

## European (& the GCC) Employment Law Update

Jurisdiction: Denmark

Date: April 2018

Impact date	Development	Impact
14 November 2017	Assessment of compensation for infringement of the 48-hour weekly working limit	<p>The Danish Working Time Act ("the Act") implements the Directive concerning certain aspects of the organisation of working time (most recent Directive 2003/88/EC).</p> <p>The Act states that the average working hours during a period of seven days, added up over a period of 4 months, may not exceed 48 hours including overtime work.</p> <p>In case of infringement of an employee's rights under the Act, the employee can be awarded compensation.</p> <p>The Danish Supreme Court has defined principles for assessment of the compensation for infringement of the 48-hour limit.</p> <p>The "standard compensation" for infringing the 48-hour limit will normally amount to DKK 25,000. Mitigating circumstances can result in the compensation being less than DKK 25,000, or in some cases not rewarded. Aggravating circumstances can result in the compensation being assessed as high as DKK 50,000.</p>
22 November 2017	Clarification of when notice of termination can be given to an employee who has been unable to work due to sickness for a total of 120 days during a period of 12 consecutive months	<p>Under the Danish Salaried Employees Act, an employer and an employee can agree in the employment contract that the employee may be dismissed on one month's notice if he/she has been unable to work due to sickness for a total of 120 days during a period of 12 consecutive months.</p> <p>The notice of dismissal must be given immediately on expiry of the 120 days of sickness and while the employee is still on sick leave.</p> <p>The Danish Supreme Court has interpreted the rule and has laid down new principles to be observed when applying the rule and calculating the 120 days of sickness:</p> <ol style="list-style-type: none"> <li>1. The employer is not obliged to accept an employee's offer to work part-time during sickness. Rejection of such an offer does not affect the calculation of the days of absence due to sickness. Any days of</li> </ol>

		<p>absence due to sickness following such an offer can be included fully in the 120 days.</p> <ol style="list-style-type: none"><li data-bbox="1153 150 2107 277">2. When an employee is part-time absent due to sickness, only actual sickness absence can be included in the calculation of the days of sickness. Accordingly, the employer cannot make an average calculation of the sickness absence.</li></ol>
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