Global labor and employment law strategic topics

Workforce transformation and restructuring in 2021

April 2021 Edition

Glad to present our 25th Edition

EY
Building a better working world

In this issue, we focus on:
Workforce transformation and restructuring in 2021

Editors' letter

It is by no means breaking news that the past 12 months have been the most unusual ones of our lifetimes. We are (still) facing a health crisis around the world. Governments are doing their best to prevent an economic crisis: many governments are keeping their economies afloat by subsidizing businesses and employment costs. These stimulus packages have been working rather well and have, so far, prevented a deluge of redundancies across the globe. But this may last much longer. Sooner or later, businesses may be on their own to handle the new economic situation which has been resulting from the pandemic.

The impact of the pandemic has been quite divergent based on whether a business is essential or non-essential, whether a business can work remotely or requires physical presence, whether it services persons at home or in the office. Some sectors have done well, mostly high tech and food shopping, whereas other sectors have been simply devastated, such as travel, leisure, restaurants, and aviation. Moreover, many businesses are not planning to "go back" to a pre-covid-19 working environment; many are planning to integrate remote work on a long term basis. For those significantly impacted, and those experimenting with new working models, restructuring and reengineering of the workforce are just around the corner, and will likely lead to headcount reductions.

In this issue, we focus on the key issues that need to be top of mind by companies in each jurisdiction around the world if a reduction of workforce project is contemplated.

Roselyn Sands
EY Global Labor and Employment Law Markets Leader
roselyn.sands@ey-avocats.com

Paula Hogéus
EY Global Labor and Employment Law Leader
paula.hogeus@law.se.ey.com

Argentina

Javier Sabin

Workforce restructuring options amid the COVID-19 pandemic

The health emergency generated by the COVID-19 pandemic forced all sectors to make enormous efforts to mitigate or at least minimize the harmful consequences that affected employers and employees, without having to resort to the most traumatic measure provided by regulations: dismissals.

Nevertheless, with the development of this distressing and complex situation, the need to reduce annual costs due to the pandemic is immediate. Companies today aim at restructuring their operations, and a big part of their money-saving options is reducing a portion of their payroll. In some extreme cases, it could mean closing their business.

The legal provisions in force

Due to the COVID-19 pandemic, Argentina has regulations in force that limit or make terminations of employment more expensive:

a) The prohibition of dismissals (i) without justified cause or (ii) due to a lack or reduction of the workload, or force majeure. (The prohibition is now extended through 25 April 2021.)

Exceptions to this prohibition include the furlough set forth in section 223 bis of the labor contract law, specifically a furlough agreed upon with each employee or the union, approved by the labor authority for employees left idle due to a lack or reduction of the workload (not attributable to employer) or force majeure (duly evidenced).

The rule provides that any dismissals and layoffs in breach of the provisions of this standard shall have no effect, and the labor relationships and related terms and conditions shall remain in force as before.

Moreover, all other forms of terminating labor contracts that do not fall within the aforementioned prohibitions, in principle, are allegedly allowed (for example, terminations with just cause, those based on the agreement of both parties, those due to an employee's retirement or the death of the employee or employer, among others).

b) The duplication of severance payments: in the event of dismissals without just cause, the affected employee would be entitled to receive the duplication of the corresponding compensation in accordance with current legislation.

In relation to duplicate concepts, the law refers to all compensation due as a result of the termination of the employment contract without cause. Currently, a cap of ARS 500,000 applies to such duplication.

Alternatives for employers under these restrictions

While there is a prohibition of dismissals, one possible alternative employers have at the moment is a resignation agreement.

Resignation agreement plans basically consist of offering a bonus to employees, payable at the time of termination, together with other benefits (maintaining their health care for a determined period as well as providing a labor relocation plan, among others), which, in the end, are the benefits that attract and determine an employee's decision to accept the plan. It also leads to the assumption that there is good faith and that no unwaivable rights or the general labor laws are compromised.

Those employees who accept the termination proposal sign a termination agreement with the company before a notary public.

The regulation that establishes this mechanism states that the parties may mutually terminate the employment contract, and the act must be formalized in writing with all parties present, who must have full legal competence, free will and the intention to reach an agreement. The act must be formalized by public deed or before the appropriate court or administrative labor authority. It is worth mentioning that a recent case recognized the validity of a mutual termination of employment before a notary public without the intervention of administrative or judicial authorities.

Conclusion

The Argentine legal system establishes the right to "improper stability," whereby dismissal with no just cause is accepted with a severance payment for years of service. The suspension of a constitutional or legal right is only admissible under special conditions and for a limited time. Besides the possible constitutional challenge of such prohibition, the regulation is in force and it should be applicable. Thus, employers should make a detailed analysis on their particular situation to find the best alternatives to deal with this difficult issue.

Javier Sabin
javier.sabin@ar.ey.com

Paula Mandrafina
paula.mandrafina@ar.ey.com

Australia

Andrew Ball

Workforce transformation and restructuring in 2021

Workplaces have rapidly evolved in the last 12 months in response to the coronavirus. Large organizations and small businesses alike have undergone some form of transformation or restructuring to adapt to the legal restrictions from the Australian Commonwealth and state governments to manage and restrict the spread of coronavirus.

Legislative framework

The Fair Work Act 2009 is Australia's predominant piece of employment legislation impacting workforce restructuring and redundancies. A common outcome in restructuring is redundancy, and in Australia an employer will generally be justified in making an employee's position redundant (termination at the initiative of the employer) if the employer no longer requires the employee's job to be performed by anyone due to changes to operational requirements.

Procedural and substantive rules

The Fair Work Act governs restructuring, resulting in redundancies in three main ways:

- First, by providing severance payments for retrenched employees with more than 12 months of continuous service
- Second, by imposing certain notification and consultation requirements when employees being made redundant are covered by a modern award or an enterprise agreement
- Third, by allowing certain employees to bring unfair dismissal claims if a redundancy is not a "genuine redundancy" (as defined in the Fair Work Act)

Under the Fair Work Act, small businesses (defined as employers who employ less than 15 workers) are not subject to the requirement to provide severance payments for retrenched employees. In addition to legal obligations arising from the Fair Work Act, there are many examples of case law regarding all aspects of restructuring and redundancies that have resulted in best-practice considerations for employers. This includes ensuring restructured roles are actually resulting in genuine redundancies and not a contrived redundancy, ensuring that selection processes for redundancies are based on fair and objective selection criteria, and ensuring appropriate consultation has actually taken place.

Union involvement

The Fair Work Act requires notification to, and consultation with, the unions representing employees impacted by workforce restructuring when 15 or more employees will be made redundant. The Fair Work Commission has broad discretion to act when this obligation is not complied with.

In addition, most industrial instruments contain consultation processes that require an employer to notify employees and their representatives in writing of any "major change" to the business that is likely to have a significant impact on them. They must do so once a definite decision has been made to make the change and before the change is implemented. The type of major change that triggers this requirement includes a change in the employer's production, program organization, structure and technology. A failure to consult may attract penalties under the Fair Work Act and put the employer's decision at risk of not being a genuine redundancy (opening the employer to the risk of an unfair dismissal claim).

The employer must then hold discussions with employees and their representatives about the changes and the effect these changes are likely to have on them, including any measures being taken to avert or mitigate these adverse effects. It is a mandatory obligation under these communication processes to consult with employees and their representatives, but there is no requirement to reach an agreement with them. Following the discussion, the employer must provide, in writing, all relevant information to the employee and representatives,

Restructuring trends in Australia

Australia's economy has suffered an extreme fallout, plunging into its first recession in nearly 30 years as a result of COVID-19. Following Australia's somewhat successful management of the spread of COVID-19 in its communities, some industries are beginning to show signs of recovery. However, it appears that some sectors are likely to face ongoing challenges, particularly in the travel and tourism industries.

Conclusion

Notwithstanding the challenges presented by COVID-19 to businesses to maintain their current structures and practices, employers still have legal obligations in relation to restructuring and redundancies. There is a long line of Australian case law in this area. As such, Australian employers have to make restructuring decisions based on fair and objective data, and ensure compliance with all legal obligations.

Andrew B Ball
andrew.ball@au.ey.com

Belgium

Karla Vuyts

Restructurings

To better respond to the consequences of the COVID-19 crisis, it is possible that companies will have to confront the need for restructuring and reducing the workforce.

Reducing the headcount

Except for serious cause, the termination of an individual employment agreement under Belgian labor law will require a notice period to be respected or a severance payment.

This is no different when the termination of employment simultaneously affects several workers within a specific period of time. In this case, the restructuring can take the form of a mere collective dismissal, whether or not such a collective dismissal occurs due to a partial or total closing of the enterprise.

Restructuring proceedings

A collective dismissal is triggered when, over a period of 60 days and depending on the size of the enterprise, a number of workers are affected by needed dismissals. In turn, this triggers a mandatory information and consultation process with employees or their representatives (work councils or trade union delegation). This information and consultation process starts with the announcement of the employer's intention to carry out a restructuring that involves a collective dismissal.

At the end of this mandatory information and consultation process, during which employees or their representatives are allowed to ask questions and propose countermeasures, the employer must provide responses. The plan also must be negotiated with the trade unions concerning the modalities of termination. The termination package for employees will not only encompass the severance indemnity and the legal compensation for collective dismissal – it will also involve an award for other extralegal benefits or special severance indemnities for employees specifically affected by the restructuring. The result of the negotiations must be written in a collective-bargaining agreement entered into at the company level.

In addition to the thresholds set by law to determine whether or not an envisaged restructuring will qualify as a collective dismissal, in some industrial sectors collective bargaining requires a mandatory information and consultation process for dismissals that affect a lower number of employees.

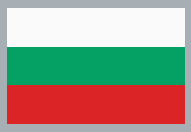
When there is permanent cessation of the main activity of the enterprise or a division thereof, employers have options but also obligations to employees. The closing of (or part of) the enterprise entitles workers to a closure indemnity equal to a fixed amount per year based on workers' seniority, with a possible intervention of the Company Closure Fund.

Conclusion

One of the key features of the information and consultation process that is involved with a possible restructuring is that it must take place prior to any decision on the intended restructuring. The employees may not be presented with a "fait accompli," and the information and consultation process may not be reduced to a formality.

This means that the employer will have to be careful not to act in a manner that would imply such a decision before the completion of the information and consultation process. It also emphasizes the need for appropriate preparations for the process and an investment in a constructive social dialogue with employees or their representatives.

Karla Vuyts
karla.vuyts@be.ey.com



Bulgaria

Rebeka Kleytman

Workforce restructuring

Due to COVID-19, employers had to face new challenges and rearrange priorities for their business. Most employers are seeking the best ways to protect their business, even at the cost of reducing personnel. Headcount reductions are probably the fastest way to reduce costs and to keep the business alive despite limited capabilities.

Available options

Under Bulgarian law, an employment agreement may be terminated by mutual consent or under any of the grounds set out in the law. Termination by the employer for convenience is not permitted. In light of COVID-19, the most common termination grounds include closure of the enterprise, closure of part of the enterprise and staff reduction, reduced workload, or suspension of work for more than 15 working days.
When reducing staff, employers must strictly follow the statutory requirements to avoid potential legal claims by employees for unlawful termination.
The most common breaches that lead to terminations being rendered invalid include a breach of employee-selection procedures and not obtaining additional preliminary approvals from authorities when necessary.

Employee selection

When reducing staff due to closure of part of the enterprise, headcount reductions or reduction of the workload, employers are subject to an obligation to conduct formal selection procedures.

The selection procedure aims to prove that the employer has selected employees to be terminated based on objective and well-documented criteria. The selection may be based exclusively on higher qualifications and better performance. Any other criteria applied by the employer in the course of the selection proceedings may lead to terminations being performed in breach of the law.

Additional approvals

Certain employees (e.g., pregnant employees; employees using permitted paid, unpaid or sick leave; mothers of small children; employees suffering from certain diseases; and work union members) enjoy special protections from dismissal. Therefore, any termination must be conducted very carefully in full observation of the respective anti-discrimination, data privacy and employment law regulations. The employer must request additional information from employees to confirm whether they are entitled to any special protections from dismissal. In the case of dismissal of a protected employee, the respective procedure – obtaining preliminary approval from the respective medical body, work council or employment agency – must be complied with. Any breaches of the formal procedure entitle the competent courts to render the dismissal immediately invalid on purely formal grounds.

Information and consultation procedures

Any mass dismissal under Bulgarian law triggers an obligation for the employer to consult (but not necessarily agree with) employees and inform them in advance. Breaches of these obligations generally lead only to sanctions. We recommend complying with the law to avoid administrative sanctions and to manage the reputational risk of the company.

A better way to reduce employment costs

Governments are constantly offering different state support measures aiming to help local businesses keep their employees. Most of the programs launched in Bulgaria in 2020, which offered financial support to businesses affected by the pandemic, had as a main requirement that the employer does not conduct any staff reductions nor reduce salaries. Thus, it is recommendable to first check all the available options and proceed with headcount reduction only after having elaborated a detailed plan.

Rebeka Kleytman
rebeka.kleytman@bg.ey.com

Maria Markova
maria.markova@bg.ey.com

Canada

David Witkowski

Workforce transformation and restructuring in 2021

COVID-19 has caused economic uncertainty for many businesses in Canada and across the globe. During these times, many employers may turn to downsizing their workforce with a view to balancing their newly reduced budget. There are a few different options for employers when trying to limit their workforce costs. That said, it is important to note that employment laws are generally governed individually by each of Canada's 14 jurisdictions (13 provinces/territories and federally, in the case of employers engaged in "federal works").

Reduced hours and layoffs

While COVID-19 may cause a disruption to business, certain employers may view this as temporary. Accordingly, they may prefer to opt for a temporary reduction of costs by way of a reduction of employee hours (and corresponding pay) or a temporary layoff.

The rules for temporary layoffs and reduction of hours differ by jurisdiction. It is also important to consider risks of constructive dismissal, which employees may claim after an employer makes a unilateral change to their contract. A reduction of hours or layoff would likely be considered a material change. In some cases, these matters may have been considered by the written employment contract already in place. If not, employers should seek employee consent prior to implementing such changes, otherwise employees could resign and claim they were constructively dismissed. If such a claim is successful, employees would be entitled to the same entitlements as if their employment had been terminated by the employer without cause.

Termination

Employers may dismiss employees without cause by providing reasonable notice (or pay in lieu thereof) of termination. Some jurisdictions also may have further restrictions (e.g., Quebec employers must have "good and sufficient cause" to terminate certain employees). This notice period may be limited by a validly drafted written termination provision, so long as such notice of entitlement remains equal to or greater than the applicable minimum statutory entitlement.

Other considerations

In considering the above-noted options for managing workforce reductions, employers should consider the implications of:

- Human rights: ensure no decision was based (even in part) on any prohibited human rights grounds (e.g., race, sex, family status)
- Contract: review the contract to assess how it impacts (e.g., a termination provision) implementation of the above options
- Union: consider whether any of the employees are unionized. If so, review the collective agreement to assess how it impacts implementation of the above options.
- Government assistance: consider government programs that may mitigate some of the cost to either employers or employees. For instance, employment insurance benefits may be obtained by employees in the context of a layoff (regular benefits) or reduction of hours (via a workshare program) to offset the loss of wages from the employer. In addition, the government may have certain COVID-19-specific wage subsidies available to employers (e.g., Canada emergency wage subsidy).

Conclusion

Employers should aim to be transparent throughout the process to foster employee confidence and trust in them as an employer (e.g., avoid claiming a layoff is temporary if there is no true intention to rehire the employee). Further, before a more "permanent" solution to workforce cost reduction, such as a termination of employment, employers should consider the timing of a potential rebound of business, the time needed to replace dismissed workers and the costs of rehiring.

David Witkowski
david.witkowski@ca.ey.com

China Mainland

William WL Zhang

Workforce transformation and restructuring in 2021

Under employment laws in the People's Republic of China, an employer may only terminate employees with legal grounds specified under the law, and the unilateral at-will termination of employees by the employer is illegal.

Legal grounds available for companies to reduce workforce due to economic reasons

Article 40 (3) of the PRC Employment Contract Law (ECL) discusses a situation where major changes have occurred in the objective circumstances under which the employment contract was concluded, such that it can no longer be performed, and the employer and employee cannot reach an agreement to modify the contract following mutual consultation. An employer can terminate an employee with a 30 days' prior written notice or with the payment of one month's salary in lieu of notice.

Special retrenchment for economic reasons. Based on Article 41 of the ECL, if it is necessary for an employer to retrench 20 or more employees, or a number of employees fewer than 20 but comprising more than 10% of the company's workforce, the employer may retrench employees after it has issued a statement to the trade union or to all employees with 30 days' prior notice. The employer also has to consider the opinion of the trade union or employees. After these considerations, the employer can file a workforce-reduction plan with the labor administration authority.

This type of retrenchment is permitted only under the following economic or financial grounds:

- Restructuring in accordance with company bankruptcy law
- Severe operational difficulties
- Changes in products, technological reforms or adjustments in the business model
- Other objective economic circumstances (such as when the contract can no longer be performed due to major changes in the objective economic circumstances under which the contract was concluded)

However, Article 42 of the ECL contains an additional restriction specifying that special employees, such as employees with occupational illness or those who sustained a work-related injury and pregnant employees or employees within the maternity leave or post-natal period, must not be terminated based on the above legal grounds.

Companies could also consider consulting with employees for a termination via mutual agreement. In adopting this approach, companies do not need to rely on Article 40 (3), Article 41 or any other legal grounds and limitations at all, as the termination is a matter of mutual consultation and agreement between the parties. If there are no special legal grounds for individual termination, then termination by mutual consultation and consent based on the employer's economic performance due to coronavirus is recommended. This is the most time- and cost-efficient practice, and this approach also minimizes the risk of disputes.

Works council consultation requirements

If an employer seeks to terminate an employment contract unilaterally, it must first notify the trade union of the reasons for doing so, otherwise, the termination will be deemed illegal.
Consultation with the trade union is a mandatory procedure under special retrenchment for economic reasons, and the approval from the labor administrative department is necessary for implementing the redundancy plan.

Restructuring trends in China

Due to COVID-19, many employers in China have been forced to adapt their business to new ways of working. They have contemplated transforming their workforce and restructuring by reducing the number of employees or converting employment commitments.

Conclusion

In any event, companies are advised to handle all workforce-reduction issues with due care. Failing to do so could trigger a labor dispute case. PRC employment law is notoriously pro-employee. The burden of proof for labor disputes about termination always rests with the employer, which can be an extremely cumbersome process.

William Zhang
william-wl.zhang@cn.ey.com

Annie HP Li
annie-hp.li@cn.ey.com

Colombia

Carlos Sandoval

Workforce challenges in 2021

Getting ahead with the workforce

The year 2020 challenged the companies and their intention to maintain profits despite the crisis. Workforce reduction was one of the main opportunities that companies identified to diminish operational costs. However, the year 2021 has determined that companies should follow a new strategy, in which their workforce and activities will need to be adapted to different ways of working – with some people working remotely and some positions disappearing due to digital tools that will replace specific skills in the production chain.

Workforce management and reduction mechanisms

Based on several decisions taken by local governments, industries such as tourism and retail have stopped the physical/in-person performance of activities. In this regard, the Ministry of Labor determined mechanisms to which companies can consider in order to administrate or reduce their workforce. Thus, the legal tools available to proceed are:

(i) Suspension of the labor agreement: based on article 51 of the Labor Code, employers can suspend the labor agreement due to the lack of activity execution based on force majeure or unforeseeable circumstances, duly proved by the company. They can also do so if an employer and employee agree on a non-remunerated license.

(ii) Termination with fair cause: the Labor Code determined in Article 61 specific situations in which labor agreement can be terminated, without paying an indemnification. However, fair cause must be duly proved in order to be effective.

(iii) Termination without fair cause: due to the lack of a cause, employers can terminate a labor agreement and carry out the payment of an indemnification calculated in consideration of an employee's seniority. Employers should consider the following prior to taking any decision: a) whether an employee is subject to any special protection due to a particular health, union or disability status; b) the limited number of labor agreements a company can terminate without fair cause within a period of six months and according to the total number of employees it has for it to be considered a collective dismissal. The aforementioned rule obliges the employer to request a prior authorization from the Ministry of Labor, explaining the reasons for the labor agreement terminations.

(iv) Termination by mutual consent: the employer and employee agree on the termination of the labor relationship, and the employer has a mandatory payment of a decided amount.

Restructuring the workforce

The Ministry of Labor's main priority is to prevent the termination of labor agreements. Local governments have created some allowances to pay companies' payrolls and have established tax benefits for hiring specific employees, such as mothers who are head of household. Restructuring processes aim to help companies change their strategies and mindsets and start investing in technology to be more efficient.

Conclusion

Before considering labor agreement terminations, companies should invest in their employees through training, the implementation of technology and other efficiencies, and other extralegal benefits, such us emotional well-being support, and offering tools for working at home. These will reduce other costs, such as recruitment, selection processes and the use of facilities.

Carlos Sandoval
carlos.sandoval@co.ey.com

Ana Maria Arias
ana.arias-perez@co.ey.com

Costa Rica

Laura Navarrete Hernández

2021: the year for workforce transformation

The current global pandemic and the national state of emergency enforced in Costa Rica have required companies to adapt their businesses to operate during a crisis. There were partial shutdowns of certain operations, working under strict safety protocols, and measures enacted to help businesses endure the pandemic. The year 2020 was the period in which companies focused on how to limit the consequences of the pandemic and how to ensure business continuity.

New regulations were being issued every day, so in order to guarantee compliance, employers were obliged to stay up-to-date and well advised. However, this reactive approach will not necessarily be what is convenient for 2021.

Workforce transformation

Companies must adapt to new ways of working. Efficiency, cost-reduction and connectivity will definitely be part of a very well-planned business strategy that companies must develop to survive post-pandemic.

Due to the pandemic, in 2020 companies applied certain alternatives to avoid the termination of employment relationships, such as a suspension of employment contracts due to force majeure and unilateral reduction of employees' shifts (which would proportionally affect their wages). However, the applicability of these measures is only temporary. Thus, given that the authorities are not currently enforcing as many restrictions as at the beginning of the pandemic, the terms for which they will continue to authorize these measures will soon come to an end.

Based on the above, employers must analyze their current structure to find ways in which their business could be more efficient. Therefore, restructuring the workforce may be one of the alternatives to evaluate. Simpler structures and prioritizing the nuclear needs of each company will be key to having a stronger and more consolidated business.

Free dismissal

In Costa Rica, companies can dismiss employees without having a just cause, as the country does not have stability in the employment relationship as a rule. Therefore, if the company is not committing a discriminatory action by dismissing an employee, it is possible to do so based on the employer's free will and as long as the proper indemnity is paid.

In spite of the above, since 2017 (the last major reform to the Labor Code), Costa Rica has reinforced the process to claim wrongful termination in case an employee feels that the dismissal was based on a discriminatory reason. Thus, before taking the decision to dismiss anyone, it is key that employers conduct an internal study to determine which employees should be terminated. This study should seek to ensure that such dismissal is based on objective reasons (financial, business development, etc.). If such a study is properly conducted, the company will have enough justification to back up the reason behind the dismissal and minimize the risk of a discrimination claim.

Also, in this prior stage, companies must confirm that the employees to be terminated are not covered by any special protections that would impede their dismissal. This could include pregnant employees, employees on maternity leave or breastfeeding, union leaders, and employees that have filed a sexual harassment claim (while the claim is under investigation), among others. Not doing this might lead to investigations and sanctions by the Labor Ministry and discrimination claims by employees.

The final aspect to keep in mind when applying a dismissal with the employer's liability (which means without an actual cause for termination that may be attributed to the employee) is the cost related to the termination payment. The company would have to pay severance, a Christmas bonus, pending vacation time and any other remuneration that the employee may be entitled to.

If the employer needs to pay such liquidation in tracts, it would be best to terminate the relationship based on an agreement between the parties, so that both parties may define the specific conditions applicable for the termination and even negotiate the amounts to be paid.

In conclusion, strategic planning and risk management are going to be the best allies for companies going forward.

Laura Navarrete Hernández
laura.navarrete@cr.ey.com

Croatia

Juraj Fadljević

Employment termination

In the Republic of Croatia, the Labor Act is the main legislative set of rules regarding employment. These prescribed conditions represent the minimum standards that Croatia-based employers must follow for their employees.

The following content is an overview of the key aspects of employment termination, together with high-level insights on the COVID-19 labor market and how to mitigate arising risks.

Overview of employment termination

The two most significant means of employment termination in the business environment are:

- An agreement on employment termination
- Ordinary dismissal

The agreement on employment termination is a mutual decision made by the employer and employee, which must be made in writing. In the case of mutual termination of the employment agreement, employees are not entitled to unemployment compensation.

The employment may be terminated by an ordinary dismissal due to:

- Business reasons
- Personal reasons of the employee
- Employee fault
- Dissatisfaction in the probationary period

The employer that has dismissed an employee for business reasons may not employ another employee for the same position for a period of six months following the dismissal. Should a need for employment for the same work arise within the period of six months, the employer is obliged first to offer the contract to the dismissed employee.

In the case of an ordinary dismissal for business reasons, an employer employing 20 or more workers must consider the tenure, age and other obligations of the employee.

Workforce restructuring, also referred to as collective redundancy, applies to employers having at least 20 redundancies within a period of 90 days, out of which at least five employment contracts are terminated due to business reasons. If the threshold and conditions are met, the employer must follow the collective dismissal procedure as stipulated by the Labor Act.

The employer is obliged to consult with the works council, if any, and provide reasons prior to deciding on collective redundancy. In the absence of a works council and if there is a trade union acting within the company, the employer is obliged to consult with the union trustee. If neither of these two apply – i.e., the works council is not established and there is no trade union acting within the employer – the employer is not obliged to provide reasons for collective redundancy.

Impact of the COVID-19 crisis

Since the COVID-19 crisis is still ongoing, its full impact on the labor market is yet to be thoroughly assessed. The government of the Republic of Croatia has introduced numerous types of financial support to assist employers and retain employment at the highest rate possible. Due to this support, the impact of the crisis has been reduced at the moment, and many employers can retain their workforce until the negative effects of the crisis recede.

Conclusion

All employers should – before conducting any action to terminate the employment relationship – carefully assess their obligations under the Labor Act and comply with them to avoid potential disputes.

However, they should also review potential state financial support to prevent unnecessary terminations.

Juraj Fadljević
juraj.fadljevic@hr.ey.com

Lucija Čolak
lucija.colak@hr.ey.com

Cyprus

Charalambos Prountzos

Workforce transformation and restructuring in 2021

Adapting to the new norms created by the pandemic is now, more than ever, a necessity to secure business continuity. Therefore, we believe workforce transformation and restructuring to be inevitable, if not imperative.

Legal tools available for companies to reduce their workforce

Reduction of the workforce may be achieved by terminating employment, nonrenewal of fixed-term employees (subject to the relevant legislation), or simply by freezing hiring procedures. The decision to terminate employees may be unilateral or mutual.

In general, dismissals are subject to the provisions of the Termination of Employment Law 1967. The law separates the cases where dismissed employees are entitled or not to compensation.

An alternative approach for employers is to come to a mutual termination of employment or settlement agreement with the employee. Such agreements are constructed by taking into account the value and merits of any potential claims, as well as commercial factors, and aim to strike a balance between a figure that is as low as possible but one that is still high enough to incentivize the employee to enter into such agreement.

Procedural and substantive rules

When considering terminations, a company needs to follow a fair dismissal procedure to mitigate the risk of future litigation. What constitutes a fair procedure will depend on the reason for the dismissal. The law regulates the occasions where dismissal of the employee is considered lawful, thus the employee is not entitled to compensation. Examples of such occasions are when an employee is dismissed during his probation period or has become redundant, or if it is due to the employee's own fault (i.e., misconduct in the course of his or her duties).

Furthermore, unless otherwise stipulated in the law, an employer intending to terminate employment is obliged to give the employee a minimum period of notice, depending on the length of service. According to the law, the employer is not obliged to give notice if the employee is on a probationary basis or if the employee's conduct is such as to justify his dismissal without notice.

An employee whose employment is terminated unlawfully is likely to be entitled to compensation.

Collective redundancies

Collective redundancies are regulated under the Collective Redundancies Law of 2001 and are considered unilateral terminations. According to the relevant law, to treat redundancies as collective, certain numeric thresholds must be met. In particular, the number of dismissals over a period of 30 days must be at least 10 in the case of an establishment normally employing 21 to 99 employees; at least 10% of the number of individuals typically employed in an establishment of 100 to 299 persons; and no less than 30 employees when a business normally employs 300 or more persons.

In the event of collective redundancies, the employer must proceed with consultations with the employees' representatives to reach an agreement and give the Minister of Labor the appropriate notification.

Restructuring trends in Cyprus

An increasing number of companies in Cyprus are seeking professional advice concerning internal restructuring, which might entail downsizing workforce by terminating employees or right-sizing it by training or transferring employees.

Conclusion

Dismissing an employee should be done carefully and thoughtfully. Terminations should be planned. The right documentation must be prepared, and the employer must ensure that all obligations under the law are met. Thus, the best starting point is to establish the employee's statutory and contractual rights by reviewing the employee's contract or terms of employment.

Charalambos Prountzos
charalambos.prountzos@cylaw.ey.com

Demetris Kailis
Demetris.Kailis@cylaw.ey.com

Czech Republic

Ondřej Havránek

Workforce transformation and restructuring in 2021

As a result of the COVID-19 pandemic, many Czech employers are facing a difficult economic situation that forces them to evaluate not only their business models, but their workforce structure as well. What options do employers have and what are the current trends?

Employers' options to workforce reductions

The first option used to reduce headcount is usually a limitation of the number of agency workers and the non-prolongation of fixed-term employment.

Also, employees still in the probation period may be dismissed by the employer anytime (except for the first two weeks of illness) due to any reason (save for discriminatory ones) or without stating a reason.

The employer and the employee may also agree on the termination of employment, which will then end on the agreed date. The termination agreement may or may not stipulate reasons of the termination, but it must always be in writing. If the reason for termination is redundancy, the employee is entitled to statutory severance pay (one to three months depending on seniority).

The last option is unilateral termination of employment by the employer due to one of the organizational reasons specifically stipulated in the Czech Labor Code, e.g., employee's redundancy, or relocation or shutdown of the employer's business or certain departments. In such cases employees are also entitled to statutory severance pay. In addition, the employer is obliged to consult with the trade union if there is one established.

Collective redundancies

Where a certain number of employees is unilaterally dismissed by the employer due to organizational changes within a period of 30 days, rules for collective redundancies apply.

Thresholds are the following: 10 or more dismissed employees when the employer has 20 to 100 workers; 10% of employees when the employer has 101 to 300 employees; and 30 or more employees when the employer has 300 or more people.

The threshold is also met if at least five employees are served notice due to organizational changes, and the remaining employees sign termination agreements on the same grounds.

It should be no later than 30 days before giving notices to individual employees in a collective redundancy situation. The employer is obliged to inform the trade union and works council of its intention and start the consultation process. If there are no such employee representatives, the affected employees must be informed individually.

Simultaneously, the employer is obliged to inform the competent regional branch of the Labor Office about the planned collective redundancies.

Once the consultation process is finished, the employer is obliged to inform the Labor Office about its results.

Employment of the affected employees ends no earlier than 30 days after delivering the second written report to the Labor Office and upon expiration of the notice period, which is at least two months long.

Trends

Due to the government support program for employers, called Antivirus, the situation in the Czech Republic is so far sustainable, and redundancies are not too frequent.

According to the latest public survey, over 70% of employers do not anticipate any workforce changes in the following three months. However, the economic situation is unstable and the restrictions on businesses are ongoing and unpredictable, so we may see a change anytime.

Best practices

Implementing a collective redundancy in the Czech Republic usually takes no less than six months, including the preparatory phase. Employers negatively affected by the COVID-19 situation should map their headcount situation continuously and have a general redundancy plan ready. The plan must take into account Czech legal requirements and provide a general timeline and calculation of costs (such as severance pay).

Ondřej Havránek
ondrej.havranek@cz.eylaw.com

Barbora Suchá
barbora.sucha@cz.eylaw.com

Denmark

Julie Gerdes

COVID-19 redundancies

This article sheds light on some of the labor law issues Danish employers need to consider when planning and executing large-scale redundancies due to COVID-19 and other lack-of-work issues.

Currently, COVID-19 is putting severe pressure on many Danish companies. As a result, many companies have already performed terminations or layoffs. Others are planning to take action shortly.

Large-scale redundancies require careful planning and thought. It can be very costly for companies if they do not comply strictly with all applicable laws and regulations relating to large organizational restructuring and redundancies. In the case of dismissal of a larger number of employees, the rules in the Danish Act on Collective Redundancies must be adhered to. If the restructuring plan is expected to involve redundancies, the regulation enters into force, including the following, within a 30 days' period:

- A minimum of 10 redundancies in companies with 21 to 99 employees
- At minimum, 10% of employees in companies with 100 to 299 employees
- A minimum of 30 redundancies in companies with more than 300 employees

The crucial factor regarding the 30 days' period relates to when companies give employees notice of the redundancies – not the point in time when the affected employees have their date of termination. Regardless of when any redundancies are made during the 30-day period, all redundancies should be included when totaling the final number of redundancies within the period. Consequently, companies must at all times have a clear overview of the actual number of redundancies to be made within times of organizational changes and restructuring.

In cases where the rules and regulations regarding large-scale redundancies apply, companies must ensure compliance with these legal requirements. This includes the companies' right and duty to inform, consult and negotiate with employees and the employees' representative unions before the proposed redundancies are initiated, in accordance with the Danish Act on Collective Redundancies. Before, during and after the redundancy processes, companies must additionally fulfill the legal requirements regarding the regional labor market councils. There are eight labor market councils in Denmark.

The Danish Act on Collective Redundancies stipulates that employees who are to be made redundant can resign after the local labor market councils have received written information about the redundancy.

The consequence of not complying with these rules may result in the company being fined and requested to pay compensation to employees who have been made redundant without observance of the law. Furthermore, the rules regarding notice can be incorporated in a collective-bargaining agreement that the company is bound by, and failure to comply will similarly result in the company being fined.

Special protection

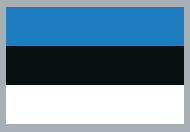
Companies must carefully set fair and objective criteria when determining who to make redundant. Some employees enjoy special protection against redundancy. In such cases, companies can be ordered to compensate redundant employees up to 12 months' salary.

It is unlawful to base the criteria on employees' religion, age, gender, handicap or the employees' maternity, paternity, parental, or adoption leave. In such cases, the burden of proof is elevated to a higher standard, which can be difficult to prove.

Termination of trade union representatives may be justified by compelling reasons. Similarly, employee-elected board members, safety representatives and members of the cooperation committee are specially protected against dismissal.

If the company is bound by certain collective-bargaining agreements, a special rule applies: the 25-year rule. The rule stipulates that if an employee with a minimum of 25 years of service is being made redundant, the employer needs to be able to prove that the redundancy is due to cut-downs. The employer also must be able to prove that there are crucial considerations that make the dismissal of the employee necessary, rather than dismissing other employees. In a recent case, a company was sentenced to pay compensation equivalent to 7 months' salary to an employee with 29 years of seniority.

Julie Gerdes
julie.gerdes@dk.ey.com



Estonia

Pekka Puolakka

Workforce transformation and restructuring in 2021

The national emergency imposed by COVID-19 in 2020 and restrictions around the world put employers in a difficult situation — complicating plans even in the short term, not to mention long-term planning for employees' work.

Due to COVID-19, Estonia did not change its Employment Contracts Act; rather, provisions allowing short- and long-term changes in organizations and risk mitigation were implemented. It is likely that more similar provisions will be implemented in the coming years.

Taking into account the current situation and the established restrictions, we outline the following opportunities concerning employers.

Legal tools for employers: reducing wages

As a temporary measure, the employer has the option to unilaterally reduce its employees' wages (not below the minimum wage of EUR 584) for up to three months during a 12-month period if unforeseen economic circumstances appear beyond the employer's control. Before reducing wages, the employer is obliged to offer another job if possible, consult with employees and notify each relevant employee of the reduction at least 14 calendar days in advance. This measure was widely used last year and enabled many employers to cope better. The subsequent unilateral wage reduction may take place nine months after the end of the previous reduction. In addition to the regulation of employment relations, it is also possible to unilaterally reduce the compensation of management (members of the management board and supervisory board) if the company's financial situation significantly deteriorates.

Reducing workforce

An employer and an employee can terminate their employment relationship by agreement at any time. The employer may terminate the employment contract only with an extraordinarily good reason in the following cases: 1) for the employer's economic reasons if the employer is no longer able to provide the employee with work under the agreed conditions and the work is terminated due to, for example, reduction in workload, reorganization of work or bankruptcy (a layoff); 2) for reasons arising from the employee, for example, when the employee is unable to perform duties for a long time (four months) due to his or her state of health, the employee's insufficient knowledge or skills, a loss of trust, disregarding the employer's instructions in spite of a warning, damaging the employer's property, or breach of a confidentiality agreement or an agreement restricting competition.

Procedural and substantive rules

A termination notice must be justified and in a format that can be reproduced in writing. It is important to adhere to the statutory advance notice periods. Collective termination of employment contracts means termination (within 30 calendar days due to layoff) of the employment contracts of no less than, for example, 10 employees in a company where the average number of employees is 20 to 99. Making such layoff decisions requires the employer to involve both its employees and the Estonian Unemployment Insurance Fund to find the best possible solutions in a difficult situation.

Restructuring trends

Employers are increasingly investing in creating safe and healthy work environments. Risks are assessed thoroughly and, as a result, opportunities have been created for more flexible working regimes, such as arranging virtual meetings and enabling remote working. The use of temporary employment is also gaining popularity.

Conclusion

If the work process changes, leaders should thoroughly review their organization's risk assessment and think about how this situation would help the organization to become more resilient and efficient in the future. Involving employees and their representatives in the change process and consulting with relevant professionals is recommended.

Pekka Puolakka
pekka.puolakka@ee.ey.com

Evely Vendla
evely.vendla@ee.ey.com

Finland

Maiju Kurvi

Workforce transformations and restructuring in 2021

The Finnish government issued several temporary amendments to labor laws last spring to enable a quicker and easier way to adjust workforce resources in a challenging situation. These temporary amendments were in force until the end of 2020, and no new amendments have been introduced in 2021. This does not mean, however, that employers could not implement required measures to overcome the challenges they might be currently facing. On the contrary, Finnish laws provide for several possibilities that may be utilized.

Tools for reducing workforce

In the event the work to be offered by the employer has diminished temporarily (for an estimated period of 90 days at most) and no other work or training may be reasonably provided to the employee, the employer may consider implementing temporary layoffs.

If the amount of work available has, however, been reduced permanently and significantly, the employer might be able to either lay off employees for an indefinite period or implement terminations of employment on financial and production-related grounds.

Furthermore, the employer and employee may also agree on a layoff or even on the termination of employment.

Procedural rules of workforce reduction

Companies employing 20 workers or more are subject to the provisions of the Act on Co-operation within Undertakings regarding cooperation obligations in the event of contemplated workforce reductions.

Prior to making any decisions on layoffs or termination of employment on financial and production-related grounds, either in relation to one or more employees, the employer must first carry out negotiations about the contemplated measures and their effects. It is essential that the negotiations are held before any decisions are made, even though the parties do not ultimately need to reach a consensus on the negotiated matters. The law also stipulates timelines and minimum negotiation times to be followed by the employer. For example, the negotiations must be initiated a minimum of 5 days prior to the negotiations, and the minimum negotiation time is either 14 days or 6 weeks, depending on the contemplated measures.

Employees are typically represented in negotiations by elected employee representatives. There are no works councils in Finland, nor are employee unions directly represented or involved in the cooperation negotiations.

In companies employing less than 20 workers, the provisions of the Employment Contracts Act must be followed to implement the measures, but there is no obligation to undergo cooperation negotiations.

As the collective-bargaining agreements applicable to the company may include deviating terms in relation to the cooperation negotiations, it is necessary to confirm the content of these as well.

Restructuring trends in Finland

Many companies in Finland have implemented temporary measures in relation to personnel during the past year. It may now become topical to consider whether there is a need for more permanent solutions.

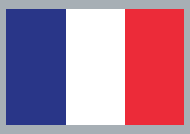
In addition to temporary or permanent workforce reductions, employers and employees may also find other ways to arrange and organize work that could potentially improve efficiency, provide for more flexibility and enable the employer and employees to adapt to changing situations with the existing resources. For instance, the recently renewed Working Hours Act provides certain options for flexibility, which may be useful in certain situations.

Conclusion

Finnish labor laws provide many options for workforce transformations. It is advisable that companies acquire complete understanding on the tools available to make the best decisions.

Maiju Kurvi
maiju.kurvi@fi.ey.com

Johanna Teijonmaa
johanna.teijonmaa@fi.ey.com



France

Roselyn Sands

Employers on their way to a post-COVID-19 market

With the dramatic drop in demand in certain sectors (transport, catering, culture, tourism, etc.) due to COVID-19 governmental restrictions and changes in people's living patterns, companies are discovering and adapting their businesses and workforce to this unprecedented threat.

In the most affected sectors, workforce transformations and reductions in headcount have become inevitable.

Companies must start adapting to future situations that could disrupt the market until 2023 or 2024. These may involve mass layoffs but also business transformations.

Many Legal tools available to reduce HR costs and the workforce

In France, companies have implemented various adaptation measures to temporarily adjust their workforce without reducing their potential for innovation and growth.

Other than economic redundancies, recent legislation provides good alternatives:

- **Collective mutual termination** requiring union negotiation, labor administration approval, and employee consent.
- **Collective performance CBA** allows for the adjustment of working hours, as well as remuneration. This requires a collective or majority agreement with Unions, and if adopted, it is binding for employees without their consent.
- **Partial activity mechanism** has resulted in a historically low number of bankruptcies in France. For a certain period of time, employees are no longer required to work (totally or partially) and employers still pay 70% of their remuneration in exchange. Government funding helps finance this measure. These measures have been enhanced during Covid.
- **Other possible alternatives** to termination : part-time work, imposed paid vacations, reduction of temporary workers, individual mutual terminations, mobility leave, collective agreements on provisional jobs and skills management or even labor loans

So, in France there are many legal tools to reduce HR costs.

This is however sometimes not enough to preserve a company needing to protect its long term competitive position in the market, thus requiring collective redundancies.

Collective redundancies remains an option: Procedural and substantive rules

To proceed with a dismissal, the dismissal needs to be based on valid grounds. The existence of economic difficulties is assessed on a case-by-case basis.

The employer must then consult staff representatives, if any, via the Social and Economic Committee (SEC). It delivers its opinion within a period of one to four months depending on the expected number of dismissals.

The employer must also obtain the authorization or inform the labor administration, depending on the redundancy scale.

The employer must, in parallel, implement measures to avoid or limit redundancy. The employee may opt for a job-saving contract, which is part of a reinforced support system in the form of individualized follow-ups. In a company with more than 50 employees, to dismiss more than 10 people requires that an employment-saving plan must be implemented.

In companies with more than 11 employees, an employer must select criteria that will determine the dismissal order. The criteria (such as seniority, family situation, difficulty to find a new job) is assessed within the same professional category.

According to a schedule made mandatory by law, except for the dismissal of more than 10 employees in a company with an SEC, the next step is to convene with each employee concerned prior to dismissal.

The final step is to send a dismissal letter to the employee. Severance pay is also provided to the employee.

Of course, litigation may ensue if employees challenges their termination.

Best practices

If a company needs to reduce HR costs, the most important first step is to review all the available legal tools and analyze the pros and cons of each one. Evaluating the pandemic's impact and the new market for the company, as well as its competitive position is key.

Social dialogue and compliance with French law is critical to keep employees engaged and loyal, during this difficult time for everyone.

Roselyn S. Sands
roselyn.sands@ey-avocats.com

Anissa Yeftene
anissa.yeftene@ey-avocats.com

Georgia

George Svanadze

Workforce transformations and restructuring in 2021

On 5 October 2020, new major amendments to the Labor Code of Georgia were enacted.
As a result, the Labor Code introduced new and stricter procedural rules related to redundancies and layoffs. In addition, violation of the labor rules became subject to administrative inspection and possible sanctions.

Legal tools available

Redundancy is a form of dismissal envisaged and allowed by the Labor Code in exceptional circumstances. Redundancy applies when an employer needs to reduce its workforce because of economic circumstances or technological and organizational changes that require downsizing.
The courts of Georgia are applying certain tests when analyzing the lawfulness of dismissals. The Supreme Court sets forth that, for a redundancy to take place, the employer needs to prove the following:

- There is an industrial necessity, which may be a legitimate goal for reorganization or reduction of staff.
- The changes or circumstances make redundancy necessary.
- The legitimate aim for which the employer has initiated changes must be achieved in full compliance with the requirements of the law.
- The employer at the time of making such a decision should also present a consistent and synchronous picture that will convince a reasonable observer in the correctness and legality of the whole process.
- In the end, an employer may also be obliged to demonstrate legitimate reasons for why one staff member was made redundant and another one was not. The employer must prove that no discriminative approach has been applied.

Procedural rules

If an employer decides to terminate labor contracts, it must notify employees in writing at least 30 calendar days in advance. In such a case, the employer is obliged to grant the employee a severance pay in the amount of at least one month's remuneration. Alternatively, the employer may notify the employee three calendar days in advance. However, in such case, severance pay in the amount of at least two months' remuneration must be paid.
The Labor Code sets forth additional rules for collective redundancies. A collective redundancy takes place, if: 1) at least 10 employees are made redundant in an organization with 21 to 99 employees and 2) at least 10% of employees are made redundant in an entity where more than 100 people are employed.

If an employer is planning collective redundancies, it must start consultations with the employees' association (or the employees' representatives) within a reasonable time. Employees must be granted an opportunity to submit their constructive proposals on the matter.
In addition, the employer must send a written notification to the Minister of Labor and to employees at least 45 calendar days in advance. A copy of the notification sent to the Minister of Labor must also be discussed with the employees' association (or the employees' representatives).

Conclusion

The courts put a heavy burden of proof on employers carrying out layoffs. Besides, as a result of the recent changes, the violation of the procedural or substantial rules of the redundancy may additionally lead to administrative inspection and penalties. Therefore, we recommend employers to considerably substantiate their decisions on layoffs in writing before starting the procedures. At the time of making such a decision, employers should have prepared a consistent and synchronous picture that demonstrates the correctness and legality of the whole process.

George Svanadze
george.svanadze@ge.ey.com

Lika Kokuashvili
lika.kokuashvili@ge.ey.com

Germany

Bärbel Kuhlmann

Restructuring in Germany

Reducing workforce

After almost one year of dealing with constant, unpredictable changes in the economic environment, employers in Germany are looking for adaptable, long-term transformation strategies for their organizations.

In many cases, it is inevitable to reduce human workforce.

Legal tools

Whenever employers intend to reduce staff in Germany, they have various legal tools at their disposal:

- Parties of an employment contract are free to terminate the employment by mutual consent. In the context of restructuring, an adequate severance payment often may convince employees to agree.
- Besides that, the most convenient and often first step is not to prolong existing limited-term employments.
- Further, employers can unilaterally dismiss employees under an ongoing probation period (statutory maximum term of six months) with a reduced notice period of two weeks. Employees do not enjoy protection against dismissal during this time.
- The employer may reduce working hours with a so-called notice of change. In this case, the employer dismisses the employee, but at the same time offers a continuation of employment with reduced hours. Exceptionally, i.e., to avoid material threat of insolvency, a reduction of remuneration can be introduced by such notice of change as well. This is subject to strict conditions.
- Regarding older employees, mutual early retirement or partial retirement agreements may be considered.
- If an amicable solution is ruled out, the employer's only option is to terminate the employment unilaterally for business reasons.

Procedural and substantive rules

In Germany, terminations – including ordinary ones due to restructuring – are, in principle, only valid when they are socially justified under the German Dismissal Protection Act. In other words, the employer must prove that the job is no longer available and there is no possibility of continued employment. The works council must be informed prior to the dismissal of any employee. The employer and the works council must, under certain circumstances, negotiate a reconciliation of interests and a social compensation plan in the case of mass redundancies or major restructuring, to compensate employees for the actual and financial disadvantages suffered as a result of the restructuring. Furthermore, in cases of mass redundancies, employers have to notify the employment agency before they dismiss. For the referring statutory thresholds, mutual agreements initiated by the employer count as well. The aforementioned regulations are very important due to the fact that the dismissals would be invalid in cases when the regulations are not observed by the employer.

Last but not least, employers are to observe the special protection regulations regarding disabled and pregnant employees as well as those concerning members of the works council.

Conclusion: transformation in the long run

In restructurings, planning is particularly important to maintain cost efficiency, minimize litigation risks and keep stakeholders satisfied. At present, it is still uncertain how strong the impact of the pandemic will be, but restructuring will be necessary for many. In this context it should be considered that the options outlined above apply to a limited extent if short-time working and other government support is currently being received. However, the opportunities of new ways of working, such as mobile or remote working, should also be reflected. These are going to permanently change our working environment. Against this background, employers are increasingly taking into account such possibilities as alternatives to reduce costs.

Bärbel Kuhlmann
baerbel.kuhlmann@de.ey.com

Isabella Kothen
isabella.kothen@de.ey.com

Greece

Maria Rigaki

Restructuring in Greece

COVID-19 upended economies worldwide, as businesses in various sectors have been forced to temporarily close while others decided to stop business altogether because of the pandemic's impact. The uncertainty surrounding the duration of the pandemic and the decline in economic activity is likely to force many more firms to restructure to try to save their operations. Therefore, moving on with good practices regarding workforce transformation is crucial for enterprises to move forward in a sustainable way.

What are the legal tools available?

Workforce reduction initiatives may be implemented on a temporary or permanent basis.

If business activities are restricted, the employer may, instead of terminating the employment contract, impose unilaterally an "on rotation" system on the business. The duration of this system may not exceed nine months in the same calendar year and can be implemented only if the employer has previously informed and consulted with employees' legal representatives. If the agreement with employee representatives or the employer's unilateral decision is not drawn up in writing and not communicated within eight days to the relevant Labor Inspectorate, full-time employment of the employee will be presumed.

On a permanent basis, an employer has the option of proceeding with individual redundancies for financial reasons. In this case, the social criteria should be taken into consideration.

Collective redundancies are considered those made by companies or establishments that employ more than 20 workers whose termination occurs due to no fault of their own. Per a specific calendar cycle, there are allowed: a) 6 terminations for companies employing 20 to 150 employees and b) 5% of personnel up to a maximum of 30 employees for companies employing more than 150 people.

The employer is obliged to notify and consult with employee representatives. The consultation minutes are drafted and submitted to the Greek Ministry of Employment (GME).

Specifically, if there is an agreement between parties, the terminations must take place in accordance with the content of the agreement and will be valid after 10 days from the date of submission of the consultation minutes to GME.

If there is no agreement, then GME by virtue of a reasoned decision, within a deadline of 10 days, determines if the conditions of consultation are met. If GME judges said conditions were met, the terminations will be valid after 20 days from the issuance of the decision. If the opposite case happens, the consultations between parties must be extended. In any case, the terminations will be valid after 60 days from the submission of the consultation minutes to the GME.

Restructuring trends

To avoid prolonged processes that may also lead to litigation risks, employers tend to establish voluntary exit plans. These terms are usually discussed in advance with employee representatives. By opening a voluntary severance program to several employees, companies can avoid the difficult decisions about whom to choose for an involuntary reduction.

It is evident, however, that voluntary programs don't always produce the numbers a company is seeking.

Best practices — reaching an agreement with employee's representatives

Having a consensus with employee representatives is always the best approach in implementing restructuring programs since it minimizes litigation risks and negative reputation exposure.

Maria Rigaki
maria.rigaki@gr.ey.com

Maria Gkatzou
maria.gkatzou@gr.ey.com

Honduras

Andrés Lacayo Rodriguez

Workforce transformation and restructuring in 2021

In Honduras, the impact of COVID-19 has been devastating. According to the Ministry of Labor and Social Security, 928 companies suspended employment contracts, which means that approximately 200,000 people were affected. The International Labor Organization estimates that 40.2% of the total number of jobs in Honduras are at high risk, which means that approximately 1,600,000 jobs are at risk of being lost. The gradual economic recovery has been slower than expected, so companies have been forced to maintain the suspension of employment contracts and to terminate others.

What are the legal tools available for companies to reduce their workforce?

Honduran law establishes legal tools for the reduction of personnel, the suspension of employment contracts and the termination of employment contracts on the grounds of force majeure or a fortuitous event. Because of the pandemic, Honduras established a special process of suspending employment contracts accompanied by a solidarity contribution with funds from the government and the country's social security systems, a measure that alleviated the situation somewhat since the suspension of employment contracts cited in the Labor Code only provides for a suspension without pay. Both mechanisms are aimed at maintaining jobs despite the pandemic. On the other hand, the most affected sectors, such as tourism, have opted to terminate employment contracts by invoking the force majeure cause established in the Labor Code.

What are the procedural and substantive rules?

Article 100, paragraph 2 of the Labor Code establishes that a cause for suspension of contracts is "Force majeure or fortuitous event when it brings as a necessary, immediate and direct consequence the suspension of work." Also, the emergency decree PCM-033-2020 established the process of suspending labor contracts with solidarity contribution. Both figures involve a request for labor contract suspensions to be approved by the Secretary of Labor and Social Security. On the other hand, Article 111, paragraph 6, establishes that "force majeure or fortuitous event" is a cause for the termination of employment contracts.

What are the restructuring trends in your country?

Today, companies are beginning to value the continuity of a mixed system, as it has been proven that in certain sectors telework and on-site work can coexist, and it is beginning to gain strength due to the cost reduction of not having all workers on-site. Other sectors, such as consumer products, have moved toward the outsourcing of services — mainly their sales, cleaning or courier labor force — moving from a labor liability to an expense for services, which, with the help of the Hourly Employment Law, means a significant reduction in operating costs.

Best practices

Although the labor market outlook is not encouraging and the economic recovery is slow, both companies and employees must focus their efforts on a single common goal: effective business continuity. Companies should take proper advice before implementing personnel measures. Minimizing the risk of claims is essential to successfully migrate to the new labor models. We face great challenges as a country. The commitment is for us all — employers and employees, public and private sector — to recognize productive steps to move forward into a new normal.

Andrés Lacayo Rodríguez
andres.lacayo.rodriguez@hn.ey.com

Fabricio Flores Ferrera
fabricio.flores.ferrera@hn.ey.com

Hong Kong

Rossana Chu

A few messages to Hong Kong employers during the COVID-19 pandemic

Although COVID-19 vaccination is being distributed on a global scale, most businesses continue to be affected by the economic slowdown, and employers are finding ways to cut costs. Unemployment in Hong Kong is poised to hit a new high, while Hong Kong's Financial Secretary Paul Chan warned that the situation may be exacerbated further after the Chinese New Year in February 2021. Meanwhile, bankruptcy applications in Hong Kong increased by 6.6% in 2020, and the number of corporate compulsory wind-ups reached a four-year high.

Staff cost reduction

Staff is one major cost for Hong Kong businesses, and thus a cost-cutting review will inevitably involve staff cost reduction. In doing so, employers should take note of the following:

1. Making an employee redundant is a valid reason for termination under Hong Kong's employment law, but the employer is obliged to pay a redundant employee termination payment pursuant to legal requirements and the appropriate contract of employment.
2. The level of an employee's salary and benefits is a contractual right. Any proposal to reduce salary or benefits requires the employee's express consent. An employee may agree to a reduction normally under incentives, such as an assurance of future restoration when the business picks up, a threat of possible redundancy if the employer cannot cut costs through the reduction, or a promise to keep employment for some time.
3. An increasing number of employers offer employees the opportunity to take voluntary unpaid leave. Again, this is a variation of contract, which requires express consent of the employee. A voluntary leave scheme can be combined with a wage reduction exercise, such as a reduction of monthly wages for a number of months in return for additional paid leave days that can be taken in the near future.
4. Most employment contracts give an employer influence over when an employee takes annual leave. Employers may look to exercise such influence to require employees to take their annual leave when business is slow and then require them to be at work when business improves.
5. The employer cannot make redundant, reduce the salary of or put on unpaid leave a female employee who has provided a medical certificate of pregnancy to the employer.

Restructuring and unemployment trends in Hong Kong

Currently, Hong Kong does not have a statutory corporate rescue regime. A financially distressed company may save itself by entering into (i) private debt restructuring agreements with its major creditors or (ii) a scheme of arrangement, which allows for a compromise that applies to all its creditors. However, such options do not provide a moratorium for the company against its creditors from bringing proceedings against the company or winding it up, thereby reducing the effectiveness of any debt-restructuring plan. In view of the immense financial challenges, the Hong Kong government has recently announced its plan to introduce the Companies (Corporate Rescue) Bill into the Legislative Council in early 2021 to introduce statutory corporate rescue procedures and insolvent trading provisions into Hong Kong law.

Takeaways

If a Hong Kong employer determines to stay in the business despite the financial pressure, we have a few suggestions:

- Alert employees of the latest mandatory quarantine measures and travel restrictions to protect the whole workforce
- Review its employment contracts, handbooks and policies if it plans to cut staff costs and carefully consider issues, such as leave (paid and unpaid), flexible working arrangements, employee relocation, variation of contract terms, termination and redundancies
- Be mindful and avoid breaching discrimination laws in the handling of staff (e.g., no sex, race or family status discrimination)
- Check if its insurance policies sufficiently cover employees' claims associated with COVID-19 and consider whether any updates to policies are required
- Candidly communicating with employees and showing empathy
- Manage the organization's reputation and public relations

Rossana Chu
rossana.chu@eylaw.com.hk

Jacky Chan
jacky-ch.chan@eylaw.com.hk

Hungary

Gábor Jagicza

Restructuring in Hungary

Forms of termination

In general, there are three ways to terminate employment relationships in Hungary: unilateral termination with a notice period, unilateral termination without a notice period, and mutual agreement regarding the termination of the employment relationship.

Collective redundancy

Collective redundancy obligations are triggered if an employer, within 30 days, dismisses:

- At least 10 employees in businesses that have between 21 and 99 employees
- At least 10% of employees in businesses that have 100 to 299 employees
- At least 30 employees in businesses that have 300 or more employees

Taking into account these thresholds, all dismissals must be properly calculated. (Mutual agreements initiated by employers also count.)

In the case of a collective redundancy, the employer must start negotiations with the works council and inform the group about all relevant information on the collective redundancy at least seven days before the consultation, including:

- The reasons for the projected collective redundancies
- The number of employees to be made redundant (broken down by categories or the number of employees employed during the preceding six-month period)
- The period over which the proposed redundancies are to be effected and the timetable for their implementation
- The criteria proposed for the selection of employees to be made redundant
- The conditions for, and the extent of, benefits provided in connection with the termination of employment relationships, other than what is prescribed in employment regulations

After that, the employer must initiate consultation with the works council, which must last at least 15 days unless an agreement is reached earlier. The employer is not obliged to conclude an agreement but to consult in good faith, with the purpose of trying to conclude an agreement. The employer may not carry out its planned measure (such as a collective redundancy) during the time of negotiations or for up to seven days from the first day of negotiations, unless a longer time limit is agreed upon. In the absence of an agreement, the employer may terminate negotiations when the said time limit (15 days) expires.

The employer is not obliged to initiate a consultation with trade unions. However, trade unions have the right to initiate consultation in connection with any planned measures of the employer affecting employees, such as a collective redundancy. If a consultation is initiated, the employer may not carry out its planned measure during the time of consultation or for up to seven days from the first day of consultation, unless a longer time limit is agreed upon. In the absence of an agreement, the employer may terminate consultation when the time limit expires.

Best practices

In cases of restructuring, well-designed preparations are key to success in terms of ensuring business continuity, maximizing cost efficiency, minimizing litigation or press risks, and reaching stakeholder satisfaction. Therefore, we recommend our clients to carefully plan their restructurings and invest in such a plan. Planning must start in due time before the restructuring is announced or consultations with employee representation bodies begin.

Gabor Jagicza
gabor.jagicza @hu.ey.com

Ivan Sefer
ivan.sefer@hu.ey.com

India

Anirudh Mukherjee

Workforce transformation and restructuring in 2021

The COVID-19 crisis affected economies worldwide, and workforce impact has followed suit. Amid supply and demand constraints, employers have sought to rationalize human resource utilization and costs. Workforce reduction for employers in India came with its own share of bottlenecks during the early stages of the pandemic, as governmental interventions proactively restricted workforce reduction. We have gradually witnessed a change as states in the Indian federation are now vying with one another over investor friendliness and working for their overall economic revival.

Legal framework for termination

Indian labor laws still retain a socialistic flavor and generally eschew at-will employment. Termination, especially for those governed by legislations as opposed to contract, must be carefully implemented. In this regard, two legislations primarily govern workforce reduction in India: the Industrial Disputes Act, 1947, which is a federal legislation, and the Shops and Establishments (S&E) law, which is specific to each state.

The ID Act applies exclusively to the workman category of employees, which broadly excludes employees who are in managerial, supervisory (drawing wages exceeding INR 10,000 per month) and administrative roles. The ID Act provides for the concept of retrenchment, which is basically termination of employment for any reason other than disciplinary action. The 1947 ID Act prescribes a detailed procedure for retrenchment of a "workman," which entails compliance with notice requirements, payment of compensation at the rate of 15 days' average pay for every completed year of continuous service, and notices to the government.

In case of certain industrial establishments (e.g., factories) employing more than 100 workmen (300 in certain states), the requirements for retrenchment is even more onerous, requiring prior government approvals and providing longer notice periods to workers. The compliance requirements under existing laws apply irrespective of the number of workers retrenched, and they often act as a stumbling block for employers. Employers also should be wary of the "last to come, first to go" principle while effecting retrenchment. Noncompliance with stipulated procedures by employers may lead to reinstatement of the concerned workers along with payment of proportionate back wages.

The state-specific S&E legislation applies to a wide pool of employees, and the termination provisions generally benefit employees who do not fall within the category of "workman" under the ID Act. The requirements for termination under the S&E legislation typically mandate the employer to provide a one-month notice period to the concerned employee or make payments for the same period.

In addition to retrenchment, Indian laws provide for dismissal on account of employee misconduct. Dismissal procedures ordinarily involve domestic inquiries.

Termination or separation by mutual consent and employee resignations would have to be done as per procedures contained in certified standing orders, the employment contract and company-specific HR policies, as applicable.

A crucial facet for employers to consider in the context of termination in India is the role of trade unions. Trade unions have been instrumental in espousing labor interests on issues of termination, particularly in the manufacturing sector. Recent developments indicate that trade unionism has seeped into the services sector as well.

A case in point is the remarkable role played by NITES, an IT industry trade union, in the backdrop of employee terminations during the COVID-19 crisis.

Restructuring trends

An important trend that has emerged in the course of the last few decades is the increased engagement of contract labor by businesses. In this system, labor is hired, supervised and remunerated by a third-party supplier who, in turn, provides worker support to primary establishments for a payment. Contract labor has delivered tremendous benefits to companies: reduced compliance costs, requirement-led engagement of labor and an absence of retrenchment-linked hassles as described earlier.

Indian employers adopted measures short of termination during the early stages of pandemic lockdowns, when legal protection against termination of employees was in place. These measures included reduced work with reduced pay, benching and withdrawal of discretionary payouts.

However, with restrictions removed, employers are now free to take legally available recourses for termination.

Conclusion

With the dust progressively settling on the pandemic and India witnessing a labor law reconfiguration, the stage is set for businesses to rethink their employment strategies. Employers should undertake an impact assessment of flexibilities under the upcoming Industrial Relations Code, including provisions for fixed-term employment and more liberal thresholds for triggering government approval requirement in cases of termination. Further, employers need to synergize their HR restructuring initiatives with a robust technology acceleration strategy to bolster employee efficiencies. Employers should take up reskilling and upskilling initiatives on priority. Evolution has taught us that adaptation is key to survival, and now is the time for employers to adapt.

Anirudh Mukherjee
anirudh.mukherjee@pdslegal.com

Banuprakash Nagaraj
banuprakash.nagaraj@pdslegal.com

Italy

Stefania Radoccia

Temporary ban on dismissals and its (limited) exceptions

In Italy, several measures have been introduced to address the current health emergency to, on one hand, protect health and safety, and on the other hand, allow economic recovery.

One of these measures is the temporary ban for collective dismissals and individual dismissals for objective reasons, up to 31 March 2021 (it will probably be further extended until the end of June 2021).

The above suspension does not apply in the following cases: dismissals due to the definitive shutdown of business activity, the signing of a collective agreement with the relevant unions providing incentive to leave, and dismissals issued in the event of bankruptcy.

In addition, it has also been clarified that the above-mentioned ban does not concern employees categorized as executives or dismissals grounded on reasons different from the economic ones.

Legal tools to reduce the workforce

In this scenario, the legal tools available for Italian companies to reduce their workforce are very limited.

One possible approach might be the negotiation and signature of a collective agreement with the relevant unions. Such agreement should provide employees an incentive to leave in exchange for the termination of their employment relationships.

As an alternative, companies might also agree to mutual resolutions of individual employment relationships, to be negotiated on a case-by-case basis. With this scenario, companies grant relevant workers an amount as an incentive to leave, in addition to the severance payments mandated by Italian law in cases of employment termination. Please note that as a general rule, to reduce the risk of companies being challenged, it is strongly recommended to formalize before the unions the relevant individual agreements right after the termination of the employment relationship.

However, the latter alternative precludes workers from taking advantage of the unemployment benefits (often called NASPI) usually guaranteed to workers dismissed for reasons different from just cause. Therefore, the implementation of such a scenario might be difficult to get agreement.

Restructuring trends and best practices in Italy

Considering the described scenario and the limits imposed by current legislation on redundancies, most Italian companies are choosing a temporary approach to deal with restructuring imposed by the health emergency and to contain the costs related to personnel.

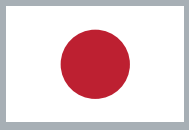
In particular, agreements to manage workers' hourly shifts and remote-working situations have been negotiated by companies to limit company costs and, at the same time, employees are encouraged to work off their accrued vacations and leave during off-peak periods.

Furthermore, in addition to the use of the redundancy fund implemented and extended for COVID-19 crisis, many companies are negotiating ad-hoc agreements to encourage employees nearing retirement to leave the company in advance.

In conclusion, while waiting for the definitive removal of the general ban for dismissals, trade union negotiation seems to be the best possible approach for companies to manage during the crisis, both at national and territorial or company level.

Stefania Radoccia
stefania.radoccia@it.ey.com

Maria Teresa Iannella
maria-teresa.iannella@it.ey.com



Japan

Junya Kubota

Workforce reduction

The government announced that the cumulative number of workers terminated due to COVID-19 impact since May 2020 is 82,050, as of 15 January 2021. The following outlines regulations on employment termination in Japan and best practices.

Legal forms to reduce workforce

First, an employer and employee can make an agreement to terminate his or her employment. Second, an employer can, subject to restrictions, unilaterally terminate employment (whether it is indefinite-term or fixed-term employment). This is called dismissal (kaiko in Japanese). In addition to these two major forms, nonrenewal of fixed-term employment and termination by mandatory retirement age (typically for indefinite-term employment) are noteworthy.

Procedural rules

For a dismissal, generally a 30-day notice or payment in lieu of notice is required. Further, if it is planned that 30 or more employees are terminated in a month due to business downsizing, the employer is required to submit a reemployment assistance plan to the government by one month prior to the day of the first termination. The government reviews and certifies the submitted plan. The plan must be prepared after hearing opinions from employees' representatives. Notification to the government may be required for termination of elderly employees, employees with disabilities and foreign national employees.

Substantive rules

A dismissal by an employer is deemed by law to be an abuse of the employer's rights and, therefore, stays null and void, if the dismissal lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms, per dismissal requirements. In terms of redundancy, courts generally determine whether employers have met dismissal requirements by looking into the following four factors: necessity to reduce the workforce, whether the employer made decent efforts to avoid the dismissal, appropriateness of employee selection and appropriateness of the dismissal process. In COVID-19-related circumstances, an employer would be required to fully utilize subsidies from the government to satisfy the second factor (effort to avoid dismissal).

The four-factor test is very difficult to be satisfied and lacks predictability. Besides the above, dismissal of fixed-term employment during this period could happen in exceptional cases only.

Trends

Based on the strict restriction of dismissals in Japan, mutual-termination agreements are usually sought to reduce workforce. To reach an agreement, the employer would need to offer certain non-mandatory severance package offerings, such as monetary payment, special leave and reemployment support. Employers often openly solicit termination agreements to all employees or a certain category of employees determined by various factors, including age, rank and division. It should be noted that coercive communication would result in tortious liability of the employer, making the agreement invalid.

Best practices

For employers, it is important to have a post-restructuring vision of management for their organizations, including systems and human resources that will fit the new market environment. Without such a vision, workforce reduction may cause adverse effects on a company's corporate vitality and employees who decide to stay with the organizatoin. Further, without such a vision, communication for employment termination would not be persuasive and sincere.

Junya Kubota
junya.kubota@jp.ey.com

Lithuania

Rūta Žukaitė

Effective workforce strategies: the importance of flexibility

Workforce reduction tools

Lithuanian legislation provides several options for reducing the workforce. Let's begin with those that do not result in downsizing. One of them is changing the indispensable terms of employment contracts by decreasing employees' workload (reducing standard working hours and, proportionally, wages). However, it is only possible if employee agrees to it. Another option would be to declare idle time. If employment termination is inevitable, companies should bear in mind the riskiness (the probability of disputes with employees) of each of the available employment termination options. The lowest-risk alternative would be to terminate employment by mutual agreement of the employer and the employee (option 1). A more expensive yet still safe option would be terminating the employment contract at the will of the employer (option 2). The riskiest way of downsizing would be to terminate employment on the initiative of the employer without any fault on the employee's part (option 3): a) because the job function performed by the employee has become superfluous due to changes in the work organization or the employer's activities (and there is no vacancy at the workplace that the employee could be transferred to with his or her consent), or b) the employee refuses to work under changed employment contract terms. (This proposal has to be based on substantial reasons related to economic, organizational or industrial necessity.)

Implementing workforce restructuring

In the case of option 1, the employer and employee simply agree on employment termination terms, e.g., severance.

If option 2 was chosen, the employee would have to be informed three business days in advance and paid a severance of no less than six months of his or her average wages.

In the case of option 3, an employee has to be informed one month in advance and paid a severance of two months of his or her average wages. Longer notice periods and higher severance pay apply to employees raising children, those who are disabled, and others with special circumstances.

In cases of collective redundancy, the employer would have to inform the employees' representatives in advance and hold consultations on measures for mitigating the consequences of the forthcoming collective redundancy. Last, there are strict employment-termination restrictions applicable to pregnant employees and those raising small children. Also, employers that were provided state support during the quarantine caused by COVID-19 must retain at least 50% of their jobs for which subsidies were paid for at least three months after the end of the subsidy payments.

Trends in Lithuania

In Lithuania, employers are provided state support, particularly the payment of subsidies on wages paid during idle time in quarantine. Therefore, a significant increase in the unemployment rate has not been seen yet. However, companies are actively reviewing their organizational structures and options to reduce excess manpower. Accordingly, the actual impact of quarantine on the labor market should be seen in the second half of 2021.

Communication is key

To handle workforce reduction in the least damaging way for both the employer and employees, it is crucial for companies to prepare a few business-optimization plans and get ready for the possible changes in advance. The companies should also communicate this to their employees, their representatives (properly and in advance), and be willing to seek a compromise solution to avoid high-risk employment termination scenarios. After all, the reputation of the company as an employer is no less important. Therefore, acting responsibly and open with your current employees is best practice.

Rūta Žukaitė
ruta.zukaite@lt.ey.com

Augustė Žėkaitė
auguste.zekaite@lt.ey.com

Mexico

Jacqueline Alvarez

Workforce transformation and restructuring in 2021

The year 2020 became a challenging time for employers due to the economic crisis and uncertainty caused by the COVID-19 pandemic. Furthermore, in the last months the Mexican Federal Labor Law (FLL) has been subject to modifications and potential reforms, as we explain below.

Employers have been seeking any legal tools available that allow them to continue operating within a legal framework.

Legal tools available to reduce workforce

In Mexico, a pandemic is not a cause for termination of the employment relationship with just cause. Therefore, employers may implement any of the following legal tools:

- Entering mutual agreements with workers on salary or work-shift reduction.
- Unilaterally terminating the employment relationship, in which case the employee would be entitled to a full severance payment.
- Negotiating a mutual termination agreement with the employee where, instead of severance, a gratuity is agreed by the parties.
- Extralegal compensation and benefits restructure, which must be agreed with the union in case an active collective-bargaining agreement is in place.
- Implementing flexible compensation schemes, which may include hourly payments, granting social welfare benefits, entering agreements subject to probationary periods or initial training, among others
- Implementing remote-work schemes.

Regarding this last item, on 12 January 2020, several modifications to the FLL on remote work entered into force, providing, among others, the employers' obligation to provide their employees the equipment necessary for carrying out their functions and activities remotely, as well as assuming the proportional part of electricity and telecommunication costs.

Procedural and substantive rules

Whether a company wishes to terminate an employment relationship or modify the working conditions in accordance to the provisions of the law, it is best practice that employers record in writing any modifications agreed upon with employees through an addendum to their employment agreement or a termination agreement.

Restructuring trends

On 12 November 2020, Mexico's president, Andrés Manuel López Obrador, filed a bill to reform, among other laws, the FLL on matters of subcontracting. In December, the bill's discussion was postponed until 2021.

The bill prohibits the subcontracting regime, understood as a legal entity or individual providing or putting its own workforce at the disposal of or to the benefit of another party (whether or not it is a related or unrelated party). The provision of specialized services that do not form part of the corporate purpose or economic activity of the contracting party is not considered subcontracting; however, these providers would be required to obtain a permit from the Ministry of Labor.

The bill provides the imposition of fines (to both the contracting party and contractor) in cases of breach to these provisions.

There is uncertainty about when the bill is going to be discussed, however, it may be during the current Congress's ordinary period of sessions, which ends on 30 April 2021.

Best practices

Considering the recently incorporated provisions on remote work and the potential reform on labor subcontracting, employers in Mexico are required to act fast and keep up-to-date on any modifications for implementing business changes to be sure they are complying with their obligations.

Best practice would be to carry out an analysis of employment relationships to determine the impact that remote-work reform or the proposed subcontracting regime provisions may have on a business.

Jacqueline Álvarez
jacqueline.alvarez@mx.ey.com

Alejandro Caro de la Fuente
alejandro.caro2@mx.ey.com

Netherlands

Huub van Osch

Workforce transformation in the Netherlands

The impact of the COVID-19 crisis on businesses and the economy is undeniable. However, the crisis also offers opportunities to renew business processes or restructure organizations. In the Netherlands, the contours of the beginning of the "new normal" are in sight.

Short term: recovery

The Dutch government has taken various measures to support businesses during the COVID-19 pandemic to facilitate economic recovery, including: (i) compensation for wage costs (NOW), (ii) income support and loans for self-employed persons (Tozo), (iii) compensation for entrepreneurs (TOGS) and (iv) compensation for the fixed costs of entrepreneurs (TVL).

Mid- to long-term: restructuring and business transformation

Currently, there is momentum to define a long-term business vision to face the challenges of the post-COVID-19 era. There are many reasons for business transformation, including the following:

Strategy shift

Some companies and business units will play an increasing role after the crisis, while the need for other companies or business units will decrease significantly. This forces leaders to think about business strategy. Restructuring organizations offers a solution.

Operational cost decreases

Amending employment conditions can be a solution, such as through a change in employment position or a harmonization of employment conditions. This can also be done, to the extent legally possible, through the applicability of a (different) collective labor agreement and pension scheme.

Redesigned workforce model

Employees are a major asset for a business. However, in changing times, it is to be considered whether all assets are still required, or whether optimization and efficiency can be achieved through redundancy, for example.

Redesigned work model

Working from home used to be the exception. However, it seems that working from home is the (new) standard. This offers opportunities (e.g., in the context of saving office space and mobility costs), but it also entails risks, such as complying with new legal challenges (e.g. health and safety obligations for the home office).

Best practices: planning and preparation

Thorough analysis and planning as well as timely preparation are essential when implementing and executing business transformations. Employers are bound by rules, such as:

Redundancy

Redundancy is possible either with mutual consent, or with the prior permission of the Dutch Public Employment Service (PES). An analysis of the legal feasibility and the effects of redundancy to the organization is of utmost importance.

Effects on employees

Business transformation and restructuring inevitably have impact on employees. As a result, employees may be given a new position within the organization, be dismissed or be transferred to another employer. Moreover, it is conceivable that a (unilateral) change in employment conditions will take place.

Communication

Communication with stakeholders, such as employees, employee representatives and – in the case of (more than) 20 redundancies in a 3-month period – trade unions also requires due attention. Stakeholders should be informed in good time to meet expectations and legal obligations and avoid delays.

Huub van Osch
huub.van.osch@hvglaw.nl

Nicole Kennis
nicole.kennis@hvglaw.nl

New Zealand

Tori Sullivan

Procedure and process persist during the pandemic

The year 2020 was nothing less than turbulent, and we have seen the same reflected in the determinations by the Employment Relations Authority (ERA) in their decisions that concerned restructuring and redundancies. Despite the government-enforced COVID-19 lockdowns, the ERA demonstrated a strict approach in dealing with employee grievances arising from the lockdowns.

The legal tools available for companies to reduce their workforce size

The courts repeatedly support employers' entitlement to reorganize their operations for business reasons and in a way that is commercially viable. Thus, employers are normally able to restructure their workforce and make employees redundant to save costs or increase efficiencies.

The procedural and substantive rules

Workforce restructuring and any resulting employee redundancies must be managed by employers in accordance with the relevant provisions of the Employment Relations Act 2000 (Act) and case law. There is no difference between the requirements for large-scale (or collective) restructurings and smaller-scale restructurings. Any workforce restructuring or redundancy should meet two legal tests:

- Substantive (or legal justification)
- Procedural fairness

For a redundancy to be substantively justified, the employer must be able to show that its actions, and how it acted, were what a "fair and reasonable employer could have done in all the circumstances at the time the dismissal or action occurred."

There is no works council or equivalent body in New Zealand. Consulting with any union that represents employees in a restructuring situation is generally stipulated in the Collective Employment Agreement (CEA), however, it is also required as part of the consultation process on possible restructuring as part of the statutory duty of good faith.

The restructuring trends in New Zealand

Many New Zealand employers undertook large-scale restructuring and redundancies in the first half of 2020 when many businesses were first feeling the effects of the lockdowns. However, large-scale redundancies have not (yet) hit the headlines in 2021, with the New Zealand labor market currently performing well. As of 5 February 2021, the unemployment rate was 4.9% (compared with 4% before COVID-19), and job numbers had only decreased by 9,000 from their pre-COVID-19 level.

Best practices

The ERA has made it clear that navigating through a pandemic does not give employers an excuse not to meet the substantive and procedural fairness tests that must be met in respect to workforce restructuring.

> "Employers and employees need to work together to stop the spread of COVID-19. This means that normal obligations, and acting in good faith, are more important than ever.

While it is recognized that COVID-19 may require a hastened consultation process with employees, the ERA has been quick to impose penalties when that process has been substandard. We constantly see global employers, particularly those without HR and legal functions in New Zealand, fall foul of the requisite standards. It is important for employers to:

- Understand how the restructuring laws applies to their circumstances
- Have a clear plan in relation to what redundancies are necessary and how this can be evidenced
- Undertake a well-thought-through consultation process

Tori Sullivan
tori.sullivan@nz.ey.com

Kieron Creagh
kieron.creagh@nz.ey.com

North Macedonia

Jana Nikodinovska

Workforce transformation and restructuring in 2021

COVID-19 imposed a unique reality in the business sector in North Macedonia, and hardly any organization was prepared to embrace it.

However, the Macedonian government focused on measures to enable working from home, the use of employee annual leave and maternity leave, and economic measures to boost a majority of businesses.

The legal basis for work transformation and restructuring, as before the COVID-19 pandemic, remains regulated by the Law on Employment Relations (LER).

What are the legal tools available for companies to reduce their workforce?

According to the LER, the employer may only terminate the employment contract unilaterally if there is justified reason for employment termination in cases of employee misconduct (personal reason), violation of the work order or work responsibilities (at fault), or if the reason is based on the functional needs of the employer (a business reason). In cases of a business reason, it may come to either individual termination or collective termination, which is a layoff of at least 20 employees in the period of 90 days, regardless of the total number of employees with the employer.

Apart from this, the LER stipulates the obligation for each trade company that has over 50 employees to notify and consult employees, i.e., employees' representatives, on every planned measure, especially when there is a threat to employment, decisions that may bring essential changes to work or contractual obligations.

Nevertheless, employment contracts may be terminated by mutual consent reached between the employer and the employee at any time.

What are the procedural and substantive rules?

In all cases, the termination of the employment contract needs to be in writing. Employers are obliged to explain the reason and grounds, as well as call to the employee's attention the legal remedies and their rights related to insurance in cases of unemployment, in accordance with law.

In cases of termination due to fault by the employee, the LER provides the definition of cases (with or without notice period) depending on the severity of violation.

Employers are also obliged to pay the employee severance pay, as per the LER, in cases of employment termination due to business reasons. Further, the employer cannot hire new employees in the same job position over the next two years unless it gives priority to former employees under defined terms.

In cases when employers intend to execute collective termination due to business reasons, they are obliged to initiate a consultation process with employee representatives at least one month in advance of the commencement of the collective termination. They must provide all relevant information prior to the consultation to achieve potential agreement with the union.

Afterward, the employer is obliged to inform in writing the Macedonian Employment Agency for the purpose of providing help and intermediation services in connection with employment, in accordance with the law.

What are the restructuring trends in your country?

Despite the efforts of the Macedonian government to keep jobs by implementing various financial aid schemes for businesses, the official statistics show nearly 25,000 jobs lost as a result of the COVID-19 crisis in North Macedonia, mainly in the services sector. The prevailing tools for workforce reduction among companies were collective termination and, where possible, employment termination by mutual consent.

Businesses that managed to keep in step with digitalization and use state incentives for innovations were able to better survive. They implemented new work models to respond to the needs of a new reality, usually accompanied by investments in IT and appropriate employee training.

Best practices

Due to certain ambiguities in LER and the strict requirements for collective layoffs, in practice it may prove complicated or burdensome to complete the collective employment termination procedure. Furthermore, failing to observe and anticipate all tax and law requirements and implications may lead to losses and additional costs for the employer.

Jana Nikodinovska
jana.nikodinovska@mk.ey.com

Ana Pavlovska
ana.pavlovska@mk.ey.com

Norway

Helga Aune

Moving from furloughs to workforce reductions

The COVID-19 pandemic has had a major impact on the working life in Norway. The state of emergency and different governmental measures and restrictions related to the pandemic are subject to regular changes. Mutations of the coronavirus are yet again forcing employers to consider their business, strategy, activities and workforce.

The new normal

The financial situation of many companies differ significantly. Some have continued their operations and some have experienced their best year ever, while others have been ordered to temporarily close down. The different measures implemented to limit the spread of infections have had serious repercussions, with many employees being furloughed.

As it is still not clear if or when productivity will increase again, employers now have to assess their businesses going forward. Several companies have predicted that the new normal of working life will include a continuation of home offices, at least two to three days weekly. This will create new employment law issues, insurance and tax-wise, as more employees work from home or abroad.

For businesses whose work is not suited for the home office, the situation is more uncertain. Struggling employers still have to choose between temporary furloughs and permanent layoffs to reduce the companies' workforce and costs.

Is the decline temporary or permanent?

Furloughs are intended for cases where companies need an increased flexibility in a temporary situation, while workforce reductions are of a more permanent nature. Employers must choose between the two measures based on their knowledge and forecasts for the future. In this context, companies must be allowed some optimism, but a certain realism is also required.

It is not always clear whether a downturn is temporary or permanent. However, if it is clear that the decline of work is of a permanent manner, and companies have no objective reasons to expect that the company will be able to readmit the furloughed employees in the near future, a workforce reduction is the appropriate measure.

Workforce reductions

More and more employers realize that permanent measures are required to ensure continued operations. Despite the challenging situation, employers cannot dismiss employees at will. A workforce reduction must be objectively justified on the basis of circumstances relating to the employer or the work itself. The law does not state or indicate by way of example what constitutes sound reasons sufficient to justify workforce reductions. This must be determined on a case-by-case basis.

Strict requirements concerning form and procedure must be followed for a workforce reduction. This includes mandatory information and consultation obligations. The requirements differ to a certain degree, depending on the number of employees made redundant, but the main requirements apply.

Furthermore, both the selection criteria and the selection of employees subject to redundancy must be objectively justified. The employee is also entitled to be offered any other suitable work available elsewhere in the undertaking.

Do not rush the process and plan internal communication

Employers considering workforce reductions must ensure a well-documented process in accordance with legal requirements, including requirements following from possible collective-bargaining agreements. The importance of internal communication cannot be stressed enough. This is key to secure trust in the future at the enterprise, post-restructuring processes. We advise employers to seek assistance from Norwegian legal advisors.

Helga Aune
helga.aune@no.ey.com

Thomas Knutsen
thomas.knutsen@no.ey.com

Paraguay

Gustavo Colman

Paraguay labor overview for 2021

A quick snapshot of the Paraguayan market shows us that despite the efforts included in the emergency law enacted in March 2020, which stated economic and financial benefits for the Paraguayan people, we still face many challenges to economic and employment recovery.

Home-office work, as a replacement for face-to-face work, may be carried out voluntarily, due to the quarantine, or by internal company policies to avoid putting workers at needless risk. On the other hand, there is an increase in hiring professional services for specific hours, as in freelance work. This year, 2021, has already shown significant challenges, but businesses with a strong purpose and vision, and are future-fit for work, will help us to move forward and generate a positive impact on our workers and communities.

Legal tools for companies to reduce their workforce

There are many ways for a company to reduce its workforce. However, it's important to take this decision as a last resort and analyze alternatives, such as using short-term contract workers.

Unjustified dismissal. This occurs when there is no legal reason to terminate the employee labor contract. By law, employees have the right to receive severance payment, considering the following are given: a) prior notice, b) compensation at the rate of 15 days for each year of work in the same company or a fraction of time greater than six months, c) outstanding vacation entitlements, d) proportional holidays at the dismissal time and e) a Christmas bonus.

Justified dismissal. When the employer proves the existence of a dismissal cause established by labor law, the employer will not incur any responsibility or obligation to give prior notice or compensation to the employee. The employee is only entitled to receive the payment for the days worked until the moment of dismissal, the proportional Christmas bonus, and the payment of outstanding vacation entitlements. In the case of labor stability, a labor judge must previously acknowledge the justified dismissal.

Mutual termination. This should be formalized in writing before a notary public or a representative of the Labor Ministry.

Simple resignation. This must be formalized in writing with the presence of two witnesses.

Procedural and substantive rules

The employer has the right to organize work in their commercial establishments, and in the case of collective dismissal, there are no threshold rules, but they must follow the objective selection criteria stipulated by labor law. Female employees on maternity leave, workers with 10 years' of work or more in the company, and labor union representatives are excluded from the selection criteria. It is also possible to proceed with the suspension of contract labor for a period of time. This last option must be duly justified and authorized by the Ministry of Labor. Force majeure is the main reason to proceed in this way.

Works council or union involvement

Labor unions are recognized by law. Any modification to the collective labor contract demands a dialogue between parties to legitimize the agreements reached, and it must be registered with the labor authority.

Restructuring trends in Paraguay

Some companies are operating 100% remotely. This will depend on the nature of services and the health and well-being of the employee. While the pandemic today stands at the core of all our decisions, it is suitable to start including clauses in the internal work regulation that promote telework in terms of achieving objectives rather than time spent at the workplace.

Best practices

Businesses that have a strong purpose, are adaptive and empathetic, and provide incentives for their people will be the driving forces in making a stronger economy and community.

Gustavo Colman
gustavo.colman@py.ey.com

Nabila Larroza
nabila.larroza@py.ey.com

Peru

José Ignacio Castro

Navigating through the crisis: adapting to the new reality

Peru, like many other countries in the world, has been facing the second wave of COVID-19. With quarantines focused on many regions of the country, numerous restricted economic activities since March 2020, and the lack of a clear vaccination schedule, companies face new challenges in this process of adapting to the new reality.

Although the initial response was given through the suspension of work contracts without payment until 5 April 2021 and the prioritization of remote work until 31 July 2021, these measures no longer seem to be sufficient for the survival of companies.

Restructuring the workforce

The individual termination of employment contracts in Peru can occur by mutual agreement, unilateral decision of the worker or from a unilateral decision of the employer that is accompanied by a justified reason. If there is not a justified reason, the worker can request the payment of compensation or, at his or her choice, for reinstatement in the job.

Individual termination for reasons linked to force majeure or economic and structural reasons is only allowed through a procedure involving the Ministry of Labor, the workers involved and the union organization.

Termination due to force majeure

In cases where the cause of force majeure involves the total or partial disappearance of the workplace, the employer may proceed with the termination of employment contracts after inspection by the Ministry of Labor, to which the industry belongs, and making this body aware so that it makes the final decision to authorize the termination.

In the event that the employer's request is not accepted, the payment of salaries and social benefits to workers must proceed.

Termination for economic, technological and structural reasons In this case we are facing a collective termination, which must affect no less than 10% of the company's workers.

Its origin requires a period of negotiation with the union or the affected workers in order to adopt alternative measures.

The termination request must be supported by an expert opinion issued by an auditing company.

The termination decision is relayed to the Ministry of Labor, and the employer may suspend the affected workers for the duration of the procedure.

In case the termination decision is not accepted by the Ministry of Labor, the employer must pay workers the salaries and social benefits they have ceased to receive.

Termination for dissolution, bankruptcy or restructuring of assets

Adopted the dissolution agreement in accordance with the Peruvian General Law of Society, the cessation of workers will occur 10 days after the notarized communication made by the administrator or liquidator. In these cases, there is no payment of compensation to the workers.

Next steps

To the extent that the processes of employment contract termination for workforce restructuring depend on the decision of the state authority, it is important for employers to implement plans that prioritize voluntary termination agreements with workers, e.g., voluntary retirement plans or exit incentive packages. These can help mitigate the risk of questions from both the authority and trade union organizations.

Working on contractual restructuring plans, such as converting employment contracts into part-time, may be a viable alternative for employers in these times of uncertainty.

Jose Ignacio Castro
jose-ignacio.castro@pe.ey.com

Mauricio Matos
mauricio.matos@pe.ey.como

Romania

Anca Atanasiu

Workforce transformation and restructuring in 2021

Almost a year after the COVID-19 pandemic struck, employers sought out and established flexible working conditions to adapt and survive economically. At this moment, 2021 is expected to be an echo of 2020, with employers focused on maintaining remote work or on establishing hybrid working structures (at the office and working from home). However, some industries experienced more drastic effects of the pandemic. These industries are either looking to reduce their activity and their headcount or target cost reductions and minimize or reshape their teams to prevent similar economic difficulties as those encountered in 2020.

Below, we discuss the tools available for employers who wish to restructure their activities and the procedures required.

Tools to reduce workforce

As a general rule, employment contracts can be unilaterally terminated by the employer, either for reasons related to the employee (such as disciplinary dismissals, physical or mental incapacity, and professional inadequacy) or for reasons that are not related to the employee, when job positions occupied by one or more employees are eliminated from the organization (redundancy).

Thus, the main tool to reduce the workforce is dismissal, which is mainly a result of restructuring processes, business financial difficulties, the implementation of cost-reduction mechanisms or even a result of digitalization, which in most cases causes a reduction in human workforce.

Dismissals can be either individual or collective. Collective dismissals follow a more complex and lengthy procedure, which involves various communications with the local labor authorities and consultations with the trade unions or employee representatives.

Collective dismissals occur if, for example, within 30 calendar days the employer decides to dismiss at least 10% of its employees in a company with 100 to 299 employees or at least 30 employees in a company with more than 300 employees.

An important step in the collective dismissal process is the consultation with trade unions or employee representatives, with the aim of reaching an agreement in respect to the methods and means for avoiding collective dismissals or reducing the number of dismissed employees.

As opposed to collective dismissals, individual dismissals are governed by a simplified procedure, but they are still extremely strict and formal.

Restructuring trends

Collective dismissals are usually avoided due to their length in time, a bureaucratic approach, the significant number of resources involved and the restrictions they impose. For example, employers cannot proceed to hire for the same or similar job positions to the ones that were restructured for a period of 45 days after the dismissal occurred.

A quicker solution, which is preferred by employers, is to reach a mutual agreement with the employee upon termination. Some employers use voluntary-leave plans in cases of large restructurings.

Conclusion

Employers should always analyze their options and choose what best satisfies their needs.

Irrespective of the type of dismissal, such procedures can be challenged in court by the affected employees, who may claim that the dismissal was illegal and request annulment of the dismissal decision as well as reinstatement in the former position held within the company.

Therefore, if employers choose to restructure their workforce, they should be mindful of all the legal requirements and risks, plan in advance, and be very thorough in documenting the reasons for dismissal.

Anca Atanasiu
anca.atanasiu@ra-law.ro

Ana Flueran
ana.flueran@ra-law.ro

Russia

Daria Zakharova

Workforce transformation and restructuring in 2021

Due to the coronavirus outbreak and its negative financial and economic consequences, there has been increased tension in the Russian labor market over the past year. The pandemic has forced companies to make tough employment decisions, and many workers have faced the risk of being laid off.

Legal tools available for companies to reduce their workforce

From the legal perspective, redundancy may be implemented either through termination due to business closure (company liquidation) or reduction in the workforce. These are two different termination grounds, although procedural rules for these cases have a lot in common.

Alternatively, the parties could reach a decision on termination by mutual agreement. Unilateral termination by the employer is not permitted under Russian labor law.

Redundancy procedural and substantive rules

Legal justification for redundancy is not formally required. Nevertheless, procedurally, redundancy is a heavily regulated area.

The employer cannot freely choose the employees to be redundant. Employees with a higher productivity and skill have a preferential right to remain employed. Certain employees are afforded special protection during the process, particularly pregnant women or women with young children, single parents, trade union members, and current or former members of a union's collegial bodies.

The employer must notify the work council or union several months prior to employees' termination date.

No approval from the labor authorities is required to implement redundancy. However, the employer is required to file a notice with the state unemployment service.

The employer must notify each impacted employee at least two months prior to the redundancy, with a signed acknowledgement. The employer is required to offer impacted employees all vacant positions in the given region that correspond to the employee's qualification or require a lower qualification. The impacted employees are entitled to obligatory payments, including a severance payment of salary for up to three months.

The law differentiates between "redundancy" and "collective redundancy" (also referred to as mass redundancy); the latter has to adhere to stricter termination rules.

A redundancy qualifies as a collective redundancy if it meets one of the following criteria:

- Liquidation of an enterprise that has 15 or more employees
- Staff redundancy of 50 or more employees within 30 calendar days; 200 or more employees within 60 calendar days; 500 or more employees within 90 calendar days
- Termination of 1% of employees due to liquidation or redundancy within 30 calendar days in regions where the total number of employed less than 5,000

Restructuring trends

In the period from 1 April 2020 to 25 January 2021, the number of individuals registered as unemployed rose by 1.9 million. However, there is no consensus among HR experts as to the near-term trends in the labor market. Redundancies may be expected in smaller catering and service companies. There is also an increasing number of companies that are planning not to reduce but, on the contrary, to hire new staff.

Best practice

Redundancy should only be considered if the parties have not been able to find any suitable alternative. An employer cannot make unilateral changes to the terms and conditions agreed on in an employment agreement, including hours of work, salary and job description, but the employer may at least consider proposing some or all of the above changes to an employee as an alternative to redundancy. The costs of hiring new employees are high and go far beyond just paying for their salary; they also encompass recruiting, training, workplace integration and more. Even in the long run, such costs may exceed the costs of keeping current employees in a company.

Daria Zakharova
daria.zakharova@ru.ey.com

Singapore

Evelyn Ang

Transforming and restructuring the workforce

The economic fallout resulting from the COVID-19 crisis has prompted many companies to evaluate their workforce requirements. In this regard, companies should be mindful of (a) the relevant legal requirements in the Employment Act (Cap. 91) of Singapore, (b) the Tripartite Guidelines on Mandatory Retrenchment Notifications, and (c) the Tripartite Advisory on Managing Excess Manpower and Responsible Retrenchment.

Tools for companies to legally reduce workforce

Under the Employment Act, an employer may at any time give an employee notice of its intention to terminate the employee's contract of service. The notice period must be determined by provisions in the contract of service or, in the absence of such provisions, it should be no less than (a) one day's notice if the employee has been employed for less than 26 weeks; (b) one week's notice if the employee has been employed for 26 weeks or more, but less than 2 years; (c) two weeks' notice if the employee has been employed for 2 years or more, but less than 5 years; and (d) four weeks' notice if he or she has been employed for 5 years or more.

An employer may terminate the contract of service without notice (a) by paying salary in lieu of notice, or (b) in the event of any willful breach by the employee of a condition in the contract of service.

Mutual termination

The employer and employee may mutually agree to terminate the employee's contract of service and agree to waive notice.

Procedural and substantive rules

Singapore-registered businesses that intend to retrench workers should, among other actions, (a) notify employees of their retrenchment according to the terms for termination of employment in their contract of service; (b) inform the Ministry of Manpower before carrying out any retrenchment exercise by submitting a retrenchment notification within 5 working days after the employees are notified of their retrenchment; employers with at least 10 employees who have retrenched 5 or more employees within any 6-month period are required to notify the Ministry; (c) consult with the relevant trade union if the company is unionized; (d) pay all salaries (including unused annual leave, notice pay, etc.) and retrenchment benefits (if any) to employees on their last day of work.

Singapore-registered businesses are required to notify the Ministry if they have at least 10 employees and intend to implement cost-saving measures that will result in more than a 25% reduction in (a) gross monthly salary for local employees; or (b) basic monthly salary for foreign employees.

Restructuring trends

We have seen workforce restructuring in the air transport, hospitality, travel and construction industries.

Employers are increasingly making redundant employees in jobs requiring skills that can be automated.

There has been a surge in the number of employers implementing cost-cutting measures like wage reduction and no-pay leave arrangements.

Best practices

Employers should consider alternatives to workforce reduction, such as training, flexible work schedules, temporary layoffs, shorter work weeks, redeployment or wage adjustments for employees.

During workforce restructuring, employers should not discriminate against any employee, and they should consider the employee's ability to contribute to the company's future business needs.

Employers should treat affected employees with respect and dignity, consider providing longer retrenchment notice periods, and aid affected employees to search for alternative jobs internally, in other companies or via outplacement assistance programs.

Evelyn Ang
evelyn.ang@atlasasialaw.com.sg

Chan Wan Hong
wan.hong.chan@atlasasialaw.com.sg

Slovakia

Katarina Cangarova

Unprecedented challenges

Slovakia has been heavily impacted by the COVID-19 pandemic due to its location and open economy. Reduction in demand for its exports (e.g., in the automobile industry) and various local counter-pandemic measures (such as lockdowns) posed new challenges to entire segments of the economy. Employers had to adjust to the new situation and make use of existing legislation, while the authorities introduced new employee maintenance schemes and changes to rather rigid labor laws.

Flexible work measures and subsidies

To mitigate unemployment, the government introduced several subsidy schemes (such as FirstAid+), temporary flexibility-enhancing measures (vacation ordered by the employer), modernized rules on working from home and short-term work, where employees accept lower remuneration for less work time, and their jobs are subsidized.

Dismissals

The Labor Code provides a closed list of legal grounds for termination and outlines a rather formalized termination procedure. Most common grounds for termination are:

- Termination or relocation of the employer
- Redundant workforce
- Unsatisfactory performance of the employee's duties

Firing an employee may also be costly for an employer due to obligatory notice periods and severance payments. While such measures provide high degrees of employee protection, they may also cause lower flexibility in employment relations, which preclude employers from prompt reactions to the immediate market situation.

Mass dismissals

Should multiple redundancies be necessary, Slovak labor laws recognize "collective dismissal," specifying conditions that must be fulfilled prior to termination of an employment relationship. A formula included in the applicable provisions stipulates whether a multiple redundancy qualifies as collective dismissal, based on the size of the employer and number of employees dismissed. Obligations stemming from collective dismissal status are predominantly administrative and include notifying the competent employment authority, negotiating with employee representatives to minimize adverse effects on the employees, and disclosing relevant information to employees. Collective dismissals may have grave reputational impact on the employer, as they generally attract substantial media coverage. Therefore, there have been attempts to circumvent collective dismissal rules by implementing multiple redundancies over a longer period.

Reorganizations

Shifts in the global economy also accelerated reorganization attempts on the market. Foreign companies reconsidered their presence in Slovakia, which often lead to reorganizations, intragroup mergers and closing local branches or subsidiaries. Such corporate changes are also subject to labor law requirements, especially due to the issue of the automatic transfer of employees with European Union–wide applicability.

Conclusion

Since terminating employees may be legally demanding and costly, we suggest you review other possibilities, such as taking advantage of available government subsidies and flexible work instruments (e.g., short-term work), as the overall costs of terminating, hiring and training employees may exceed any present savings. Also, terminations should be subject to prior review by legal professionals to reduce the risk of challenge in court. Reorganizations are more frequent than ever and they deserve the special attention of labor law attorneys, particularly due to the often neglected automatic transfer of employees that is widely interpreted by the Court of Justice of the European Union case law.

Katarina Cangarova
katarina.cangarova@sk.ey.com

Emil Šulc
emil.sulc@sk.ey.com

South Africa

Claire Hock

Workforce transformation and restructuring in 2021

Economic pressure on industries such as aviation, hospitality, tourism and retail as a result of COVID-19 has caused many businesses to rethink their operating models and organizational structure. This places a spotlight on mechanisms for workforce transformation and restructuring.

Employees are guaranteed "fair labor practices" in the constitution. This includes protections from being unfairly dismissed as well as the right not to be subjected to an unfair labor practice.

Dismissal for operational requirements

The primary mechanism for workforce restructuring is employment termination for operational reasons. "Operational requirements" are defined as requirements based on the "economic, technological, structural or similar needs of an employer."

Procedural and substantive fairness

Procedural and substantive fairness rules for operational-requirement dismissals (retrenchments) are governed by provisions of the Labor Relations Act 66 of 1995. Employers contemplating retrenchments must consult with potentially affected employees or their trade union(s). The consultation process is aimed at reaching consensus on a) ways to avoid or minimize, ii) changing the timing of the proposed dismissals and iii) mitigating their adverse effects. In the process, the consulting parties are also required to seek consensus on the selection criteria and severance pay, although minimum severance pay of one week's remuneration for each completed year of service is prescribed in the statute.

The consultation process begins with written notice from the employer to potentially affected employees or their trade union, and this notice must be issued as soon as retrenchments are contemplated. The courts have ruled "contemplated" means when the decision has been taken by management that retrenchments are in principle a possibility, but before they are a fait accompli.

This written notice must include the reasons for the potential retrenchments, any alternatives to retrenchments (and why these were rejected), the number of employees likely to be affected and their job categories, the proposed selection criteria, timing and severance pay, any assistance the employer is offering employees, the potential for re-employment, the number of employees currently employed by the employer, and the number of employees retrenched by the employer in the preceding 12 months.

An assessment of substantive fairness in cases of retrenchment will turn on whether the reason for the retrenchments was "rationally justifiable," whether it was related to the operational requirements of the employer, and whether the consultation process was "a meaningful joint consensus-seeking process."

The act provides essentially the same obligations for "large-scale" retrenchments, which are defined in the act and are proportional to the size of the employer. Two significant differences are the potential involvement of an external mediator for the consultation process and the possibility of a legal (protected) strike in the event of a dispute. Normally such disputes are settled at arbitration or in the Labor Court.

Unfair labor practices

The definition of "unfair labor practice" includes unfair treatment related to demotion. Restructuring often involves the possibility of employee demotions and, as such, demotions should be conducted fairly in consultation with the affected employee and for defensible reasons.

Increased retrenchments

With the demise of the government's Temporary Employer/Employee Relief Scheme (TERS), retrenchments are already on the rise. Employers would do well to ensure that they are mindful of the procedural and substantive fairness requirements in relation to any proposed COVID-19-related restructuring.

Claire Höck
claire.hock@za.ey.com

Spain

Raul Luis Garcia Gonzalez

Workforce transformation and restructuring in 2021:

COVID-19 impact on business workforce

Due to the situation generated by the COVID-19 pandemic, many companies are facing challenges in terms of staff management. In this context, the survival and efficiency of numerous businesses will require the implementation of restructuring and redundancy procedures. Nevertheless, it must be considered that the current situation can also serve as an incentive to carry out a global transformation and an opportunity to adapt to a new business model.

Existing mechanisms in Spain to reduce the workforce: individual dismissals

Within the Spanish labor frame, companies may reduce their workforce through a single instrument: dismissal. The use of this instrument must be justified and accompanied by a cause, which is enough for the employer to adopt this measure. Although there are two types of dismissals to be executed, the specific mechanism for the amortization of job positions is the objective dismissal, based on reasons beyond the employee's control.

Consequences of implementing a dismissal

Objective dismissals entail a compensation of 20 days per year worked, with a limit of 12 monthly payments. Moreover, dismissals will be considered unfair in those cases in which the employee challenges it, and it is proved that the employer did not have enough grounds or has not been able to substantiate the facts imputed to the employee. In these cases, the employee will be entitled to receive a compensation of 45 days of salary per year worked until 12 February 2012, and from then onward to 33 days of salary per year, up to a maximum of 24 monthly payments. The resulting compensation amount may not exceed 720 days of salary, unless the calculation of the severance payment for the period prior to 12 February 2012 results in a higher number of days – in which case this will be applied as the maximum compensation, without the amount exceeding 42 monthly payments.

Likewise, dismissals must be performed while safeguarding the fundamental rights and public liberties of employees. If this is not observed, the dismissal could be declared null.

Dismissals that reach a certain threshold

According to Spanish legislation, when dismissals affect a significant number of employees, a specific procedure will have to be undertaken: a collective dismissal. This process will be followed when, within a 90-day period, the dismissal affects at least: (i) 10 employees in companies with less than 100 people; (ii) 10% of the total workforce in companies that have between 100 and 300 employees; and (iii) 30 employees in companies with more than 300 people.

These restructuring procedures may be executed based on the following causes: (i) economic: where a negative situation is reflected in the company's results, such as three consecutive quarters of losses; (ii) technical: when changes occur, among others, in the means or instruments of production; (iii) organizational: when changes are made, among others, in the area of systems or the way production is organized; and (iv) productive causes: when changes occur, among others, in the demand of products or services that the market requires.

Involvement of employees' representatives

The above-described process entails specific particularities, such as the fact that its implementation is preceded by a consultation period with the company's employee representatives, a duration between 15 and 30 days depending on the number of employees. The main purpose is to reach an agreement and cover, at least, the possibilities of avoiding dismissals or mitigating their consequences.

This consultation period does not have to conclude with an agreement between the parties, and the labor authority does not have to authorize it.

As it occurs with individual dismissals, severance payment amounts will depend on whether the dismissal is considered unfair or objective.

As well as following the procedures legally stipulated in the Workers' Statute, the provisions of the applicable collective-bargaining agreements must also be observed, since it may regulate specific aspects.

Limitations on the implementation of dismissals in the current context

The Spanish government established the prohibition to perform dismissals for a period to all companies that had benefited from exemptions from Social Security contributions within the framework of the aid program implemented. Additionally, companies will have to comply with the prohibition of not executing dismissals that are justified from COVID-19 causes. This prohibition will be in force at least until 31 May 2021. In this sense, it will be necessary to be very attentive to the deadlines foreseen in these regulations, since a potential dismissal could be considered null or unfair, and it could have further consequences for companies that do not observe them.

Conclusion

The pandemic has created a complicated situation for many companies in terms of personnel management. In this regard, it will be worth considering all available measures to make the company structure as flexible as possible when necessary.

Raul Luis Garcia Gonzalez
raulluis.garciagonzalez@es.ey.com

Javier Linares Jurado
javier.linares.jurado@es.ey.com

Sweden

Paula Hogéus

Workforce restructuring in light of COVID-19

The ongoing COVID-19 pandemic has had a big impact on the labor market. Different forms of state aid have helped many employers retain their workforce in order to weather the storm.

However, with the pandemic continuing in 2021, employers may need to find other solutions to adapt their businesses to the "new normal."

Legal framework

Despite the different state aid and government incentive schemes that have been introduced due to the pandemic, many businesses are struggling. To survive the crisis, employers must now adapt by making difficult decisions regarding their workforce.

Under Swedish law, employers have the right to reorganize their business however they deem appropriate. Thus, employers who wish to reduce their workforce may contemplate a restructuring or reorganization, which would trigger a redundancy situation.

As long as the redundancy relates to economical or organizational reasons and is not discriminatory or contradictive to "good practice" on the labor market, it is acceptable.

The redundancy process is governed by the Employment Protection Act (1982:80) as well as supporting regulations in the Co-Determination in the Workplace Act (1976:580).

Information and consultation obligations

The same rules apply regardless of how many employees are being terminated. Thus, the term "collective redundancy" is not legally defined, and different threshold rules do not apply depending on the number of employees being terminated.

However, employers should be aware that a notification must be made to the Swedish Public Employment Service if five or more employees are being made redundant.

Employers who are bound by a collective-bargaining agreement (CBA) must consult with impacted trade unions prior to deciding upon any redundancy. If the employer is not bound by a CBA, consultations still need to take place if any of the affected employees are unionized.

An employer is not entirely free to choose which employees to dismiss. Prior to any dismissals, the employer must assess whether an employee can be relocated to a vacant position within the legal entity, subject to the employee having "sufficient qualifications" for such a transfer.

If there is no vacancy to offer or if the employee lacks "sufficient qualifications," the employer must follow the dismissal order based on the "seniority principle." This means that redundant employees must be offered another position within the same operational unit if the position is held by someone with a shorter length of service.

It should also be noted that employees who have been dismissed due to redundancy may have a priority right to re-employment for a period of nine months after the last day of employment.

Restructuring trends

Workforce restructuring does not necessarily equal a reduction of the workforce. Other measures can be taken to adapt to new ways of working.

As a result of COVID-19 and its repercussions, many employers are now considering different ways of restructuring their workforce to enable more flexible and cost-efficient solutions.

For example, by introducing a permanent, flexible, remote-work policy, employers may use smaller office spaces. This allows the employer to save on real estate costs while offering employees a more flexible way of working. Others have explored possibilities to shift to virtual markets to access customers.

When planning for the "new normal," employers will need to carefully assess their business and the need for workforce transformation to maintain business continuity during the pandemic and beyond. Prior to any restructuring, it is important that employers carry out risk assessments of the impact it might have on the business as well as its employees.

Paula Hogéus
paula.hogeus@law.se.ey.com

Melika Rajaee
melika.rajaee@law.se.ey.com

Switzerland

Marc Philipp Gugger

Workforce transformation and restructuring in 2021

In addition to ongoing digitalization and automatization, the COVID-19 pandemic and all its consequences seem to be an acceleration driver, forcing companies to rethink their current workforce structures. It is crucial to find a way through the transformation journey to meet today's desire for new ways of working – and emerge stronger from the crisis.

Legal tools to reduce the workforce

In cases of unpredictable or increasing cost pressures, reducing the workforce by dismissals might be inevitable. Based on the principle of freedom of dismissal, ordinary dismissals and even mass dismissals are generally possible, except for those that happen at an inopportune juncture, such as cases of illness, accident, pregnancy and other specific circumstances, in accordance with statutory law. If a dismissal is considered abusive, compensation would be due. The possibility of mutual terminations also remains.

Mass redundancies

Mass dismissals are notices of termination given by the employer to employees within 30 days for non-personal reasons, affecting a certain number or percentage of them depending on the size of the company (at least 20, more than 100 or over 300 employees).

Any employer contemplating a mass dismissal must inform employees and the Cantonal Labor Office in writing. The information is followed by the consultation process with the employees' representative body or the employees themselves. The Cantonal Labor Office must further be notified about the result of the consultation.

When at least 30 employees are being considered for a mass redundancy in companies regularly employing more than 250 workers, the employer has an additional obligation to negotiate a social plan with a work union, employee representative or employees.

Restructuring trends

As mass dismissals must always remain the last resort, alternative restructuring measures must be considered.

It is important to take advantage of current financial state support, such as short-time work compensation or state loans. In addition, active workforce management, such as flexible working, part-time employment, training, education, internal transfers and short- or long-term adaptions to the compensation or reward structure seem indispensable.

Continuous digital transformation is a condition for successful implementation. Working remotely has gained importance almost as much as compensation or reward strategies. Employees and employers are required now more than ever to be flexible and agile to meet current trends. For employers, it is equally important to show solidarity and be supportive. This applies before, during and after a potential mass dismissal process. Offering voluntary comprehensive support regarding job search, outplacement measures, (early) retirement, the extension or reduction of notice periods, and additional considerations regarding hardship cases (e.g., family, children, elderly employees, people at high risk) has become a leading standard. This is in addition to traditional severance payments related to service years or seniority.

Conclusion

Even though reputational damage seems somehow limited during the ongoing pandemic, it is still important to avoid mass dismissals and seek alternative restructuring solutions, especially for those who made it through the crisis. Trends and leading practices are moving toward open and honest communication with proactive management and timely involvement of all workforces.

Successful transformation requires collaboration and commitments from both the employer and employees. Ensuring that employees are heard, involved and treated fairly in cases of a mass termination is essential. When people leave on good terms, it also bolsters companies' reputations and will help them attract talent in the future.

Marc Philipp Gugger
marc.gugger@ch.ey.com

Aline Nussbaumer
aline.nussbaumer@ch.ey.com

United Kingom

Rob Riley

Workforce transformation and restructuring in 2021

In a world undergoing unprecedented change and lengthy periods of uncertainty during the COVID-19 pandemic, organizations must adapt, transform and restructure their workforces to respond to ever-changing business needs. This will help organizations to evolve and even thrive during new and unpredictable trading conditions.

What are the legal tools available for companies to reduce their workforce?

In the UK, employers are permitted to reduce headcount when there is a reduction in the need for employees. However, employers must be mindful of UK employment law, such as unfair dismissal and collective redundancy obligations. Redundancy is a potentially fair reason for dismissal, but a reasonable process must be followed.

Collective redundancy obligations apply when an employer proposes to dismiss as redundant 20 or more employees within a period of up to 90 days at one establishment.

When carrying out collective redundancies, the employer has a duty to consult with employee representatives. These can be:

- Representatives of a recognized trade union
- Employee representatives (either those appointed specifically for this purpose or existing representatives with authority to represent the affected employees)

Additionally, the Department for Business, Energy and Industrial Strategy (BEIS) must be notified; failure to do so is a criminal offense.

If employers want to avoid lengthy redundancy processes, they may seek to negotiate mutual terminations with affected employees. These should be documented using settlement agreements to ensure there is no ongoing liability for employers.

What are the procedural and substantive rules?

Consultation must begin in "good time." There is no prescribed legal timeline for the individual redundancy process, which needs only to be reasonable within the specific circumstances. It will usually take around three to four weeks. For a collective process, where 20 or more redundancies are proposed, consultation must begin at least 30 days before the first dismissal takes effect and at least 45 days when 100 or more redundancies are proposed.

The employer must provide justifiable reasons for the proposed dismissals, such as a business closure or a reduced requirement for work.

Certain prescribed information must be provided to employee representatives in writing. This includes:

- Reasons for the proposed dismissals
- The number and descriptions of affected employees
- Proposed methods of selecting employees for redundancy
- Details of any voluntary enhancement to the minimum redundancy payments
- Certain information about the use of agency workers

The selection criteria must be applied objectively and fairly.

An employee's dismissal will be automatically unfair if they are selected for redundancy on certain grounds, including pregnancy and maternity leave or their status as an employee representative.

Collective consultation must be undertaken with a view to reaching an agreement on ways to avoid dismissals and mitigate their consequences.

Before any redundancies can take effect, employers are still required to consult with affected employees on an individual basis. It will be necessary to agree with the representatives on the process to be adopted and coordinate appropriately.

Employers will be required to give (or pay in lieu of, where applicable) notice to employees who are made redundant. In addition, employees with at least two years' continuous employment are entitled to statutory redundancy pay.

Failure to comply with any of the strict rules governing collective redundancy risks a "protective" award being paid to the employee, according to an employment tribunal. The maximum protective award is up to 90 days' gross pay for each dismissed employee.

Employees may also seek to claim for unfair dismissal for a failure to comply with general individual obligations, which could result in a claim for compensation from loss of employment.

Restructuring trends

While the UK government has put many measures in place to assist struggling employers, such as the Coronavirus Job Retention Scheme (CJRS) and extraordinary financial support — including deferral of VAT payments, business rates holidays and loan schemes — some businesses will still be forced to close, particularly as the pandemic is becoming more protracted, making redundancies inevitable.

Trends are, however, moving toward temporary stoppages (such as layoffs and part-time working) and more flexible contracting arrangements rather than redundancies, which are costly and have more detrimental long-term effects.

Best practices

A dismissal is more likely to be considered fair if the employer has considered whether it is possible to avoid or reduce the need for redundancies, such as using the CJRS, reducing hours or pay, redeploying and repurposing employees, and other ways of reducing costs other than redundancies.

Employers who have tried to do all they can to avoid redundancies by other means will be regarded more highly and be a more attractive destination for prospective employees when the crisis ends.

If redundancies must be made, proper consultation is key. Employers should ensure they have a detailed plan and follow the correct redundancy processes to reduce the risk of claims being brought and any adverse reputational impact.

Rob Riley
rriley@uk.ey.com

Nigel Cousin
nigel.cousin@uk.ey.com

EY Contacts for Labor and Employment Law Services

For further information, please contact:

EY Global Labor and Employment Law Markets Leader

Roselyn Sands
Direct: +33 1 55 61 12 99
Mobile: +33 6 71 63 92 22
roselyn.sands@ey-avocats.com

EY Global Labor and Employment Law Leader

Paula Hogeus
Direct: +46 8 520 599 99
Mobile: +46 72 503 80 85
paula.hogeus@law.se.ey.com

Albania
Soena Foto
soena.foto@al.ey.com

Argentina
Javier Sabin
javier.sabin@ar.ey.com

Australia
Andrew Ball
andrew.ball@au.ey.com

Austria
Helen Pelzmann
helen.pelzmann@eylaw.at

Azerbaijan
Arzu Hajiyeva
arzu.hajiyeva@az.ey.com

Belgium
Karla Vuyts
karla.vuyts@be.ey.com

Belarus
Vasily A Babariko
vasily.babariko@by.ey.com

Bosnia and Herzegovina
Adela Rizvic
adela.rizvic@ba.ey.com

Bolivia
Juan Pablo Vargas
juan.vargas@bo.ey.com

Brazil
Tatiana Carmona
tatiana.carmona@br.ey.com

Bulgaria
Rebeka Kleytman
rebeka.kleytman@bg.ey.com

Canada
David Witkowski
david.witkowski@ca.ey.com

China Mainland
William WL Zhang
william-wl.zhang@cn.ey.com

Chile
Juan Andrés Perry
juan.andres.perry@cl.ey.com

Colombia
Carlos Sandoval
carlos.sandoval@co.ey.com

Costa Rica
Laura Navarrete
laura.navarrete@cr.ey.com

Croatia
Juraj Fadljevic
juraj.fadljevic@hr.ey.com

Cyprus
Charalambos Prountzos
charalambos.prountzos@cylaw.ey.com

Czech Republic
Ondrej Havranek
ondrej.havranek@cz.eylaw.com

Denmark
Julie Gerdes
julie.gerdes@dk.ey.com

Dominican Republic
Thania Gómez
thania.gomez@do.ey.com

Ecuador
Alex Suarez
alex.suarez@ec.ey.com

El Salvador
Mónica Machuca
monica.machuca@sv.ey.com

Estonia
Pekka Puolakka
pekka.puolakka@ee.ey.com

Finland
Maiju Kurvi
maiju.kurvi@fi.ey.com

France
Roselyn Sands
roselyn.sands@ey-avocats.com

Gabon
Fatima-Kassory Bangoura
fatima-kassory.bangoura@ga.ey.com

Georgia
George Svanadze
george.svanadze@ge.ey.com

Germany
Bärbel Kuhlmann
baerbel.kuhlmann@de.ey.com

Greece
Maria Rigaki
maria.rigaki@gr.ey.com

Guatemala
Ruby Asturias
ruby.asturias@gt.ey.com

Honduras
Andrés Lacayo Rodríguez
andres.lacayo.rodriguez@hn.ey.com

Hong Kong
Rossana Chu
rossana.chu@eylaw.com.hk

Hungary
Ivan Sefer
ivan.sefer@hu.ey.com

India
Anirudh Mukherjee
anirudh.mukherjee@pdslegal.com

Italy
Stefania Radoccia
stefania.radoccia@it.ey.com

EY Labor and Employment Law Newsletter Coordinator

Sanjee Jayas
Direct: + 33 1 55 61 11 36
sanjee.balas@ey-avocats.com

Japan
Junya Kubota
junya.kubota@jp.ey.com

Kazakhstan
Borys Lobovyk
borys.lobovyk@kz.ey.com

Latvia
Liene Cakare
liene.cakare@lv.ey.com

Lithuania
Ruta Zukaite
ruta.zukaite@lt.ey.com

Luxembourg
Laurence Chatenier
laurence.chatenier@lu.ey.com

Mexico
Jacqueline Alvarez
jacqueline.alvarez@mx.ey.com

Mongolia
Chinguun Munkhbold
chinguun.munkhbold@mn.ey.com

Montenegro
Veljko Cosovic
veljko.cosovic@rs.ey.com

Netherlands
Huub van Osch
huub.van.osch@hvglaw.nl

New Zealand
Tori Sullivan
tori.sullivan@nz.ey.com

North Macedonia
Jana Nikodinovska
jana.nikodinovska@mk.ey.com

Norway
Helga Aune
helga.aune@no.ey.com

Nicaragua
Carlos Ayón Lacayo
carlos.ayon.lacayo@cr.ey.com

Paraguay
Gustavo Colman
gustavo.colman@py.ey.com

Panama
Ana Clement
ana.clement@pa.ey.com

Peru
Jose Ignacio Castro Otero
jose-ignacio.castro@pe.ey.com

Poland
Zuzanna Zakrzewska
zuzanna.zakrzewska@pl.ey.com

Portugal
Rodrigo Serra Lourenço
rodrigo.lourenco@rrp.pt

Republic of Serbia
Veljko Cosovic
veljko.cosovic@rs.ey.com

Romania
Anca Atanasiu
anca.atanasiu@ra-law.ro

Russia
Daria Zakharova
daria.zakharova@ru.ey.com

Singapore
Evelyn Ang
evelyn.ang@sg.ey.com

Slovakia
Katarina Cangarova
katarina.cangarova@sk.ey.com

Slovenia
Matej Kovacic
matej.kovacic@si.ey.com

South Africa
Claire Hock
claire.hock@za.ey.com

Spain
Raul Luis Garcia Gonzalez
raulluis.garciagonzalez@es.ey.com

Sweden
Paula Hogeus
paula.hogeus@law.se.ey.com

Switzerland
Marc Gugger
marc.gugger@ch.ey.com

Taiwan
Helen Fang
helen.fang@tw.ey.com

Turkey
Mehmet Kucukkaya
mehmet.kucukkaya@tr.ey.com

Ukraine
Halyna Khomenko
halyna.khomenko@ua.ey.com

United Kingdom
Rob Riley
rriley@uk.ey.com

Uruguay
Martha Roca
martha.roca@uy.ey.com

Venezuela
Saul Medina
saul.medina@ve.ey.com

Vietnam
Michael Beckman
michael.beckman@vn.ey.com

Recent EY publications

The COVID-19: Return to office – Legal Requirements and Considerations tracker will provide regular updates on the key reputational, strategic and human resources questions to be considered by the employers.

Download our Return to office – Legal Requirements and Considerations tracker (pdf) to understand the regulations governing this area in more than 60 jurisdictions.

Click to download

COVID-19: labor and employment guide

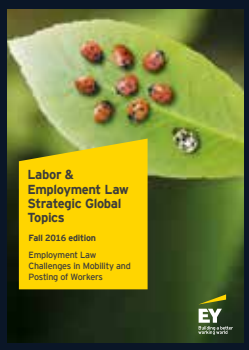
The labor and employment law COVID-19 guide provides a snapshot of considerations and includes information for employer rights, obligations, furlough and government incentives.

Learn more

Global labor and employment law strategic topics

December 2015: Dispute resolution
To download the report, click here.

Spring 2016: The contingent workforce
To download the report, click here.



Fall 2016 : employment law challenges in mobility and posting of workers
To download the report, click here.

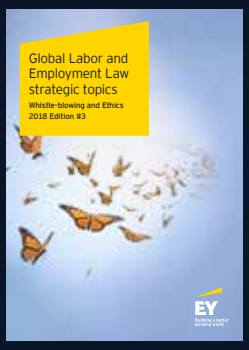
Spring 2017 : Wage and Hour Law
To download the report, click here.

Summer 2017: Religion in the workplace
To download the report, click here.

Fall 2017: Top 10 labor and employment law risks around the world
To download the report, click here.

2018 Edition #1: Sexual Harassment Law in the workplace around the world
To download the report, click here.

2018 Edition #2: Global LEL Strategic Topics Workforce Restructuring
To download the report, click here.



2018 Edition #3: Global LEL Strategic Topics Whistle-blowing and Ethics
To download the report, click here.

2019 Edition: Ageism and the Workplace
To download the report, click here.

2019 Edition #2: Employment documentation management globally
To download the report, click here.

2020 Edition #1: The ever increasing importance of ensuring health and well-being in the workplace in 2020
To download the report, click here.

2020 Edition #2: COVID-19: Workplace Challenges Now and Beyond
To download the report, click here.

2020 December Edition: Reimagining work globally
To download the report, click here.

For more information, please visit the **EY Law** website.

EY | Building a better working world

EY exists to build a better working world, helping to create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

EYG no. 003580-21Gbl

BMC Agency
GA 1018039

ED None