID-19 (whether their workplace is closed for health and safety purposes or because they were laid off) can obtain 75% of their salary from the government (it cannot be more than 75% of the average gross national salary).

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## RUSSIA

**Mandatory Medical Checks for Foreign Employees** – Since December 2021, on entering Russia, foreigners over the age of 6 years old are required to undergo medical tests for several diseases (such as COVID-19, HIV, drug abuse, shiphilis and tuberculosis), submit fingerprints and provide biometric data. International businesses wishing to send their employees to Russia will need to consider the data protection and potentially disability discrimination impact that requiring staff to undergo such tests could have.

**Electronic HR documents** – On 22 November 2021, the Russian Employment Law Code was considerably amended by the addition of a new law, the Electronic Workflow Law. It is now lawful for an employer to draft, sign, use and maintain HR documents by employers, employees and job candidates in an electronic form without ever having to process hard copies. However, there are some exceptions to this rule and some documents must still be printed, such as dismissal orders, employment books and certain letters, guidance and forms in the sphere of employees' health and safety.

Before the Electronic Workflow Law, the scenarios in which an employer was allowed to retain HR documents electronically were very rare as the Russian Employment Law Code contained a long list of documents which always needed to be printed. During the pandemic, due to the amount of employees needing to isolate, this obviously brought some issues for many employers.

However, now that it is lawful, employers can decide for themselves whether or not to switch to electronic document management. If they decide to do so, employers must bear in mind two main points. First, they will need to introduce an electronic document workflow policy. Indeed, employers are required to draft an internal policy which must be adopted upon consultation with the elected body of a relevant trade union organisation (if any). Secondly, employees cannot be forced into accepting the shift to electronic HR documents – they must freely agree. Consent will not be required if the employee was hired after 31 December 2021.

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## SLOVAKIA

**Support for employers** – A new act aimed at assisting employers going through a difficult financial situation outside their control was meant to come into force in January 2022. However, the Slovak Parliament decided to postpone this Act until March 2022. Employers will still have to wait before they can be eligible, under this Act, for a one-time fund to pay staff what they are owed.

### **Visas for highly qualified foreigners** –

The government has announced changes to the country's immigration system. Foreign graduates of top universities in the world (according to three approved rankings) will be allowed to come to Slovakia before having secured a job, and can look for employment upon arrival. Slovakia will issue a maximum of 3,000 of these visas in 2022.

**COVID-19** – Employers are required to allow employees to enter their premises if they have a valid vaccination certificate or if they have proof of a negative COVID-19 test. Employers must also provide employees with COVID-19 tests or a specific budget so that they can buy tests themselves.

**Whistleblowing Protection Act** – The European Whistleblowing Directive is currently being transposed into national law. Slovakia already has the Whistleblowing Protection Act, which has been in force since 2019, and it is not very different from the Directive. Therefore, the amendments will not make significant changes to the existing legislation. It is expected to come into force in May 2022.

### **Transposition of several EU regulations** –

The amendment to the Labour Code which will become effective as of February 2022 ensures the transposition of several European Directives in relation to drivers' working conditions, transparency when it comes to working hours and work-life balance for parents and carers. The amendments are expected to come into force in August 2022.

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## SPAIN

After several months of negotiation, a new Royal Decree was published on 30 December 2021 following the government, trade unions and employers' representatives all agreeing to reform Spain's current employment law system. The most important new features of the reform are as follows:

### **Temporary employment contracts** –

All employment contracts must now be concluded for an indefinite period of time. Fixed-term contracts have become unlawful, except under very specific circumstances such as maternity leave cover.

**Training contracts** – Internship contracts have become unlawful. A new single training contract exists and it has two forms: (i) work-linked training involving remunerated employment; and (ii) performing a labour activity for the purpose of acquiring a professional practice.

### **Permanent "intermittent" seasonal contracts**

– A new regime was established for permanent seasonal contracts, with the aim that a large part of the hiring previously done using temporary "works or service" contracts (such as for fruit-picking during the summer) would now use these instead.

**Lay-off and short-term working** – The procedure for temporarily laying off or reducing employees' working hours for economic, technical, organisational, force majeure or production-related reasons (ETOP) has now been simplified for employers. The consultation period is reduced from 15 to seven days for companies with fewer than 50 members of staff, and establishing a representative committee no longer requires seven days but should be completed in five instead, regardless of the company size.

**Collective bargaining agreements (CBAs)** – The first feature of the reform around CBAs is that company-level CBAs retain their priority over higher-level agreements, except in relation to salaries. The second feature is that, if no new CBA has been reached before the end of its term, the parties must go through regulated mediation procedures. While such procedures are underway, unless agreed otherwise, the out-of-date CBA will remain enforceable.



**Increased sanctions** – Unlawful behaviour which infringes the new rules will be assessed per employee affected (one sanction per employee) instead of per inspection. Additionally, the fines have increased, resulting in low-level infringements ranging from €1,000 to €2,000, medium-level infringements ranging from €2,001 to €5,000 and serious infringements ranging from €5,001 to €10,000.

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## TURKEY

**Income tax exemption** – In Turkey, a new minimum wage rate is announced every year. Employees' base salary must be reviewed annually so that they never fall under the minimum wage. In 2022, the gross monthly minimum wage is TRY5,004.

Usually, employers are required to deduct income tax directly from staff wages, so that it can be paid to the tax authority. On 25 December 2021, a new law was announced, which sets forth that the minimum wage is now exempt from income tax. Employees earning more than the minimum wage will also benefit from this income tax exemption and will only pay income tax on anything they make above TRY5,004.

**PCR testing** – In September 2021, the Ministry of Labour and Social Security stated that employers are now allowed to require unvaccinated employees to undergo a PCR test once a week. However, on 19 January 2022, the Ministry decided that employers would only be able to require employees to get tested if the employer's occupational health and safety committee agreed with the decision. Employers must bear the price of all mandated COVID-19 tests.

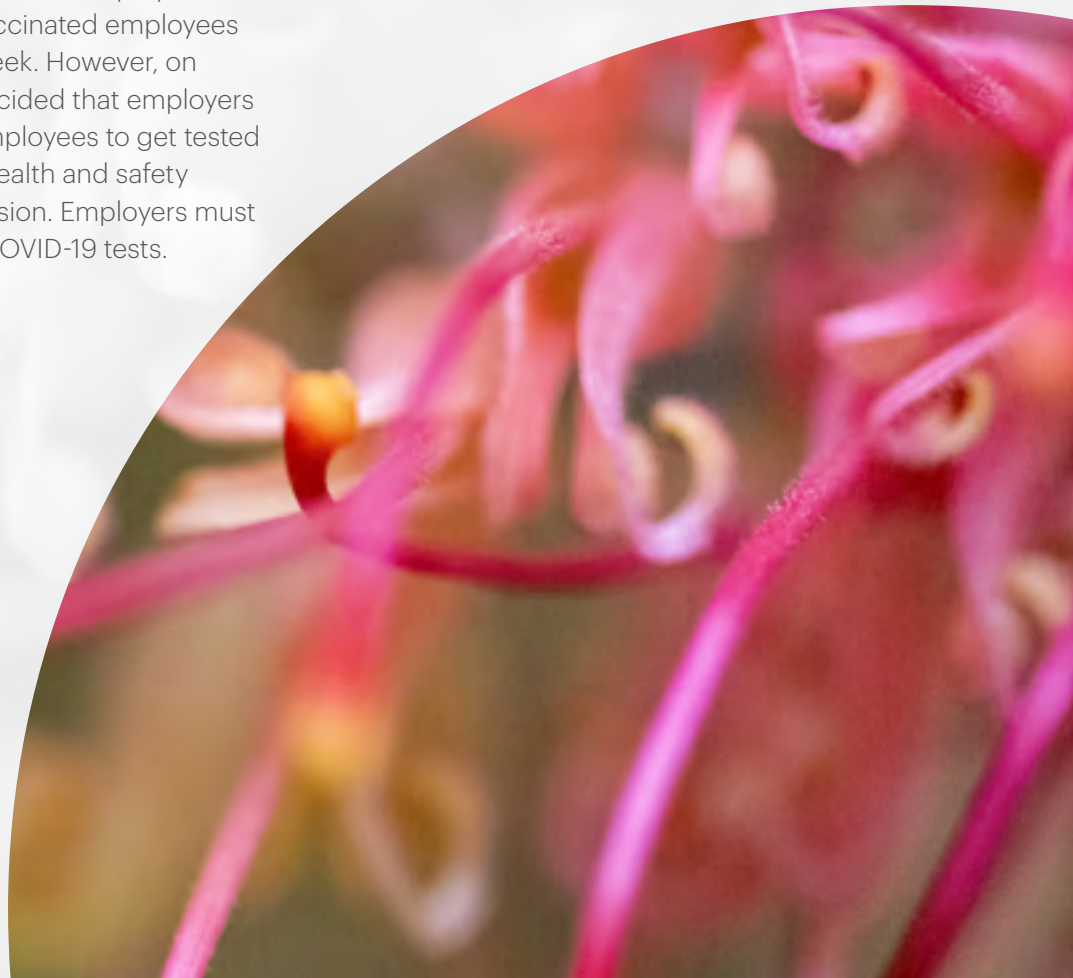
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## UNITED KINGDOM

**Misclassification of workers and backdated holiday pay** – the Court of Appeal in the UK recently ruled that independent contractors who have been misclassified could potentially claim backdated holiday pay for any untaken leave or unpaid leave going back to their start date. This could have significant repercussions with liability for employers going back years and without a limitation period on backdated pay. This is a significant decision and UK employers are advised to review their contractor population and mitigate the risks of any high value or volume historic holiday pay claims (*Gary Smith v Pimlico Plumbers*).

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## UKRAINE

### Special legal framework for the IT industry –

The Diia City Law establishes a specific legal regime for the IT industry and is aimed at enhancing the Ukrainian IT business sector. Under this law, IT companies receive a special taxation model, flexible employment conditions and a special procedure to interact with regulators.

In order to become a resident of the Diia City technology park, the company must:

- be registered in Ukraine;
- provide one or several IT services listed in the law and 90% or more of its total income must originate from such services;
- engage at least nine individuals under an employment contract or a gig contract;
- provide its staff with an average monthly income of no less than €1,200; and
- have owners that are not included within the “prohibited” list, are not residents and/or citizens of the Russian Federation and are not registered in the FATF list countries.

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# Middle East

## KUWAIT

**New anti-discrimination laws** – Employees in the private sector (and in the oil sector) have, since 28 September 2021, been protected against workplace discrimination on the basis of sex, age, pregnancy, marital or social status in all aspects of their employment. In the past, employment laws only prohibited termination of employment for reason of gender, race or religion, but that did not include any other protected characteristics or any other scenarios except termination. These new laws are much broader than the previous ones and this enhanced protection comes hand in hand with Kuwait's constitution, which declares that all people are equal in the eye of the law.

**Prohibition of sexual harassment** – Additionally, since September 2021, sexual harassment in the workplace in all its forms and means, including any use or misuse of modern technology or social media, is prohibited and punishable as indecent or obscene acts, which are crimes punishable by fines and imprisonment.

Employers that breach either of the above regulations risk temporary or permanent suspension of their labour files with the labour authority, which means that they would not be able to hire, transfer or fire employees during the suspension, and while under investigation by the Public Prosecutor.

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## UNITED ARAB EMIRATES

**New employment law** – A new employment law (replacing one which had been around since 1980) is coming into force on 2 February 2022. The key changes under the new law are as follows:

- Unlimited contracts of employment are no longer lawful. Contracts can last for a maximum period of three years which can be renewed upon expiry. Employers have one year to make sure all of their current employees' contracts have been reviewed with this new law in mind.
- It appears easier for employers to dismiss their employees as statutory payments have been lowered, as has the threshold for a lawful termination. However, it will be for the courts to decide how this law should be interpreted.
- The new law protects specific people against discrimination because of their protected characteristics, such as race, skin colour, gender, religion, nationality, social origin and disability.
- It is now possible for employers to provide staff with part-time and flexible contracts of employment.

- Employees are now entitled to bereavement and study leave. Additionally, maternity leave now lasts longer.
- Upon termination of employment, the employer must pay the ex-employee everything that they are owed within 14 days of them leaving the company.
- Every employee shall provide their employer with details of the individual(s) to whom what they are owed should be paid in the event of their death. Under the previous law, the employer did not have to pay anything except if the deceased's heirs obtained a court order.
- Violating this new law can attract fines ranging from AED5,000 up to AED1 million.

**Changing the weekend days** – The UAE decided to move away from the Friday and Saturday weekend to the more conventional weekend of Saturday and Sunday, with Friday being a half working day (i.e. until 12:00pm) – however, this is only applicable to the public sector and schools. The purpose of the half day on Friday is to allow employees to attend Friday prayer, which is usually held at 1:15pm. This change will apply to all Emirates except Sharjah which adopted a three-day weekend from Friday until Sunday.

Whilst the new weekend is not mandatory for the private sector, a high percentage of employers have now adopted the conventional weekend of Saturday and Sunday, with employees having the right to take a mid-day break on Friday to attend Friday prayer, or alternatively making Friday a flexible working day on which employees can opt to work remotely.

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# North America

## CANADA

**The Canada Pension Plan (CPP)** – Since 1965, Canadian workers and their employers have been required by law to contribute to this state-run defined benefit pension plan. The CPP applies to employees in all provinces and territories (except Quebec). As at the end of 30 September 2021, the fund held more than C\$500 billion. There have been several recent changes to the CPP, namely:

- **Higher contributions to the CPP required in 2022**

Workplace payroll costs increased in Canada on 1 January 2022 due to higher premiums required to be paid by employers and employees. Complaints by business groups about this hefty increase have been duly reported in the Canadian media. However, there is no sign that complaints will have any effect. A change to the design of the CPP and these inexorable increases in contributions would

require a very significant and likely unattainable level of agreement of several levels of government in Canada. Employers have no choice but to accept and plan for the fact that their payroll costs are rising due to this mandatory state-run retirement programme.

- **New regime for the Canada Pension Plan is being rolled out over several years**

Although there have been objections from the business community, it is unlikely that any actions will be taken to rein in increased premium costs. The mandatory employer and employee contributions are set to increase every year based on a formula that relies on a government-determined wage amount that takes into account annual wage increases across Canada.

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## UNITED STATES OF AMERICA

### COVID-19 policies and vaccine mandates in the US

– In the last few months, the landscape around COVID-19 policies and vaccine mandates in the workplace has shifted repeatedly. In September 2021, the Biden administration proposed a variety of approaches, including vaccination requirements for federal employees, employees of federal contractors, and employees of some healthcare providers. The most far-reaching effort was a proposal requiring larger employers to impose weekly testing for unvaccinated employees. However, nearly all of these federal proposals have been stalled or blocked in the courts, with the exception of mandates for healthcare workers, and the administration is withdrawing the emergency temporary standard for large employers.

In the meantime, state and local governments have stepped into the issue in different ways, resulting in a complex patchwork of legal requirements and prohibitions. Non-binding guidance has shifted as well, including revised guidelines on isolation and quarantine periods.

Against this backdrop, employers are determining the best approach for 2022. There is no one-size-fits-all solution. Significant factors include the nature of the business, temperament of the workforce, unique health and safety risk considerations, and geographic location. Generally, employers have the right to require COVID-19 vaccinations, but they must be mindful of any collective bargaining agreements, ensure appropriate accommodations are made under applicable civil rights laws, and comply with any state and local requirements or limitations.

### NLRB signals its intent to reverse precedent –

The National Labour Relations Board (NLRB), the agency responsible for enforcing US labour law related to unionisation, collective bargaining and unfair labour practices, has invited the public to file amicus briefs in several cases before it, signalling its intent to reverse Trump-era standards in favour of more union/employee friendly rules.

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# In conversation with...

IN THIS EDITION WE TALK TO **RUTH NOCKA**, DENTONS PARTNER IN OUR EMPLOYMENT AND SAFETY PRACTICE IN SYDNEY.



## Tell us a bit about yourself.

I am a partner in the Sydney office of Dentons. I work in the Employment and Safety team. I joined Dentons in June 2019. Prior to that I worked for Corrs, a firm operating only in Australia, for a number of years. I advise employers on all aspects of the employment relationship and broader strategic issues. I also conduct investigations for employers and manage employment-related litigation – these two things are my favourite kind of work. I chose employment law when I commenced a career because I'm interested in people and what makes them tick – this is the best kind of law in which to exercise that interest.

## What is that you like about Dentons?

It's really interesting to be a part of such a large firm and to have the opportunity to work with so many different clients from around the world. This makes the work really varied. I also like the people I work with in Australia, both within the Employment team and the broader firm.

## What developments do you expect to see in 2022?

At this stage, we're still waiting to see if 2022 is going to be the third limb of a COVID-19 trilogy and more of the same, or whether we will really emerge from the pandemic. Assuming that businesses return to operating in a way that resembles normal, the major tension in employment will be between low wages, a labour market with supply issues, and inflation in the broader economy. Australia has a federal election this year which will ensure that there are no major legislative changes in employment law.

There is likely to be increased pressure on employers to look at workplace cultural issues and whether a commitment to diversity, inclusion and looking after the wellbeing of employees is actually being realised in the workplace.

## What activity is at the top of your "Bucket List"?

At this point, it's to get out of Australia again! I'd like to go to Angel's Landing in Zion National Park, Utah (not sure whether I'll have the courage to walk it) and I'd like to go trekking in Sikkim, India.

## What do you enjoy doing outside work?

Listening to podcasts – recommendations always welcome! I am also currently addicted to the daily Wordle. I also like going to music festivals and gigs so it's been a quiet few years with all live music cancelled. I've taken up yoga and learning German during the pandemic but while they are rewarding, they're not quite as much fun.





# Dentons news and events

## GLOBAL SOLUTIONS

### **Global Collective Redundancy Guide** –

Managing a global workforce reduction programme while navigating local law requirements can be a complex process. Our Dentons Global Employment and Labour team is perfectly placed to support clients, and is pleased to introduce its Global Collective Redundancy Guide and tracker. This tool provides quick and easy access to summaries of the collective dismissal and redundancy rules in more than 50 countries.

Click [here](#) to access the full guide

**ESG: Global Solutions Hub** – ESG issues are currently at the forefront of corporate thinking, as a source of risk and opportunity. The regulation around ESG is coming thick and fast, and finding global answers to what is required, market by market, is something Dentons is uniquely equipped to help with. We understand that addressing the ESG agenda requires cross-practice perspectives to be integrated and solutions to be holistic – and this is what we offer. To find out more about how we can help you address your specific ESG queries or challenges.

Click [here](#) to access the hub

## EVENTS

**Webinar insights programme** – Many of our clients receive regular invitations to training sessions and webinars on legal topics. This is different. This programme is about providing you with access to insights and knowledge that we hope will empower you and which are not connected to regulation and legislation, but are connected to leadership, market trends, operations and people. There are also a number of programmes to address your personal development. Click [here](#) to learn more and register.

**Global Employment Webinar: EU Whistleblowing Directive – Where are we now and impact on global employers** – EU countries had until 17 December 2021 to implement the new EU Whistleblower Directive. However, only a few countries have implemented the Directive and this has caused uncertainty amongst multinationals operating in the EU. In this international employment webinar, we will take a look at the current state of play and impact on employers. Please click [here](#) to access the materials and recording.

**Global Employment Webinar: Mandating Vaccinations and Return to Work – A Global Overview** – Many employers around the world continue to grapple with vaccination mandates and testing as part of a return to the workplace. In this international employment webinar, we provide a global overview of the current landscape on mandating vaccinations and testing, and the key issues that employers will need to consider.

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Please click [here](#) to access the materials and recording.

**Global roundtable: Employer considerations for the “right to disconnect” – A look at Canada, UK, Spain and Italy** – Late last year, the province of Ontario became the first Canadian jurisdiction to pass a law requiring that employers implement a “right to disconnect” policy. Similar laws are being considered across Canada as well as in France, Spain, Scotland and Italy. Please click [here](#) to access the materials and recording.



## REGIONAL DEVELOPMENTS

### **Dentons Paz Horowitz is the first legal firm in Ecuador to subscribe to the UN Sustainable Development Goals for the Empowerment of Women in the 2030 Agenda** – Patricia

Andrade (Partner) was invited to lead the sub-table “Actions against Gender Violence in the Workplace”. Patricia, co-head of the E&L practice group, has been working together with Verónica Mieles (Legal Director) on this matter, advising several NGOs, such as UN Women Ecuador, and private companies aligned with the goal of achieving gender equality and empowering women.

### **Dentons enhances its employment team in Bratislava** – Stanislav

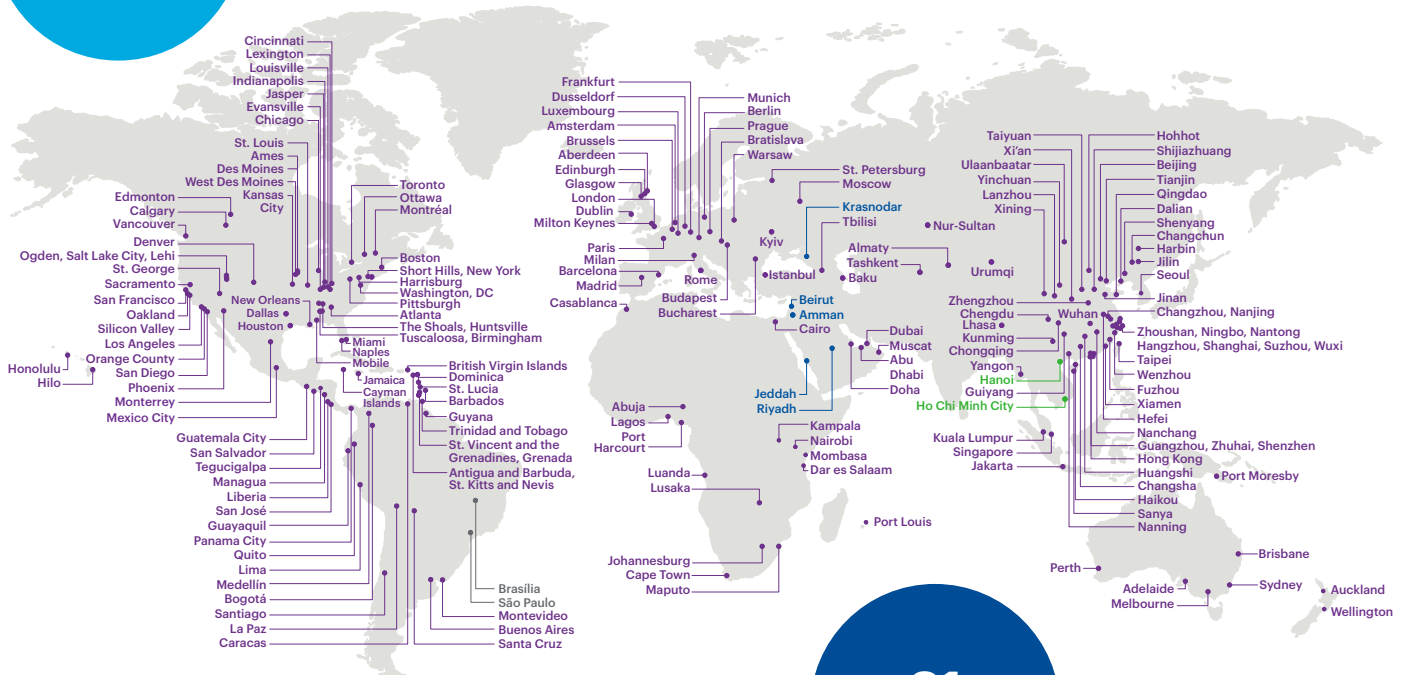
Đurica has joined as a partner to lead the Employment and Labour practice. He advises Slovak and foreign multinational companies on all areas of individual employment law, as well as litigation and arbitration, and industrial property law. [Click here](#) to learn more.

### **Dentons Netherlands team partnered with Academie voor de Rechtspraak to deliver a course titled “The step-by-step plan for a reorganization”** – On 1 February 2022,

Eugenie Nunes, Marije Ozinga and Sascha Kuit contributed to the Course Reorganisations by a leading educational institute in the Netherlands. Their contributions related to process management and the implementation of reorganisations in business practice.

Dentons Employment and Labor Practice has over 450 employment, immigration, and benefits lawyers operating in all our offices around the world. Our coordinated legal strategy is specifically designed to help multi-national businesses maintain a consistent corporate culture and comply with local employment and labor laws, while avoiding the need to hire separate counsel in each jurisdiction. As a result, multi-national businesses in all industry sectors regularly engage and rely on Dentons' lawyers to create and implement policies and strategies designed to ensure compliance with local employment and labor laws, advance and facilitate the corporate culture of the organization, and help minimize the risk of costly employee disputes.

**206**  
locations



**81**  
countries



**12,000+**  
total number  
of lawyers

**20,000+**  
Total number  
of people



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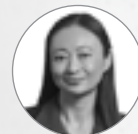
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## United States of America

## **ABOUT DENTONS**

Dentons is the world's largest law firm, connecting top-tier talent to the world's challenges and opportunities with 20,000 professionals including 12,000 lawyers, in more than 200 locations, in more than 80 countries. Dentons' polycentric and purpose-driven approach, commitment to inclusion and diversity, and award-winning client service challenge the status quo to advance client interests.

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