

EUROPEAN LABOR LAW UPDATES: KEY DEVELOPMENTS YOU MAY HAVE MISSED

Insights

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Europe's labor law landscape is evolving rapidly, with significant implications for multinational companies operating across the continent. Whether you're managing a workforce, handling compliance, or structuring cross-border operations, staying ahead of these changes is critical. Here are eight key areas with the biggest impact on employers that were identified in the European Commission's most recent Flash Reports on Labour Law.

Quick Overview of Key Developments

- 1. Working Time: Belgium, France, Greece, and the Netherlands** introduced new rules on overtime, flexible working hours, and inclusion of allowances in holiday/sick pay calculations.
- 2. Collective Agreements:** Courts in **Austria** and **Croatia** are tightening rules on the application of collective agreements particularly for foreign employers. **Liechtenstein** has introduced new provisions on employee participation in cross-border restructuring, aligning with EU Directive 2019/2121.
- 3. Dismissal Protection: Austria** clarified dismissal rules for cross-border employees. **France** reinforced that employers must provide training before dismissing for incompetence.
- 4. Fixed-Term Work: Cyprus, Germany, Lithuania, and Portugal** have issued rulings and legislation to prevent the abuse of fixed-term contracts, ensuring compliance with EU Directive 1999/70/EC.
- 5. Parental Leave: Belgium, France, and Spain** have expanded parental leave rights, including new provisions for foster parents.

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same-sex couples, and extended maternity leave.

6. Platform Work: France confirmed **Uber drivers as self-employed**, while **Portugal** issued two rulings with different outcomes regarding the employment status of platform workers. This reflects ongoing legal uncertainty.

7. Transfer of Undertakings: France and **Malta** issued rulings reinforcing employee protections during transfers, including liability for unpaid overtime and the requirement for valid economic, technical, or organizational (ETO) reasons for dismissals.

8. Additional Developments to Track: Germany introduced Federal Collective Bargaining Compliance Act, while the Netherlands tightened rules for highly skilled migrants and employment claims.

You can read [the European Commission's full summary of country reports here](#) or you can review the highlights below

1. Working Time: Flexibility and Overtime Rules

Belgium

A new law temporarily increases the limit for voluntary overtime, allowing employees to work up to 120 extra recovery hours (in addition to the usual 100) until December 31. This measure aims to provide flexibility during busy periods.

France

The Court of Cassation ruled that in overtime disputes, employees must provide sufficient indications of extra hours worked, while employers bear the burden of proof. Employers must maintain reliable and tamper-proof records of working time.

Greece

The Labor Minister proposed new legislation allowing employees to work up to 13 hours a day for a single employer, with overtime paid at a 40% premium. The bill also introduces flexible working time arrangements, compensating employees with time off or additional leave.

Netherlands

A court ruled that the irregular hours allowance must be included in the calculation of holiday pay and sick pay, even if employees opt to receive it as time off. This aligns with Directive 2003/88/EC on working time.

2. Collective Agreements: New Rules and Judicial Clarifications

Austria

The Supreme Court ruled that collective agreements cannot be invoked under the Rome I Regulation's "more favorable treatment" test unless the employment relationship would normally fall within their scope. This means foreign employers without an Austrian branch are not bound by Austrian collective agreements, and only statutory provisions apply. This decision impacts notice period rules and other collective agreement terms for non-Austrian employers.

Liechtenstein

The Act on Employee Participation in Cross-Border Conversions, Mergers, and Divisions transposes Directive (EU) 2019/2121. This law establishes national provisions on employee participation in cross-border restructuring, ensuring workers' rights are protected during mergers, divisions, and transfers of registered offices.

3. Dismissal Protection: Strengthened Rights and New Procedures

Austria

The Supreme Court clarified that Austria's general protection against dismissal under the Labor Constitution Act applies to employees working remotely for foreign employers if their contract is subject to Austrian law. However, the protection only applies if there is an Austrian establishment. This ruling resolves a long-standing debate on the scope of dismissal protection in cross-border contexts.

France

The Court of Cassation ruled that employers cannot dismiss employees for incompetence without first providing necessary training. This reinforces the obligation to support

employees in adapting to their roles before considering termination.

4. Fixed-Term Work: Clarification of Rights

Cyprus

The appellate court affirmed that music teachers under successive fixed-term contracts were effectively employed under contracts of indefinite duration. The court emphasized that permanent needs cannot justify temporary contracts, aligning with EU Directive 1999/70/EC on fixed-term work.

Germany

The government adopted a draft law amending the Part-Time and Fixed-Term Employment Act to ease post-retirement work. The law removes the ban on follow-up fixed-term contracts for employees who have reached statutory retirement age, allowing them to be rehired without justification.

Lithuania

The Kaunas Regional Court reviewed a dispute over the recognition of a fixed-term employment contract as indefinite. The court ruled that successive fixed-term contracts in healthcare are permitted for positions requiring competitive procedures, but abusive renewals without objective justification remain prohibited under EU law.

Portugal

The Supreme Court of Justice ruled that collective agreement clauses assigning lower categories to fixed-term workers are null and void, as they violate the EU principle of equal treatment. Fixed-term employees are entitled to the same rights as permanent workers unless there is an objective justification.

5. Parental Leave: Expanded Rights and Legal Clarifications

Belgium

A new law introduces parental leave for foster parents within the scope of long-term foster care. Foster parents now have the same rights as biological or adoptive parents, including

interruption allowances from the National Employment Service.

France

The Constitutional Council upheld the current rules for paternity leave, clarifying that in same-sex couples, a new father's male spouse is not entitled to paternity leave. However, it confirmed that in female couples, a woman with legally recognized parentage through joint recognition is entitled to such leave.

Spain

The government extended maternity leave from 16 to 19 weeks to comply with Directive (EU) 2019/1158 on work-life balance. The reform also ensures that at least eight weeks of parental leave are remunerated.

6. Platform Work: Legal Status and Judicial Decisions

France

The Court of Cassation confirmed that Uber drivers qualify as self-employed under French law, emphasizing their legal independence and absence of subordination. This ruling aligns with the Mobility Orientation Law (LOM) of 2019, which regulates platform work to prevent misclassification.

Portugal

The Oporto Court of Appeal issued two rulings on whether couriers working for digital platforms are employees, with different results based on the facts. In one case, the court found no employment relationship due to the couriers' broad discretion over pay, hours, and tasks. In another, it ruled that sufficient indicators of control existed to presume an employment contract.

7. Transfer of Undertakings: Liability and Employee Rights

France

The Court of Cassation clarified that when employees are transferred to a new employer without the transferee assuming the former employer's obligations, they may still claim unpaid overtime from the former employer. Such claims can cover the three years preceding the transfer.

Malta

The Industrial Tribunal ruled that a transfer of undertaking cannot serve as grounds for dismissal unless supported by valid economic, technical, or organizational (ETO) reasons. The tribunal ordered compensation for an employee unjustly dismissed during a transfer.

8. Additional Developments to Track

Germany

The government introduced a proposed law, the Federal Collective Bargaining Compliance Act, mandating that businesses adhere to collective agreement terms in order to qualify for federal contracts of at least €50,000.

Netherlands

The government wants to tighten the highly skilled migrant program, raise the salary threshold for qualification, and expand criteria for company eligibility.

Sweden

The Labor Court applied the Pregnant Workers Directive (92/85/EEC) with direct effect, awarding compensation to teachers excluded from work during the COVID-19 pandemic.

Conclusion

We will continue to monitor legal changes affecting multinational companies, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to receive the latest updates directly to your inbox. If you have questions, contact your Fisher Phillips attorney, the author of this Insight, or any attorney in our [International Practice Group](#).