

European (& the GCC) Employment Law Update

Jurisdiction: France
Date: March 2017

Impact date	Development	Impact
1 January 2017	Decree n°2016-1908 dated 27 December 2016; Act n°2016-1088 dated 8 August 2016.	<p>Employees' medical check-ups have been made less cumbersome for employers. The pre-recruitment medical exam performed by the occupational doctor is replaced by a medical follow-up which can be performed by other members of the medical staff.</p> <p>This follow-up has to be made within 3 months following the employee's effective start date. This is not a medical examination but the employee can request such medical examination at any time.</p> <p>If conditions related to the job held and the employee's medical history regarding his/her medical ability to work are met, scheduling a medical follow-up is not mandatory, provided that the employee already had this follow-up within the 5 years prior his/her starting date (this period can be reduced in specific circumstances related to the employee's characteristics or to the conditions of work).</p> <p>The regular medical check-up is now organized every 5 years (instead of every 2 years before the implementation of the Decree), unless specific circumstances exist.</p> <p>The procedure to determine the inability of the employee to hold his/her job has been simplified: the inability can be recognized during a single exam (instead of 2 before the implementation of the Decree).</p>
10 August 2016	Act n°2016-1088 dated 8 August 2016.	<p>Collective bargaining agreements (at the company level or at the industry level) on the "<i>forfait jours</i>" (working time arrangement in working days over the year) must include 5 mandatory clauses (instead of 3 before the enforceability of the Act):</p> <ul style="list-style-type: none"> - categories of employees who can benefit from this arrangement, - annual duration (number of working days) of the arrangement,

		<ul style="list-style-type: none"> - main characteristics, - reference period of the arrangement - impact of the absences and of the hires/leaves during the reference period on the remuneration. <p>The employees' right to disconnect their professional devices during their time off must also be provided for by the collective bargaining agreement or by the employer, unilaterally if necessary).</p>
immediate	Decisions of the European Court of Justice dated 14 March 2017.	<p>The European Court of Justice considers that by mean of internal rules, companies from the private sector can restrict the wearing by employees of signs of religious, political or philosophical nature in order to have a neutrality policy with respect to the companies' clients.</p> <p>However, the restriction shall not target any religion in particular and comply with the principle of proportionality in order to avoid being considered as a discrimination (as defined by the European Directive dated 27 November 2000).</p> <p>One of the decisions of the European Court of Justice was concerning a French case: an employee had been dismissed because she refused to take off her veil; however, the dismissal was not based on a collective internal rule (whereas there was an internal rule in the other case) but simply on the employer's consideration of a client's wish not to be in contact with the employee as long as she would wear her veil.</p> <p>In the light of the above and from a French legal perspective, it is of crucial importance to provide for the clear principle of neutrality (regarding religious/political/philosophical signs) in the "<i>règlement intérieur</i>" (internal rules and regulations) if the employer wants to be able to take a disciplinary measure on the ground of the non-compliance of the employee with the principle. However, before taking such measure, the employer will have to look for another option (i.e. proposing a job with no contact between the client and the employee who would refuse to take off the sign which initially raised the issue).</p>

1 June 2017	Act n°2016-1691 dated 9 December 2016	<p>This Act provides for a statutory obligation of prevention against the risks of corruption if the following conditions are met:</p> <ul style="list-style-type: none">- within companies employing more than 500 employees or belonging to a group whose parent company has its headquarters in France and employs more than 500 employees; and- whose turnover/consolidated turnover exceeds EUR 100 millions. <p>This obligation is aimed at preventing and detecting corruption and influence peddling by, inter alia, implementing a code of conduct which shall be part to the "<i>règlement intérieur</i>" (internal rules and regulations) detailing the prohibited behaviours.</p>
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