

Newsletter

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I. Baker McKenzie Commenting on Vietnam Labor Law Reform in Bloomberg BNA

Baker McKenzie Associate Trung Khuat was quoted extensively by Bloomberg BNA in a recent article entitled *"TPP Tumult Zaps Vietnam's Will for U.S.-Backed Labor Reform"* on perspective of labor law reforms in Vietnam. According to the article, although Vietnam lacks incentive to enact labor reforms due to the uncertain future of the TPP, a change still could come as early as 2019 as a result of the ratification of the European Union-Vietnam Free Trade Agreement (EVFTA), which is expected to happen soon. According to Vietnam's commitments under the EVFTA, Vietnam is required to revise its Labor Code to fully reflect the International Labor Organization's standards, resulting in the emergence of multiple unions representing employees in Vietnam as a norm.

We also stated that as the TPP is unlikely to take effect in 2018, the Vietnamese government will have more time for labor talks without the burden of a deadline. Consequently, a comprehensive revision of the current Labor Code would be needed.

II. Baker McKenzie Supporting EU Delegation to Brussels on EVN FTA

From 4-8 September 2017, Associate Trung Khuat participated in a EuroCham Vietnam delegation to visit the EU Parliament in the capacity as the Vice Chair of EuroCham Vietnam's Human Resources & Training Committee. The purpose of this visit was to promote the ratification and entry into force of the EVFTA, on which the Vietnamese government has been placing an ever greater emphasis recently. Ratification of this treaty is also in the interests of our clients.

Labor and employment commitments are provided under Chapter 15 (Trade and Sustainable Development) of the FTA. Article 3.2 of Chapter 15 regarding multilateral labor standards and agreements provides that each Party reaffirms its commitments to respect, promote and effectively implement the principles concerning fundamental rights at work, namely:

- the freedom of association and the effective recognition of the right to collective bargaining;
- the elimination of all forms of forced or compulsory labor;
- the effective abolition of child labor; and
- the elimination of discrimination in respect to employment and occupation.

These labor standards are specified in various conventions of the International Labor Organization (ILO). For further information regarding these events, please visit following links:

<https://www.eurochamvn.org/node/16870>

<http://www.molisa.gov.vn/vi/Pages/chitiettin.aspx?IDNews=27013>



III. New Circular on Online Work Permit Application Procedures Applicable to Foreign Employees Working in Vietnam

On 15 August 2017, the Ministry of Labor, Invalids and Social Affairs (the "MOLISA") promulgated Circular No. 23/2017/TT-BLDTBXH ("Circular No. 23") detailing online work permit application procedures for foreign employees working in Vietnam (i.e. approval of requests for utilizing foreign employees, issuance/re-issuance of work permits and certification of work permit exemptions).

Under this Circular, we note several provisions below:

- the online procedures must be carried out via an account registered by the employer at the website: <http://dvc.vieclamvietnam.gov.vn>;
- all written documents must be converted into electronic form (if said written documents are legally invalid, the respective electronic forms likewise shall be invalid); and
- the online work permit application procedure is more time effective in comparison with the existing paper-based procedures, specifically:

Name of procedures	Application		Response	
	Paper-based procedures	Online procedures	Paper-based procedures	Online procedures
Submission of foreign labor usage plan	At least 30 days in advance of the foreign employee's expected commencement date	At least 20 days in advance of the foreign employee's expected commencement date	Within 15 days from the date of receipt	Within 12 days from the date of receipt
Application for work permit	At least 15 working days in advance of the foreign employee's expected commencement date	At least 07 days in advance of the foreign employee's expected commencement date	Within 07 working days from the date of receipt	Within 05 days from the date of receipt

After this Circular takes effect as of 2 October 2017, the employers may still submit their labor usage plan and work permit application in person or by post to the relevant authorities, in addition to the online method as provided under this Circular.



IV. Labor Related Changes Under the Amended 2015 Penal Code

On 20 June 2017, the National Assembly adopted Resolution No. 41/2017/QH14 dated 20 June 2017 on the implementation of Penal Code No. 100/2015/QH13 dated 27 November 2015, amended and supplemented by Law No. 12/2017/QH14 ("**Amended 2015 Penal Code**"). Coming into force on 1 January 2018, the Amended 2015 Penal Code provides for a number of changes related to employment, labor and individual office-holders. This Resolution and the Penal Code increase criminal liability of employers for illegally dismissing its employees and of commercial legal entities for evading employees' statutory insurance contributions and the extension of corruption-related charges, including embezzlement, receiving bribes, giving bribes and bribery brokerage, to those working in the private sector.

We will prepare a full list of Charges Related to Employment, Labor and Individual Office-Holder under the Amended 2015 Penal Code and provide it in subsequent updates. Should you have any questions concerning our updates, please contact us.

V. Global Employer Guide – Vietnam Chapter Available Now

We are pleased to share that we have issued the 2017 version of Baker McKenzie's Global Employer Guide, which includes a Vietnam chapter. In the new version, we included updates on employment issues in Vietnam in 2016 and the first half of 2017.

The Vietnam chapter of the Global Employer Guide is intended to provide employers and human resources professionals with a comprehensive overview of the key aspects of Vietnamese labor law. It covers the entire life-cycle of the employment relationship from hiring to termination, with information on working terms and conditions, family rights, personnel policies, workplace safety and discrimination. The guide links to our global handbooks, which include information for Vietnam on immigration, data privacy, trade unions and works councils, and also contains information on the employment implications of share and asset sales.

If you would like to receive a copy of this guide, please contact us.

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