



IBA Global Employment Institute

The Seventh IBA GEI Annual Global Report

National regulatory trends in Human Resources law

Prepared by the

International Bar Association
Global Employment Institute



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Note for the members of the advisory board: please send your comments and suggestions regarding this report to Todd Solomon (tsolomon@mwe.com).

1. Introduction

The Annual Global Report (AGR) is an annual report prepared by the IBA Global Employment Institute (GEI) highlighting certain general international trends in human resources law. This is the Seventh AGR and is based on responses from lawyers in 46 countries. The methodology used is described in Section 2 below. The Seventh AGR covers trends in human resources law during the calendar year 2017 and, in some cases, the beginning of 2018. Each AGR builds on the historical perspective of the previous editions. This may prompt changes to the topics covered in future editions of the AGR.

Please note that it is not the intention or purpose of the AGR to set out the law on any particular topic, but rather its aim is to highlight changes and trends. Any reference to a specific 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 seek appropriate legal advice.

2. Methodology

Lawyers from 46 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 relevant changes during 2017 (and the start of 2018) and to explain their significance very briefly. 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 GEI or the lawyers who participated in the survey.

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); Marco Mazzeschi (Mazzeschi, Italy); Filip Saelens (Loyens & Loeff, Belgium); Rebecca Ford (Clyde & Co, UAE); and Björn Otto (CMS Hasche Sigle, Germany).

This Working Group, with the coordination of Todd Solomon of McDermott Will & Emery, US, GEI Council Member, drafted the questionnaire and contacted lawyers from different countries (Schedule 1). Solomon and several of his McDermott Will & Emery colleagues compiled the questionnaires and draft summaries into the draft AGR. Filip Saelens and Björn Otto provided guidance on the development of the questionnaire and identification of attorney contacts, as well as valuable input on the draft AGR. The GEI Council wishes to convey its gratitude to all of them for their participation and interest in the development of the survey.

A first draft of the AGR was submitted to qualified senior HR managers and employment counsel in an open meeting on 5–6 July 2018 in Amsterdam at the offices of Rutgers & Posch.

3. Trends and Developments

3.1 Dismissal and retirement issues

Dismissals

The questionnaire responses this year explain that most employers are being increasingly careful about adhering to the dismissal procedures in their countries. This caution on behalf of employers is largely attributable to a desire to avoid the consequences of wrongful termination, which can be severe. It further illustrates that employees must be willing to challenge terminations when they feel procedures are not followed.

Although many countries reported no significant legal changes in this area, some countries did note new developments. For example:

- In Belgium, the federal government has implemented legislation that shortens notice periods during the first months of employment. This change came after the government previously eliminated the ability to use trial periods.
- The Bulgarian Labour Code has been amended to introduce two new grounds for termination related to the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act.
- Certain employers in Finland must now offer coaching or training to employees who are terminated after five years if the termination is for financial or production-related reasons.
- The Macron orders have changed the landscape of wrongful termination in France. These orders instituted a scale that determines the maximum amount of damages that is mandatory unless the employee can show that the dismissal resulted from a violation of a fundamental freedom. In exchange for this scale, which was not seen as employee-favourable, the Macron orders have reduced the period of service needed to qualify for the severance indemnity from one year to eight months. The Macron orders also require that, with respect to examining a company's redundancies, economic difficulties are now based on the company's activities in the French territories, instead of its worldwide operations.
- Lithuania has set forth specific reasons for which an employer can terminate employment without cause.
- Nigeria is moving away from giving employers the ability to terminate without providing a reason.

Most respondents reported that there have not been any changes in the way restrictive covenants are addressed in their countries. For those countries that did report changes, these largely involve confidentiality provisions. For example, multiple European nations noted the recent EU directive related to the protection of know-how and business information. This directive will be incorporated into legislation in these countries. Lithuania's new Labour Code also includes provisions allowing employers to incorporate confidentiality and non-disclosure provisions into their employment agreements. Similarly, the Labour Law of the United Arab Emirates (UAE) allows employers to implement reasonable non-competition provisions if the employee is aware of confidential information.

Although most employment-related cases are decided in court, there continues to be an increasing trend of arbitration in countries such as Australia and South Africa. Many countries are also requiring mediation either prior to or as part of the judicial process. Turkey, for example, requires employees to apply for mediation in certain instances before a lawsuit can be filed. Germany also provides for a mandatory mediation hearing in front of the presiding judge before an unfair dismissal claim can be decided by the court in a second hearing. Further, Ireland recently enacted legislation that requires litigants to confirm to the court that mediation was considered. This legislation applies to any employment-related claims, other than those before the Workplace Relations Commission, which already maintains a separate mediation programme. Irish courts are also seeking to expedite employment-related cases in other ways, such as through injunctions.

This trend is not universal, however. The Czech Republic and Hungary, among others, reported that arbitration is not used for employment-related disputes. Some countries, like Bulgaria and Chile, do not even allow these types of cases to be decided through arbitration. Other countries, such as Belgium and Canada, maintain that arbitration clauses and choice of law or forum clauses in employment agreements are in principle not enforceable. In Belgium, limited exceptions exist for senior-level employees.

The reporting of employment-related cases remains unchanged in many countries. However, countries like China, Italy and the UK are providing greater access to decisions by making them available online.

Retirement

Similar to the trend seen in previous years, many countries are expecting employees to remain in the workforce for longer. For example, Bulgaria is steadily increasing the retirement age and contributory services requirements over the next couple of decades. Many European countries, including Finland, Germany and Lithuania, are also increasing retirement ages. Ukraine is taking a different approach; instead of raising the retirement age, it has increased the required pensionable insurance record from 15 to 25 years. Israel also recently considered, but did not enact, a provision that would raise the retirement age for women.

These increases are not the case in every country, however. Poland has lowered its retirement age to 60 for women and 65 for men.

Countries continue to be sensitive to issues facing older workers. In Argentina, the government enacted a statutory amendment that postpones the mandatory retirement age and prevents employers from forcing employees to retire at age 65. A Canadian court also recently awarded CAD 25,000 in damages where an employee was denied the ability to participate in an early retirement programme because the manager thought the employee was nearing retirement in any event.

3.2 Corruption and whistleblowing

Many countries adopted new whistleblowing and anti-corruption legislation, or prior laws took effect, in 2017 and 2018. Much of this legislation was aimed at expanding and enhancing rules and systems that had been previously implemented.

Some countries, including Australia, Chile, Norway and Russia, have reported proposed laws or legislation that would expand whistleblowing and bribery protections and/or sanctions under existing law. For example, Norway reported a proposed legislation imposing an obligation for all entities that regularly employ five or more employees to establish whistleblowing policies. Finland reported a proposed law expanding cross-border investigations and international intelligence. The proposed law reported by Russia will offer protection of persons who report corruption.

Other countries, including Albania and Sweden, reported that prior laws affording whistleblower protections took effect and were implemented. Ireland, while reporting no new whistleblower laws, reported that previously enacted laws are beginning to have a substantive impact on the workplace. Similarly, Nigeria reported success around recovery of funds for whistleblowers.

A number of other countries, including Argentina, Bulgaria, Denmark, Italy, Kenya, South Korea and South Africa, adopted legislation or enacted new laws, or amendments thereto, focused on increasing protections for or governance of whistleblowers or to prevent bribery. For example, a new law in Denmark expanded types of companies that are required to have a whistleblower hotline to include saving banks, lawyers, accountants and gaming operators, along with the previously governed financial companies. Italy reported adoption of a comprehensive whistleblower law that, while it makes adoption of a compliance programme optional, offers certain protections to companies that do adopt a compliance programme. South Korea made changes to the value of gifts offered to public officials, and Taiwan strengthened whistleblowing protection for those involved in trade secret theft.

Finally, other countries – including Belgium, Canada, China, Colombia, Cyprus, Czech Republic, Estonia, France, Germany, Hungary, Israel, Japan, Latvia, Lithuania,

Malaysia, Mexico, the Netherlands, Peru, Poland, Portugal, Romania, Serbia, Switzerland, Turkey, the UAE, Ukraine and the United States – reported no relevant changes for the applicable period. Israel, while reporting that no practice of whistleblowing procedures exists, indicated that several major cases were brought to court against Israeli companies that bribe in other countries. The Netherlands reported that its Whistleblower Authority agency has been experiencing problems, including the resignation of its chairman. Romania indicated that multinational companies with offices in Romania have begun implementing their own internal whistleblowing systems in their Romanian offices and performing related investigations. Similarly, Venezuela reported that many multinational companies are incorporating global policies on cross-border investigations into their local policies.

3.3 Temporary and contract work arrangements

Many countries continue to see an increase in temporary or contract workers and protections for individuals working under such arrangements. For example, Australia, Belgium and Chile have reported proposed laws that would provide additional options and protections to workers. Belgium passed a law that addressed occasional teleworking and contract of employment for temporary work for an indefinite term.

Some countries, including the Czech Republic, Finland, Germany, Ireland, Israel, Italy, Poland and the UAE have adopted recent legislation or enacted new laws providing additional options and protections to workers. For example, Finland placed additional restrictions, effective in 2018, on zero-hour contracts and varying work hours, and Germany enacted laws restricting engagement of temporary workers. Ireland adopted legislation aimed at protecting workers in zero-hour contracts and Norway reported recent case law that further defines and may limit the use of zero-hour contracts. Poland reported that rules became effective expanding the rights of temporary workers and requiring employment agencies to have an office in which they provide their services.

Japan previously adopted laws, in 2013 and 2015, taking effect in 2018, aimed at providing protections to workers who have an indefinite term of employment. Turkey reported that a 2016 law regarding secondment is expected to increase temporary employment and secondment relationships. The UK and US have seen increasing work arrangements in the 'gig economy' and related litigation. Ukraine has seen a growth in outstaffing, outsourcing and staff leasing practices, along with involvement of independent contractors instead of employees, particularly in the IT sector. Venezuela has reported that companies leaving the country (and no longer maintain an office there) have increased hiring through third-party agencies and independent contractors.

Finally, some countries, including Albania, Argentina, Bulgaria, Canada, China, Colombia, Cyprus, Denmark, Estonia, France, Hungary, Kenya, South Korea, Latvia, Lithuania, Malaysia, Mexico, the Netherlands, Nigeria, Peru, Portugal, Romania,

Russia, Serbia, South Africa, Sweden and Switzerland, reported no relevant changes. However, Mexico reported that the hiring of temporary workers and the use of agencies continues to increase due to the high costs of hiring permanent employees, and Sweden reported clear decisions that relationships like that used by Uber are clearly employment relationships. Taiwan reported cases wherein courts determined that temporary and agency employees were indeed regular employees.

3.4 Flexible working

The country reports show a continuing trend of acceptance and adoption of flexible working arrangements. While this trend is largely driven by employee demand and improved technology, Belgium, France, Canada, Turkey and Italy have recently adopted legislation to promote and regulate these arrangements, and similar laws are under consideration in Chile and Romania.

The fastest-growing flexible working arrangements include remote working (or telecommuting) and 'flexitime' (flexibility in when hours are worked), both of which are being offered to fairly broad employee populations regardless of family commitments. In contrast, part-time work arrangements seem to have remained relatively stable and are typically seen as most acceptable for purposes of balancing family obligations.

Remote working is widely accepted across the countries surveyed and is generally seen as a way for employees to balance their personal and professional lives. In addition, Ireland and Italy noted that remote working is offered to retain talented employees, and Venezuela, Mexico and South Africa reported that remote working was viewed as a solution to increased traffic congestion, insufficient parking and inefficient transportation options.

Many countries noted increasing trends in flexitime, which doesn't generally provide for reduced hours below full-time, but which provides employees with some discretion as to when hours are worked. Ireland, Poland, Italy and Sweden described arrangements where employees are either given discretion to schedule a certain number of working hours each day or are expected to work during certain core hours with flexibility to schedule hours outside of that set time as desired by the employee. Kenya, Latvia, Lithuania, Malaysia, Taiwan, the UK, the US and South Africa generally mentioned flexible hours as being relatively common working arrangements. A few countries, including Finland, Sweden and Germany, reported arrangements whereby employees accumulate excess hours worked to provide time off at a later date.

Part-time working was also mentioned as a flexible working arrangement available in many countries, including Japan, Finland, Israel, Portugal, Turkey and Hungary, though these arrangements are most commonly associated with employees caring for young children.

Despite the general trend towards increased flexible working arrangements, a few countries, including Albania, Czech Republic and Russia, noted that these arrangements remain relatively uncommon.

3.5 Family-friendly policies

Policies aimed at improving benefits and protections for working parents have continued to receive attention and support across many countries, and some countries have adopted legislation regarding parental leave. These laws typically require employers to provide longer leave, increased remuneration paid during leave, or more flexibility in when leave is used and by whom.

Belgium witnessed the greatest increase in the length of leave, with a new law extending by an additional 15 months the leave available to employees with at least two years of service with an employer to care for children or other dependents (and requiring the payment of unemployment benefits during leave). Israel expanded maternity leave by an additional two weeks, and now permits fathers to share this leave. Italy has gradually been expanding paternity leave over the past few years, doubling the compulsory number of paternity leave days from two to four between 2017 and 2018. In addition, Malaysia is considering increasing maternity leave from 60 to 90 days, and Norway is considering increasing both maternity and paternity leave by several weeks. A few countries expanded the leave that employers must provide in certain limited circumstances, such as Germany, which now permits longer leave in the event that an employee has a miscarriage or disabled newborn, and South Korea, which now requires several days of leave for employees undergoing infertility treatment.

With respect to the amount of remuneration (or 'allowance') that must be paid to employees on leave, a recent law in Estonia more than tripled the amount that an employee can receive from an employer during leave without jeopardising federal leave benefits, and South Korea increased the percentage of wages used in calculating allowances paid during parental leave. Serbia also recently amended how leave allowances are calculated.

Some countries have sought to make leave more flexible by giving employees discretion on when and how much leave is taken, while others have expanded the types of parents who are eligible to take leave. Canada recently updated its leave policy to give employees the choice between taking a longer leave at a lower rate of pay and taking a shorter leave at a higher rate of pay. Ireland, Portugal, Sweden, South Africa and Australia have all expanded the types of parents eligible for leave and sought to make leave more gender-neutral, by extending parental leave to fathers, civil partners, cohabitants, couples using surrogate mothers, same-sex couples or adoptive parents.

As has been the case in prior years, the vast majority of countries reported that it is fairly rare for employers to provide benefits beyond those required by law, except

in the case of some large multinational corporations. However, Argentina, Canada and the US all reported that certain local governments are requiring increased leave or allowances beyond those required at the federal level.

3.6 Absenteeism due to stress and mental health issues

Many countries have noted that absenteeism due to stress and mental health problems continues to be an issue. However, as reported in past years, a lack of formal studies has hindered identifying specific trends in this area.

To address these challenges, several countries have proposed new legislation or other initiatives. In Canada, some mental health programmes exist at the provincial and federal level, but there has been a call for more action to manage untreated mental health problems. Colombia has seen absenteeism continue to grow; however, Colombian law provides special protection to employees that suffer a limitation in their labour capacity and the Colombian Constitutional Court has ordered the reinstatement of employees who were terminated without authorisation from the Ministry of Labour. In Denmark, a new bill was recently proposed to make it easier for the Working Environment Authorities to access information on psychological issues in the workplace. Finland recently instituted new changes and has seen the amount of absenteeism due to mental health issues drop since last year. In Portugal, calls have been made for the national government to adopt legislation to give employees suffering burnout syndrome the same protection provided by laws that compensate workers for occupational accidents. Taiwan has encountered issues related to overwork, and while the government has amended labour laws to better protect employees, some believe these changes are largely cosmetic and do not fix the underlying issues that allow a culture of overwork to occur. In the UK, the government-backed Acas has recently published guidance to assist employers in promoting positive health in the workplace.

On the other hand, some countries have not yet enacted legal measures, instead choosing to let employers handle issues related to employee stress and absenteeism. Argentina has seen a marked increase in employee absenteeism due to labour-related stress, but the government has allowed private companies to evaluate the issue and to decide how to best address it. France has also seen an increase and, while no specific governmental action has been taken, companies are expected to be responsive to these issues. Italy has seen an increase in sick leave abuse, especially among civil servants; as a result, the government has implemented stricter rules in order to verify the sickness of public servants. Kenya has noticed an increase in mental health-related problems in the workplace but notes that it is difficult to determine whether they are solely attributable to work.

3.7 Data protection, privacy and human rights

Data privacy continues to be a focal point for most countries. The country reports indicate that most European countries have been hard at work implementing the EU General Data Protection Regulations (GDPR), which became effective as of 25 May 2018. As permitted by the GDPR, several countries have also adopted country-specific provisions in certain areas (eg, data processed in the context of employment, trade secrets, etc). Several non-EU members have implemented the GDPR (or similar laws) through a national legislation process.

Several countries strengthened existing privacy laws by adding more substantial rules regarding privacy breaches. In Australia, the existing privacy act was expanded in 2018 by adding an obligation to notify individuals whose personal information is involved in a data breach that is likely to result in serious harm. In Canada, the Digital Privacy Act amends Canada's federal privacy law to implement new breach notification rules for cybersecurity breaches (the amendments were scheduled to take effect at the end of 2017 but the effective date has been delayed). In Russia, there were some significant court cases regarding data protection, and non-binding guidance was issued on the content and structure of data processing policies with increasing fines for violation of personal data laws.

Only a few countries commented on changes in workplace practices relating to human rights and the protection of family and home life. Australia was one of the only countries to report developing legislation in these areas, noting legislation addressing the protection of 'vulnerable workers', potential legislation to establish a 'Modern Slavery Act', and work leave for victims of domestic and family violence. Colombia also implemented a law to include one working day 'per semester' for employees to spend time with family. Finally, in Chile, some new legislation is currently under discussion, including a bill to prevent employers from requesting genetic exams or certificates and a bill to protect job applicants who are discriminated against or mistreated (from a 'privacy/intimacy' standpoint) during the hiring process.

Ireland, Italy, Romania and South Africa reported an increase in the implementation of social media policies by employers to minimise the risk to an employer's business through employees' use or abuse of social media. These policies set boundaries on what constitutes acceptable use of social media in the workplace or otherwise and often include disciplinary action against an employee who violates such policies.

3.8 Discrimination in the workplace

Many countries reported that the #MeToo movement has resulted in a growing social and legal awareness regarding workplace harassment and discrimination; these issues occupied a lot of space in the news and on social media in Canada, Denmark, Norway, Sweden and the US. A few countries advanced efforts to focus on gender discrimination issues. In Bulgaria, a Gender Mainstreaming

Action Plan for 2018 has been published; this aims to establish a unified policy for equality between women and men, raising awareness of the importance of gender equality. The Canadian government recently proposed to provide an additional CAD 86m to extend over the next five years (and CAD 20m for each year thereafter) to expand Canada's Strategy to Address Gender-Based Violence. Peru adopted a law that requires employers to provide a working environment based on respect and non-discrimination, as well as compatibility of work with the employees' personal and family life. Additionally, employers must guarantee the prevention and sanctioning of sexual harassment. Finally, a new law in Belgium allows a whistleblower technique known as 'mystery shopping/calling' as a means to reveal discriminatory practices (applicable to all prohibited discrimination).

Several countries also reported an expansion of existing discrimination laws to either add new categories of prohibited discrimination or further clarify existing laws. Chile amended its Labour Code to specifically enumerate discriminatory acts that are forbidden; discrimination based on sexual orientation, gender identity and physical appearance all appeared on this list. In Ireland, two pieces of legislation were introduced that would include 'disadvantaged socio-economic status' and 'mental health status' as two new grounds of discrimination. The Czech Republic introduced legislation to specifically list the most common forms of discrimination (previously only a general prohibition existed) and the Equality and Discrimination Act in Norway (effective 1 January 2018) consolidates all existing legislation related to equality and discrimination. Finally, the Netherlands introduced a bill to clarify that discrimination on the basis of 'sex' includes 'sex characteristics, gender identity and gender expression'. The US also noted that several courts have found sexual orientation and/or identity to be protected under federal law, and a Labour Court of Appeal in Belgium upheld a decision that obesity constitutes a disability protected against discrimination.

While several countries did report that employer sponsored discrimination training is mandatory or conventional, the majority stated that there is no way to access employer training data or that formal workforce training is not commonplace.

3.9 Diversity

Most country reports indicate that diversity laws (particularly with respect to gender) are on the books. The extent to which companies comply with them varies greatly. Compliance tended to be greater among Northern European countries than elsewhere. A number of reports indicated that multinational companies, which may already be subject to strict diversity and discrimination laws in their countries of origin, comply with (and often go beyond) the diversity and discrimination laws of the countries in which they operate. Several reports indicated that recent policy initiatives to improve diversity have had less impact than expected.

More than half of the countries surveyed reported little or no workplace accommodations for religious practices or beliefs beyond public holidays for the predominant religion in the country. Many such countries cited either relatively homogenous workforces or a social norm of not discussing religion in the workplace to explain the lack of accommodations. Religious accommodations, either as a legal requirement or a business norm, appeared to be most common in Western Europe.

Women remain significantly underrepresented on corporate boards. Italy, Germany, the Netherlands and Portugal have enacted laws establishing a minimum quota for representation of women on the boards of public companies, although most countries reported that this has had a limited impact on the gender ratio of corporate boards. Similar legislation is being considered in Finland and Switzerland and was considered but withdrawn in South Africa.

Of note, a growing number of countries have imposed quotas on the hiring of individuals with disabilities. In Brazil, Peru, and Venezuela, five per cent of the workforce must have a disability. Argentina has implemented a similar four per cent quota for public employees. Ukraine imposes significant fines on employers if the four per cent quota for hiring individuals with disabilities is not met, resulting in most employers satisfying the quota rather than paying the fine.

3.10 Code of conduct/behaviour in the workplace

Most surveyed countries report that there have not been any changes to the law following the #MeToo movement. However, many country reports noted that there were already anti-harassment laws in place, and recent events have resulted in more public discussion of sexual harassment issues. In Canada, Denmark and Finland, there is proposed legislation regarding sexual harassment. South Korea has amended its employment law to require employers to investigate claims of sexual harassment and protect victims and witnesses against reprisals. In the US, a new law prohibits confidentiality provisions in harassment settlement agreements.

Similarly, most countries report that there has been little change in workplace codes of conduct regarding romantic relationships between employees. Australia, Canada, Israel and Mexico have reported that recent events have drawn more attention to these policies. Notably, South Africa reported that a complete ban on romantic relationships between employees may violate its Constitution.

3.11 Technology and artificial intelligence

Strikingly, the report of only one country (South Korea) indicated that actual legislation or regulation addressing artificial intelligence had been put in place recently. The Intelligent Robots Development and Distribution Promotion Act was passed to establish the foundation for, and promote the sustainable development of, intelligent robots, and regulates intelligent robot ethics. Other countries, such as China and France, as

well as EU institutions such as the European Commission, have adopted frameworks or resolutions governing the development of artificial intelligence.

The reports generally indicated that jobs requiring less education, especially in the mining, agriculture and automotive industries, had been most imperiled by the rising use of artificial intelligence. The report for Bulgaria, for example, cited a study estimating that up to 70 per cent of the jobs in the mining and metallurgy industries could be automated by 2025. Reports for certain other countries, such as France, indicated that high-education industries, such as biometry and digital security, have expanded as a result of increased use of artificial intelligence. A number of reports also indicated that there was concern about job loss due to artificial intelligence in many countries.

3.12 Unions, collective bargaining and industrial action

There has been a fair deal of activity in collective bargaining in the last year, both in terms of legislative reforms and employee strikes. Countries reporting some developments in the laws and regulations surrounding collective bargaining include France, Canada, Australia, Venezuela, Latvia and the UK.

In France, the executive orders signed by President Emmanuel Macron on 22 September 2017 have drastically changed the organisation of the employees' representative bodies by, among other items, creating the Conseil économique, social et environnemental (social, economic and environmental council), which, in companies with more than 50 employees, gathers members and delegates of different councils in one single institution. The Canadian provincial government in Alberta recently passed comprehensive amendments to its labour and employment law, notably modifying Alberta's Labour Relations Code to add 'card-based' union certification and to provide that arbitration will now be conducted to end difficult negotiations between employers and unions. In Australia, the government amended the Fair Work Act 2009 (Cth) in an attempt to address certain types of corruption by prohibiting giving and receiving certain benefits intended to influence officers or employees of registered organisations. On 6 February 2018, the Venezuelan government enacted a decree for Workers' Productive Councils, under which workers have the opportunity to organise productive councils to promote, evaluate and control the production, storage, sale and distribution process of goods and services to satisfy the needs of the country. Minor changes to labour law were also introduced in Latvia, including those addressing the conclusion of collective agreements and allowing employers to join an already concluded general collective agreement in their respective industry. On 1 March 2017, tougher balloting measures came into effect in the UK that aim to ensure that, if strikes go ahead, it will be as a result of a clear democratic decision from union members. Draft laws have also been proposed in Mexico and Russia that would affect collective bargaining and unions if finalised.

Measures supporting trade unions and collective bargaining

In addition to the reforms noted above, there was a fair amount of pro-union and pro-collective bargaining legislation reform in the past year. In Ireland, the Competition (Amendment) Act 2017 was enacted, which act permits certain groups of self-employed individuals to lawfully engage in collective bargaining. Lithuania adopted a new Lithuanian Labour Code that came into effect on 1 July 2017, which continues to emphasise the importance of trade unions and, among other changes, establishes a new consultation process in case a group of employees are to be dismissed. On 1 July 2017, new legislation also came into effect in Sweden addressing the protection of posted workers (ie, employees who work in another country, but are sent to Sweden for a limited period of time) with the aim to strengthen the Swedish labour market model and the importance of collective bargaining agreements. Australia reports that there has been a notable rise in union mergers in an effort to share resources, offering membership benefits such as discounts for goods and services and incentives for new members. On 24 November 2017, the South African Parliament also proposed various amendments to the country's labour relations act that are aimed at strengthening collective bargaining and introducing an advisory arbitration measure to resolve strikes that are intractable, violent or may cause a local or national crisis.

Strike action

A number of countries reported strike action by unions, including public sector unions. In particular, strikes were reported in the medical and education fields, among others.

Kenya reported major strikes generally and noted that those included a doctors' strike that lasted 100 days and a nurses' strike that went on for five months. In Latvia there was a family doctors' strike that lasted four months and in the Czech Republic there was a strike of doctors protesting the distribution of money in healthcare. Lithuania also reported strikes by medics and doctors. In late 2017, more than 12,000 public college employees from Ontario went on strike, which was ended when the Ontario government passed a bill forcing the workers back to work and for all outstanding issues to be sent to binding mediation-arbitration. Kenya, Nigeria and Colombia all also reported strikes in the education field.

Strikes in other fields included both public and private sectors. Bulgaria reports that there were several significant strikes in the public sector in 2017 and early 2018. In Israel, the major strikes were in the public sector as well. The mining industries in Chile and Peru also had major strikes. Taiwan, Nigeria and Colombia reported strikes in the aviation industry. Sweden reported two significant strikes: the 'garbage strike' in Stockholm and a dock workers' conflict in Gothenburg. In the transportation industry, strikes were reported in Ireland, the UK and among tanker drivers in Nigeria. Belgium specifically addressed the possibility of strikes in transportation in an act, adopted on 29 November 2017, which introduced continuity of services in the railway industry in the event of a strike, allowing railway companies to communicate to the public in advance of a strike.

3.13 Executive remuneration and banking reform

Very few country reports indicated extensive legal changes in the areas of executive remuneration, banking reform or executive accountability.

The report for Australia indicated that the Australian government has established a commission with the power to report misconduct in the banking, pensions and financial services sectors to the relevant regulatory body, and indicated that executive compensation will likely be a significant focus. In its 2017 annual budget, the government proposed that up to 60 per cent of executives' remuneration and incentive packages would be required to be deferred for at least four years.

The Chilean report indicated that the Chilean congress has proposed legislation requiring employers to disclose financial information to employees who receive variable pay based on company performance.

In Kenya, firms listed on the Nairobi Securities Exchange must now disclose executive and director pay and the form of compensation in annual financial reports, pursuant to the new corporate governance regulations by the Capital Markets Authority of Kenya.

Poland recently adopted legislation abolishing the upper compensation limit for which contributions to its pension and disability funds are required, which the Polish report notes will materially affect executive compensation. The law is not yet in force, as the amendment is currently under review by the Polish Constitutional Tribunal.

Finally, the UK has approved legislation requiring UK-listed companies with more than 250 employees in the UK to report annually on the difference in pay between their chief executive officer and their average UK worker. The regulations came into effect on 1 January 2019, with the first pay ratio reports due to appear in 2020.

3.14 Gender pay gap/equal pay for equal work

Concerns regarding the continuing gender pay gap – and calls for equal pay for equal work – were seen across many countries, with several adopting or proposing laws aimed at equalising pay between men and women.

Peru adopted a law designed to ensure men and women receive equal pay for equal work. The law requires companies to create a list of job categories and compensation for each category and inform employees about the compensation relevant to their job category. In Portugal, a sweeping law was proposed under which employers will be notified if gender-based wage inequalities occur and will be obligated to follow a plan for two years to correct these inequalities. Significantly, gender-based wage discrimination may also result in a company not being eligible to enter into public sector contracts. In Sweden, amendments to the Swedish Discrimination Act became effective in 2017. The amendments require

that employers carry out an annual compensation survey to discover, rectify and prevent differences in male and female compensation. In the UK, employers with more than 250 employees must investigate and report information on their gender pay gap. Germany introduced pay transparency legislation that, inter alia, requires employers in establishments with more than 200 employees to provide employees with information on the criteria and mechanisms used to determine remuneration. Legislation regarding gender pay gap reporting is being considered in Canada and Ireland.

3.15 Immigration and talent issues

Shortage of skilled labour

The vast majority of the countries surveyed (excluding Chile, Cyprus, Japan and Venezuela) are experiencing a shortage of highly skilled workers. This labour shortage is the result of a number of factors, including the impact of talent migration and emigration, the availability of educational programmes and training, and the existence of sufficient economic incentives and initiatives. A number of countries surveyed (including, for example, Albania, Bulgaria, Hungary, Italy, Latvia, Lithuania, Malaysia, Poland, Portugal, South Africa, Taiwan and Ukraine) emphasised that the labour shortages in their countries were due in part to the migration of highly skilled workers to other countries. Several surveyed countries noted that the so-called 'brain drain' in their countries has been, at least in part, an economic migration caused by high unemployment rates (Albania, Italy, Mexico, Poland), comparatively low(er) or stagnant wages (Bulgaria, Latvia, Lithuania, Mexico, Taiwan), and/or rising cost of living (Taiwan). Several other countries emphasised the lack of sufficient educational and training programmes as a cause of the skilled labour shortage. For example, a handful of countries – including Kenya, Nigeria, Poland and Russia – noted the need for changes to their educational systems to incorporate market-relevant courses, increased training and mentorship programmes to ensure that individuals have the skills needed to succeed in certain occupations. Other countries, such as Estonia and Sweden, also noted that the low status (or view) of certain professional occupations in their countries often makes it difficult to encourage young people to specialise in those areas.

Response to skilled labour shortage

Nearly all the countries surveyed are taking some action to attract skilled workers. Those actions vary by country, but many of the countries surveyed are focusing their efforts on remigration plans, reducing talent migration and/or facilitating the issuance of work visas and permits for skilled workers. In countries such as Albania, Hungary, Italy, Latvia, Lithuania and Taiwan, plans to encourage the remigration and repatriation of employees include various employment and economic

incentives. Many plans offer extra financial support, housing assistance, mobility grants and other tax benefits for highly qualified workers who return to work in their home country.

A number of countries surveyed, including Hungary, Israel, Latvia, Lithuania and Taiwan, are also focusing on reducing talent outflow and migration. To do so, many of these countries are offering scholarships and new programmes of study at public universities, working to improve business conditions and economic incentives, and providing new training and employment programmes. For example, China has adopted a plan for cultivating its national skilled workforce by developing national skilful talents' training bases, creating national technical masters' studios and training technicians. Malaysia and Mexico have also adopted programmes to support career opportunities for young adults, created training programmes to improve employment skills and implemented strategies for addressing critical skills gaps and engaging top talent. Moreover, Nigeria is seeing continued growth in apprenticeship training programmes aimed at reducing the gap in professional vocational skills, and both Ireland and South Africa are also continuing work in the implementation of their respective national skills development strategies.

Many countries, including Albania, Australia, Bulgaria, Estonia, Ireland, Israel, Poland and Sweden, are also taking various steps to facilitate the issuance of work visas and permits for skilled workers. In Albania and Israel, for example, recent legal changes are expediting the process through which highly skilled foreign workers obtain permits to work and reside in the country. Bulgaria has enhanced its labour migration rules to facilitate access of both EU and non-EU nationals to the Bulgarian labour market. Estonia has also started adjusting its immigration laws and policies to meet the needs of employers by allowing larger numbers of temporary employees into the country for limited periods. Other countries, like Ireland, have altered the criteria taken into account when issuing employment permits, in an effort to balance the needs of employers with the stability of the labour market. In addition, Russia has simplified its rules for hiring highly qualified foreign workers to allow employers to attract skilled labour.

In contrast, some countries surveyed, including the Czech Republic, Denmark, Kenya, Peru, Romania and Switzerland, noted that no significant changes had been made in response to the skilled labour shortages in their countries.

Protectionist policies

Although some countries continue to relax rules to encourage the migration of skilled labour into their countries, a number of the countries surveyed (including Cyprus, Hungary, Italy, Russia, Serbia, the UK, Ukraine, and the US) noted an increase in more protectionist immigration rules and policies.

Recruitment, residence and workers' rights

Many of the countries surveyed reported changes to their immigration laws related to the recruitment of foreign nationals. Some countries also reported changes concerning the right of foreign nationals employed in their countries to obtain permanent residence. In addition, some countries reported changes to the working rights and/or rights to benefits of families of foreign nationals.

Countries such as Bulgaria, China, Colombia, Germany, Ireland, Israel, Japan, Mexico, Peru, Poland, Serbia and Ukraine, for example, reported changes to their work permit and/or visa programmes to assist in the recruitment of talent. In addition, several countries, including Finland, Poland and Romania, have introduced, implemented or modified EU transfer directives (eg, Directive 2014/66/EU) regarding the conditions of entry, residence and employment. Other countries, such as Australia and Canada, have adopted changes to their skilled migration programmes. In addition, recent changes to immigration laws in countries like Taiwan have relaxed rules for obtaining dual citizenship, benefiting both skilled and unskilled workers.

Recent changes to rules regarding residency and benefits for foreign nationals have been less common in most countries. However, several countries, including Colombia, Cyprus, Poland and Turkey, have introduced (or are introducing) changes relaxing certain residency permit rules. In some cases, these changes are designed to relax the requirements for obtaining residency permits for employees with professional qualifications desirable for a country's economy. In addition, the ability of foreign nationals to obtain residency permits has also been extended in some countries (such as Sweden) that have implemented Directive 2014/66/EU. Other countries, for example, Taiwan, have also adopted laws making it easier for foreign nationals to not only gain permanent residence, but to keep it indefinitely. In addition, several countries have amended their family reunification laws and extended their laws governing the ability of family members of foreign workers to move and reside within the country. For example, Peru, South Africa and Sweden now grant certain types of family member visas. Taiwan also now extends benefits to spouses and children of foreign nationals, including the right to work in the country and to use the country's national health service.

In contrast, some countries (including, for example, Argentina, Cyprus, Denmark and the US) reported changes that have imposed stricter requirements on, or made it more difficult to obtain, permanent resident status and/or work visas. Denmark also reported a tightening of its requirements for obtaining permanent residency. In addition, in Nigeria, there is an increased emphasis on enforcement of the government's policy seeking to ensure expatriate quotas are only given to expatriates after they have satisfied certain stringent conditions. Employment priority in certain sectors is also required to be given to local talent (rather than expatriates). Moreover, changes to South Africa's immigration rules have made recruitment and retention of foreign nationals more onerous for employers.

Refugees

Fewer than half of the countries surveyed are common destinations for foreign populations seeking refugee status. Of the countries that are considered common destinations for refugees, only some are actively encouraging the integration of refugees into society and/or the country's workforce. This is being done through educational and economic assistance programmes, training initiatives and other integration plans. For example, the Canadian government recently introduced a pre-apprenticeship programme to encourage underrepresented groups, including newcomers to the country, to explore careers in skilled trades. In addition, to help reduce barriers to employment faced by newcomers, the government is investing CAD 31.8m to launch a three-year pilot programme to support programming for newcomer women who are also members of visible minorities.

Finland is also encouraging the integration of refugees in several ways. Municipalities, employment and economic development offices and other authorities provide immigrants with guidance and advice concerning measures and services promoting integration and working life. Integration plans are also drawn up to help immigrants develop sufficient command of Finnish or Swedish and other skills and knowledge required in society and working life. Integration plans may include studies familiarising the immigrant with society, the teaching of reading and writing skills, studies complementing basic education, integration training and other personalised measures facilitating integration. The Mexican government provides assistance for individuals looking for refugee status by attending to temporary necessities of food, medical attention, clothes, residence, etc from the beginning of the procedure until the recognition of the refugee status. The Norwegian government has also established various programmes for integrating foreign populations into Norwegian society, including various skill-level and social study courses, which are mandatory for refugees.

In contrast, despite the influx of individuals seeking refugee status, some countries, such as Italy and Malaysia, do not have a national legal or institutional framework for encouraging the integration of refugees into society or the workforce. In addition, other destination countries have indicated a desire to curb the migration of refugees to their countries. For example, although the Kenyan government has historically encouraged the integration of refugees into the workforce, more recently there have been attempts to shut down the refugee camps and repatriate refugees back to their home country amid security concerns. Similarly, in the US, the current administration has supported efforts aimed at limiting the number of refugees (and other foreign nationals) entering the country.

Establishment of foreign branches and subsidiaries

More than two-thirds of the countries surveyed have not experienced any changes in the laws relating to the establishment of a branch or subsidiary of foreign

company in their countries. When a foreign company permanently establishes a branch or subsidiary in another country, the company is typically subject to income taxes in such country. According to a number of the countries surveyed, taxes may be determined under the country's general tax laws, a double taxation agreement with the company's home country or a treaty.

Mobility and outsourcing

Nearly half of the countries surveyed are seeing companies move to other locations to gain access to new labour markets. Outsourcing is also common in many countries. Several countries noted the prevalence of outsourcing in human resources, administration and payroll (Canada, Chile, Germany, Norway and the UK), technology and IT (Canada, China, Denmark, Germany and Israel) and manufacturing and industrial facilities (Japan, Sweden, the UK and the US). Artificial intelligence also drives companies to rethink their operating model, creating support structures of independent crowd workers or online or digital platforms ('platform economy') next to the core activities performed by their own employees.

Post-merger integration challenges

None of the countries surveyed reported any significant developments or changes in human resources law and practice in their countries relating to post-merger integration, including cross-border cultural changes. However, a handful of countries (including China, Israel, Mexico, Portugal, Romania, Russia, Sweden, and Taiwan) noted that some companies are continuing to spend money on job and cultural training programmes for employees. In some countries, companies are spending more money on such programmes, while in others, the funding for this type of training remains the same (with no significant change or increase).

3.16 Impact of recent political and world events

With respect to recent political and world events, including Donald Trump's presidency and Brexit, most countries acknowledged that they expect some inevitable changes, but the extent of those changes remains to be seen.

In terms of President Trump, most countries see potential issues related to his administration's restrictive immigration policies and high US tariffs on steel and other products. Should Trump decide to restrict access to the US labour market for European workers, EU Member States may take countervailing measures regarding US workers. It also remains to be seen whether Trump will deliver on US commitments to the recent EU–US privacy shield. With respect to North America, a renegotiation of NAFTA could affect the movement of workers between the US, Canada and Mexico. In Asia, the recent trade war between China and the US could impact relations between both countries and affect the global mobility of talent.

In terms of Brexit, the main concern of most countries – especially those with deals currently in place with the EU – involve operational issues for businesses due to changes in immigration and worker laws, which could impact the mobility of employees and migrant workers. A crucial issue involves the ability of the UK and the EU to negotiate new rules granting employees the right to live and work across the EU (and the UK) without restrictions. Conversely, some EU Member States see a unique opportunity to convince companies currently located in the UK to move their operations, so these companies can maintain the benefits associated with doing business in an EU country after Brexit. Similarly, some UK citizens may be interested in acquiring or reacquiring citizenship from another EU country. Brexit might also trigger a new wave of EU social legislation as it is commonly admitted that the UK was one of the main opponents to the further expansion of such legislation. Another question involves which parts of EU law will continue to apply in the UK. However, because EU directives only become fully applicable when transposed into national law, many parts of the UK social law will remain unaffected unless national legislation is repealed, which seems unlikely. Brexit will also impact the UK with respect to the GDPR and how the UK will be classified in terms of data protection regulations.

3.17 Global leadership issues

Many countries reported that the most likely human resources issue to generate litigation has remained unfair dismissals and issues surrounding termination of employment. The interpretation of collective bargaining agreements and non-compete enforcement were also commonly cited litigation items, as was occupational safety and accidents in the workplace. Finally, anti-discrimination lawsuits and equal treatment based on gender, race and religion were also areas where litigation has frequently occurred in the past year.

Current human resources challenges varied by country, however, a number of common themes were reported as challenges facing human resource professionals across several countries. Many countries reported a heightened focus on adequate and effective equal opportunity laws and the treatment of women in the labour market, including addressing the gender pay gap. Countries also reported seeing a new challenge in addressing the #MeToo movement, the continued focus on allegations of harassment and how an employer should properly handle those allegations. The unique characteristics of millennials were also pointed to as a particular challenge, with millennials often looking for flexible work arrangements, a collaborative work environment, non-traditional employment forms and an appropriate work–life balance. Certain countries also reported expecting a large number of retirees in the near future and, accordingly, having to handle issues surrounding pension policy and regulation of pension schemes. Finally, many countries noted talent shortages and the need for education reform to develop a workforce that has the skills needed, as job requirements change due to technological advances and automation.

Dealing with technological advancements remains a focal point and has led to challenges associated with working remotely, data privacy protection and cybersecurity. These are challenges that many countries reported existing today and that they expect to last over the next five to ten years. Looking forward, countries reported that artificial intelligence and robotics were expected to be an upcoming challenge, particularly how their workforce may have to adapt to available jobs. In addition, the 'uberisation' of the labour market, with technology leading to a challenge of the classic divide between employees and self-employed contractors, and atypical employment relationships, were items that both present a challenge today and are expected to be a continuing challenge in the next several years.

4. Conclusions

Technology and data privacy

The increasing role of technology is seen by many countries as a driver of certain shifts in the labour market, including shortages in skilled workers and increases in remote working and alternative employee/employer working relationships. However, many countries are grappling with how to manage the use of technology, and data privacy and security are a focal point for the majority of countries surveyed. European countries have recently been focused on implementing the EU General Data Protection Regulation (GDPR), which became effective 25 May 2018. Many EU members have adopted country-specific provisions in certain areas, such as employment data and trade secrets, and a number of non-EU countries have also implemented GDPR (or similar laws) through national legislation. Several countries have also adopted laws regarding notification of privacy breaches.

While many countries reported concerns about the impact of artificial intelligence on certain sectors of the labour market, few countries have seriously considered or adopted legal rules governing the use of artificial intelligence in the workplace.

Labour market mobility

Fewer than half of the countries surveyed are common destinations for foreign populations seeking refugee status. Many of these countries are also witnessing skilled labour shortages, driven primarily by high unemployment and stagnant wages, which the influx of refugees could exacerbate. Of those countries that are destinations for refugees, some are actively encouraging the integration of refugees into society and the country's workforce through education, apprenticeships, and other training initiatives.

In contrast, some countries that may have previously been seen as desirable destinations for refugees have become less attractive due to those countries' increasing protectionist policies, which make it harder for refugees to enter these countries. Many countries expressed concern about the impact of increasing protectionism on labour mobility, particularly on the part of the US. Brexit is also expected to impact the mobility of workers within Europe, with some countries expressing concerns about operational issues expected to arise due to changes in immigration and worker laws, and other countries seeing an opportunity to attract companies currently located in the UK to the EU to maintain the benefits associated with doing business in an EU country after Brexit.

Gender and diversity issues

Concerns regarding the continuing gender pay gap, and calls for equal pay for equal work, were seen across many countries, with a few countries adopting or proposing laws aimed at equalising pay between men and women. Several of these laws focused on the identification of gender pay gaps by requiring compensation to be reviewed and reported by gender. Professionals in many countries expect to see equal opportunity and pay to be one of the main human resources challenges their countries will soon face.

While many countries reported that the #MeToo movement has resulted in a growing social and legal awareness regarding workplace harassment and discrimination, few countries have adopted legislation to address these issues. Employer-sponsored training on harassment and discrimination is seen on a limited basis but is generally not required by legislation. It was noted by a number of countries that employers expect challenges in the handling of allegations of harassment to be ongoing.

While laws requiring diversity in employment exist in many countries, compliance with these laws varies, appearing to be greatest in Northern European countries and within multinational corporations. Diversity laws most typically target gender diversity, with few countries adopting laws promoting diversity in religion or disability.

Other trends

- **COLLECTIVE BARGAINING AND STRIKE ACTION:** There was a mix of efforts aimed at regulating collective bargaining and industrial action, ranging from more employer-friendly rules requiring arbitration to resolve conflicts, to union-focused laws encouraging employee organising and activity. A number of countries reported strike action, particularly in the medical and education fields.
- **FLEXIBLE WORKING:** Flexible working arrangements have continued to gain acceptance across most countries, with many reporting that remote working (or telecommuting) and flexitime (flexibility in when hours are worked) are becoming increasingly common. These trends appear to be driven primarily by improved technology and employee demand, although some countries have adopted legislation in this area.
- **PARENTAL LEAVE:** The questionnaires showed a general continued trend of moderate increases in parental leave length and compensation, as well as a new trend among many countries of expanding the definition of parent to entitle additional types of non-biological parents (including domestic partners/cohabitants, same-sex spouses and surrogate parents) to parental leave.
- **RETIREMENT AND TERMINATION:** As in prior years, countries are continuing to expect employees to remain in the workforce longer, with many countries

increasing retirement ages and pensionable service requirements. Some countries have implemented legal rules protecting older workers from unfair dismissal, which is part of a larger trend of countries penalising employers for wrongful termination. In response, employers are being increasingly careful about adhering to dismissal procedures in their countries.

- **WHISTLEBLOWING/ANTI-CORRUPTION:** Many countries adopted new whistleblowing and anti-corruption legislation, or saw prior laws take effect, in 2017 and 2018. Much of this legislation has been aimed at expanding and enhancing rules and systems that have previously been introduced, typically in the form of increased protections for whistleblowers.
- **EMPLOYEE STRESS AND MENTAL HEALTH:** Although employee stress, mental health and related absenteeism continue to be concerns across many of the surveyed countries, these issues are still primarily being addressed by employers rather than the government, and few countries have attempted to quantify or resolve these issues on a national level.
- **EMPLOYMENT LITIGATION:** Workplace litigation has been most common in the areas of unfair dismissals and termination of employment, interpretation of collective bargaining agreements, non-compete enforcement, occupational safety and discrimination.
- **FUTURE EMPLOYMENT-RELATED CHALLENGES:** Going forward, the human resources areas expected to present the greatest challenges include: gender harassment and pay gaps; millennial demand for flexible work and non-traditional employment arrangements; an increasing number of retirees creating a strain on pension schemes; talent shortages; and data privacy.

5. About the IBA and GEI

The International Bar Association Global Employment Institute 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 human capital fields for multinationals and worldwide institutions.

The Executive Council Officers of the IBA GEI are:

- CO-CHAIR: Dirk Jan Rutgers
- CO-CHAIR: Anders Etgen Reitz
- SENIOR VICE-CHAIR: Els de Wind
- VICE-CHAIR FOR INSTITUTIONS: Ignacio Funes de Rioja
- VICE-CHAIR FOR MULTINATIONALS: Gerlind Wisskirchen
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- TREASURER: Gunther Mävers
- COUNCIL MEMBERS:
 1. Donald Dowling
 2. Regina Glaser
 3. Todd Solomon
 4. Philip Berkowitz

Schedule 1: Countries and Lawyers

Albania

Jonida Braja (Wolf Theiss)

Argentina

Juan Javier Negri and Facundo Pueyrredon (Negri & Pueyrredon Abogados) –
Employment and immigration law

Australia

Adrian Morris and Hannah Martin (Ashurst) – Employment and immigration law

Belgium

Nicolas Simon and Chris Van Olmen (Van Olmen & Wynant) – Employment law

Bulgaria

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

Canada

Patrick Benaroch (Stikeman Elliott) – Employment and immigration law

Chile

Oscar Aitken (Carey) – Employment and immigration law

China

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

Colombia

Lorena Arámbula (Dentons Cardenas & Cardenas) – Employment and immigration law

Cyprus

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

Czech Republic

Oldřich Baroch and Andrea Krásná (Baroch Sobota) – Employment and immigration law

Denmark

Anders Etgen Reitz (IUNO) – Employment and immigration law

Estonia

Karina Paatsi and Martin Simovart (COBALT) – Employment and immigration law

Finland

Jani Syrjänen (Borenius) – Employment and immigration law

France

Caroline André-Hesse (Ayache Salama) – Employment law

Germany

Gunther Mävers (michels.pmks) – Immigration law

Michael Magotsch (Bryan Cave Leighton Paisner) – Employment law

Hungary

Hedi Bozsonyik (Szecskay) – Employment and immigration law

Ireland

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

Israel

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

Italy

Marco Mazzeschi (Mazzeschi Srl) – Immigration law

Angelo Zambelli (Grimaldi) – Employment law

Japan

Masako Banno (Okuno) – Employment and immigration law

Kenya

Sean Omondi (Bowmans) – Employment and immigration law

Latvia

Sintija Radionova (Primus) – Employment and immigration law

Lithuania

Robert Juodka (Primus) – Employment and immigration law

Malaysia

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

Mexico

Francisco Peniche Beguerisse (Creel) – Employment and immigration law

Netherlands

Martin Beijneveld (Adriaanse van der Weel) – Employment law

Nigeria

Kunle Obebe and Bode Adegoke (Bloomfield) – Employment and immigration law

Norway

Vegard Gjertsen, Anders Sundsdal, Ane Kallmyr Lerheim (Thommessen) – Employment and immigration law

Peru

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

Poland

Bartłomiej Raczkowski (Bartłomiej Raczkowski Paruch) – Employment and immigration law

Portugal

Sofia Costa Lobo and Susana Afonso (CMS Portugal) – Employment and immigration law

Romania

Ileana Glodeanu (Wolf Theiss) – Employment and immigration law

Russia

Irina Anyukhina (ALRUD) – Employment law

Serbia

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

South Africa

Irvin Lawrence (ENSafrica) – Employment and immigration law

South Korea

Thomas Pinansky (Barun Law) – Employment and immigration law

Sweden

Jonas Lindblad and Charlotte Forssander (VINGE) – Employment and immigration law

Switzerland

Ueli Sommer (Walder Wyss) – Employment and immigration law

Taiwan

Christine Chen (Winkler Partners) – Employment and immigration law

Turkey

Batuhan Sahmay (Bener Law Office) – Employment and immigration law

United Arab Emirates

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

United Kingdom

Paul McGrath and Ludovica Rabitti (McDermott Will & Emery) – Employment and immigration law

United States

Kerry Mohan (Quarles & Brady) – Employment and immigration law

Ukraine

Oksana Voynarovska (Vasil Kisisil) – Employment and immigration law

Venezuela

John Tucker (LEGA Abogados) – Employment and immigration law

Schedule 2: Questionnaire

Seventh 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 employer 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 if you consider it 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 workforce.
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 labor 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. What types of flexible working arrangements are most common in your country?
3. 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.
4. 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?
5. 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) With respect to employee strikes?

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?
2. What changes have there been in your country with regard to gender equality in remuneration?

- 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 labor standards emerged as an issue, for example, campaigns by unions and non-governmental 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?
 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. To what extent do employers in your country make accommodations for religious practices or beliefs?
 3. 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?
- H. Code of Conduct / Behavior in the workplace
1. Have there been any changes in your country's laws following the #MeToo debate?
 2. Do you see a change in workplace policies / codes of conduct with regard to romantic relationships between employees?

I. Technology / Artificial Intelligence

1. Has there been an increase in employer reliance on artificial intelligence in your country? How has any increase in the use of artificial intelligence been perceived by employees and employers? In which areas / industries of your country have artificial intelligence tools resulted in a loss of jobs and/or in the creation of new jobs?
2. Have there been any laws adopted in your country related to the use of artificial intelligence?

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. Impact of Recent Political and World Events

- A. What global HR issues have arisen, or do you expect to arise, with respect to the Donald Trump US Presidency? Has there been, or will there be, any impact on the legal landscape or applicable laws in your country (eg, discrimination laws, trade regulations, climate change impact, etc)?
- B. Please respond to the same question as #1 with respect to Brexit.

V. Summing Up Current and Future Trends

- A. 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?
- B. Which human resources problem do you currently deal with most often in your job?
- C. Which three human resources issues in your country generate the most litigation?
- D. Which challenges in the area of human resources law and practice do you expect to become more important over the next five to ten years?