



IBA Global Employment Institute

THE FIFTH IBA GEI ANNUAL GLOBAL REPORT

National regulatory trends in Human Resources law

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International Bar Association
Global Employment Institute



Note for the members of the Advisory Board: please send your comments and suggestions regarding this report to Keith Corkan (kcorkan@woodfines.co.uk) or Todd Solomon (tsolomon@mwe.com), coordinators of the Annual Global Report.

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1. Introduction

- 1.1** The Annual Global Report (AGR) is an annual report highlighting certain general international trends in human resources law. This is the fifth AGR and is based on responses from lawyers from 58 countries. The methodology that will be used is described in Section 2 below.
- 1.2** The fifth AGR covers trends in human resources law during the calendar year 2015 (although, for some countries, a number of new developments taking place at the beginning of 2016 have been recorded). Each AGR will build on the historical perspective of the previous editions. This may prompt changes to the coverage of future editions of the AGR.
- 1.3** Please note that it is not the intention or purpose of the AGR to set out the law on any particular topic; its aim is to highlight changes and trends. Any reference to a particular law is not intended to be a description or summary of that law and should not be relied upon as a statement of the law or treated as legal advice. Before taking any action, a reader should take appropriate legal advice.

2. Methodology

- 2.1** Lawyers from 58 countries (Schedule 1) were asked to respond to the questionnaire in Schedule 2. The questions were designed to cover the most relevant issues relating to employment, industrial relations, discrimination and immigration law. Lawyers were asked to consider only relevant changes during 2015 (and the start of 2016, in some cases) and to briefly explain them and their significance. The answers to the questionnaire have, to some degree, been consolidated, as shown in Section 3 of this report (Trends and developments). As previously noted, the goal of the AGR is to highlight general international trends in human resources law. Readers seeking more in depth analysis are welcome to contact the Global Employment Institute (GEI) or the lawyers who participated in the survey. Input was obtained from in-house lawyers in various industries. The GEI is particularly grateful to in-house counsel/human resources (HR) directors from Intel, Western Union, Arcor, Human Resources Strategies, Procter & Gamble, Eaton, Human Resources Institute of Development and Analysis, Eurofound, IBM and the London School of Economics for their valuable contributions.
- 2.2** The Council of the GEI appointed a working group for the development of the AGR. The members of this working group were: Duncan Inverarity, A&L Goodbody, Ireland; Caroline André-Hesse, Ayache Salama, France; Dayo Adu, Bloomfield, Nigeria; Iván Suárez, Bufete Suárez de Vivero, Spain; Marco Mazzeschi, Mazzeschi, Italy; Maria Isabel Tostes, Mattos Filho, Brazil; Filip Saelens, Loyens, Belgium; and Rebecca Ford, Clyde & Co, United Arab Emirates (UAE).
- 2.3** This working group, with the coordination of the former GEI Vice-Chair for Institutions, Keith Corkan of Woodfines and GEI Council Member Todd Solomon of McDermott Will & Emery, drafted the questionnaire and contacted lawyers from various countries (Schedule 1). The GEI Council wishes to convey its gratitude to all of them for their participation and interest in the development of the survey.
- 2.4** A first draft of the AGR was submitted to qualified senior HR managers and employment counsel in an open meeting on 23 June 2016 in London at the offices of Baker & McKenzie and sponsored by the IBA.

3. Trends and developments

3.1 Dismissal and retirement issues

Last year's AGR recorded a trend in certain countries, such as Hungary, Italy and South Africa, in favour of employers and their right to dismiss employees in certain circumstances, including new grounds to terminate for a range of reasons, such as redundancy and restructuring. This trend has continued this year, with similar legislation in Croatia, the Czech Republic, Hungary, the Netherlands, Poland and Slovenia. The grounds include redundancy, performance, absenteeism and a number of procedural reasons in certain cases (eg, Hungary and Poland) including trial periods, and termination by mutual consent and with immediate effect, all of which is intended to provide employers with greater flexibility at the expense of employees in these countries.

However, unlike last year, there were few, if any, legislative changes that were primarily for the benefit of employees, although Colombia has enacted a new law that emphasises the importance of due process before imposing disciplinary measures on employees.

Somewhat surprising is the fact that few countries report developments in relation to retirement and related age discrimination claims, although Eaton makes a reference to the importance of balancing the right number of senior executives to continue to work with the provision of opportunities for more junior executives.

A number of countries still have compulsory retirement ages, for example, Argentina (age 65), but few, if any, countries report any significant increase in age discrimination claims. In the United Kingdom, the seminal case of *Seldon v Clarkson Wright & Jakes* in allowing a contractual retirement age of 65 in particular circumstances seems to have created some certainty for employers. Many governments, however, continue to increase their state pension qualification age beyond 65 in response to the ongoing pension crisis (as reported in previous AGRs) and this trend seems likely to continue for the foreseeable future.

3.2 Corruption and whistleblowing

The Ontario Securities Commission has proposed a whistleblower programme to regulate and encourage whistleblowing in relation to securities law breaches with United States-style financial rewards for whistleblowers, but with strict regulatory conditions that do not include immunity from prosecution. The Czech Republic and Germany have new whistleblowing laws relating to public officials, with clearly defined systems for reporting abuse of process in public office. This example is being followed by Ukraine, which has set up a new state Anti-Corruption Bureau charged with investigating and prosecuting public officials.

Nigeria, Slovakia and Serbia have introduced new whistleblowing legislation in the public and private sectors. In Italy, the banking sector is now subject to new

legislation requiring the implementation of whistleblowing procedures that allow the reporting of breaches of banking regulations. Human Resources Strategies reports that, in the US, there continues to be vigorous enforcement of the Foreign Corrupt Practices Act.

The UAE has tightened its procedures in relation to anti-money laundering, including the provision of protection for witnesses of money laundering and an extension of existing laws to include the financing of terrorism.

India reports an increase in cross-border investigations, particularly in relation to ethics and bribery. Although the evidence is unclear, this suggests that Indian companies may be subject to greater scrutiny in foreign jurisdictions. Human Resources Institute of Development & Analysis (India) reports that corruption levels in India have fallen as a direct result of recent whistleblowing legislation and companies generally being more proactive in addressing the issue.

According to Western Union, the courts in Austria are now successfully implementing whistleblowing legislation enacted in 2013, which allows investigators from the Public Prosecutor's Office to obtain information from anonymous whistleblowers through a government-sponsored website and allows gathered evidence to be given in court without compromising the identity of the whistleblower.

Although whistleblowing remains a key issue for multinationals, the introduction of new legislation does not appear to be as extensive as in recent years. It is, however, generally known that money laundering and tax evasion remain widespread, with governments throughout the world struggling to respond to new revelations and disclosures about the scope of these issues and steps to be taken to deal with them.

The limited extent of new legislation compared with that reported in previous AGRs, however, does not appear to have discouraged multinational companies from continuing to implement globalised anti-corruption and bribery policies in an effort to establish a uniform and global solution to these issues.

3.3 Work-life balance and flexible working

The country reports show a marked increase in flexibility in relation to working practices, including a reduction in agency work in some countries, supported by legislation, although the reasons for this differ from country to country. In some countries, this is part of a government policy promoting work-life balance or family life, whereas in others this is seen as a cost-cutting measure. Zero-hours contracts are increasing in popularity and remain largely unregulated, although there are exceptions to this, for example, in New Zealand, where a new bill aims to standardise the terms of zero-hours contracts.

In the UK, a recent report by the Chartered Institute of Personnel and Development concludes that a high proportion of workers under zero-hours contracts are

very satisfied with their jobs and are likely to feel less pressured than permanent workers. In general terms, however, there is less scope to develop skills, and the survey shows that a significant number of such workers would like to work more hours. The UK has banned exclusivity clauses in zero-hours contracts. This survey, although authoritative, is not conclusive and UK unions remain skeptical about its findings.

According to another recent report in the UK by the Citizens Advice Bureau, zero and short-hours contracts, agency work, fluctuating shift work, commission-only work, piece work and temporary fixed-term contracts have all become entrenched in low-paid sectors since the financial crisis.

Even in those countries where the government is not encouraging flexible working, for example, Brazil, multinational companies are leading the way with internal policies and this, in turn, has persuaded governments to reconsider new legislation in some countries. Other countries where multinationals and small and medium-sized enterprises (SMEs) are driving flexible working include Bulgaria, Hungary, India, Ireland, Italy, Kenya, Singapore and Venezuela. In some cases, local market conditions are influential, for example, in India, where rising property values have resulted in companies encouraging employees to work from home.

In Colombia, teleworking has increased, particularly in the public sector, although temporary work and outsourcing has declined. New legislation in Austria, Croatia, Israel, Japan, Lithuania, New Zealand, Romania and Ukraine encourages flexible working, but in Croatia, market uncertainty has seen more zero-hours contracts and agency work, and in Serbia, new legislation has not resulted in any marked increase in flexible working.

In Finland, employers in the public and private sectors are applying more flexible working practices, and in Greece, it is estimated that half the workforce works part time or on the basis of job shares or rotations. In India, a proposed new law would allow employers to opt out of the obligation to convert temporary workers into permanent workers in order to provide flexibility.

In France, it is now possible to work more than 35 hours each week, but such an arrangement must be included in collective bargaining agreements. In Russia, employees are seen by employers to abuse flexible working arrangements and employers have therefore not encouraged them. Federal legislation in the US is limited, hence the drive by companies such as EY, Microsoft, Amazon and Netflix to allow flexible working and provide enhanced benefits in order to attract new graduates who increasingly demand an improved work-life balance. The US retail market has seen an increase in zero-hours contracts.

European Commission's New Skills initiative

A key aspect of the European Commission's New Skills for New Jobs initiative, according to Eurofound, is to ensure that workers are able to develop their skills throughout their working life.

Achieving the Europe 2020 target of 75 per cent of 20–64 year olds in employment is strongly dependent on increasing the labour market participation of women in Europe. To achieve a greater participation of women, it is necessary to understand the interaction of working time with other time domains, such as commuting time and unpaid work. The findings confirm that care responsibilities and unpaid domestic work are unevenly shared by women and men, with women undertaking a bigger share of unpaid work.

Atypical working hours, working on Saturdays and Sundays, long working days (over ten hours), and shift and night work are a feature of working life for a significant proportion of workers in the European Union (EU). The findings show that, for the majority of workers, employers decide on their working schedules.

International Labour Organisation report

The projections of the International Labour Organisation (ILO) reported in last year's AGR about a major trend towards atypical working practices from permanent employment would appear to be accurate, although agency work would seem to be on the decrease in many countries. Being allowed to work flexibly has its advantages, but usually it does not include any regulatory protection. Although previous AGRs have recorded this trend, the developments reported this year seem to be more extensive than those seen in previous years.

Gig economy

There has been much debate this year about the sharing or gig economy and the growing numbers of workers who do not readily fit into the traditional categories of employee or independent contractor. Certain industries, such as transport, construction and housekeeping, are notorious for describing workers as contractors where that is not the case. The case of Uber, in many countries, typifies this debate and the broader questions of benefits and take-home pay, employer labour costs and the traditional availability of the social safety net.

Canada, France and Germany have introduced legislation to increase the number of worker categories, and many other countries are considering how costs and benefits can be shared by employers and workers in a way that is more in line with modern economies and preserves the much cherished freedom to choose when to work as exemplified by Uber drivers. Some commentators have suggested that this is an indictment of the labour market in many countries. In France, many Uber drivers come from the deprived banlieues and often feel discriminated against.

In May of this year, Senator Elizabeth Warren, in a critique of the gig economy, claimed that the benefits had been oversold and that it is an outdated model under which contract workers find it difficult to build any personal economic security. She proposed three benefits for all workers: paid sick leave, accident and illness insurance, and social security for retirees. She also stressed the importance of collective bargaining and her comments have been seen as an important contribution to the ongoing debate.

3.4 Family-friendly policies

According to Eurofound, nearly all Member States comply with the directive's provision of granting at least two weeks' mandatory maternity leave before and/or after childbirth; the majority of Member States exceed this requirement. No mandatory period is provided for in Estonia or Lithuania, while the longest compulsory leave - which means that the woman is not allowed to work - is over 20 weeks in Italy. The majority of Member States have opted for a compulsory leave period of between eight and 16 weeks.

Around half the Member States have, in line with the provisions of the directive, made the entitlement to maternity allowance conditional upon previous employment (or the payment of social security contributions). In the majority of Member States, replacement rates stand at 100 per cent of the former salary, at least for a certain period of time.

In those Member States, with a dominance of sector-level bargaining, collective agreements often provide for a top-up of the statutory maternity allowance by the employer (as in Finland, Italy and Sweden). Alternatively, they may provide for employers topping up the difference between the ceiling and the full salary (as in France) or they may provide for a longer duration of the period in which the full salary is paid (Denmark). In Ireland and the UK, employers often voluntarily top-up the allowance to the full salary.

Although employers generally do not pay enhanced maternity and paternity benefits, most jurisdictions are witnessing an extension of maternity leave, and related flexible practices. In India, Ireland, Russia and Sweden, however, some private and public organisations are paying enhanced benefits, and in Russia this is due to there being a shortage of labour. Legislation in some countries is being introduced to extend paternity benefits, for example, in Ireland and Singapore, although this trend does not appear to be as strong as in previous years.

3.5 Absenteeism due to stress and mental health issues

Psychosocial risk factors are related to the way work is designed, organised and managed, as well as the economic and social context of work. In addition to job and employment insecurity, psychosocial risks include high demands and work intensity, emotional demands, lack of autonomy, poor social relationships and poor leadership.

According to Eurofound, a recent report from the European Commission points to a significant proportion of workers who are confronted with a very high level of work demands. Work demands can be high for a number of reasons: work has become more concentrated (working to tight deadlines); it needs to be done faster (working at high speed); there are frequent disruptive interruptions or there is simply too much work (not enough time to do the job). Workers may need to juggle various capacity constraints at the same time that arise from their

colleagues, supervisor, targets to be met, direct demands or the automatic speed of a machine.

Very intensive work has negative consequences in terms of physical and mental health and absenteeism. On the other hand, high work intensity can be associated with increased financial performance of companies and higher pay for workers and some may perceive it as rewarding or interesting.

Many countries report an increase in absenteeism due to stress in the workplace and mental health issues. These include Brazil, Colombia, Finland, Israel, Slovenia, South Africa, Spain, Sweden, Switzerland, the US and Venezuela. Despite this trend, there is very little empirical data about the scope and nature of the issue in most countries, with both employers and governments remaining reluctant to investigate and address the issue despite the impact on productivity levels, although certain employers are more sympathetic according to Arcor. In many countries, employees remain reluctant to disclose details of their mental health for fear of being stigmatised. In the US, employees describing themselves as 'highly stressed' had double the rate of absenteeism of their less stressed counterparts. Also in the US, a practice has developed of unwell and unproductive employees attending work to avoid reprisals: a phenomenon known as 'presenteeism'.

Eaton has shown a very close interest in this issue by carefully identifying the numerous causes of stress in the workplace, both internally and externally, as well as the financial impact and has over the years introduced a number of wellness initiatives for its staff, including diet and sport projects, along with training programmes for its managers and other employees in an effort to address the issue.

3.6 Data protection, privacy and human rights

The country reports show a general trend of existing constitutionally protected rights of privacy and freedom of expression relating to computer usage, emails, text messages, closed-circuit television (CCTV) and other recording devices being strengthened in many countries by new data protection laws that increasingly require employees' consent to the processing and monitoring of data for a legitimate business purpose. The courts in many countries have been called upon to adjudicate such issues by balancing the rights of the employer and employee, and more disputes and greater litigation have been reported in many countries, with the courts, in general terms, emphasising the importance of the consent of the employee.

This continues a clear trend reported in last year's AGR and one that is particularly pronounced within institutions in the EU, including the Court of Justice, which in the high profile case of Schrems declared the European Commission's US Safe Harbour Decision (200/520) to be invalid on the basis that it no longer corresponds with EU standards on the protection of privacy. Although the European Commission and US Department of Justice are close to agreeing the terms of

a new framework for the transfer of data, companies cannot rely on the safe harbour model, and the new framework may be open to an early challenge given the stance in the EU, which has perhaps been driven by the revelation of the scope of monitoring and intrusion by security agencies on both sides of the Atlantic.

Against this backdrop, the decision of the European Court of Human Rights in *Barbulescu v Romania* in January 2016 surprisingly bucked the trend of greater employee protection by holding that, in certain limited circumstances, an employer may have the right to read and access information sent by an employee during working hours and, in so doing, will not contravene their employees' right to privacy. This case reiterates the importance of having a clear internet usage policy in place with acceptable and proportionate limits on the circumstances in which an employee's account can be accessed.

The ongoing issue of balancing the respective rights of employer and employee has, not surprisingly, impacted on the use of social media in the workplace, with employers having to constantly weigh up their employees' rights to freedom of expression and privacy against the employer's right to protect its business and the effect of adverse comment and improper disclosure by employees with whom it is in dispute.

In general terms, governments have found it difficult to draft legislation that provides a uniform solution to such disputes that are necessarily factually varied. This in turn has forced employers – with help from their legal advisers – to formulate and implement social media policies for their businesses that specifically dictate how and when an employee can use social media and the limits on such use.

3.7 Restrictive covenants

According to Procter & Gamble, an ongoing issue for it, as reported in previous years, is the use and effectiveness of restrictive covenants in successfully restraining talented employees who are leaving to join its competitors. It reports that many countries are strictly regulating such restraints and are doing so increasingly in favour of employees. The company has observed disputes in a number of jurisdictions in relation to this, and the lessons learned include the importance of clearly defining the scope of restrictions and, in many systems, providing remuneration to support the validity of such restraints.

Like many multinationals, Procter & Gamble recognises the advantages of relying on restrictions in share subscription plans rather than employment contracts, in particular, the crucial issue of enforceability and relying on forfeiture provisions in the event of non-compliance. Such is the importance, the company has developed a centre of excellence to deal with the issue.

IBM reports that restrictive covenants are being scrutinised by US courts to a greater degree by reference to precise job responsibilities, geographical scope, length of the restrictions, the acquired knowledge of the departing employee and

the value of any confidential information that might be disclosed to a competitor.

It is somewhat surprising that this issue is not reported as significant by the other multinationals or by the country representatives.

3.8 Discrimination in the workplace

The past year has seen the continued evolution of anti-discrimination legislation in many countries, both in developed and developing economies, including an interesting contrast between those countries where such laws are well established and those where they are not. This follows a trend seen in last year's report and in previous AGRs, particularly in relation to gender and disability, although there would seem to be fewer high-profile discrimination claims than last year. An exception to this is in the US, where IBM reports that age-related class actions are becoming more common as the wealthy baby boomer generation reaches retirement age.

In Brazil there is a new and comprehensive anti-bullying law in force, and in Chile there are new rules preventing disability discrimination, including quotas in medium to large-sized companies; privacy in the recruitment process; and restrictions on employers using genetic testing reports to determine whether employees might suffer from certain kinds of disablement. The latter is a developing practice in many countries and raises serious ethical issues for legislators.

Mexico and Sweden have enacted new disability legislation providing for access to facilities, while Peru has a new law requiring companies to comply with quota rules for the disabled. Japan also seeks to bolster its disability quota law by imposing fines on companies with more than 200 employees that are in breach. Ukraine seeks to harmonise its discrimination legislation so that it resembles that which operates in the EU. New laws in the UAE focus on religious discrimination, including restrictions against religious contempt, hatred or incitement, in an effort to counter serious religious intolerance. India has a new law restricting harassment of women in the workplace.

The developed world has seen a number of countries with well-established anti-discrimination laws creating new rules to build on these. In the US, the Equal Employment Opportunity Commission has declared sexual orientation discrimination to be a form of gender discrimination governed by Title VII of the Civil Rights Act. The US courts, however, have yet to pronounce on this and other rules that seek to restrict lesbian, gay, bisexual and transgender (LGBT) rights in various states.

Certain US states have emphasised the importance of manager training in countering discrimination and three states – California, Connecticut and Maine – have enacted compulsory training for companies with more than 50 employees. Certain Canadian provinces including Ontario, have similar rules which continues the Canadian tradition by including training in human rights awareness. There is

similar new legislation in Germany and South Korea.

Many countries report voluntary steps made by medium and large-sized companies to implement training programmes for their managers in recognition of the importance of preventing discrimination in the workplace. This is a trend that is not limited to multinationals and is much more pronounced than in recent years, perhaps reflecting a globalised view adopted by employers in relation to preventative measures.

As in previous years, many countries reported new government initiatives designed to encourage gender participation in senior positions in public and private companies, and increasingly, provisions for quotas are being contemplated by governments in the absence of voluntary measures. This includes initiatives by the governments of Croatia, the Czech Republic, France, the Netherlands and Slovenia. The growing debate about the gig economy has drawn attention to the fact that many workers participate because of being discriminated against by the traditional industries.

3.9 Diversity

India has a new law requiring all public companies with five directors or more to appoint at least one woman director. This coincides with the continued trend of multinationals adopting voluntary worldwide measures to enhance diversity and gender participation. The Spanish Government now formally recognises those companies that successfully adopt and implement diversity initiatives and makes awards to those companies in an effort to encourage such voluntary measures.

Both China and France have enacted legislation that requires women to be represented in union collective bargaining procedures, with court-imposed sanctions where companies transgress. The governments of Hungary and Japan have introduced legislation requiring larger companies in the public and private sectors to formulate equal treatment plans with statistical information that can be monitored by government labour departments.

South Africa, however, remains the most proactive country, with new legislation imposing affirmative action programmes on larger companies, which is representative of the country's race, gender and disability demographics.

In the US, a recent report by the headhunter, Heidrick & Struggles shows an increase in board directorships for women and African Americans, but a decline in the number of appointments of Asians, Asian Americans and Hispanics. There are only nine Hispanic chief executive officers (CEOs) of Fortune 500 companies, despite the fact that the US has the second largest Spanish-speaking population in the world after Mexico.

According to this study, women accounted for 29.8 per cent of positions last year, which was a slight increase on the previous year. The target of 50 per cent parity is

now not expected to occur before 2026. The biggest obstacle to progress is a lack of operating or financial experience, with a very high percentage of appointments of new directors (73 per cent) being current CEOs or chief financial officers (CFOs). Nor do board seats become available frequently, according to the report. The average age of new appointees is 58 and this has fuelled the ongoing debate about white men feeling more comfortable with appointments 'in their own image' and often made from those in their existing networks.

3.10 Unions, collective bargaining and industrial action

Collective bargaining

With significant and comprehensive legal reforms causing major changes and disruption within national systems, the debate about collective bargaining and its role has also polarised since 2008, according to Eurofound. Employer organisations stress that decentralisation and relaxing higher-level collective agreements are helping companies to adapt to the increasing pressure of global competition. By contrast, trade unions stress that such changes result in a deterioration of working conditions and wages, rise in unfair competition and loss of the solidarity and social protection offered by collective bargaining. This debate raises a question about the future role of collective bargaining, both in relation to negotiating pay and working conditions at company level, as well as the wider dimension of contributing to the quality of working and social life.

Collective bargaining systems, frameworks and practices in the EU have come under some pressure in recent years, according to Eurofound. Against a steady, long-term decline in the numbers of companies and workers covered by a collective agreement, employer organisations as well as some politicians and experts argue that the collective bargaining system is too static and inflexible. This pressure has increased since the 2008 crisis, when a number of EU Member States, in response to high unemployment rates, implemented labour reforms aimed at increasing competitiveness, productivity and job creation.

Strike action

Many countries reported strike action by unions, including the public sector, in response to continued austerity measures in many economies, such as Argentina, Brazil, Canada, Chile and India. In India, there is a strong re-emergence of trade unionism, with a number of strikes becoming violent, although a number of recent strikes in the aviation, banking, defence and transport sectors were successfully ended according to Human Resources Institute of Development & Analysis (India). Collective bargaining in that country, however, has diminished, possibly reflecting employers' concern about union activity, although this is not clear.

Union strength in Argentina has increased in the last ten years, according to Arcor, because inflation has given unions a central role in the negotiation of salaries, which have been eroded. The strikes have been aggressive, with unions

imposing stoppages and shutdowns through the manning of factory gates in many industries.

In general terms, however, the prevalence of strikes in the public and private sectors remains similar to last year, and higher than years prior to last year. The location of strikes is less Eurocentric than reported last year and there would appear to be fewer strikes in Africa.

Eaton observes that union activity in the EU is in part a response to EU governments giving flexibility to employers during and since the financial crisis. In turn, according to the company, unions have benefitted from social media, which has enabled them to become more organised and in some cases, unions have targeted their employers' customers in order to bring pressure to bear.

Measures supporting trade unions

The trend of declining trade unionism has been reported in Australia, Austria, Brazil and South Africa. In Peru, union participation is proceeding at a slower rate, although strikes remain uncommon. This continues a trend witnessed by last year's AGR. There would, however, seem to be less legislation seeking to dilute and reduce union rights than in previous years.

In a number of these countries, and others, the governments and courts have been supportive of unions with new legislation in their favour and in some instances, where union membership and influence have declined. For example, the Argentine Supreme Court has issued a number of judgments that make it easier for unions to be formed. The courts of Israel have protected collective bargaining and the role of the unions as a fundamental right of association and the former has now entered the high-tech and biotech sectors. These two countries seem to be continuing their pro-union agenda from last year.

Draft legislation in Lithuania seeks to give new powers to trade unions, works councils and the establishment of a new representative body. In South Africa, new legislation has benefitted employees and unions, including permitting unions to picket closer to the employer's workplace.

Switzerland has enacted laws that require a mandatory social plan for large-scale dismissals and an obligation to enter into a collective bargaining agreement enabling an opt-out from working time recording requirements.

Pressure from Uber drivers in the US has brought the company into discussions with unions across the US. Although independent contractors do not have collective bargaining rights under US law, some unions have been exploring newer ways to engage with Uber drivers.

In May of this year, Uber in the US struck a deal with the machinists union to work with the newly formed Independent Drivers Guild, which will represent all Uber drivers in New York City. While the guild stops short of being a full union, it will

provide drivers with legal representation and other benefits, as well as a regular meeting with Uber management.

3.11 Executive remuneration and banking reform

A limited number of countries report changes in relation to executive remuneration. The Chinese Government has introduced legislation that caps and limits the remuneration of senior executives of state-owned enterprises by reference to the salaries of non-executive workers in the enterprise. Similarly, the Russian Government has imposed limits on severance pay of senior executives of state-owned entities, which in most cases is now limited to three months. There is a new law in Switzerland that restricts the remuneration of executives of listed companies, including a maximum of one year for fixed-term contracts, restrictions on severance pay and greater rights for shareholders to comment on pay packages of senior executives.

In the US, important new rules under the Dodd–Frank Act will come into force in early 2017, requiring certain listed companies to disclose average pay rates of employees and a comparison with that of the company’s CEO. A separate rule requires the disclosure of the salaries of named executive officers, the value of the company’s total shareholder return and a comparison with the total shareholder return of a named comparator company. This information will be required to be available for shareholders at the annual meeting to enable informed decisions to be made in relation to executive remuneration. A further rule will allow the Securities and Exchange Commission (SEC) to clawback incentive-based compensation in certain circumstances.

The governments of Israel, Italy and the Netherlands have also introduced caps and limits on salaries in the financial and banking sectors. Although certain EU countries have continued to enact the EU bankers’ bonus cap, for example, Slovakia, the extent of new executive remuneration legislation in the EU and elsewhere is much more limited compared with that reported in previous AGRs. This reflects the fact that banks generally have become less of a target than they were during the financial crisis and its aftermath. The fact that there are fewer reforms than reported in previous AGRs suggests that the global economy has continued to improve since the financial crisis.

Businesses in the UK with a big pay gap between the highest and lowest earners experience more industrial disputes, sickness absence and staff turnover than those with more equitable pay differentials. The authors of a recent report from the High Pay Centre, an independent think tank in the UK, assert that, while the pay gap is frequently debated in moral terms, these findings show that there is an economic and business case to be made for more equal pay distribution within organisations.

The authors of the report conclude that, while the growing gap between top earners and ordinary workers is frequently debated in moral terms, these findings also demonstrate that there is a clear economic and business case for more equal pay distribution within organisations.

Commenting on the research, High Pay Centre Director, Deborah Hargreaves said that 'High executive pay is not only frequently unmerited, but has a huge hidden impact on the rest of the organisation and society as a whole. Whether it's through staff turnover, sickness, low morale or industrial action, big pay gaps undermine employees' loyalty to the company and their manager.' She added that 'Employers suffer lost productivity, have to pay more sick pay and legal and recruitment costs[,] as staff left feeling the financial and emotional strain [are] driven even further into the ground.'

According to the analysis, the level of wage inequality in the EU as a whole is below that of the US and the three most unequal countries in the EU are Latvia, Portugal and the UK.

The research does suggest that there are some gains to be found in terms of employee commitment and job satisfaction arising from the 'incentive' provided by a degree of pay inequality. However, these are lost beyond a certain inequality threshold, where the highest earner within an organisation is paid more than 24 times the lowest paid earner(s).

Shareholder voting against top management's remuneration plans at Deutsche Bank, Renault and BP in recent weeks has been interpreted as a commentary on the emerging debate about inequality in society and the rebuilding of trust following the failure by some multinationals to pay tax on their foreign earnings.

3.12 Immigration and talent issues

In 30 out of 58 countries, there is a shortage of highly skilled workers. Albania, Australia, Austria, Brazil, Bulgaria, Canada, China, Colombia, Israel, Lithuania, the Netherlands, Singapore, South Korea, Spain, Sweden, Taiwan and the US are taking action to attract highly skilled workers and facilitate the issuing of work permits to foreign workers. Some European countries are partially solving the need of highly skilled workers through the implementation of the Blue Card Directive: work permits granted to workers holding a three-year university diploma and other qualifications. Exceptions are Argentina, Chile, Cyprus, Finland, Germany, Greece, India, Mexico, New Zealand and Norway, where the research indicated that there is no skill shortage.

In India, there is a reverse phenomenon of information technology (IT) experts going back to India after having studied and/or worked abroad. Some countries have adopted stricter and more protectionist immigration rules (Cyprus, France, India, Serbia, Singapore, Slovakia, South Africa and the US). Others (the Czech Republic, Estonia, Kenya, Lithuania, Malaysia, Nigeria, Russia and Singapore) are implementing policies to qualify local workers to give them priority over foreign workers.

All Group of Seven (G7) countries, with the exception of Germany, are experiencing a shortage of highly skilled workers. Only Canada and Japan are

implementing some policies to make immigration more flexible and attract highly skilled workers. Despite the shortages, the other G7 countries are not taking effective action to attract highly skilled workers and in some cases (France, Italy and the US), the immigration policy remains protectionist. With regard to EU countries outside the G7, only Austria, the Netherlands, Spain and Sweden are implementing policies to attract highly skilled workers and entrepreneurs.

According to the Organisation for Economic Co-operation and Development (OECD) International Migration Outlook 2015, the main trends in immigration flows in OECD countries are as follows:

- immigration flows are on the rise in most countries;
- in 2014, the number of new asylum seekers into OECD countries rose by 46 per cent;
- a number of OECD countries have fundamentally revised their migration legislation in the past few years with more restrictions;
- skilled workers are still wanted, but countries are choosing them more selectively;
- investors and entrepreneurs are sought after, but increasingly scrutinised;
- some family immigration procedures are being eased, but the general trend remains towards restriction;
- new measures have been adopted in response to the humanitarian crisis in the Mediterranean region; and
- actions to strengthen border controls, encourage voluntary returns and fight against illegal employment of foreign workers have been implemented.

In November 2015, the International Monetary Fund issued a report entitled *International Migration: Recent Trends, Economic Impacts, and Policy Implications*. The report established that international migration has risen steadily over the last three decades, the international migrant stock is dominated by working-age individuals and the educational attainment of migrants has increased significantly in recent decades.

The drivers of migration are considered to be the following:

- Incentives to migrate are shaped by a combination of push and pull factors.
- Economic incentives have long been the main driver of migration. Cross-country differences in incomes, wages and economic opportunities driven by productivity, employment differentials and income inequality create incentives for migration flows.

- Migrants often tend to relocate to countries with similar social and cultural characteristics, such as a common language or close geographical proximity, in order to minimise migration costs. Indeed, recent evidence suggests that about one-fifth of international migrants reside in countries with colonial links, a third in countries that share common languages and more than a third in neighbouring countries.
- Demographic differences contribute to migration flows. Differences in population growth rates and other demographic characteristics between source and recipient countries directly impact migration flows. In countries where populations are relatively young and job opportunities are limited, the excess supply of labour resulting from a high working-age population can result in high rates of structural unemployment (push factor). In many advanced economies, rapidly aging populations, high old-age dependency ratios and labour shortages create a pull environment. As fertility rates fall and the working-age population growth slows in source countries, push pressures for emigration can decline.
- Migration policies have a direct impact on migration flows. In the past ten years, many countries have revised their migration laws in response to changes in demography, labour market conditions and political issues. Evidence shows that migration policies can shape the level and types of migrants. For instance, Canada has adopted a points-based system for the selection of highly skilled labour by considering potential migrants' education, intended occupancy, language proficiency, age and work experience. This policy has resulted in an increase in immigrants with specific skill characteristics catering to the country's demand. The US, however, has focused its migration policy on family reunification, with approximately two-thirds of total permanent immigration coming from the family reunification programme. Migration policies can also create international spillovers in that a relatively open migration policy in one country could reduce migration flows to other countries.
- Immigration constitutes a major source of labour force growth in many recipient economies. Because most migrants are young, immigration can have a large impact on labour force participation. For instance, immigration accounted for almost all of the increase in the labour force in the US and over two thirds in Europe over the past decade. Looking at migrant stocks, which reflect the accumulation of immigration over time, foreign-born workers constitute a large share of the labour force in many countries.

The London School of Economics (LSE) reports that traditional methods of advertising vacancies are being replaced by methods such as LinkedIn, headhunters and agencies. The employer brand is more important than ever in attracting talent, in part because organisations such as Glassdoor allow employees to rate their potential employers. Recruitment has become more global and HR professionals need to be more adept at developing their strategies.

The LSE also reports that the growth in family-friendly benefits globally along with advances in technology mean that employers need to be flexible and adaptable towards new recruits and management will need to be more results focussed. Perhaps surprisingly, the ability to work in any location and at any time is not seen by HR, according to the LSE, as a driver of work/life balance but an increased risk of stress and burnout.

Procter & Gamble, like last year, reports an ongoing concern about restraining employees from working for competitors. This issue seems to have been exacerbated by the growing 'talent war', along with the fact that, in many jurisdictions, the courts are increasingly scrutinising non-compete agreements and, in general terms, are finding in favour of the employee to a greater degree. Could this to some degree be reflective of social changes under which employees are more independent?

3.13 Global leadership issues

The responses from the multinational companies that responded to the questionnaire suggest that the employment issues that are currently prevalent may well remain so for the foreseeable future. Procter & Gamble and the LSE cite the Working Time Directive, whereas Western Union expresses concern about performance management. Surprisingly, restrictive covenants do not currently appear to be an issue of general concern for employers. Human Resources Strategies reports that outsourcing has slowed down significantly.

With regard to current and future challenges for multinationals, Arcor, Human Resources Strategies, Eaton and Human Resources Institute of Development & Analysis cited the importance of a skilled and diverse workforce, particularly in relation to science, technology and engineering. The Indian Government has embarked on a major training and education programme. The challenge to a country such as India is immense, despite a rapidly expanding workforce and no limits on immigration. Other challenging issues highlighted are robotisation (Arcor), mobility and geographical balance (Eaton) and mental health issues (Eaton). This lack of commonality is surprising and probably reflects the different regions and industries in which these companies operate, possibly their respective internal cultures and the sheer diversity of employment issues that employers need to address.

Eaton has also devoted much time and resources to demonstrating to its customers, shareholders and regulators that it is fully complying with international labour standards in those jurisdictions in which it operates. This includes commitments and transparency in supply chains and taking steps to avoid human trafficking under US and UK legislation, including the UK Modern Slavery Act. In extending the scope of this to all countries in which they operate in Europe, the Middle East and Africa (EMEA), this is a good example of a multinational implementing worldwide policies to address an issue that in itself is becoming more global, during a period in which US politicians are increasingly questioning

their country's commitment to international trade agreements within the US electoral process.

4. Conclusions

This fifth AGR provides an opportunity to review trends and developments that are not limited to the past year but also the previous five years. There are a number of recurring themes in this period, some of which are becoming increasingly pronounced in scope, for example, flexible working and work-life balance. Governments and multinationals are embracing many forms of working in response to business needs and individual aspiration, with growing evidence of a strong trend away from permanent employment. In general terms, governments have not discouraged this trend because it provides flexibility for employers during the post-recession period in which global competition remains a major factor in company performance. It also helps governments with employment rates and any temporisation of the effects of, for example, zero-hours contracts is very limited. In general terms, it has been left to individual politicians and international organisations, such as the ILO, to warn about the economic hardship of temporary work.

Governments have, however, modified the effects of this by increasingly embracing family-friendly policies and where they have not, multinational companies have often stepped in to provide enhanced benefits. There may be a number of drivers in relation to this. In many jurisdictions, for example, the EU, an increasing number of directives are being implemented by the Member States, which in this sense give employers no choice. In many cases, collective agreements provide for enhanced benefits and this is perhaps some evidence that, despite the decline in trade unionism, unions remain proactive and effective in many jurisdictions. In the US, the Equal Employment Opportunity Commission (EEOC) continues to push the boundaries of gender discrimination by including sexual orientation and transgender rights.

Secondly, employers have become wary of the risks of discrimination claims and, along with family-friendly policies, have embraced diversity training in order to minimise the risk of claims. This in turn may explain why such claims in most jurisdictions are less prevalent.

Thirdly, a number of enlightened companies, assisted by government board quotas, recognise the importance of a diverse workforce embracing different cultures, genders and the disabled. They recognise that, if such groups can be supported, this can provide an important new dimension to a diminishing talent pool in which it has become harder to recruit both domestically and internationally because of the growing war for talent and government restrictions on immigration in response to populist sentiment and pronouncements of extremist politicians, particularly in the EU and US. In other words, such policies are needed to attract talent.

Fourthly, society as a whole seems to be embracing, to a greater degree, the concept of work-life balance, with greater freedom and autonomy, particularly younger generations, who generally are more independent and less loyal than their seniors, and prefer to work for a number of different employers, often at the same time.

Another theme that has occurred consistently each year since the first AGR is the question of data protection and privacy in the workplace, partly in response to social media and to some extent resulting from national court rulings and judgments from the European Court of Justice and the European Court of Human Rights. This issue, perhaps more than any other, has been elevated in importance in part because of the ongoing debate about cooperation between technology and social media companies; security and other government agencies in the US; and concern in the EU that intrusion is excessive and levels of privacy are not being maintained.

The new framework agreement between the European Commission and the US Department of Justice is expected to be challenged on the grounds that privacy protection is insufficient and the new framework is open to abuse by government security agencies. In the meantime, national courts in some countries are revisiting privacy rights beyond those in the workplace and are increasingly using the framework in the European Convention of Human Rights to develop the law in this area.

This year's AGR and the previous four AGR's show a steady decline in collective bargaining since the financial crisis, particularly in the EU, in an effort to increase competitiveness and productivity. Unions, therefore, have had to become more creative and proactive in protecting the rights of their members. In this regard, court challenges in various countries have been successful and, in a minority of cases, union strength has increased due to specific circumstances, for example, in Argentina where there is an environment of extreme economic hardship. The courts in some countries, for example, Argentina and Israel, have cited international conventions and the fundamental right of association as a human right in response to government attempts to limit trade union activity and power. Some countries have legislated in favour of trade unions.

For the same reasons, strikes in the public and private sectors have increased in the last two years with some, for example, in India, becoming violent before being resolved. The timing may be due in part to marginally more favourable economic conditions but continued austerity measures in many countries.

There is one issue in particular that seems to have emerged in the last year or so for employers: absenteeism due to growing levels of stress in the workplace for the reasons that Eurofound has identified. In many countries, employers and regulators have been slow to address the importance of the issue, perhaps because of other priorities and a belief that there are no obvious legislative solutions that can address the problem.

This in turn has forced some employers to become more proactive in obtaining statistics and acting on them by introducing wellbeing policies. As previously noted, Eaton has taken such steps to address the issue in this way, but there is little evidence that its experience is in any way typical of the responses of multinationals. Given the growing scope of the problem, however, and the impact on performance, this may begin to change.

The question of finding talent and technically-qualified staff at a number of levels is another persistent theme from previous AGRs, and is one that has perhaps become more difficult for multinationals to address given the impact of widespread government restrictions on immigration. This year's report shows that very few governments have developed policies that successfully address this issue, although Canada and Japan are perhaps exceptions. The evidence also suggests that immigration accounts for a very high proportion of the labour force in most economies.

This is not the only issue, however, and many countries continue to struggle with lack of skills in the science and technology fields, hence the effort by some multinationals to widen the talent pool by recruiting globally, promoting their brand name wherever possible and offering family-friendly policies to new recruits who seem to increasingly value work-life balance.

As in previous years, many countries have introduced new whistleblowing measures in an effort to eliminate corruption and make their economies more attractive for investors. The extent of new legislation, however, does not appear to be as extensive as of that in recent years. Although, this does not appear to have discouraged multinationals from continuing to implement global whistleblowing policies in an effort to provide a uniform solution to bribery and corruption.

This year's report records new measures to curb executive pay in a limited number of countries. The US continues to remain proactive in this area, with new disclosure rules under the Dodd-Frank Act. The issue of bankers' pay is perhaps under less focus than the degree to which it was following the economic crisis and the plethora of restrictions that followed.

Diversity initiatives and affirmative action programmes remain a key issue for multinationals, as they have in recent years, particularly in relation to gender, sexual orientation and disability. The evidence suggests that companies of all sizes continue to invest in education and training. Although discrimination claims before the courts in most jurisdictions have stabilised and have reduced in some cases, the positive effects of diversity initiatives on minorities have been slow to evolve in many countries. But this may not be due simply to bias and, as this year's report shows, the issue is also linked to the question of talent and experience available.

To some degree, the embracing of diversity by companies reflects a broader trend in society. The recognition and acceptance of sexual identity is presenting

challenges for multinationals, particularly where they operate in countries where this is not recognised. As one business commentator recently observed, 'a responsible business today means taking the temperature of our times'.

5. About the International Bar Association Global Employment Institute

The IBA GEI was established in early 2010. Its primary purpose is to develop a global and strategic approach to the main issues in the human resources and capital fields for multinationals and worldwide institutions.

The Executive Council Officers of the IBA GEI are:

- Co-Chair: Graeme Kirk
- Co-Chair: Pascale Lagesse
- Vice-Chairs for Institutions: Els de Wind
- Vice-Chairs for Multinationals: Gerlind Wisskirchen and Oscar De la Vega
- Vice-Chairs for Knowledge Management: Dirk Jan Rutgers and Stuart Harrison
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 2. Johan Lubbe
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How to join:

If you would like to join the IBA GEI or one of the other committees in the Human Resources Section, or if you would like further information on section or committee activities, please visit www.ibanet.org. We also invite you to contact the IBA membership department on:

Tel: +44(0)20 7842 0090

Fax: +44(0)20 7842 0091

email: member@int-bar.org

Further information is available on the IBA website:

www.ibanet.org/LPD/Human_Resources_Section/Global_Employment_Institute/Global_Employment_Institute_Home.aspx

Schedule 1: Countries and Lawyers

Albania

Jonida Braja (Wolf Theiss)

Argentina

Juan Javier Negri (Negri, Busso & Fariña) – Employment and immigration law

Australia

Anne O'Donoghue (Immigration Solutions Lawyers) – Immigration law

Adrian Morris (Ashursts) – Employment law

Austria

Matthias Unterrieder (Wolf Theiss) – Employment and immigration law

Belgium

Filip Saelens (Loyens & Loeff) – Immigration law

Chris Van Olmen (Van Olmen) – Employment law

Bulgaria

Youliana Naoumova (Djingov Gouginski, Kyutchukov & Velichkov) – Employment and immigration law

Brazil

Maria Isabel Tostes da Costa Bueno (Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados) – Employment and immigration law

Canada

Patrick Benaroch (Stikeman Elliott) – Employment and immigration law

Chile

Oscar Aitken (Carey y CIA) – Employment and immigration law

China

Anne Li (Chen & Co) – Employment and immigration law

Colombia

Lorena Arambula (Cardenas & Cardenas Abogados) – Employment and immigration law

Croatia

Dora Gazi (Wolf Theiss) – Employment and immigration law

Cyprus

Andreas Thoma (George L Savvides & Co) – Employment and immigration law

Czech Republic

Oldrich Baroch (Baroch Sobota) – Employment and immigration law

Denmark

Anders Etgen Reitz (IUNO) – Employment and immigration law

England

Keith Corkan (Woodfines) – Employment law

Tom Brett Young (ASG Immigration) – Immigration law

Estonia

Jurgita Venckute (Borenius) - Employment and immigration law

Finland

Jani Syrjanen (Borenius) – Employment and immigration law

France

Caroline André-Hesse (Ayache Salama) – Employment law

Karl Waheed (Karl Waheed) – Immigration law

Germany

Gunther Mavers (MKRG) – Immigration law

Michael Magotsch (DLA Piper) – Employment law

Greece

Elsa Dalampyra (LLM Lawyer) – Employment and immigration law

Hungary

Hedi Bozsonyik (Szecskay) – Employment and immigration law

India

Amit Bhasin (Law Offices of Bhasin & Bhasin Associates) – Employment and immigration law

Ireland

Duncan Inverarity (A&L Goodbody) – Employment and immigration law

Israel

Tsvi Kan-Tor (Kan-Tor & Acco) – Employment and immigration law

Italy

Marco Mazzeschi (Mazzeschi Srl) – Immigration law

Angelo Zambelli (Grimaldi Studio Legale) – Employment law

Japan

Hideki Thurgood Kano (Anderson Mori & Tomotsune) – Employment and immigration law

Kenya

Sean Omondi (Coulson Harney) – Employment and immigration law

Latvia

Jurgita Venckute (Wolf Theiss) – Employment and immigration law

Lithuania

Jurgita Venckute (Wolf Theiss) – Employment and immigration law

Malaysia

Vijayan Venugopal (Shearn Delamore & Co) – Employment and immigration law

Mexico

Oscar de la Vega (Littler Mendelson) – Employment and immigration law

Netherlands

Martin Beijneveld (Van Harmen Beijneveld van Houten) – Employment law

Jelle Kroes (Jelle Kroes) – Immigration law

New Zealand

Don Mackinnon (Swarbrick Beck Mackinnon) – Employment and immigration law

Nigeria

Adekunle Obebe (Bloomfield) – Employment and immigration law

Norway

Stein Kimsas-Otterbe (Hombler Olsby) – Employment and immigration law

Pakistan

Salim Hasan (Meer & Hasan) – Employment and immigration law

Peru

Mario Pasco Lizarraga (Rodrigo, Elias & Medrano) – Employment and immigration law

Poland

Bartlomiej Raczkowski (Bartlomiej Raczkowski) – Employment and immigration law

Portugal

Luis Sobral (PLMJ) – Employment and immigration law

Romania

Ileana Glodeanu (Wolf Theiss) – Employment and immigration law

Russia

Irina Anyukhina (ALRUD) – Employment law

Scotland

Alan Thomson (McClure Naismith) – Employment and immigration law

Serbia

Milena Papac (Karanovic & Nikolic) – Employment and immigration law

Singapore

Desmond Wee (Rajah & Tann) – Employment and immigration law

Slovakia

Marian Sulik (Wolf Theiss) – Employment and immigration law

Slovenia

Urška Gliha (Wolf Theiss) – Employment and immigration law

South Africa

Stuart Harrison (Edward Nathan Sonnenbergs) – Employment and immigration law

South Korea

Tom Pinansky (Barun Law) – Employment and immigration law

Spain

Iván Suárez (Bufete Suárez De Vivero) – Employment and immigration law

Sweden

Olle Lindén (VINGE) – Employment and immigration law

Switzerland

Ueli Sommer (Walder Wyss) – Employment and immigration law

Taiwan

Marcus Clinch (Eiger Law) – Employment and immigration law

Turkey

Maria Lianides Celebi (Bener Law) – Employment and immigration law

Ukraine

Oksana Voynarovska (Vasil Kisil & Partners) – Employment and immigration law

United Arab Emirates

Rebecca Ford (Clyde and Co Dubai) – Employment and immigration law

United States

Scott Wenner (Schnader Harrison) – Employment and immigration law

Venezuela

John Tucker (Hoet Pelaez Castillo & Duque) – Employment and immigration law

Schedule 2: Questionnaire

Fifth Annual Global Report questionnaire for country representatives and multinational members

Instructions: If you are a *country* representative, we ask that you answer all questions below. If you are a *multinational* representative, we ask that you answer the questions in Sections I and IV, but we leave it to your discretion to answer any other questions you consider appropriate.

I. Attracting talent

A. Responding to talent shortages

1. Is there a skills shortage in your country and what are its causes? How is your government responding? Is your country's immigration policy becoming more relaxed in response, more protectionist or not changing at all?
2. What changes have there been to the immigration laws of your country relating to the recruitment of foreign nationals of all skill levels?
3. What changes have there been concerning the right of foreign nationals employed in your country to obtain permanent residence?
4. Have there been any changes to the working rights and/or rights to benefits of the families of foreign nationals employed in your country?
5. Is your country a common destination for foreign populations seeking refugee status? If so, explain whether your country is encouraging the integration of refugees into society and the workplace.
6. Have there been changes to the laws of your country relating to the establishment of a branch or subsidiary of a foreign company? Please explain the relevance, if any, of permanent establishment for tax purposes.
7. Are companies in your country moving to other locations to gain access to new labour markets? If so, in which sectors of the economy is outsourcing most prevalent?
8. Have you experienced immigration practices in countries other than your own where your company conducts business?

B. Post-merger integration challenges

1. Have there been any significant developments or changes in human resources law and practice in your country relating to post-merger integration, including cross-border cultural changes? Are companies spending more money on job and cultural training programs for employees?

II. The work environment

A. Work-life balance

1. What changes have there been in your country's laws that are intended to have an impact on flexible working practices, including remote working? Are employers applying flexible working practices to a greater degree?
2. Have there been any changes or developments relating to atypical working practices, including the emergence of zero-hours contracts, the extension of agency working or the engagement of temporary workers? Please briefly explain any social, economic and workplace consequences.
3. Have there been any significant changes in the rules relating to maternity, paternity or dependents? Are employers receptive to paying enhanced benefits over and above their legal obligations?
4. Has there been an increase in employee absenteeism due to stress and other mental health problems? If so, how have your government and other employers responded to such challenges?

B. Collective bargaining

1. What changes have there been in relation to collective bargaining, freedom of association, strikes or other industrial action? To what extent has the erosion of union power encouraged the emergence of new forms of union activity, such as publicity campaigns against multinationals, the targeting of particular departments within organisations, liaising between unions nationally and internationally and with non-governmental organisations? Have there been any significant strikes in the public or private sectors?
2. What changes have there been in your country's laws that could materially affect the rights of employees:
 - (a) before, during or after a business reorganisation, merger or acquisition?
 - (b) to employee participation or involvement in works councils, collective agreements or other consultative bodies?

C. Remuneration

1. What changes have there been to the laws in your country that regulate executive remuneration, and are any new laws anticipated in relation to banking reform and executive accountability?

D. Corruption and whistleblowing

1. Have there been any changes in your country in the restrictions on corruption and bribery in the workplace, including the relevance and effectiveness of new whistleblowing procedures?

2. Have there been any significant developments or changes in human resources law and practice in your country relating to cross-border investigations, including confidentiality and legal privilege?

E. Privacy and human rights

1. What changes have there been in the laws or workplace practices relating to privacy, surveillance, data protection, social media and human rights, such as the protection of family and home life and freedom of expression? Have there been any significant cases involving these issues?
2. To what extent have international labour standards emerged as an issue, for example, campaigns by unions and non-government organisations requiring multinationals to adopt human rights and corporate governance standards, such as the UN Global Compact or within international framework agreements?

F. Discrimination

1. What changes have there been in your country's laws on discrimination in the workplace by reason of gender, sexual orientation, age, race, nationality, ethnic origin, ideology, religious belief or disability? Are there plans to extend rights to caste or victimisation or social inequality?
2. Do employers in your country provide training to their employees about workplace discrimination laws? Do employers generally comply with anti-discrimination laws?

G. Diversity

1. To what extent are employers embracing diversity and equality of opportunity in the workplace either voluntarily or in response to legal requirements?
2. Have there been any significant developments or changes in human resources law and practice in your country relating to the imposition of government quotas or targets for gender parity, including board membership?

III. Separation from service

A. Termination

1. What changes have there been that materially affect the ability of employers to dismiss employees, including redundancy practice? Do employers in your country generally observe procedures or are they being increasingly ignored?

2. Have there been any significant changes in relation to enforcement of restrictive covenants and obligations of confidentiality by employers?

B. Retirement

1. Have there been any changes to the law and practice of retirement, including the ability and practice of employers to impose early retirement? Has there been an increase in age discrimination claims arising out of early retirement, pay protection schemes or enhanced redundancy payments for older workers?
2. Have there been any significant changes in the way employment cases before the courts and tribunals are reported, including any new powers to restrict reporting at the request of the parties?
3. Are employment disputes resolved more often in court or via arbitration proceedings?

IV. Summing up current and future trends

1. What do you consider to be the top three challenges in the area of human resources law and practice in your country right now? Is your government considering or implementing any solutions?
2. Which human resources problem do you currently deal with most often in your job?
3. Which three human resources issues in your country generate the most litigation?
4. What challenges in the area of human resources law and practice do you expect to become more important over the next five to ten years?