

The background of the entire page is a dark blue gradient. Overlaid on this are numerous horizontal lines of light, primarily in shades of orange and yellow, with some blue and white lines interspersed. These lines vary in length and brightness, creating a sense of depth and movement, reminiscent of a digital data stream or a stylized representation of a horizon. The lines are more densely packed in the upper half and become more sparse towards the bottom.

**Baker
McKenzie.**

The Global EmployerTM Magazine

2019 HORIZON SCANNER

Introduction

Welcome to the Global Employer 2019 Horizon Scanner.

We have drawn on the expertise of our global Employment & Compensation team, consisting of over 700 lawyers, based in 46 countries around the globe, to present the most pressing trends and developments we expect will most affect employers with a global or regional workforce in the coming year.

2018 was a tumultuous year: globally-operating organizations were struck by a wave of new employment regulations, varying by jurisdiction and making cross-border operations increasingly challenging for HR professionals. Once again we saw the issue of gender equality in the workplace hit the headlines via the #MeToo movement. Multinational organizations struggled internally to tackle enhanced gender pay obligations as a result of the increased media attention. New technologies opened the way for disruption and opportunity, while political unrest brought a new level of disruption to global organizations, especially in the mobility space. Brexit uncertainty alone continues to be at the forefront of board-level discussions. The rise in popularity of alternative working arrangements, especially within the gig economy, was not deterred by an increase in misclassification claims, with the definition of what constitutes a “worker” being hotly argued in courts around the world. All the while, companies struggled to get ready for GDPR, which came into effect in May 2018, with many now still coming to terms with the more onerous privacy obligations.

2018 has been defined by change and 2019 will be no different, with no sign of regulation stagnation. However, not all change is bad and, by working together, opportunities can be found within the unrest.



GUENTHER HECKELMANN

Global Chair, Employment & Compensation, Baker McKenzie

To note:

As a speed read, see our five global trends for employers and our one-page overview of regional developments. For a more in-depth read, take a look at our global spotlight sections which include gender equality and the modern workforce, as well as regional outlooks detailing trends and developments for the year ahead.

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GLOBAL OVERVIEW

The world is facing another year of unprecedented change making uncertainty the new normal for global employers. We are watching geopolitical crises play out on the global stage with a global economic slowdown waiting in the wings. What further twists and turns lay ahead of us? A hard Brexit? A further shutdown of the US government to follow the longest shutdown in history? Increasing political turmoil in Latin America and continued volatility in the Middle East? The confrontation on trade between the US and China has been predicted to have far reaching economic implications on organizations globally in 2019 and possibly far beyond.

Global employers must navigate a course through this highly charged, shifting competitive landscape which is compounded by the challenges presented by increasing regulation, disruptive technologies and an intergenerational workforce which is transforming the world of work.

In this year's edition of the Global Employer Magazine, we review the key themes and trends that dominated the employment law landscape in 2018 and provide guidance on what to watch out for in 2019.

HORIZON SCANNING – 5 GLOBAL TRENDS FOR EMPLOYERS



Modern workforce

There was a significant rise in misclassification claims in 2018 and this trend will continue as this growing workforce seeks to establish its place in the world of work, and both governments and courts struggle to understand where the gig workers should fit as they transcend the traditional employment paradigm. This will continue to be a hot topic for the next year until governments address how to protect this workforce without inhibiting the valuable opportunities these digital platforms provide to gig workers and organizations alike.



Rise of technology and the future of work

This is a key challenge for most sectors and is gaining prominence on the corporate agenda with most organizations keen to innovate and realize greater operational efficiencies, build in-house tech capabilities and diversify beyond their core businesses. In the HR space, a number of disruptors are leading the way, harnessing AI in recruitment by using talent analytics and employee screening, exploring biometric logins and, on the more extreme side, monitoring employees' emotions to optimize workflow by use of headgear with EEG sensors. The impact of technology, and in particular automation, robotics and AI on the workplace is a game changer, revealing major future skills shortages, accelerating the need for retraining and redeployment of labor and, fundamentally transforming jobs and the nature of work itself. This is an issue for all employers to watch closely and develop a strategy on.



Accountability

Momentum is growing on multiple fronts toward a workplace that is more equitable and accountable. Illustrated by developments in the gender pay equity space, where we also saw newly created or further strengthened protection against sexual harassment across the globe in the wake of the #MeToo movement and a general impetus to raise the lowest common denominator in relation to basic employment protection, particularly in Asia Pacific with Taiwan, Singapore, Malaysia and Japan all taking notable steps in this direction. The UK plans to introduce mandatory ethnicity pay gap reporting which will raise the bar further in creating a fairer work environment and addressing past inequities. The ILO proposes a "human-centred agenda for the future of work" in 2019 and we can see this resonating with legislative shifts taking place to underpin the laudable objectives.



Challenges in retention and recruitment

The entry of Gen Z into the workforce is creating challenges as their aspirations can differ from their millennial predecessors'. Gen Zers are motivated by career advancement and financial security and prepared to switch jobs quickly to achieve ambitions. Employers must ensure their recruitment and retention strategies encompass the differing expectations and needs of this first generation of truly digital natives. The Millennials reshaped the workplace with their need for agile work opportunities and drive to belong to a company with purpose and desire to be global citizens. The Gen Zers will reshape the workplace again forcing employers to rethink their employee engagement strategies, social media presence and business culture to attract and retain this new generation.



Data privacy

The introduction of the General Data Protection Regulation (GDPR) dominated the agenda in 2018 in the EU and beyond. Once operative there was no downtime as this was only the beginning of employers' obligations to ensure compliance with the rigorous new regime. There have been developments outside of the EU, most notably in Latin America, as a number of key countries strengthened their data protection laws. In Brazil, the new Brazilian General Data Protection Law was approved in August 2018 and reflects a number of the provisions seen in the EU's GDPR (coming into force in 2020). In Colombia, bills have been put forward to reform their data protection laws. In Peru, changes include a sanctioning regime. The Chilean Senate debated a new draft bill on data protection to regulate the processing of personal data and create a Personal Data Protection Agency. Further afield, California enacted a new privacy law which is said to be the "toughest in the US." It will come into force in early 2020, giving employers time in 2019 to come to grips with its onerous requirements. It is clear that data privacy will continue to demand attention from employers in 2019 and beyond.

SPOTLIGHT ON: GENDER EQUALITY

Media attention continued to intensify the global conversation about gender equality issues in 2018 with the gender pay gap and pay parity at the center of discussion.

A patchwork of regulation continues to emerge across North America, Europe and Latin America, and while little regulation currently exists throughout APAC, Australia is a shining exception as a world leader in this area. Meanwhile, draft bills have been proposed in the Spanish parliament that entail gender pay gap reporting obligations and in Ontario, the government is engaging in public consultations about proposed gender pay legislation.

Introduction of harsher sanctions for non-compliance with pay regulations was a focus in 2018. Iceland leads the charge, introducing new legislation in 2018 which imposed daily fines on employers failing to demonstrate fair pay between males and females. In France, gender pay reporting requirements apply as of 2019, and plans have been revealed to fine companies that do not close unjustified pay equity gaps within three years.

The US also made gains in 2018, with stricter laws at city, county and state level introduced, including banning questions about salary history. Advancing a trend started in Australia, California became the first state to require companies to put female directors on corporate boards, with Germany, Italy and the Netherlands also having initiatives in place to boost corporate board representation.

The conversation does not end there. Employers are increasingly pressured to confront the issue by determining the root causes of their gender imbalances, as well as working to build a stronger culture of respect and equality. With parenthood considered one of the drivers for the gender pay gap, a number of companies are reassessing their "family friendliness" through renewed flexible working and parental leave policies. A number of brand names are also setting voluntary gender quotas, and changing recruitment methods, particularly in the tech industry and in companies relying on STEM skills, where the gender imbalance is most visible.



Diversity and inclusion at the forefront

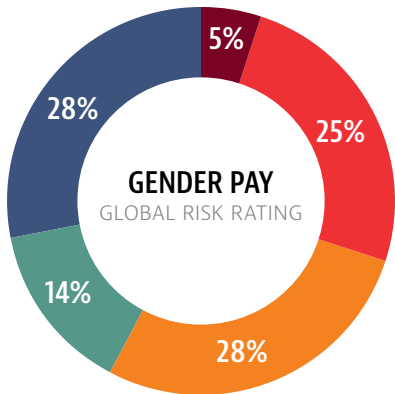
The link between diversity and enhanced corporate performance is well established, and investors are becoming increasingly active in this area, particularly in the US and UK, with high-profile companies backing stricter pay gap reporting requirements and demanding action plans to close it.

Workers, particularly millennials and Generation Z, are becoming more outspoken about their desire to work for companies that value diversity and inclusion and pay fairly. Employers are recognizing this as an avenue to distinguish themselves from their competitors in the war for talent. In the UK, the government announced plans to introduce mandatory ethnicity pay gap reporting. This will present employers with both opportunities and challenges and we may see this adopted more widely as the importance of pay equity and probing disparities gathers momentum.

The conversation on gender equity will continue into 2019 with a drive for greater transparency over pay-related decisions, employers can expect promotion, pay and bonus award processes to be increasingly challenged by employees. **For more detailed analysis and solutions around gender pay, pay equity and diversity and inclusion, visit Baker McKenzie's [Gender Pay Gap Hub](#).**

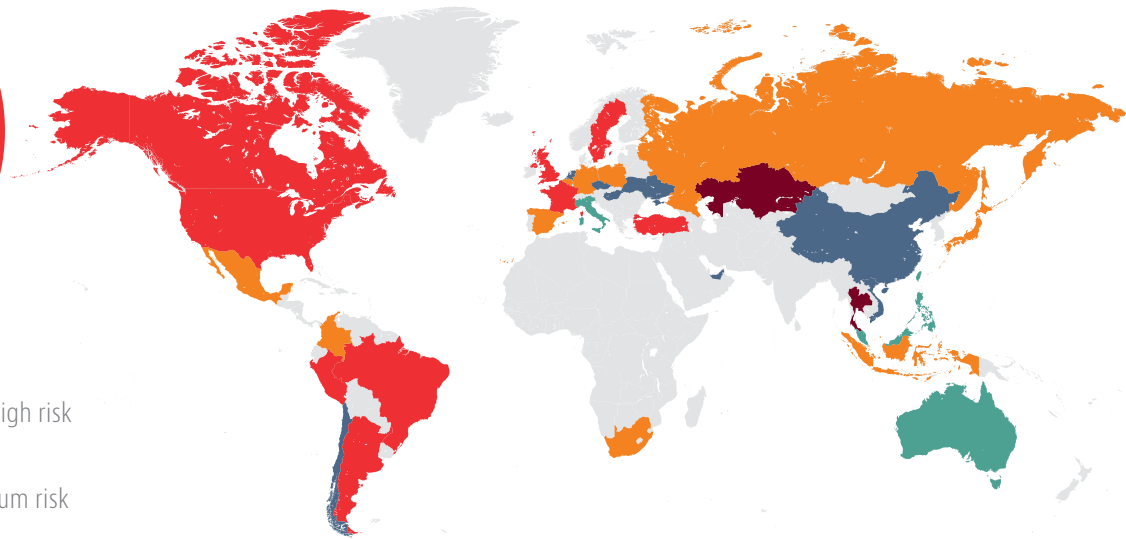
Gender Pay Risk Heat Map

This heat map illustrates where gender pay inequity is deemed to be a generally risky issue for employers. The risk level assigned indicates the degree of risk:



- RISK LEVEL 5 High risk
- RISK LEVEL 4 Medium to high risk
- RISK LEVEL 3 Medium risk
- RISK LEVEL 2 Low to medium risk
- RISK LEVEL 1 Low risk

DATA FROM 36 COUNTRIES



"The gender pay gap reflects the chronic underrepresentation of women in certain sectors and at senior levels. However, we are seeing the conversation moving on from the causes of pay disparity to the commitments which should be made to close it. Companies are accelerating their efforts by adopting stretch targets and affirmative action programs. They know they are being judged by potential job candidates on how diverse and inclusive they are, and the gender pay gap is seen as a measure of this."

MONICA KURNATOWSKA
Partner, Baker McKenzie



GLOBAL OVERVIEW

SPOTLIGHT ON: DATA PRIVACY

There was significant activity in the data protection space in 2018, with the enactment of the European Union's General Data Protection Regulation (GDPR) on May 25, 2018. While many companies viewed the deadline as the culmination of their monumental efforts toward achieving privacy compliance, in reality, this was only the beginning of their obligations for implementing mandatory organizational processes to protect personal data of individuals in the EU and beyond.

The new regulations aim to standardize and strengthen the rights of European citizens to data privacy. Organizations dealing with individuals' private data must meet new standards of transparency, security and accountability.

A common frustration with prior GDPR readiness efforts was that those charged with leading them did not have insight into the nuances of HR practices and common employee privacy issues, including carve-outs and exceptions to the general rules applied in the employment context (e.g., the inability to rely on employee consent for most purposes). At the same time, HR managers suffer from a lack of visibility into the details of broader organizational compliance efforts (e.g., they are told data transfer agreements are in place but not told which purposes such agreements cover). This can result in gaps in compliance in respect of HR data and processes and the lack of a comprehensive plan for ongoing compliance, which can carry the risks of fines, claims, and employee and public relations issues.

The UK Information Commissioner's Office released data from May 25 to July 3, 2018, showing it received 6,281 complaints from both EU citizens and companies reporting breaches of GDPR, which is 160% more than the same period in 2017. One in ten complaints related to financial services, while reports of violations relating to education, health and local government services were noted. These statistics have been publicized in the media to highlight the immediate impact of the GDPR, with the hardest hit companies involved in technology, marketing and data brokering.

Complying with the basic requirements for data access and deletion tends to be cost intensive for companies who lack the tools for managing data subjects' information. With penalties for non-compliance reaching up to EUR 20 million, large tech firms are becoming targets for cyber-extortionists who leverage hacked data and security breach exposure in exchange for a hefty ransom.

Areas of caution for employers:

- 1. Background checks for recruitment.** Background checks usually involve significant personal data from applicants therefore, it is crucial to provide a GDPR-compliant **privacy notice** from the applicant and obtain clear consent on the collection and use of the data.
- 2. File management.** Under the GDPR, employees have the right to know why their data is being collected and where it is being held. Employees can also access, delete or modify their data upon request. HR departments will likewise need to review and update their employees' data under the data quality principle and rethink data processes for onboarding and employee transfers. The GDPR emphasizes timely document deletion and fines a company for holding onto data it does not need. Proper security measures for employees' data must also be put in place, keeping in mind the 72-hour reporting requirement for breaches. All these processes require a well-monitored system to avoid fines for non-compliance.
- 3. Impact assessment.** Careful management discretion must be exercised in assessing the impact of a new project or activity on employees' data security and privacy.
- 4. Third parties.** Organizations must conduct proper due diligence on third parties (i.e., are they compliant with GDPR?) and ensure that their contracts expressly stipulate the limits and responsibilities of each party under the GDPR.

Despite initial challenges for compliance, the GDPR could be perceived as an opportunity for HR to improve its data management processes and win quality talent. With more and more companies experiencing data breaches, the sense of security employees and new-hires derive from a GDPR-compliant company may be a defining point for its brand.

For a more in-depth view of the global privacy landscape, visit Baker McKenzie's dedicated [Privacy & Information Management pages](#) online.



"While many thought that the highly anticipated coming into force of GDPR in May 2018 was the finish line for the marathon efforts toward privacy compliance, in reality this was the starting line to launch mandatory organizational protections for the personal data of individuals in the EU and elsewhere inasmuch as organizations dealing with individuals' private data must meet new standards of transparency, security and accountability."

ROBERT P. LEWIS
Partner, Baker McKenzie

SPOTLIGHT ON: MODERN WORKFORCE

As the modern workforce and gig economy continue their rapid growth, pressure is building on governments to explore new ways to provide adequate protection and rights for workers and certainty to businesses.

While government responses are still in the early stages, at a judicial level, misclassification litigation intensified in 2018, as gig economy workers challenged their status with varying results. The simultaneous flexibility and autonomy enjoyed by gig economy workers has left them in an ambiguous position and, globally, courts have been grappling with how to analyze and label this evolving workforce, resulting in a number of landmark cases changing the shape of employment law across the globe.

While the issue of "control" over the user was a universal feature of court judgments in 2018, the outcomes of the cases have been anything but consistent. In Australia, the existence of control was considered insufficient to determine employment status, meanwhile in Italy, in a landmark case, a lack of control was cited as a determining factor for rejecting a claim for employment status by six gig economy food delivery riders.

Gig economy workers in France also initially struggled to successfully challenge their self-employed status in a variety of cases against well-known digital platforms throughout 2018, with the Supreme Court turning this on its head in November 2018 declaring gig economy food delivery riders to be employees – the first judgment of its kind in the country. Recently, in the Court of Appeal, a gig economy driver was held to be an employee in what appears to be a general theme in cases of this kind in France. The company has, however, expressed its intention to appeal the decision.

The UK witnessed a wave of litigation in favor of gig economy workers (with one exception), including a Court of Appeal decision in December 2018, although in each case they were considered to be "workers," rather than "employees," suggesting this "hybrid" status may be the potential solution. There were also diverging outcomes across the US, with a California Supreme Court judgment fundamentally changing the test for employment status, making it substantially more difficult for businesses to prove workers are independent contractors rather than employees.

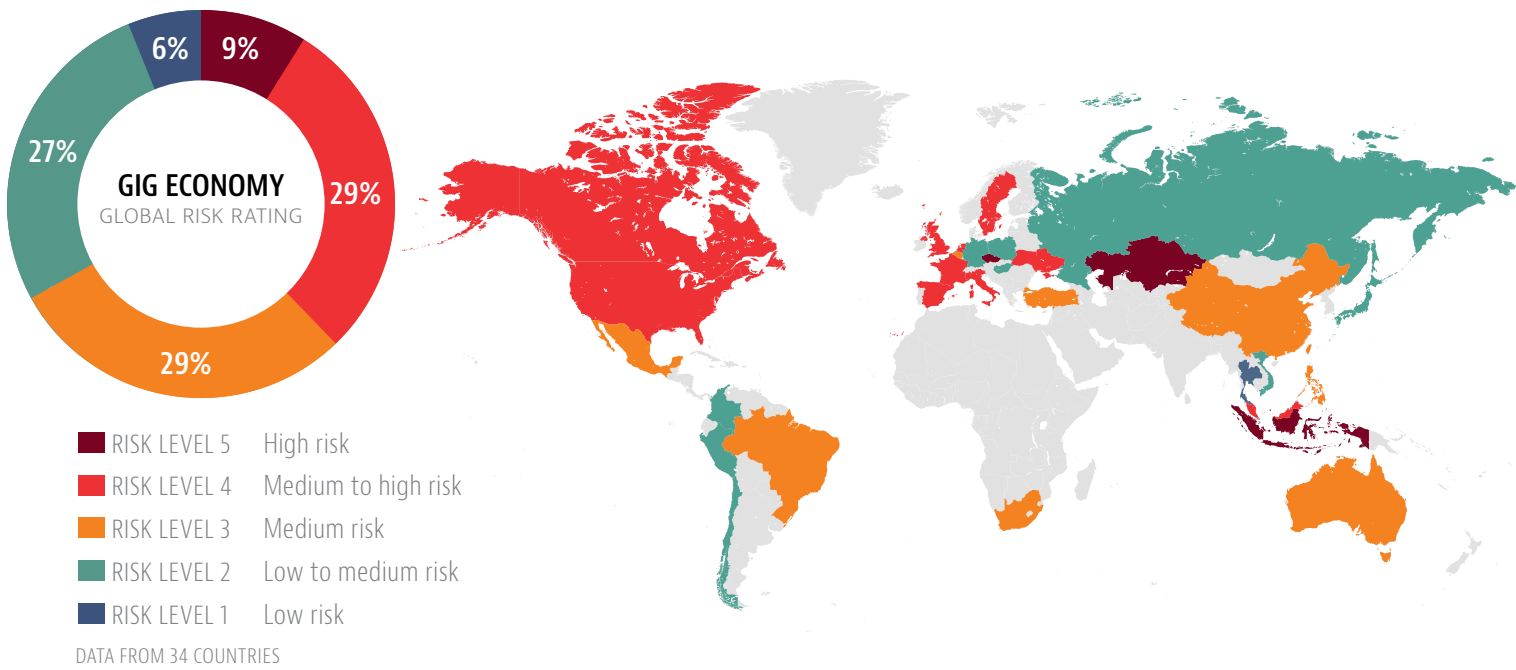


On a broader level, in Spain, a breakthrough case labelling gig economy workers as employees coincided with collective protests by delivery riders to claim recognition of employee status. This increased Labor Inspection orders to companies to reclassify delivery riders as ordinary employees and resulted in an imposition of sanctions and requests for unpaid social security. Similarly, as the gig economy continued to bloom in Latin America, unions have been putting pressure on online platforms to recognize workers as employees rather than self-employed contractors.

While the prevalence of the gig economy varies considerably across the globe, it is becoming apparent that traditional employment laws must keep pace and provide equitable outcomes for all involved in this rapidly transforming space. Arguably, an intermediate or hybrid status is where gig economy workers would most comfortably sit, and while discussions about regulatory reform have taken place across jurisdictions, no solutions have been found and businesses can expect uncertainty surrounding gig economy workers to continue into 2019. **Modern Workforce trends and solutions around maintaining or introducing optimal modern workforce arrangements can be found on Baker McKenzie's [Modern Workforce Hub](#).**

Modern Workforce Risk Heat Map

This heat map illustrates generally where businesses are facing risk in relation to the modern workforce and, in particular, where misclassification claims are an issue.



"Embracing the modern workforce offers global businesses various benefits not realized by the traditional employer-employee relationship. The modern workforce allows businesses to capitalize on increased flexibility, reduced costs, fewer administrative burdens, and swift access to high-level talent. As alternative work arrangements become more common, however, so too do the challenges of managing this workforce."

SUSAN EANDI
Partner, Baker McKenzie

SPOTLIGHT ON: DIGITALIZATION AND THE RIGHT TO DISCONNECT

The rapid development of smart phones, tablets and other devices, together with the near constant availability of internet connections, is revolutionizing the way we work. Promulgated by millennials (the first "digital generation") entering the workforce, employers are now developing and reinventing traditional working practices to adapt and keep up with demands of advancing technology.

The benefits of digitalization in the workplace are clear, information is constantly accessible and communication is quicker and easier, creating a more efficient and productive workforce. It is no surprise employers are embracing this cultural change, yet the rise of technology has blurred the line between work and private life. More widespread use of digital devices has resulted in increased remote access, creating a culture where customers, as well as employees, assume employees are always available.

Not only does this present legal issues over excessive working time, but the mere expectation of being available 24/7 is enough to put an enormous strain on employees, making this a rapidly developing health and safety issue across the globe. Employers are becoming concerned about the effect job pressure could have on productivity, as well as increased sickness absence and work-related stress claims.

Stress as a result of enhanced connectivity is becoming a recognized concept in itself, known as "techno stress" or "telepressure," and governments across the globe are beginning to respond. France was the pioneer in this area introducing a "right to disconnect" law in 2016, applicable to companies with 50 or more employees. The law is, however, quite vague and does not explicitly prohibit out of hours communication, but rather, obliges employers to negotiate with employees about ways to limit digital intrusions. Italy recently adopted a similar law, requiring contractual clarification of employees' obligations to communicate outside of work. In Spain, a law was enacted in 2018 recognizing the right to digital disconnection for the first time, requiring all companies with employees in Spain to implement detailed policies regulating employees' right to disconnect outside of working hours.

The topic is gaining momentum elsewhere. In Colombia, the right to disconnect was in the spotlight in 2018, with a series of rulings from the Colombian Constitutional Court aimed at preserving employees' right to rest. Similarly, while this concept has not been recognized nationally in the US, a bill introduced by the New York City Council in 2018 is the country's first local regulation proposing to make it illegal for employers (with more than 10 employees) to require employees to be contactable outside of normal work hours by electronic communications. The bill is still being discussed by the City Council and would apply to normal time off, sick days and vacation time.

The discussion over the effects of technology-related stress shows no signs of abating. The German employment minister has been advocating the introduction of "anti-stress" laws for several years and continues to push this agenda, and it is predicted to be a hot topic for Belgian employers in the coming years as evaluation of "techno stress" becomes a more prominent part of mandatory health and safety investigations. Some household name companies have already recognized the benefit of developing practices of their own to enable employees to disconnect when on vacation.

It remains to be seen how the "right to disconnect" laws will work practically. At present, most legislation puts this issue on an employer's agenda, forcing them to discuss and agree with employees how the situation can be managed, rather than imposing sanctions on employers for requiring employees to answer emails outside of working hours. The concept cannot be seamlessly adopted across borders or industries given the vast differences that exist in attitudes to working hours, demands of specific industries and the global nature of teams. The question also remains as to how workers in the gig economy could truly benefit from this enhanced protection, when the nature of their work requires them to always be connected. However, as digitalization grows, employers can expect the conversation about the right to disconnect to continue. **To discuss this emerging trend and the impact it presents to organizations, see the Key Contacts section at the back of this magazine or visit our online [attorney directory](#) to start the conversation.**



"We anticipate other countries will join the right to disconnect club in the near term since there is an ongoing concern about the need to find a good work-life balance. Meanwhile, a number of companies are implementing ambitious initiatives and policies to boost the wellbeing of their employees. There is not a one-size-fits-all solution. Companies should establish their own internal regulations ensuring business needs are covered but also respecting their employees' right to rest and time off and right to privacy."

NADÈGE DALLAIS
Partner, Baker McKenzie

REGIONAL OUTLOOKS

REGIONAL OUTLOOKS — SPEED READ

ASIA PACIFIC

Trending employment law issues:

- Increased awareness of sexual harassment and introduction of preventive measures
- Social insurance compliance
- Evolving modern workforce and increased flexible working methods
- Global mobility and work permit reforms

Countries to watch: Align policies with **Australia's** recently enforced Modern Slavery legislation, which tackles unethical supply chains and substandard labor conditions; how will **China's** employers respond to a new definition of 'sexual harassment' and a predicted increase in claims; and with the introduction of sweeping legislative changes in 2019, how will businesses cope with a changing employment landscape in **Thailand** and **Singapore**?

EUROPE, MIDDLE EAST AND AFRICA

Trending employment law issues:

- Ongoing Brexit negotiations impacting on recruitment and global mobility
- Increased gender pay reporting and transparency regulation
- Growing misclassification case law under the gig economy with potential for regulatory reform
- Clamp downs on inappropriate use of fixed-term contracts
- Pension reforms

Countries to watch: The **UK and the EU** face uncharted territory in 2019 with the Brexit deadline looming and questions to be answered about the effect a no-deal scenario will have on global mobility; in **Germany**, businesses will need to reassess their use of fixed-term contracts; **South Africa's** labor law will be subject to widespread changes including imposition of minimum wage, changes to parental leave and introduction of diversity measures; and how will employers in **France** approach new gender pay reporting obligations and will **Spain** follow suit?

LATIN AMERICA

Trending employment law issues:

- Political and economic instability causing talent retention issues
- Dramatic inflation and minimum wage increases
- Increased flexible working methods
- Gig economy beginning to gain prominence

Countries to watch: A family friendly "nursery law" will be introduced in **Chile**; employers in **Peru** will need to come to terms with new equal pay obligations; in **Venezuela**, the employment landscape is likely to be determined by the turbulent political and economic landscape; and in **Argentina**, controversy over classification of gig economy workers is likely to continue into 2019.

NORTH AMERICA

Trending employment law issues:

- Rising levels of sexual harassment claims and preventive action
- Implementing measures to tackle the gender pay gap
- Misclassification risk and joint employer liability
- Legalization of recreational cannabis use

Countries to watch: The employment implications of the legalization of the recreational use of cannabis in **Canada** will be a major focus; widespread amendments to the Federal Labor Law will see changes to union activity in **Mexico**; and as the #MeToo and #TimesUp movements continue to hold their grip over the **US**, how will employers approach mandatory sexual harassment training and new inclusion laws?

ASIA PACIFIC OVERVIEW

Sexual harassment continued to be a theme in Asia Pacific in 2018. The #MeToo movement was a catalyst, resulting in increased media focus, cultural awareness and investigations in Australia, Taiwan and Hong Kong. Proposed legislative amendments in China, Malaysia, Thailand and Vietnam on sexual harassment are expected to include provisions on the prevention and handling of sexual harassment claims in the workplace.

The modern workforce continues to evolve across the region, with a landmark decision in Australia in 2018 finding that gig economy drivers are independent contractors, in the first case of its kind in the region. Philippine employers are likely to face increasing challenges in this area throughout 2019 and the issue gained traction in Thailand, particularly with enhanced flexible and home working models, while in Singapore, the Ministry of Manpower has issued standards about fundamental terms to be included in gig economy workers' contracts.

Social insurance compliance is also a hot topic across parts of the region in 2019, with Vietnamese and Malaysian employers obligated to contribute to compulsory social insurance for foreign employees which is expected to have severe financial implications. In China, as a result of endemic underpayment of social insurance contributions, these payments will now be made to local tax bureaus nationwide which, will likely lead to stricter enforcement of social insurance collections.

There was significant activity in the global mobility space in Asia Pacific during 2018, with noteworthy policies affecting the processing of work permits for foreign workers resulting in major changes across the region. The removal of work permit requirements for employees from Hong Kong, Macau and Taiwan is expected to lead to a significant increase of employment of these residents in China and such employees will be entitled to the same protections as mainland PRC nationals.

In Indonesia, changes in regulations mean work permit applications must now be accompanied by definite period employment agreements, while in Thailand, the implementation of new work permit laws involving harsher penalties caused fear among foreign workers, resulting in rapid departures from the country. The Thai government has since attempted to mitigate the alarm and confusion by reducing sanctions and allowing operators a grace period to comply with the new requirements.

Employers must exercise caution as the effects of these new work permit regulations will be prevalent in 2019.



“We are starting to see some companies restructure their operations in China, as a result of the general economic slow down and the trade war with the US. This often involves lay-offs, which can be difficult to implement in China, not only from a legal perspective, but also as an employee relations matter, since sometimes employees take collective action to demand greater compensation. Companies will need to plan out any redundancies to take account of both the legal and employee relations issues.”

JONATHAN ISAACS
Partner, Baker McKenzie

Use the navigational buttons below to skip straight to countries of interest.



ASIA PACIFIC REGIONAL OUTLOOK
SPOTLIGHT ON: AUSTRALIA

2018 saw an increased media focus on claims related to sexual harassment and discrimination in the workplace as the **#MeToo movement** swept across the globe.

Meanwhile, on October 1, 2018, Australia's "Heavy Vehicle National Laws" (effective in the Australian Capital Territory, New South Wales, Queensland, South Australia, Tasmania and Victoria) were amended to include "Chain of Control" measures, designed to impose a broad range of obligations on each party in a supply chain with the goal of eliminating safety risks, so far as is "reasonably practicable." The new laws increase penalties for violations to AUD 3 million and enforce the concept of shared responsibility.

Regulators also started cracking down on the working conditions of vulnerable and migrant workers in the supply chain as evidenced by the introduction of the **Modern Slavery Bill**, which came into force on January 1, 2019, and the increased prosecution of employers who knowingly engaged contractors or subcontractors providing substandard labor conditions. Similarly, there has been increased enforcement of labor hire licensing laws in some states (e.g., Queensland), which subject labor hire firms to higher levels of scrutiny, particularly in relation to compliance with workers' minimum entitlements and corporate and safety obligations. There has also been a marked increase in litigation funders willing to support employment law class actions.

Horizon Scanning in 2019:

New legislation and the growing number of court actions instituted by employees and regulators alike should continue to inspire vigilance among companies.

The Modern Slavery Act 2018 took effect on January 1, 2019 and requires businesses that operate in Australia with an annual turnover of at least AUD 100 million to report items such as: (i) business structure, operations and supply chains; and (ii) actions taken by the reporting entity to control, assess or address any risks of modern slavery taking place.

Although employment law class actions have historically been uncommon in Australia, high-profile class actions are currently being commenced against various employers in the airline industry and labor hire employers supplying workers to the mining industry. In addition, high-profile investigations (and legal action) have been launched by the Australian workplace regulator on a food delivery company operating in the **gig economy**, alleging workers had the nature of their engagement misrepresented to them.

As 2019 is an election year, the debate surrounding industrial relations will intensify, led by a strong campaign from Australian unions (which have continued to be on the decline). Areas such as discrimination and harassment, in light of the **#MeToo movement**, will continue to be of significant media interest and employer risk.



CHINA

The **removal of work permit requirements** for employees from Hong Kong, Macau and Taiwan will make employment of residents easier in China, though it will likely mean that they will now be entitled to the same protections as mainland PRC nationals.

Implementing redundancies due to changes to business operations or global restructurings continues to be difficult because of **legal restrictions** and aggressive employee demands, which is aggravated by the local courts in certain cities taking a stricter view on when collective dismissals are permissible.

Certain companies, particularly joint ventures between multinational and Chinese companies, have started receiving **pressure to establish communist party organizations** in their company and grant the party organization some role in management decisions.

Horizon Scanning in 2019:

The government is currently working on a draft amendment to the Civil Code to finally provide a national definition for the term "**sexual harassment**." This follows the issuance of local regulations throughout China, such as in Jiangsu province this year, imposing more **specific legal requirements on employers related to preventing and handling sexual harassment**. Further, with increased media attention on the global **#MeToo movement**, there will likely be a marked increase in sexual harassment complaints raised by employees.

Underpayment of social insurance is a widespread compliance issue. As of January 1, 2019, all social insurance contributions are now paid to local tax bureaus nationwide. Currently, some cities only have designated social insurance authorities to collect contributions, while other cities authorize local tax bureaus to do so. National tax bureaus have access to all employees' salary data (which is reported for tax filings) including social insurance payments, which will likely lead to stronger enforcement of social insurance collections.



HONG KONG

In October 2018, the Employment (Amendment) (No. 2) Ordinance 2018 came into effect, which empowers the Labour Tribunal to order compulsory reinstatement or reengagement of an employee unlawfully and unreasonably dismissed without the employer's consent. If the employer refuses to follow the order for reinstatement of the employee, the employer must pay a penalty to the employee, in addition to any termination payments, amounting to three times the employee's average monthly wages (subject to a ceiling of HKD 72,500). The employer commits an offense if it fails to pay the additional sum.

In May 2018, the Hong Kong government abandoned its objective of legislating standard working hours due to a lack of business support. While there is a minimum wage requirement, there are currently no statutory provisions governing minimum or maximum working hours, overtime limits, or overtime pay, in Hong Kong.

Further, the following issues stood out this year:

- Sexual harassment and discrimination claims and investigations following the **#MeToo movement**
- Investigations into general misconduct, fraud and misuse of confidential information
- Data issues including breaches, data access requests and data transfers
- Employee misclassification claims by independent contractors
- Mobility issues, particularly moving expat employees out of China

Horizon Scanning in 2019:

- Paternity leave increased from three to five days in mid January 2019. Further legislative changes are expected in 2019 which will expand the scope of discrimination legislation.
- There are no legislative changes to be introduced on the protection of LGBTQ rights but a case will go to the highest court in Hong Kong in early 2019 on whether a civil servant's same-sex partner should be entitled to the same spousal benefits the government provides to spouses of heterosexual employees.
- Trends seen in 2018 – including data privacy, **misclassification of independent contractors**, mobility and sexual harassment – may continue to be relevant in 2019.
- The Greater Bay Area initiative may bring new employment issues for Hong Kong and parts of mainland China.



INDONESIA

One of the most significant developments in 2018 was the implementation of a new process for obtaining permits for foreign nationals working in Indonesia ("Regulation 10"). Regulation 10 reflects a similar position taken by the Supreme Court through its circular letter that foreign nationals working in Indonesia should be employed as definite period employees. Regulation 10 includes a template for a fixed-term employment agreement required to be submitted to the Ministry of Employment for work permit applications for foreign nationals. This development impacts foreign employees who have been working in Indonesia for a long time (i.e., more than the maximum contract period permitted for a fixed-term employment agreement).

Termination of employment continues to be a concern for employers in Indonesia, specifically given that immediate termination (even when an employee has committed a violation) is not possible in Indonesia and is still subject to strict compliance with the relevant rules.

Some employers in Indonesia (particularly multinationals) intend to implement global diversity and inclusion policies in their companies. These policies usually touch on gender equality and LGBTQ rights, the latter being a culturally sensitive topic in Indonesia.

Horizon Scanning in 2019:

Due to the presidential election in April 2019, it is unlikely that significant laws or regulations on labor and employment will be passed during the first quarter of 2019. There are also no foreseeable changes in the general legal landscape for labor and employment in Indonesia.

The following points may arise in 2019:

- Processing work permits for foreign workers in Indonesia is expected to be faster
- Considering the requirements of Regulation 10, new foreign workers in Indonesia may need to be employed on a fixed-term basis



JAPAN

In 2018 the Labor Standards Inspection Office (LSIO) strengthened its efforts to enforce compliance with the Labor Standards Act by conducting inspections, particularly regarding excessive overtime work and where employees are engaged in skilled/professional type work. There have also been notable court cases relating to reasonable working conditions for fixed-term contract employees.

Horizon Scanning in 2019:

Workstyle reform laws were published in June 2018 and partially come into force in April 2019. The new laws will have both positive and negative impacts on employers as follows:

- One significant change is the new concept of "white collar exemption," which may be used as an option to avoid overtime payments for a certain category of employees, although there are restrictions that need to be dealt with in order to implement this mechanism.
- There may be some challenges in relation to the additional regulations particularly surrounding excessive overtime work and working hours management. We expect the LSIO will become more active in monitoring employees' working hours and overtime work performed.



MALAYSIA

2018 saw a significant change in the dispute resolution system before the industrial courts. Since May 2018, unfair dismissal claims are no longer being screened by the Human Resources Minister's department, resulting in more cases being referred to the industrial courts, as there is no ministerial discretion and screening to filter frivolous claims. This has led to the industrial courts making expedited decisions to reduce the backlog of cases.

Horizon Scanning in 2019:

- **Increase to minimum wage and mandatory statutory social security contribution for foreign workers.** The increase of minimum wage from MYR 1,000 (MYR 920 for East Malaysia) to MYR 1,100 (for both West and East Malaysia), and the mandatory requirement for employers to effect statutory social security contributions for foreign workers effective January 1, 2019, will impact employers financially, particularly those in labor intensive businesses/industries.
- **Proposed amendments to Employment Act.** The Minister of Human Resources released a list of proposed amendments to the Employment Act 1955, which are currently at the public consultation stage. The proposed amendments open the statutory minimum protections under the Employment Act to employees across the board, regardless of income level and nature of work (with certain reservations for employees earning more than MYR 5,000 per month), thereby significantly increasing compliance risks and costs. The proposed changes also include anti-discrimination obligations that apply at the recruitment stage as well as during employment.
- **Proposed amendments to union-related laws.** The Minister of Human Resources has released a list of proposed amendments to the Industrial Relations Act 1967 and the Trade Unions Act 1959, which will give unions broader bargaining power and increase bargaining rights.
- **Proposed changes to sexual harassment laws.** Significant changes are proposed in relation to employers' obligations regarding sexual harassment complaints at the workplace, including the mandatory requirement to investigate sexual harassment-related complaints and to prepare a policy on the prevention of sexual harassment.



PHILIPPINES

Modern workforce and gig economy-related concerns posed the most significant challenges for Philippine employers in 2018, as the government continued to favor traditional employment models. The Department of Labor and Employment strictly **enforces audits on companies that use independent contractors**.

In 2018, the government passed a new law on occupational safety and health, which imposes penalties on employers in violation of the health and safety standards set by the Philippine Department of Labor and Employment.

Horizon Scanning in 2019:

The **modern workforce** and the gig economy will continue to challenge Philippine employers. In addition, we may see the full implementation of the new occupational safety and health law in 2019.



SINGAPORE

In 2018, the Ministry of Manpower (MOM) created policies to:

- Calibrate foreign manpower policies to support the government's economic objectives while moderating social impact. To this end, the MOM has increased surveillance of work pass applicants, employers and sectors to ensure adherence to the Fair Consideration Framework and protect the interests of working Singaporeans.
- Develop a more inclusive workforce with progressive human resource practices, putting strong emphasis on employee protection, engagement, and safety and health. The MOM has stepped up actions against offenders.
- Ensure adequacy of retirement planning, whether through regular employment or participation in the **gig economy**.

The MOM has also issued standards for platforms to include certain key terms in contracts with gig workers.

Horizon Scanning in 2019:

The Singapore government is expected to make substantial changes to the Employment Act (EA), which will become effective on April 1, 2019. The government has also committed to making sweeping changes to the employment landscape in Singapore.

The main changes to the EA relate to:

- the scope of the EA and the employees to whom it applies
- the definition of a dismissal of an employee
- an employee's ability to terminate employment by paying salary in lieu of notice
- the employer's obligation to carry out due inquiry
- consolidating the dispute resolution mechanism for wrongful dismissal claims under the jurisdiction of the Employment Claims Tribunal
- transfers of employment
- when authorized deductions may be made from an employee's salary
- expanding the scope of Part IV to blue-collar or manual employees
- the dismissal of pregnant employees without sufficient cause
- statutory entitlement to paid annual leave
- statutory entitlement to maternity and childcare benefits
- certification of an employee's entitlement to paid sick leave
- the employer's obligation to provide information to the Commissioner of Labor upon the retrenchment of an employee
- the empowerment of the MOM to regulate the conduct of an employer in order to protect the employee from adverse employment practices
- the employer's administrative obligations



TAIWAN

There were significant changes to Taiwan's employment landscape in 2018, the most notable of which were the amendments to the Labor Standards Act and the rise of the gig economy in Taiwan.

- **#MeToo movement.** There is an increased cultural awareness of sexual harassment/discrimination following the rise of the **#MeToo movement**, with multinational companies leading the drive for awareness. However, cultural barriers continue to pose challenges and lead to a consequent reluctance to bring sexual harassment and discrimination complaints.
- **Modern workforce.** Taiwan laws continue to gradually shift their focus from a manufacturing-based economy to a service-based economy as shown by the substantial amendments to the Labor Standards Act in the past two years. While many first-world economies no longer require strict recording of working hours, Taiwan still requires this although the current administration allowed more flexibility in using modern methods to do so, e.g., check-in by cellphone apps.
- **Gig economy.** Some companies are looking into developing platforms to make the most of the gig economy trend. However, the rules for project-based workers (e.g., fixed-term employees) remain unchanged and have not been identified as a priority for amendment and, therefore, fixed-term employment will continue to be a limited option for employers moving forward.
- **Labor law changes.** Notable recent changes to the Labor Standards Act include:
 - Overtime pay on rest days must be based on actual work hours instead of being rounded up.
 - "One Day Off Every Seven Days" can be relaxed to two days off every 14 days. "One Day Off every Seven Days" was changed to "One Day Off and One Rest Day Every Seven Days."
 - Maximum monthly overtime hours increased from 46 to 54 hours.
 - A quarterly limit of overtime hours (138) imposed for any consecutive three-month span.
 - Employer-favorable trends. The government is geared toward decreasing employment regulations, which may be beneficial from an employer's perspective.
 - Labor talent issue. There is a shortage of labor talent in Taiwan, and employers are raising concerns that hiring and retention of domestic and foreign employees will continue to be challenging if the labor environment in Taiwan does not improve for both employers and employees.

Horizon Scanning in 2019:

- **2019 labor law forecast.** Following the major changes to the Labor Standards Act in 2017 and 2018, the labor environment should be fairly stable from a policy/law perspective.
- **Potential labor law reforms.** In part due to the white papers from American and European Chambers of Commerce, the National Development Council (NDC) has been pushing the Ministry of Labor (MOL) to provide additional exemptions from the labor laws for higher-paid employees (to increase flexibility and freedom to contract). MOL issued a ruling on January 3, 2019 that employees with a monthly wage of NTD 200,000 or more and in supervisory positions can be partially exempt from certain restrictions under the Labor Standards Act, e.g., work hours, day off, annual leave, women's night shift work, etc.
- The NDC is considering how the modern work environment in Taiwan will be impacted by the rise of AI in the workplace.
- **Labor talent issues.** With employers facing challenges on hiring and talent shortages, the government has begun to revise its immigration rules and consider other legislation to make Taiwan a more attractive location/destination to work in comparison to the other Asia Pacific countries (e.g., salaries offered are lower compared to other countries vying for the same labor talent).



THAILAND

2018 saw a surge of global mobility issues following the enactment of new work permit laws. A number of foreign workers left Thailand due to fear of harsh penalties under the immigration laws. The government attempted to alleviate the workers' concerns by reducing the penalties for violation and allowing a grace period for operators to comply with the new requirements.

The concept of modern workforce gained traction in Thailand, although at present the focus is limited to flexible working practices with companies allowing employees to work from home.

Horizon Scanning in 2019:

- Upcoming amendments to the Labor Protection Act will introduce significant changes to the existing laws on the rates of severance pay and employer's obligations toward its employees in mergers and acquisitions.
- Thailand's first data privacy law is expected to come into force in 2019.
- Increased focus on gender equality/pay and harassment in the workplace.
- Proposed amendments to the Labor Relations Act will continue to be deliberated upon in 2019.



VIETNAM

Since December 1, 2018, employers are required to contribute to compulsory social insurance for foreign employees. As a result, foreign employees will be covered for all five compulsory social insurance regimes, which were previously only applicable to Vietnamese employees, at the same contribution rate. However, the application of the five regimes to foreign employees will be phased as follows:

- The short-term benefit regimes for illness, maternity, and labor accidents and occupational diseases commenced on December 1, 2018.
- The long-term benefit regimes for retirement and survivorship will apply from January 1, 2022.

This development is expected to have an adverse financial impact on employers in terms of labor costs.

Horizon Scanning in 2019:

- **Labor Code reform.** The Labor Code of Vietnam is being revised to provide solutions to common challenges arising in employment relationships, legalize principles provided in the Constitution and comply with Vietnam's commitments to international agreements and conventions regarding labor standards.

Important proposed amendments include:

- All types of employees (e.g., on definite and indefinite-term contracts) can unilaterally terminate labor contracts without any reason, provided that prior notice is served
- Gradual increase of retirement age, thus narrowing the gender gap in this regard
- Increased annual cap of overtime hours
- Recognition of employees' freedom of association
- Strengthening provisions to address sexual harassment at the workplace

- **Increase of regional and general minimum salary.** The Regional Minimum Salary (RMS) increased by 5% to 5.8% (depending on the applicable region) on January 1, 2019. The increase in RMS means that the capped amounts for contributions to unemployment insurance also increased.

The General Minimum Salary is expected to increase from VND 1.39 million (approx. USD 60.4) to VND 1.49 million (approx. USD 64.8) from July 1, 2019. This increase means that the capped amounts for contributions to social and health insurance will increase.

- **Implementation of international commitments.** The Comprehensive and Progressive Agreement for Trans-Pacific Partnership was ratified by the National Assembly of Vietnam on November 12, 2018 and came into effect on January 14, 2019. The European Union-Vietnam Free Trade Agreement adoption is also being accelerated to reach the European Parliament for formal deliberations before the end of its current term in March 2019.

Certain commitments under these agreements are expected to impact the labor and immigration laws of Vietnam, particularly regarding labor standards, resolution of labor dispute, collective bargaining and employees' representative body establishment.



AUSTRALIA

- ▶ From **January 1, 2019**, ensure compliance with the new requirements introduced by the Modern Slavery Act 2018.
- ▶ Anticipate full implementation of the labor hire licensing laws.



CHINA

- ▶ Look out for a definition of the term "sexual harassment" through amendments to the Civil Code.
- ▶ Put sexual harassment policies in place and provide documented training to management about sexual harassment and how to handle complaints.
- ▶ Conduct internal audits of social insurance practice and ensure contributions are being correctly calculated following reform of social insurance collection processes on **January 1, 2019**.
- ▶ Be prepared for pressure to establish communist party organizations in companies and understand the legal rights and obligations in relation to this.



HONG KONG

- ▶ Ensure compliance with paternity leave changes from **January 2019** and watch out for further expansion of discrimination legislation.
- ▶ Ensure policies and training on sexual harassment and discrimination are up to date and implemented effectively.



INDONESIA

- ▶ Carefully plan and structure the employment of foreign nationals in Indonesia following changes to work permit processes.
- ▶ Strengthen hiring processes to counter the challenges posed by the current statutory termination procedure.



JAPAN

- ▶ In light of work style reform laws coming into force in **April 2019** and the LSIO's increased scrutiny, revisit their policies and practices regarding overtime and working hours management.
- ▶ The work-style reform laws also include the concept of "equal work, equal pay" for non-regular employees. This part of the legislation will come into force in 2020 and employers are recommended to review their practices in relation to non-regular employees in light of the upcoming legislative changes, relevant guidelines and recent court precedents, particularly on what constitutes reasonable working conditions for fixed term employees.



MALAYSIA

- ▶ Watch out for the proposed amendments to the Employment Act in 2019.
- ▶ Be prepared for the financial impact of increased minimum wage and mandatory social security contributions for foreign workers following changes to the law on **January 1, 2019**.
- ▶ Align company policies on sexual harassment issues in the workplace to the proposed government regulations.
- ▶ Revisit employment benefits and labor practices to preserve industrial harmony and mitigate the risk of employees unionizing.



PHILIPPINES

- ▶ Regularly review and ensure workplace policies and appropriately drafted contracts are in place for independent contractors.
- ▶ Look out for the implementation of the occupational safety and health law in 2019.



SINGAPORE

- ▶ Continue to monitor manpower policy developments and be aware of the effects of widespread changes to the EA and related legislation from **April 2019**.



TAIWAN

- ▶ Look out for potential labor law reforms, specifically on the issue of additional exemptions from certain labor laws of higher-paid employees.
- ▶ Keep updated on possible changes to immigration rules in response to labor talent issues.



THAILAND

- ▶ Look out for upcoming amendments to the Labor Protection Act in relation to severance pay and the first data privacy law in the country.



VIETNAM

- ▶ Monitor the progress of Labor Code amendments that will be formally released for consultation and keep an eye out for potential changes to immigration regulations aimed at implementing Vietnam's international commitments.
- ▶ Ensure the relevant payroll providers/internal departments are briefed on increase of RMS and GMS effective on **January 1, 2019**.

EUROPE, MIDDLE EAST AND AFRICA OVERVIEW

In 2018, employers across the EU rushed to come to grips with enhanced data protection obligations under the **GDPR**, and while the May 25, 2018 compliance deadline feels like the distant past, the EU is still in the "goal vs. reality" phase of GDPR execution and employers can expect increased investigations into their data privacy practices in 2019.

Meanwhile, **Brexit** was never far from the headlines across the region, as negotiations intensified between the UK and the EU about the terms of their future relationship following the UK's departure from the Union. Global mobility experts foresee a number of challenging developments once the UK has finalized its exit from the EU, likely in 2019. Contingency planning will be vital for employers and organizations will need to plan for change, particularly in relation to the threatened recruitment shortage in the UK.

On June 21, 2018, the Council of the European Union approved the revised **Posted Workers Directive**, bringing changes in three main areas: the remuneration of posted workers, long-term postings and temporary agency workers. After its entry into force, Member States will have two years to adapt their legislation to comply with the directive. The impact of the new rules will depend on how far Member States have already gone toward implementing the current Posted Workers Directive. However, global organizations must bear in mind that in two years' time, local legislation may apply when seconding employees within and to Europe.

As the workforce continues to evolve across the region, employers are facing increasing challenges.

Misclassification claims by gig economy workers were on the rise in 2018, with landmark judgments being delivered in France, Spain, the UK and Italy, and employers can expect this to continue into 2019, with the potential for regulatory reform to protect gig economy workers. Meanwhile, measures and legislative changes have been implemented in Germany, Spain and the Netherlands to curtail the **unnecessary use of fixed-term employment contracts**. Elsewhere, in South Africa, the risks associated with the misuse of agency workers were highlighted in a landmark case, while German regulators have been clamping down on putative independent contractors working under labor leases.

As **digitalization** continues to grow, so do challenges associated with digital working practices. With flexible and teleworking practices on the rise, and increased use of portable electronic devices to carry out work tasks, the concept of "taking your work home" has never been so literal. This has resulted in a rise in **'right to disconnect'** laws, particularly across France, Belgium and Spain. However, it remains to be seen how these rights will be implemented or enforced.

Gender pay and pay practices remained hot topics across the region in 2018, with Germany introducing pay transparency legislation and Spain proposing potential gender pay obligations. Employers in the UK had until April 2018 to publish their first year's gender pay data and France and Switzerland were also proactive in this area, with pay reporting obligations and pay audits applicable from 2019.

Pension changes were also implemented across the region, with legislation in Germany creating greater certainty for employers allowing the possibility of purely defined contribution commitments with limited liability, and in the UK, measures to facilitate consolidation of defined benefit schemes are expected to be considered by Parliament in 2019. Meanwhile in Spain, increases to pension contributions to align with the Consumer Price Index were introduced, and in Poland, a new pensions system was implemented to supplement devaluing pension schemes. 2019 is likely to see further developments in this area, as rumors circulate about comprehensive pensions reform in Italy and employers in the UK come to grips with equalization of benefits between women and men with guaranteed minimum pensions.

Use the navigational buttons below to skip straight to countries of interest.



EUROPE, MIDDLE EAST AND AFRICA REGIONAL OUTLOOK

SPOTLIGHT ON: UK

2018 was a year of political upheaval for the UK, with a general election and Brexit overshadowing political discussions culminating in a draft Brexit deal being announced in November 2018 and subsequently rejected in January 2019. Westminster was sent into turmoil with seven ministers resigning and no confidence motions in PM Theresa May and her government being scheduled and defeated. As the Brexit date looms, the world will be watching to see whether the UK government can secure a deal or whether it faces a "hard Brexit."

Meanwhile, UK companies were also hurrying to "get ready" ahead of the May 2018 **GDPR** deadline to avoid strict penalties for non-compliance with the introduction of more stringent data protection laws, and a landmark decision in the **gig economy** was delivered by the court of appeal in December 2018, where the majority found that drivers working in the gig economy had "worker" status and were not self-employed. The online platform has been given permission to appeal the outcome, and any decision by the Supreme Court on this issue could be potentially ground-breaking.

As in 2017, a tougher regulatory environment for defined benefit (DB) pensions was a key theme in the **pensions** arena, where we saw enhanced incentives for DB pension scheme consolidation and a continuing trend for DB consolidation, as well as a government white paper and further consultation on strengthening the UK Pensions Regulator's powers to protect DB pension schemes.

Horizon Scanning in 2019:

The outcome of the **Brexit** negotiations still hangs in the balance, with growing uncertainty as to what will happen on "Brexit day," i.e., March 29, 2019. No major changes to UK employment law, however, are anticipated as a result. Nevertheless, skill shortages due to changing immigration rules may present immediate challenges.

With ongoing spotlight on the gig economy, we are likely to see further cases on the employment status of **gig economy workers**. The government has set out its plan for implementing the recommendations made by the Taylor Review of Modern Working Practices. The government will (with effect from April 2020) repeal the so-called Swedish derogation relating to agency workers, upgrade the requirements relating to written statements and introduce 52-week averaging for holiday pay purposes for all employees with variable pay. There are plans to introduce a number of other reforms, including introducing state enforcement of holiday pay for low-paid workers. The government also promises legislation to clarify employment status, although there is little detail on this crucial issue at this stage.



Interest in the **gender pay gap** is showing no signs of slowing down as 2019 is likely to see a continued focus on pay transparency. The government is also consulting on extending pay reporting obligations to encompass the ethnicity pay gap.

There are new regulations that will require listed PLCs with more than 250 UK employees to publish the ratio of the **CEO's pay** to that of their median UK employee, and to the UK employee at the 25th and 75th percentile. The first reports will be due from January 1, 2020. Other requirements will require companies with more than 250 UK employees to detail in their directors' report how the directors have engaged with employees. Furthermore, an increased focus on compliance with the national minimum wage will be in the spotlight in 2019 in relation to the nuances around the impact of salary sacrifice and uniform policies.

In the wake of the **#MeToo movement**, scrutiny of NDAs and calls for change to the rules surrounding their use for the purposes of covering up sexual harassment are likely to intensify, with a tangible push for cultural change in how such allegations are dealt with by employers and for regulatory intervention.

We are also likely to see an increase in **data protection** claims against employers following a recent court of appeal judgment which found a major supermarket vicariously liable for the deliberate and extensive misuse of employee data. This may increase the scope for pursuing data protection claims against employers, even where the employer has not itself breached data protection legislation.

Additionally, a material change to the taxation of personal service companies is set to take place in April 2020, while separately, 2019 is expected to see enhanced scrutiny by competition authorities of perceived anti-competitive activity in the recruitment and reward space.

Comprehensive changes to the UK pensions landscape are anticipated as a Pensions Bill is expected to be laid before parliament in 2019, with measures to strengthen the regulator's powers and facilitate DB consolidation. Employers will also be getting to grips with **Guaranteed Minimum Pensions (GMP) equalization** following the landmark decision in *Lloyds Banking Group Pensions Trustees Limited v. Lloyds Bank plc* toward the end of 2018, meaning employers with DB schemes containing GMPs will need to start working with their trustees and advisors to agree to a method to adjust benefits to ensure equal treatment of men and women, and an appropriate back payment strategy. A further court hearing is expected in the summer to address the treatment of historic transfer payments and other related issues.



BELGIUM

Following the introduction of the Feasible and Manageable Work Act on March 15, 2017, flexible working became a hot topic in Belgium throughout 2018 with the new legislation bringing in a number of changes aimed at **making flexible working arrangements more achievable**. These changes included simplification of part-time work, "floating schedules," and an adjustment to overtime rules and calculation of working time.

Horizon Scanning in 2019:

- The continued rise of the gig economy through increased use of online platforms.
- Greater discussion regarding the right to disconnect as employers focus on "techno stress" suffered by employees.
- The cap on national salary increases for the year 2019-2020 is unlikely to rise significantly from 2018-2019, with an increase of 1.7% predicted. However, as a result of the federal election in 2019, compliance with this cap is likely to be more closely monitored, with employers facing severe fines of between EUR 250 and EUR 5,000 per employee for non-compliance.



CZECH REPUBLIC

Key themes in 2018 included tackling the **low employment rate** by using the country's new and evolving workforce, and ensuring compliance with the **GDPR**.

Horizon Scanning in 2019:

2019 will see an increase in the minimum wage and potential movement in the following areas:

- **The end of unpaid sick leave** is being contemplated in a legislative proposal under which employers will have to pay employees from the first day of sickness, creating a significant financial burden for employers.
- **Vacation pay** may undergo change, with a proposal to revise vacation entitlement from calendar days to hours.
- A legislative proposal for **shared job positions** allowing employers to employ multiple employees for the same role on a part-time basis.



FRANCE

The primary focus of 2018 was on changes implemented by President Macron's executive orders of September 22, 2017. The cap on unfair dismissal resulted in a decline in termination-related litigation in 2018. While there was an increase in discrimination and working-time claims, the overall volume of employee litigation decreased, with increasing numbers of employees negotiating settlement agreements.

Similarly, employers saw an increase in requests linked to the **new right to work from home** and in relation to the transition to the new Social and Economic Committee.

In November 2018, misclassification claims under the gig economy were under the spotlight when the French Supreme Court declared food delivery cyclists of the French company Take Eat Easy were employees due to the extent the platform monitored and sanctioned the cyclists. Similarly, on January 11, 2019, the court of appeal held that a gig economy driver was an employee on the basis that the driver signed a registration partnership agreement which did not allow him to set the rate or select clients.

Uncertainty over the HR implementation of GDPR was also a key theme for 2018.

Horizon Scanning in 2019:

- Introduction of personal income tax withholding from January 1, 2019.
- Increase of gender pay-related requirements given the recent laws and in particular law No. 2018-771 of October 5, 2018, which introduces the need for employers to disclose the difference in **pay levels between female and male employees**. The law came into effect in January 2019 for companies with 250 employees, extending to companies with 50 employees by 2020. We anticipate that the number of investigations by the labor authority will also continue to rise.
- Increased risk of misclassification claims from workers in the gig economy. There are ongoing investigations currently being undertaken by the French social security authority and it has been reported by the French media that the Paris prosecutor is investigating a gig economy delivery company for concealment of work following a report from the Labor Inspector.
- An increase in compliance issues linked to the implementation of the recent Sapin II anti-corruption law and the increase in controls by the new anti-corruption agency, Agence Française Anti-Corruption.



GERMANY

The use of freelancers was high on the agenda for German regulators and has become a major element of corporate compliance management. Regulatory authorities have increasingly been monitoring the use of independent contractors with the aim of combating the issue of individuals purporting to be self-employed, but in reality working under a labor lease. In the event of violations, substantial sanctions may be imposed, including fines of up to EUR 10 million for companies and EUR 1 million for board members and managing directors.

In April 2017, labor leasing under German law became limited to a maximum period of 18 months. In 2018, employers reached the upper limit (September 30, 2018), rendering non-compliant employers ineligible to apply for a labor leasing license, liable for fines of up to EUR 30,000, and the temporary workers being deemed employees of the user company. Employers should be aware that once the 18-month maximum period has been exhausted, a cooling-off period of three months will need to be observed before the particular worker can be assigned to the same company again.

Since January 2018, the German Occupational Pension Act has allowed for purely defined contribution commitments. Under such DC commitments, employers only have to make contributions to external pension providers and are not secondarily liable for future pension payments (so-called "pay and forget principle"). It is yet to be seen whether employers' associations and labor unions will begin to enter into collective agreements providing for the option of pure DC commitments in 2019.

The Occupational Pension Enforcement Act established a legal basis for employers to introduce an opt-out scheme with regard to deferred compensation. This means, as a rule, the employer can defer a part of the remuneration in order to invest in a pension scheme and the employee will have the right to object within a certain time limit (so-called opt-out).

Since February 1, 2018, employees working in establishments with more than 200 employees have the right to request information on pay criteria based on the Transparency of Pay Act which came into force in July 2017. The act also requires companies with more than 500 employees to file gender equality/pay equity reports and encourages such companies to voluntarily conduct pay audits. The new law still remains unclear in respect of the specific consequences in cases of non-compliance or how jobs are to be assessed as being equal or of equal value. This legal uncertainty is creating difficulties for employers dealing with claims for salary adjustment. **See more information on the Transparency of Pay Act [here](#).**

Horizon Scanning in 2019:

- **Part-time working.** As of January 1, 2019, employees have the right to request "bridge part-time work," allowing them to work part-time for a period of one to five years and return to full-time work after the part-time period has expired.
- **Minimum wage.** As of January 1, 2019, minimum wage increased to EUR 9.19 gross per hour and will increase to EUR 9.35 in 2020.
- **Proposed changes to fixed-term contract arrangements.** Changes have been proposed that will result in the maximum duration of "fixed-term employment contracts without valid reason" reduced from 24 months to 18 months. It has been proposed to reduce the number of times fixed-term contracts can be renewed from three to one. There is a plan to limit the maximum duration of the fixed-term contract to five years. Details of timings for these proposed changes are not yet available.
- **Impact of Brexit.** The German government introduced a proposal to reduce dismissal protection for high-earning bank employees to attract more UK and US banks to Frankfurt post-Brexit. The Finance Ministry introduced a draft act, stipulating limited applicability of the German Termination Protection Act for bank employees whose annual base salary is higher than EUR 234,000 by classifying them as executive employees.
- **Skilled immigrants.** In an effort to combat skills shortages, the German government intends to remove the restriction stipulating that those coming from outside the EU can only be employed in Germany if there is no German or EU citizen available to do the job. The new regulation would not be limited to sectors where there is an acute shortage.



HUNGARY

2018 continued to see **significant labor shortages** in Hungary and employers continue to face the increasing challenge of recruiting and retaining those with key skills. Engineers, IT and medical workers are in particularly short supply.

In the meantime, employers have also been benefiting from **flexibility through atypical employment relationships**.

Horizon Scanning in 2019:

- **Tax reforms** mean that non-salary fringe benefits — known in Hungary as "cafeteria" — including money received to spend on meals, tickets, child daycare, etc. will be partially terminated in 2019.
- The "SZÉP card," for use in the local tourism industry, will continue to qualify **as a fringe benefit with preferential tax treatment**, in addition to tickets to sport and cultural events.
- Challenges await employers facing fresh labor claims in 2019, following the introduction of the new Code on Civil Procedure in 2018. While the requirements for filing a lawsuit increased, **rules relating to defending claims** need significantly more preparation with stringent deadlines for submitting responses, including a strict timeframe of 15 days to respond to petitions for reinstatement.
- As of January 1, 2019, the mandatory minimum wage payable to full-time employees is HUF 149,000 (monthly basis), HUF 34,260 (weekly basis), HUF 6,860 (daily basis), and HUF 857 if paid on an hourly basis. The guaranteed minimum wage for employees employed in positions requiring a secondary school diploma or advanced vocational training, or higher, is HUF 195,000 (monthly basis), HUF 44,830 (weekly basis), HUF 8,970 (daily basis), and HUF 1,121 (hourly basis).
- A significant and publicly disputed amendment was made to the Labor Code as of January 1, 2019. The annual amount of extraordinary working time remains 250 hours, but the employer and the employee may agree in writing that another 150 hours of extraordinary working time can be ordered by the employer. In the case of a collective bargaining agreement, a maximum of 100 voluntary extraordinary working hours above the 300 hours of extraordinary working time may be ordered by the employer annually.
- The work reference period has been increased from 12 months to 36 months.



ITALY

2018 saw a revolutionary **gig economy** ruling from the Turin Employment Tribunal, when an action brought by six Foodora riders claiming employment status failed as they were deemed to be **independent contractors** due to the company's lack of control and organizational power over the performance of their work. In addition, the Dignity Decree provided for **changes to flexible forms of employment** with reformed regulation over fixed-term employment contracts. Rules on economic relief for employees hired after March 7, 2015 in cases of unlawful termination also changed when the Italian Constitutional Court overturned the formula previously used to calculate termination indemnities for such employees.

Horizon Scanning in 2019:

- Litigation arising out of the reform of flexible employment arrangements.
- Additional measures to encourage employment of the younger workforce (such as tax advantages and social security relief) and other disadvantaged employees in economically depressed areas.
- A major pensions reform is currently in the pipeline and will be ready to go live in 2019.



KAZAKHSTAN

Historical risks associated with the termination of employment contracts in Kazakhstan continued to pose challenges for employers throughout 2018.

Horizon Scanning in 2019:

No major changes to labor law are predicted for 2019. However, amendments to legislation regulating activities undertaken by manpower agencies are expected. This will be helpful as the current lack of regulation is creating challenges for employers.



THE NETHERLANDS

The most significant issue of 2018 was the continued evaluation of the Work and Security Act (*Wet Werk en Zekerheid*), which resulted in a new legislative proposal being submitted to the House of Representatives (the Labor Market in Balance Act). If passed, this will bring significant changes for employers.

Horizon Scanning in 2019:

The act is due to enter into force on January 1, 2020, so the focus in 2019 will be on the changes proposed by the act, which largely intend to reduce differences between indefinite and fixed-term employment. Notable changes include:

- The entitlement to "transition payments" paid upon termination of employment is extended to all employees regardless of length of employment (previously two years' service was required), meaning employees on short or temporary contracts, and those on probation, will also receive payment. Changes to the level of entitlement will also be introduced.
- Successive fixed-term contracts over a period of three years (previously, two years) will result in the final successive contract converting to an indefinite-term contract. Temporary employment contracts are regarded as successive if they succeed each other within an interval of six months or less.
- Probationary periods of five months may be agreed in indefinite-term contracts, and three months in fixed-term contracts of two or more years.
- WW premiums (social contributions) paid by employers under the Employment Act will be lower for employees under indefinite-term contracts than for those under fixed-term contracts.
- A ninth ground for dismissal will be introduced under the act, known as the "cumulation ground," which permits dismissal when certain multiple circumstances exist, rather than reliance on one of the current eight grounds for dismissal. Cumulation dismissals also involve enhanced transition payment and cannot be used in the event of dismissal for business economic reasons or in the event of long-term incapacity for work.
- Compliance is likely to be a hot topic in 2019, as further to a successful inspection project in 2018, the immigration authorities and the labor inspectorate will continue to strengthen their cooperation and joint efforts to crack down on employers not abiding by rules relating to the hiring of highly skilled migrants. Companies sponsoring these workers in the Netherlands are advised to review the relevant requirements with care.



POLAND

Implementation of the GDPR was a major focus in 2018 and employers planning to introduce monitoring practices through use of CCTV or email monitoring were required to set out the scope and method of monitoring in collective bargaining agreements (CBAs), work regulations or a relevant notice to employees.

2018 also saw the introduction of the voluntary Employees' Capital Plans (PPK) system, designed to supplement pension schemes in response to pensions decreasing in value. It includes any social security contributor, regardless of whether a person is employed under an employment contract or any other type of employment agreement. The Trade Unions Act dated May 23, 1991 was amended on January 1, 2019, permitting self-employed individuals to join trade unions, increasing representation, and to be protected from dismissal in certain circumstances.

In line with the global move toward more flexible working arrangements, the practice of teleworking became more widely used irrespective of whether regulations or agreements had been reached with trade unions.

There were developments in the minimum working age which was reduced to 15 years old on September 1, 2018.

Horizon Scanning in 2019:

- **GDPR.** Further regulatory developments in response to the GDPR can be expected in 2019.
- **Unionization.** It is also likely that there will be focus on the outcome of the unionization of self-employed persons.
- **Remunerations' payment.** As of January 1, 2019, the basic remunerations' payment method is now a transfer to the employees' bank account. However, the employee may still, upon request, receive remuneration in cash.



RUSSIA

Changes to immigration legislation were a major focus for 2018, with the introduction of a prohibition on foreign employees registering with immigration authorities at their employer's office address, if staying at another address. Moreover, as of January 16, 2019, legal entities are subject to administrative fines of up to RUB 500,000 (USD 8,333) if they employ foreign nationals who fail to adhere to the rules of their stay in Russia. In addition:

- Russia introduced criminal liability for unjustified dismissals of, or refusal to hire, persons who are within five years of reaching pension age. As of January 1, 2019, pre-pension and pension age employees are also entitled to two days' paid leave per year to undergo health checks.
- The Russian parliament passed a law introducing additional obligations for companies using vehicles. The obligations vary depending on the type of activities a company performs when using corporate cars.
- Employees who have three or more children under the age of 12 can now take annual paid leave at a time convenient for them.

Horizon Scanning in 2019:

- Adoption of a draft bill under which certain employment documents can be filed or acknowledged by permanent employees electronically.
- Anti-corruption measures are likely to be enhanced as parliament is reviewing a draft bill imposing additional obligations on employers with regard to protecting whistleblowers who report corruption.
- Increased liability if employers delay salary payments.
- Additional protection for pregnant women and women with children under the age of three in accordance with a draft bill which prevents employers from unilaterally changing their terms and conditions of employment on the basis of technological or organizational changes within the employing entity.
- Companies with more than 250 employees may be required to introduce a quota stipulating that 2% of the workforce must be young professionals who:
 - are between the ages of 18 and 25;
 - have graduated after studying under a full-time program;
 - have not entered into a profession related to their qualifications.



SOUTH AFRICA

2018 saw a big drive by the Department of Labor to clamp down on the enforcement of labor laws with the appointment of 483 new labor inspectors.

In July 2018, the risks associated with the misclassification of agency workers became real for many employers when South Africa's highest court, the Constitutional Court, handed down its long-awaited judgment in the case of *Assign Services (Pty) Limited v. National Union of Metalworkers of South Africa* [2018]. This case concerned the interpretation of the much-debated section 198A(3)(b) of the Labor Relations Act regarding dual or deemed employment by the client. The court held that agency workers who earn below the annual earning's threshold (presently ZAR 205,433.30) and are placed with a client for three months or more are deemed the sole employees of the client.

There were also a number of amendments to South Africa's labor law in 2018, including a new national minimum wage, the introduction of strike ballots and significant changes to statutory leave entitlements.

Horizon Scanning in 2019:

The 2018 amendments to labor legislation will come into force in 2019.

- The National Minimum Wage Act came into effect on January 1, 2019, establishing a minimum wage of ZAR 20 (USD 1.40) per hour with exceptions for farm and domestic workers, and workers in the expanded public works program. The Commission for Conciliation, Mediation and Arbitration has jurisdiction to adjudicate any alleged breaches that constitute an unfair labor practice.
- The Labor Laws Amendment Act came into force on January 1, 2019. The Act amends the Basic Conditions of Employment Act 1997 by providing for parental, adoption and commissioning parental leave to employees. It provides parental leave cannot be reduced by collective agreement for 10 consecutive days for adoptive parents. The Labor Laws Amendment Act also introduces the right to claim parental and commissioning parental benefits from the Unemployment Insurance Fund.
- The Labor Relations Amendment Act came into force on January 1, 2019, introducing measures to address protected strikes that commence in the absence of picketing rules. The act establishes an advisory arbitration panel to resolve disputes relating to violent strikes and/or lockouts.
- The **Employment Equity Amendment Bill of 2018** will set affirmative action measures in each economic sector to address dissatisfaction with the pace of progress toward achieving **diversity in the workplace**. The Amendment Bill proposes to empower the Minister of Labor to identify national economic sectors for the purposes of the Employment Equity Act and set numerical targets for designated groups, that can be the subject of affirmative action measures, in each economic sector. This is a significant change from the current employment equity regime, which currently allows designated employers to set their own numerical targets and to take measures to achieve those self-set targets. The Department of Labor no longer views these self-imposed targets as sufficient.



The introduction of the **GDPR and the new Personal Data Protection and Digital Rights Act** meant 2018 was a year of change to infrastructure and data protection policies in Spanish companies, as they come to grips with the new obligations under the legislation. This led to considerable activity for HR departments, necessitating a process of adapting their policies and internal procedures to ensure compliance with the new regulations. In terms of labor law, such new data protection regulations also entailed changes to digital working practices, including the right of employees to disconnect from work-related electronic communications, and amendments to privacy rights associated with the use of digital devices in the workplace.

Labor inspectorate scrutiny and misclassification litigation **in the gig economy** also ramped up, with judicial outcomes split between findings of ordinary employment and genuine independent contractor arrangements. As throughout the rest of Europe, there has been heightened interest from Spanish multinationals on the potential impact of **Brexit negotiations on global mobility, European Works Councils and other employment matters**.

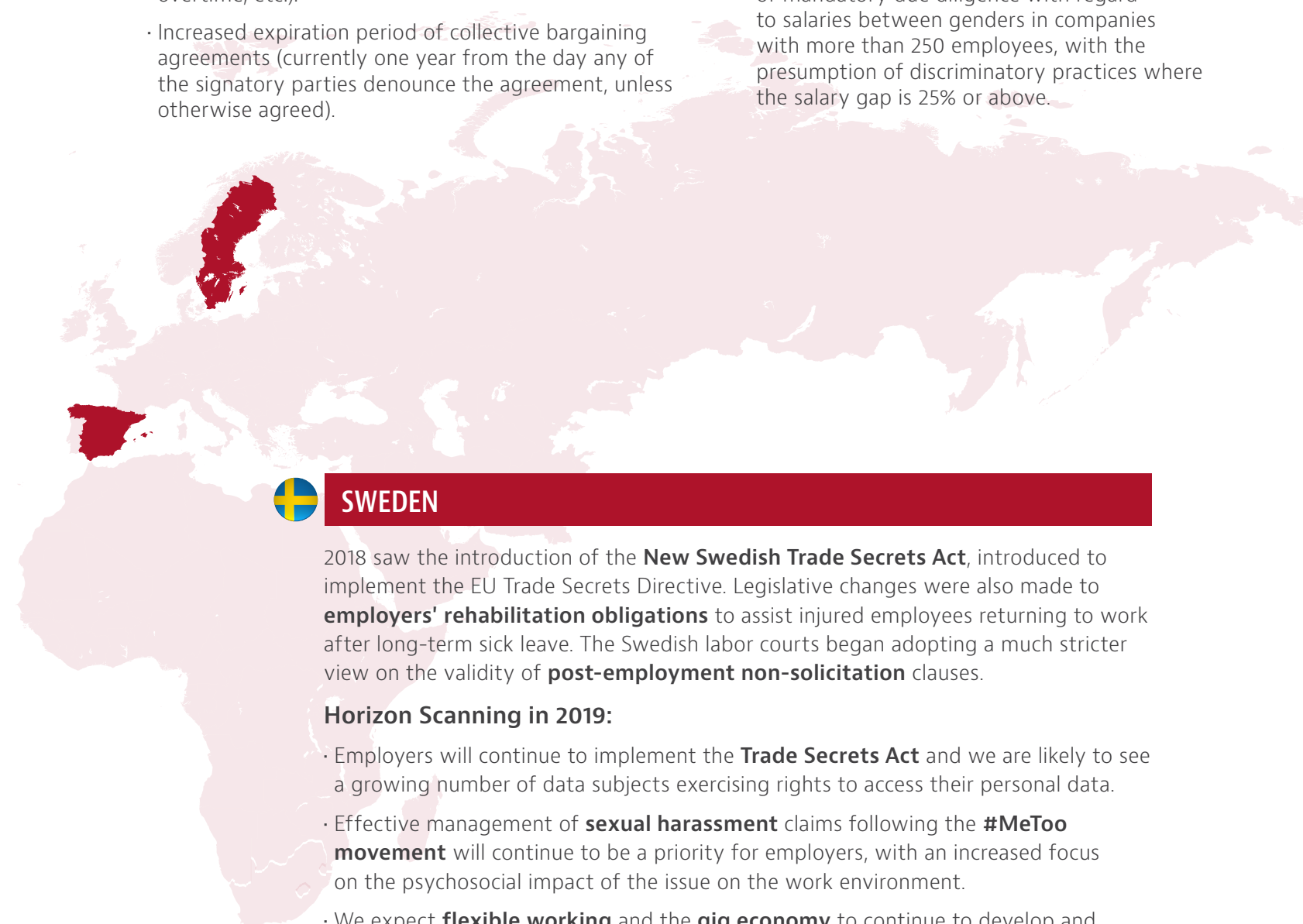
The Council of Ministers passed several important employment law changes, effective from January 1, 2019. These measures include:

- Increase to the Guaranteed Minimum Wage by 22.3% for 2019.
- Repeal of so-called "entrepreneurial contracts" (*contrato de emprendedores*) and other incentives linked to an unemployment rate in excess of 15%. The repeal does not affect any contracts already in force prior to the effective date of the Royal Decree.
- **Reestablishment of the mandatory retirement option.** Collective bargaining agreements may include clauses that make it possible to terminate employment contracts once the employee has reached the legal age for retirement, provided certain requirements are met (e.g., the employee in question meets the requirements established by Social Security to receive 100% of the ordinary pension, etc.).
- **Inclusion of unpaid internships in Social Security.** Training carried out in companies, institutions or companies included in training programs, as well as non-occupational internships in companies or external academic internships, entitles the individual to inclusion in the Social Security system (with the exception of unemployment benefits), irrespective of whether or not such training or internships were paid. The government has a term of three months to pass the specific regulation that will regulate such training and internships.
- It is now a criminal offense, punishable with a fine of EUR 3,126 to EUR 10,000, if a company notifies Social Security that it is deregistering a person as its employee and it is subsequently discovered that the individual continues to carry out the same activities for the company on a self-employed basis as a "fake self-employed worker."
- Changes to Social Security contributions for 2019 include:
 - Increase of the maximum contribution base to EUR 4,070.10 per month.
 - Increase of the minimum contribution base to EUR 1,050 per month.
 - Updated rates for the contribution due to occupational contingencies, the minimum being now 1.5%.
 - Contribution for temporary contracts with a term of up to five days: the surcharge on the employer's contribution for common contingencies has been increased from 36% to 40%. In addition, if the contracts are temporary full-time contracts, each day worked counts as 1.4 days, with regard to contribution.
 - Suspension of reduced contribution for decreased workplace accidents.

Horizon Scanning in 2019:

Significant labor law reforms have been proposed by the current government. However, the support of other political parties will be vital in securing the majority of changes proposed, which may prove difficult. Watch this space in relation to:

- Measures to further limit the use of fixed-term contracts to reduce their ratio in comparison with indefinite-term contracts, and the requirement to **register ordinary working hours of full-time employees to further control use of overtime**.
- **Equalization of pay** and other working conditions between employees of subcontractors and those of client companies.
- A switch to sector-level collective bargaining agreements having supremacy over company-level CBAs in relation to certain issues (including salary amount, working hours, overtime, etc.).
- Increased expiration period of collective bargaining agreements (currently one year from the day any of the signatory parties denounce the agreement, unless otherwise agreed).
- **Extending family rights.** Paternity leave will be put on equal footing with maternity leave and, starting in 2019, gradually increased to a duration of 16 weeks by 2021.
- **An increase to pension contributions** by 3% to align with the Consumer Price Index and potential changes to social **security contributions for overtime** pay.
- Implementation of **gender pay reporting obligations**, including the introduction of mandatory due diligence with regard to salaries between genders in companies with more than 250 employees, with the presumption of discriminatory practices where the salary gap is 25% or above.



SWEDEN

2018 saw the introduction of the **New Swedish Trade Secrets Act**, introduced to implement the EU Trade Secrets Directive. Legislative changes were also made to **employers' rehabilitation obligations** to assist injured employees returning to work after long-term sick leave. The Swedish labor courts began adopting a much stricter view on the validity of **post-employment non-solicitation** clauses.

Horizon Scanning in 2019:

- Employers will continue to implement the **Trade Secrets Act** and we are likely to see a growing number of data subjects exercising rights to access their personal data.
- Effective management of **sexual harassment** claims following the **#MeToo movement** will continue to be a priority for employers, with an increased focus on the psychosocial impact of the issue on the work environment.
- We expect **flexible working** and the **gig economy** to continue to develop and remain hot topics in Sweden in 2019.



SWITZERLAND

Since July 2018, Swiss employers are obligated to register open positions in professions with high unemployment rates with relevant regional unemployment centers. A position can only be advertised elsewhere after five working days of registration. This requirement was introduced as a result of the approval of an "anti mass immigration" initiative by Swiss voters. Violations will be reported to the criminal prosecution authorities and the individuals can be found personally liable for a fine of CHF 40,000. There was also increased scrutiny on compliance with Swiss rules on maximum work time and work-time tracking in 2018.

Horizon Scanning in 2019:

No major changes are currently contemplated in 2019, however, watch out for these potential developments:

- Employers with more than 100 employees (excluding apprentices) will be required to undertake independent audits of their employees' salaries every four years. The audit must assess whether there is **equality of pay between men and women**. The results of the audit must be disclosed to employees and repeated every four years unless the audit reveals that salary equality exists. The law will enter into force in 2020 at the earliest.
- Explicit protection of whistleblowers is currently under review.
- Liberalization of the rigid working time rules.
- Increasing number of industries having binding minimum salaries as a result of collective bargaining agreements having more general application.



TURKEY

The spotlight was on the **gig economy** in 2018, as taxi drivers' lobbying activities against the largely unregulated operations of apps culminated in a number of gig economy vehicles being impounded and some drivers being fined by the police. The Ministry of Trade subsequently announced a commitment to reviewing and regulating this issue, while the Institution of Public Supervisory (*Kamu Denetçiliği Kurumu*) also recognized that there is a **"legal gap"** with respect to the practices of these platforms. The Institution proposed that such practices be legalized pursuant to the principle of legal certainty under Article 2 of the Constitution of the Republic of Turkey.

Separately, amendments to legislation introduced a ban on payments in foreign currencies in employment agreements executed between Turkish residents. Exemptions were later announced and employers were required to convert the monthly salaries within 30 days of September 13, 2018.

Horizon Scanning in 2019:

- Expect an increase in data privacy inspections - the local data protection law is originated from the EU Data Protection Directive, and requires adherence to general data processing principles and grounds in addition to notification to employees of employer's data processing activities. The officials at the local data protection authority have announced that Turkish practice will follow the provisions under the General Data Protection Regulation. Therefore, we expect that investigations into employers' workplace practices may increase as a result.
- The current economic and political climate in Turkey may lead to a decrease in the number of foreign national employees seeking to travel to Turkey.

EUROPE, MIDDLE EAST AND AFRICA TOP TIPS



BELGIUM

- ▶ Focus on the wellbeing of employees and ensure a good work-life balance by introducing increased flexibility.
- ▶ Initiate discussions with employees about disconnecting from technology.
- ▶ Ensure salary increases are in line with statutory caps following stricter monitoring.



CZECH REPUBLIC

- ▶ Watch out for, and ensure compliance with, the new paid sick leave regime and vacation pay calculations likely to be introduced in 2019.
- ▶ Take advantage of flexibility offered by new legislation permitting shared job positions.



FRANCE

- ▶ Take proactive measures to prepare for gender equality rules strengthened in September 2018 and the mandatory gender equality criteria from January 2019.
- ▶ Prepare for transition to the new Social and Economic Committee.
- ▶ Larger companies should be prepared for compliance with additional anti-corruption requirements.



GERMANY

- ▶ Ensure compliance with minimum wage increases and availability of "bridge part time work" from **January 1, 2019**.
- ▶ Establish a comprehensive compliance policy to prevent illegal external staff deployments and to ensure compliance with social security and tax obligations and take steps to minimize damage where violations have occurred.
- ▶ Review labor leasing contracts to ensure compliance with the 18-month maximum period to avoid incurring penalties.
- ▶ Conduct internal audits of remuneration systems and actual compensation paid in light of gender equality objectives.
- ▶ Review all fixed-term contracts and their duration and consider potential risks associated with long-running contracts in light of proposed changes.



HUNGARY

- ▶ Prepare for extensive fringe benefit and tax reforms in 2019.
- ▶ Be aware of the new litigation deadlines if defending against newly issued labor claims.
- ▶ Ensure compliance with increases to minimum wage and changes to levels of extraordinary working time under the Labor Code from **January 1, 2019**.



ITALY

- ▶ Watch out for new laws and regulations in the pensions arena and make sure all contracts and policies are up to date and comply with legal reforms.
- ▶ Watch out for changes to parental leave and flexible employment arrangements coming into force in 2019.



KAZAKHSTAN

- ▶ Kazakhstan employment law is typically employee-friendly, employers should ensure all employee paperwork is up to date and employees have been familiarized with all internal company policies.



SOUTH AFRICA

- ▶ Ensure compliance with the National Minimum Wage Act and changes to parental leave rights from **January 1, 2019**.
- ▶ Ensure introduction of systems to track compliance with any affirmative action measures set out in legislation. Substantive compliance may have an impact on employers' ability to do business with certain entities, specifically listed companies and governmental bodies.
- ▶ Evaluate the need for, and proactively manage use of, temporary employment services (TES). Where possible, employers should avoid using low-income TES employees for longer than three months to avoid a direct employment relationship being established.



SWEDEN

- ▶ Review existing post-employment non-solicitation clauses and ensure clarity over what constitutes confidential material/trade secrets following the introduction of the Trade Secrets Act in 2018.
- ▶ Provide enhanced training to HR personnel on questions relating to GDPR and data subject access requests.
- ▶ Investigate any claims of workplace sexual harassment and implement relevant policies to manage the issue.
- ▶ Expect further expansion of atypical working arrangements.



TURKEY

- ▶ Update data protection policies to ensure they are in line with the GDPR. Localize GDPR-compliant data protection notices to reflect mandatory changes under the Turkish Data Protection Law.
- Ensure all salary payments under employment contracts between Turkish residents are in Turkish lira (unless the employment contract falls within the list of exemptions).



THE NETHERLANDS

- ▶ Review successive fixed-term contracts in light of the new Work and Security Act.
- ▶ Review immigration policies to ensure compliance with the rules concerning employment of highly skilled migrants.



POLAND

- ▶ Monitor changes in data protection legislation and discuss flexible working arrangements with employees.



RUSSIA

- ▶ Monitor developments regarding the protection of whistleblowers and electronic documents.
- ▶ Where appropriate, make preparations for any planned State Labor Inspectorate inspections.
- ▶ Ensure compliance with new migration legislation and employment quotas.



SPAIN

- ▶ Comply with Guaranteed Minimum Wage increases and changes to Social Security Contributions from **January 1, 2019**.
- ▶ Be aware of the proposed legislative and judicial developments in 2019, especially on gender pay reporting obligations, obligations to register daily work hours, and extension of paternity leave rights.
- ▶ Expect ongoing misclassification claims in the gig economy.
- ▶ Review the potential impact of **equalization of pay** and other working conditions between employees of subcontractors and those of client companies.



SWITZERLAND

- ▶ Ensure data regarding salaries for the past four years is available in anticipation of equal pay laws.
- ▶ Ensure changes to working time legislation remain on the radar and employees are updated as necessary.
- ▶ Update whistleblowing policies while protection of whistleblowers is unclear.
- ▶ Conduct an analysis of pay and ensure compliance with any minimum salary requirements.



UK

- ▶ Ensure robust measures are in place to protect employee and customer data and consider taking out insurance to cover any potential liability arising out of misuse of data by employees.
- ▶ Continue to scrutinize the gender pay gap and start considering the potential extent and drivers of any ethnicity pay gap.
- ▶ Monitor developments in pension law and identify opportunities in relation to pension scheme consolidation. Employers with occupational pensions schemes should be aware of the potential increased risk of regulator intervention.
- ▶ 2019 may see changes in the typical employment hiring models, with the options available and risk profile of each changing as a result of new regulation or case law.
- ▶ The process for hiring individuals from the EU is also likely to change as a result of Brexit and employers should be prepared to amend their hiring strategy accordingly.

LATIN AMERICA OVERVIEW

2018 was an eventful year for Latin America, with presidential elections across the region, including in Brazil, Venezuela and Colombia, potentially delivering far-reaching political changes. Meanwhile, the eyes of the world were on Argentina as leaders from 19 of the world's top economies, as well as representatives from the European Union, gathered for the 13th G20 summit in December 2018.

Continued political instability in Venezuela created significant challenges for employers, including talent retention issues along with inflation, resulting in drastic minimum wage and food benefit increases. Inflation was also an issue in Argentina, resulting in significant salary adjustments, creating financial uncertainty for employers, and negotiations with trade unions resulting in non-remunerative benefits and bonuses being paid to offset pay increases.

Uncertainty also continued to prevail as a result of widespread legislative labor reforms, for example, in Chile and Brazil. The political landscape in 2019 will dictate whether further changes will be introduced or whether governments will provide clarity around the reforms which were introduced in 2018 and caused considerable uncertainty.

Gender equality issues are gaining momentum in Latin America, and while countries like Argentina, Brazil, Chile, Colombia and Venezuela require equal pay between men and women and have gender discrimination laws, the region's gender pay gap, estimated at 29.8% according to the World Economic Forum, has been slow in narrowing. There remain few women on boards or holding senior positions in Latin America, and despite discouraging data on the gender pay gap, Colombia and Peru are currently the only countries with pay reporting obligations. However, a number of multinational companies have taken voluntary action in relation to this issue, and foreign investment in Latin American subsidiaries is also having a positive impact by pushing diversity and inclusion initiatives. These developments are likely to prompt Latin American governments to add gender pay issues to their legislative agenda in 2019.

Wider equality issues have also gained significance in Latin America, with enhanced disability protection rolled out in Chile with the introduction of a 1% employment quota of disabled persons in certain companies, and in Peru, with the introduction of new reasonable adjustment requirements and paid leave for parents of disabled children. Meanwhile, the Human Rights Campaign partnered with the world's largest information technology employer in 2018 to launch a number of business workshops across Latin America to promote LGBT workplace inclusion.

The gig economy is also continuing to gain prominence across Latin America. While it is viewed as having a potential positive impact by providing workers with opportunities to earn wages above more "formal" and precarious employment models in Latin America, the informality of the working arrangement is creating difficulties and raising tensions between unions and employers. In Argentina, one local app, PedidosYa, has already classified its riders as employees causing unions to put pressure on two other digital platforms, Glovo and Rappi, who are treating their gig workers as independent contractors, to reconsider their approach. 2019 will undoubtedly see further movement in this area.

There has also been a shift toward increased flexibility in 2018, with the Labor Reform of 2017 in Brazil allowing split periods of vacation, flexible working hours and teleworking, while in Peru adjustments were also made to vacation allowance, permitting employees to take holiday in shorter periods.

Use the navigational buttons below to skip straight to countries of interest.



LATIN AMERICA REGIONAL OUTLOOK

SPOTLIGHT ON: COLOMBIA

As employers adapt to and benefit from technical advancements in the workplace, the right to disconnect made headway in Colombia in 2018, as we saw rulings from the Constitutional Court protecting employees' ability to "switch off" outside of working hours.

Employers in Colombia are now obligated to report to the Ministry of Work, through the registry system RUTEC, regarding the hiring and termination of foreign employees and contractors. Regulations regarding RUTEC became enforceable on October 9, 2018.

In an effort to be more accommodating of working parents, the Ministry of Health issued Resolution 2423 of 2018, which sets out the parameters for the operation and technical specifications of nursing rooms in workplaces. Companies with assets above 1,500 minimum monthly legal wages (COP 1,242,174,000 for 2019) or those with lower assets but over 50 female employees must comply with this resolution.

Horizon Scanning in 2019:

2019 is expected to bring a number of developments in employment law in Colombia, including changes to maternity leave. A draft bill is currently being discussed in Congress, which aims to broaden the maternity leave period and to extend the protection against dismissal.

Regulations on gender equality in the workplace are also likely to be introduced, along with enhanced regulation reflecting the government's tech-orientated agenda.

Developments in immigration law are also anticipated given the significant increase in migration witnessed in 2018.



"In Latin America, employment and labor law trends will depend upon the circumstances and economic policies of each country, and employers will need to be responsive. For example, in Brazil and Chile, certain rules granting more flexibility could be developed or introduced, in an effort to promote growth and job creation. In Venezuela, retaining and attracting talent through compensation and benefit packages will be vital for employers."

CARLOS FELCE

Partner, Baker McKenzie



ARGENTINA

Although the inflation rate is now decreasing, salary adjustments due to inflation became a significant issue in 2018, and negotiations took place between employers and trade unions to revise previous agreements accordingly. The government attempted to resolve this issue through a decree ordering employers to pay non-remunerative bonuses, which can be offset against salary increases.

The government also issued a decree ordering employers to report any dismissal without cause to the National Secretary of Labor within 10 working days prior to the dismissal taking place. This requirement will be in place until the end of March 2019. The decree is viewed as being "pro-employee" as the affected employee has the opportunity to cause difficulties during the termination process if he/she becomes aware of their imminent discharge.

Income tax was also introduced on payments made in excess of mandatory severance for directors and managers, which has impacted the negotiation of severance packages.

Horizon Scanning in 2019:

- Due to the presidential election in 2019, no major law reforms are expected.
- The **gig economy**, will continue to be a pressing issue in the Argentinian market. One local app (PedidosYa) has classified its riders as employees, paying them according to a collective bargaining agreement with appropriate employee benefits. Other apps such as Glovo and Rappi treat workers as independent contractors, but are facing pressure from trade unions to change this approach.
- The recent devaluation of the peso is likely to impact global mobility considerations as Argentina will be a more attractive location for foreign executives on assignment.



BRAZIL

2018 was a year of uncertainty for employers following the Labor Reform coming into effect in 2017. The main goal of the reform was to make employment contracts more flexible, enabling opportunity for negotiation of terms between parties including split periods of vacation, flexible working hours, the reduction of minimum meal breaks and teleworking. Other changes included the ability to incorporate an arbitration agreement into an employment contract (for those earning a minimum of two times the higher benefit provided by the Social Security per month as of December 2018), optional union contributions, mutual termination agreements and the possibility to negotiate a termination agreement outside of court. There remains a lack of clarity over how changes implemented by the new legislation will be interpreted by the labor courts. However, there is a clear move toward more **flexible working arrangements**.

Horizon Scanning in 2019:

Brazil will have a new federal government in 2019, and employers can expect the Labor Reform to be maintained with further clarification on its application.



CHILE

In 2018, employers suffered the consequences of the ambiguity of the 2017 Labor Reform, such as uncertainty over the ending of strikes and the scope of extension of benefits to non-union employees. The rolling out of the Disabilities Inclusion Act, requiring employers with over 200 employees (to be reduced to 100 on April 1, 2019) to have disabled persons make up at least 1% of their workforce, was another major feature of 2018. The Piñera government also introduced new bills seeking to promote employment, modernize immigration and reform pensions legislation.

Horizon Scanning in 2019:

- Parliamentary discussion of bills introduced during 2018, including the new "nursery law," which eliminates the current 20 female employee limit and requires all employers to contribute to a new nursery fund, and the pensions reform, which is likely to result in a higher financial burden for employers.
- The new Chilean administration is likely to make modifications to its predecessor's 2017 Labor Reform, to provide clarity and certainty for employers.
- Increased litigation over **discrimination and breach of fundamental rights** in 2018 are likely to continue into 2019.



PERU

The key theme in 2018 was **equal pay**, with the new Equal Pay Act creating additional obligations for employers, including the requirement to keep staffing tables detailing positions held within an organization, and the introduction of new salary policies.

2018 also saw changes to vacation entitlement, which historically required employees, as a general rule, to take their holiday in periods not shorter than seven days. The new law allows employees to take half of their holidays in periods of less than seven days, while the other half must be taken in periods of at least seven days.

The Ministry of Labor also simplified the procedure for approving a foreign employee's employment contract. Previous regulation required submission to the Labor Authority of all relevant documentation in person, with approval taking between five and 15 working days. Foreign employment agreements can now be registered online with automatic approval. This system was due for implementation in **January 2019**.

In 2018, disabled employees became entitled to reasonable adjustments during the recruitment process in relation to procedures and assessment tools used, as well as interview methods deployed. Employees with disabled children will also have a right to paid leave for up to 56 hours annually.

Horizon Scanning in 2019:

- Greater legal certainty is anticipated which will continue to drive foreign investment.
- Expect an increase in inspections related to the hiring of foreign employees and the new equal pay regulation.
- The social security and healthcare institution (ESSALUD) will be reorganized.



VENEZUELA

Due to significant inflation and various other challenges posed by the current situation in Venezuela, employers faced significant challenges attracting and retaining talent in 2018. With the general protection against **dismissals**, which was extended for another two years as of December 28, 2018, as well as certain other limitations, restrictions and sanctions, restructurings continued (and will continue) to require an increasing amount of caution and planning. It was also a year where the minimum wage and mandatory food benefit increased significantly in local currency. On September 1, 2018, the **minimum wage** was increased by 5,900% and the food benefit by approx. 757%, creating a significant financial impact for many employers across the country. On December 1, 2018, the National Executive announced another minimum wage increase equivalent to 150%.

In February 2018, the New Constitutional Law regarding Productive Workers' Councils (CPTs) was published, actively promoting the formation and functioning of CPTs in certain sectors such as food, pharmaceutical and personal hygiene products manufacturing facilities.

Horizon Scanning in 2019:

- Employment law developments in 2019 will largely depend on the direction taken by the government in terms of its economic policy. If the policy essentially remains unchanged, trends in 2018 are likely to continue. If, however, the economic policy changes, and the economy starts to see signs of improvement, we could start to see **less frequent and dramatic fluctuations to minimum wage** and food benefit entitlements, among other changes.



LATIN AMERICA TOP TIPS



ARGENTINA

- ▶ Multinational employers should review their benefit schemes as they face increased risks associated with benefits that should be considered remuneration in kind, such as the personal use of a company car.



BRAZIL

- ▶ Monitor case law on the application of the Labor Reform and keep a watching brief for changes to employment legislation introduced by the new federal government.



CHILE

- ▶ Expect modifications to the 2017 Labor Reform from the new Chilean administration.
- ▶ Watch for the outcome of parliamentary discussions of "nursery law" bills and for pensions reform.



COLOMBIA

- ▶ Take steps toward closing the gender pay gap by ensuring all changes are properly documented.
- ▶ Be prepared for audit processes being carried out by the Ministry of Work aimed at assessing outsourcing schemes, and by the UGPP (Pension and Payroll Taxes Management Unit) aimed at guaranteeing correct and complete payment of contributions to the social security system entities.



PERU

- ▶ Ensure compliance with new obligations under the Equal Pay Act and with new disability legislation.
- ▶ Ensure correct documentation and compliance with legal restrictions on hiring foreign employees in light of procedural changes from **January 2019**.



VENEZUELA

- ▶ Consider steps to attract and retain talent. For instance, review remuneration packages in light of recent inflation and the increase to the minimum wage. Such packages could be granted on a temporary basis, with a significant degree of flexibility, so adjustments can be made as new changes occur or when the political and economic climate stabilizes.

NORTH AMERICA OVERVIEW

The US-Mexico-Canada Agreement (USMCA) was signed at the G20 Summit in November 2018, intending to replace the North American Free Trade Agreement and marking a major step toward overhauling the three countries' economic relationship, boosting trade across the region and creating jobs. The deal also includes provisions that will encourage Mexico to make it easier for workers to join unions. However, the agreement is yet to be ratified.

2018 was another extraordinary year for employers in North America grappling with the continued rising tide of sexual harassment allegations in the workplace and beyond. Despite increased awareness of gender issues across the region, Mexico and the US saw an increase in sexual harassment claims as the #MeToo and #TimesUp campaigns continued their momentum. Employers across the US will need to come to grips with new laws aimed at training staff to prevent sexual harassment in the workplace, as well as local and state laws introduced to close the gender pay gap and increase gender diversity through "no ask" laws about salary history and gender quotas.

Similarly in Mexico, internal audits, flexible work schemes and mentorship programs have all been implemented in 2018 by global companies in an attempt to address problematic gender imbalance. In Canada, however, Ontario's proposed new Pay Transparency Act was set to come into force at the beginning of 2019 but has been delayed to allow governmental consultation on the legislation. While employers do not need to take immediate steps to achieve compliance with the act, a rise in claims from senior female professionals in Canada alleging systemic gender equality and pay issues is still anticipated.

Managing contractor classifications challenges in the gig economy continued to prove difficult in 2018 across the US, as the flexible test for establishing whether workers should be treated as employees or independent contractors was scrapped by the California Supreme Court. This led to employers facing substantial fines for wilful violations, meanwhile, misclassification litigation in New York confirmed a more flexible and holistic approach to the test for classification of status. Contracting arrangements remain a hotbed for litigation across the region, and with joint employer liability posing a major risk in Canada and Mexico, companies are well-advised to proactively audit worker independent contractor classifications and to take steps to reclassify workers and redefine roles as needed.

In Canada, the legalization of recreational cannabis was the predominant story of 2018, but employers will need to adapt to this law in 2019 and incorporate policies which set out expected standards of behavior. Case law is also likely to evolve and companies will need to be aware of the latest developments. Meanwhile in Mexico, proposed amendments to the Mexican Federal Law are likely to dominate 2019 and are expected to combat white union practices, bring changes to the registration of unions and CBAs and introduce tighter control of outsourcing laws.

Use the navigational buttons below to skip straight to countries of interest.



NORTH AMERICA REGIONAL OUTLOOK

SPOTLIGHT ON: UNITED STATES

The **#MeToo movement** had a momentous impact on the workplace in 2018, sparking a national dialog about what is and is not appropriate between colleagues. There was also a significant increase in harassment and retaliation claims, and enactment of new laws aimed at training and awareness in California and New York. Meanwhile, a wave of state and local legislation was enacted in response to the gender pay gap, including legislation aiming to correct the disparate impact of a seemingly innocuous interviewing practice of questioning a candidate about their salary history.

The thorny issue of managing misclassification claims in the gig economy also continued to evolve in 2018, with the California Supreme Court upending decades of legal precedent by abandoning a multifactor test for determining employment status. Instead, it has adopted a rigid "ABC" test starting with a presumption that workers are employees.

Mandatory arbitration agreements with class action waivers were made enforceable throughout the country following a US Supreme Court decision, while Department of Justice enforcement activity heightened concerns about no poaching agreements and other antitrust activities.

From a compensation perspective, amendments to Internal Revenue Code Section 162 (m) made changes to the deduction allowance for compensation in 2018. Changes were also made to immigration laws, and the US-Mexico-Canada Agreement was signed in November 2018 with a view to replacing the North American Free Trade Agreement, although this has not yet been ratified. There was also higher scrutiny of all visa types, including H-1B and L-1 work visas, and a substantial increase in immigration worksite inspections resulting in significantly more audit notices being issued.

Horizon Scanning in 2019:

Contracting arrangements are likely to remain a hotbed for litigation, and companies would be wise to proactively audit independent contractor classifications, review their necessary agreements and take steps to mitigate exposure by redefining roles where needed.

Diversity and inclusion programs will also continue to capture the attention of executive leadership and corporate boards, and employers will need to navigate new laws such as **California's mandate for female directors and shareholder proposals demanding that companies address board diversity and increase pay transparency**. Employers will also have to confront a host of new state-specific laws in 2019 on topics including sick leave, lactation accommodation, non-competes, medical marijuana, data privacy and much more.

A tax bill is in the works which may introduce changes impacting tax-qualified retirement plans, and from an immigration perspective, workplace enforcement is likely to continue at the same pace as in 2018 and strict adjudications are likely to continue into 2019, particularly for H-1B visas. The US Citizenship and Immigration Services also continues to signal plans to rescind regulations allowing H-4 visa holders to seek employment authorization.

For employers with significant operations in the US, please see our US Employment Law Digest 2018/2019 [here](#).



CANADA

Sweeping legislative changes proved challenging for employers in 2018, including **seesawing employment standards and labor relations** legislation in Ontario (Bills 66, 47 and 148) and broad changes to workplace legislation in the federal jurisdiction, Quebec and Alberta, as well as legislative reform initiated in British Colombia. New federal pay equity legislation was introduced. Federal accessibility legislation was also proposed, aimed at ensuring the full and equal participation in society of Canadians with **disabilities**.

Significant claims alleging systemic **gender equality and pay issues**, particularly by female partners and partner-track employees in professional services firms, are predicted in 2019. It is also likely to be a year of adjustment to the **legalization of recreational cannabis**; in particular, watch for:

- evolving implications for employers to take shape with the development of case law in this area.
- US entry issues as a result of the legalization.
- the need to carefully adapt workplace policies to reflect legalization and specified prohibitions on cannabis use.

Horizon Scanning in 2019:

Despite the legalization of cannabis, employers can continue to expect employees to adhere to appropriate standards of workplace behavior, but policies will need to clearly define prohibitions on its use, for example, during and prior to work, in and around the workplace, and at company events.

Ontario employers should approach changes to their legal commitments outlined above with caution, as widespread changes are likely to damage morale and may lead to constructive dismissal claims.



MEXICO

Throughout 2018, Mexican companies with a global presence have been implementing policies to address the **gender imbalance** through internal audits, flexible work schemes and mentorship programs. There was also an increase in claims for harassment and discrimination in the workplace, in spite of the increased awareness of gender issues. Employers have also been taking steps to ensure compliance with new outsourcing rules.

In 2018, the obligation to pay employees 10% of the profits led to an increase in employees pursuing claims for profits from the employer's operative company. Most companies doing businesses in Mexico have a double corporate structure, meaning an operative company without employees, in charge of the business operation and generating the profits, and a services company in charge of hiring all employees. As employees are entitled to the profits generated by their employer of record (the services company), employees have been bringing claims against both the service company and the operative company arguing that both entities are an economic unit and that the operative company was the final beneficiary of their services.

Horizon Scanning in 2019:

There is a proposal to amend the Mexican Federal Labor Law, due to changes to the Mexican Constitution in 2017, which will include the following changes:

- The Conciliation and Arbitration Labor Boards will be replaced by local and federal courts.
- An independent entity will be created to take charge of the pre-conciliation stage to prevent litigation.
- Obligations for unions to prove that they represent the interests of employees covered by a CBA.
- Freedom of association and strict rules for the registration of unions and CBAs.
- Companies in Mexico can execute non-operative CBAs with amicable "white unions" to prevent a strike call from another union and the new administration has vowed to combat this practice in 2019.
- All CBAs currently in effect will be reviewed by the authority at least once in the four years following the amendment of the Mexican Federal Labor Law.
- The new government will carry out inspections to verify compliance with outsourcing laws.

NORTH AMERICA TOP TIPS



CANADA

- ▶ Adapt policies to clearly set expected standards in relation to the use of cannabis.
- ▶ Be alert to current requirements and tread carefully when implementing widespread changes to employment standards and labor relations as a result of legislative developments.
- ▶ Be prepared for increased gender/equal pay litigation, particularly in professional services firms.



MEXICO

- ▶ Employers should review practices to ensure compliance with outsourcing rules.
- ▶ Prepare for changes to the Mexican Federal Labor Law, in particular, in rules relating to registration of unions and CBAs.



UNITED STATES

- ▶ Companies without arbitration agreements and class action waivers should consider implementing new agreements with their employees and draft the various procedural terms to fit their business and workforce.
- ▶ Employers should work closely with their counsel to fashion a national strategy for addressing the fast-changing legal landscape of restrictive covenants.
- ▶ Employers should implement strong internal training programs for supervisors, management and employees geared toward eliminating future harassment claims.
- ▶ Companies with independent contractors in California should consult counsel to weigh options for mitigating increased misclassification risks following the California Supreme Court's adoption of the rigid "ABC" test.
- ▶ Companies subject to Internal Revenue Code Section 162 (m) should develop protocols to identify expanding lists of "covered employees" and review executive compensation arrangements.
- ▶ As workplace enforcement remains a priority, immigration record-keeping should be maintained and updated ahead of any government action so employers can take proactive and corrective action to avoid costly penalties.

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