

European (& the GCC) Employment Law Update

Jurisdiction: France
Date: April 2018

Impact date	Development	Impact
13 December 2017	Can an employer dismiss an employee for suspected criminal behaviour?	<p>An employee working at Disneyland Paris was interrogated by the police regarding drug trafficking within the amusement park. He was neither charged nor convicted. Nevertheless, he was dismissed for misconduct considering the statements that he made to the police.</p> <p>The employee brought a claim against his former employer, claiming that he was dismissed in violation of the presumption of innocence.</p> <p>The Supreme Court ruled that, even if the employee did not end up being charged and convicted, the employer was entitled to dismiss the employee on this ground as it had been informed that the employee had introduced drugs in the amusement park, in violation of the internal rules.</p> <p>The dismissal for misconduct was valid.</p>
21 March 2018	Correct start date of post-employment restrictions	<p>An employee resigned and was required to work her 3-month notice period. She stopped working midway through her notice period.</p> <p>Her employment contract provided that the employer could waive her non-compete covenant within 30 days following the end of the notice period. She claimed that the 30-day delay started running on her last working day and not on the last day of her actual notice period.</p> <p>The Supreme Court ruled that, even if the employee did not work until the very last day of her notice period, the 30-day delay started running on the last day of her scheduled notice period.</p>

22 February 2018	Can an employer search 'personal file' contained on a work computer?	<p>An employer dismissed an employee after discovering pornographic images and films on the hard drive of his work computer.</p> <p>The employee brought a claim against the employer, claiming that the hard drive was named 'personal data' and that the employer should not have opened it in his absence.</p> <p>On 4 July 2012, the French Supreme Court ruled that, as the hard drive was supposed to be used for business reasons, the employee could not make it entirely personal (and thus prevent the employer from opening it in his absence) simply by calling it 'personal data'.</p> <p>On 22 February 2018, the ECHR confirmed the decision of the French Supreme Court. The ECHR particularly noted that French law provides for specific rules to protect privacy, and that:</p> <ul style="list-style-type: none">- an employee cannot use a work computer, which is supposed to be used for business reasons, for personal reasons only;- the files saved on the hard drive were named “laughs” and “bloopers”, which does not clearly show that they were personal files;- the sanction imposed on the employee was proportionate, considering his level of responsibilities and the fact that he clearly violated internal rules regarding the use of professional IT.
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