

WA18: General Legislation

4.21 Demonstrate knowledge of law to generate solutions to possible issues

LO141: Describe Employment Law in a broad context in order to assist the company or organisation, to predict situations and generate solutions to possible issues.

LO142: Have knowledge of Health and Safety in a broad context to assist the company or organisation, to predict situations and generate solutions to possible issues.



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Module Details



Work Area Code:	18
Work area title:	General Legislation
Unit Code:	4.21
Unit Title:	Demonstrate knowledge of law to generate solutions to possible issues Organise business travel and accommodation arrangements
Learning Outcomes Ids:	LO141, LO142
Learning Outcomes titles:	<ul style="list-style-type: none">- Describe Employment Law in a broad context in order to assist the company or organisation, to predict situations and generate solutions to possible issues. (LO141)- Have knowledge of Health and Safety in a broad context to assist the company or organisation, to predict situations and generate solutions to possible issues. (LO142)
Recommended Duration:	5,5 hours
Trainer:	



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National legislation related to employment

- The Labour Code
- Act on Illegal Employment
- Act on International Cooperation when posting employees
- Act on travel allowances
- Occupational safety and health protection act



EU directives related to employment

- the EU complements policy initiatives taken by individual EU countries by setting **minimum standards**. In accordance with the Treaty - particularly Article 153 - it adopts laws that set minimum requirements for
 - working & employment conditions,
 - informing & consulting workers.



Individual EU countries are free to provide higher levels of protection if they so wish.

Eg.: While the European Working Time Directive entitles workers to 20 days' annual paid leave, many countries have opted for a more generous right to the benefit of workers.



- The European Union has created a **European centre of expertise in the field of labour law, employment and labour market policies in 2016** - covers legal, regulatory, economic and policy aspects of employment and labour markets, including reforms, in the 28 Member States, European Economic Area (EEA) countries, candidate countries and potential candidates eligible for participation in the Progress axis of the European Union Programme for Employment and Social Innovation.



- From the ***labour law*** perspective, the goals of the European centre of expertise, besides others, are to:
 - assist the Commission in its role of ensuring a correct application of EU-law across all Member States and monitor reforms in labour legislation as part of the European Semester process within the context of the EU 2020 strategy;
 - reinforce the Commission's capacity to anticipate any issues that could arise from the application of EU directives, and analyse potential legal issues and the impact of European Court of Justice (ECJ) rulings;
 - improve awareness and encourage public debate on topical issues of interest for EU labour law and legislation.



- **The European Court of Justice & labour law**

- Whenever a dispute before a national court raises a question of **how to interpret an EU directive**, the court can refer the issue to the Court of Justice of the EU. The European Court then gives the national court the answers it needs to resolve the dispute.



- **The European Commission & labour law**

- The Commission **checks** that EU directives are incorporated into national law and ensures through systematic monitoring that the rules are correctly implemented.
- When the Commission considers that an EU country has not incorporated a directive into national law correctly, it may decide to start infringement proceedings.
- In this way, it ensures that all the rights set out in the directives are available in national law. However, the Commission cannot procure redress to individual citizens (i.e. compensate damages or set a situation right) – that is up to the competent national authorities.



- The **European Agency for Safety and Health at Work** (EU-OSHA) is the central provider for health and safety guidance and information in Europe. Working with governments, employers and workers, EU-OSHA identifies current and future risks, and shares information, good practice and advice that can improve working life.
- The **European Agency for Safety and Health at Work** (EU-OSHA) website provides latest up-to date information on
 - European directives
 - Local legislation updates
- Laws for health and safety measures are the same throughout Europe, but **rules have to be altered to fit into the national law of member states**. This means that health and safety law can differ between European Union (EU) nations. It is important to find out the current laws and guidance for any EU country in which you work.



In the EU, the **Health and Safety Framework Directive** is the key piece of legislation. This Directive ensures a higher degree of protection for employees at work by using preventative measures that protect against accidents and work-related diseases. Under the Directive, employers are obliged to:

- ensure free health and safety for workers in every part of their work
- evaluate occupational risks specific to job type and provide adequate protective and preventative services
- keep accident records and reports
- take necessary measures for first aid, fire-fighting, evacuation of workers, and action required in serious and dangerous events



- inform, consult and discuss health and safety at work with employees
- provide adequate health and safety training for every employee throughout their employment

The Directive also requires workers to:

- use machinery, other means of production, personal protective equipment and safety devices correctly
- give warning of any serious or dangerous situation at work and to report any poor protection arrangements
- work with employers to ensure health and safety requirements are followed and that the working environment is safe



How to stay UP TO DATE



- **Subscribe to in newsletters with updates** from the legislator (Law firms, Regulatory bodies, etc.). This will enable you to know when there is a new regulation that concerns you and what are its requirements and deadlines
- **Participate in seminars, conferences or web trainings** that inform you on how the new regulation must be implemented. When this is not possible, reading summaries prepared by professionals could be also useful



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- **Check your internal procedures** and think of ways how to introduce the new requirements into the existing procedures. The content of the law can give useful guidance, especially on the parts that enumerate what is required.
- **Inform all the staff** on the new legal requirements and refresh their knowledge. Compliance is not just a responsibility of the Management and of the Compliance Officer – It is the job of everyone who works in the financial sector to be alert.



How to stay UP TO DATE



- **Keep a database** with the all the regulations that concern you. Register their dates of approval, their subjects and the status of their implementation within your company.
- **Appoint a Compliance Officer.** If it is not possible, appoint a single person in charge of your company's compliance operations and have her/him trained.
- In cases of need **engage professional advisers**



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- 1. In pairs, discuss and list possible issues that may arise in the company, where it will be necessary to consult employment legislation**
- 2. In a class, discuss possible solutions to those problems**

Group discussion





- Recruitment
- Employment contracts and conditions
- Termination of employment
- Redundancies
- The treatment of employees
- Wages and salary
- Working hours
- Sickness and absence (time off work)
- Business transfers and takeovers



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Minimum specifications

In order to conclude an employment contract, the employer and the future employee need to agree on the following minimum specifications that will be included in the contract:

- job description
- place of work
- date on which employment commences
- the salary (unless this has been agreed in a collective bargaining agreement)



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Obligations

On taking up the employment, an employer is obliged to acquaint the employee with work rules, health and safety regulations and collective agreements, if any.

Pursuant to the Act on Illegal work and illegal employment, it is prohibited for an employer to employ persons without an established employment relationship.



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Contract duration

- The employment contracts can be concluded for definite period or indefinite period
- The Labour Code contains certain limitations in respect to the employment contract concluded for definite period of time. Such contracts can be concluded for a maximum of two years and it is possible to extend them or conclude them again only twice within these two years. The limited duration (i.e. definite period of time) of the contract must be agreed in writing in the contract, otherwise the contract is deemed to be concluded for indefinite period.



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Probationary Period

- The parties can agree on an initial probationary period of maximum 3 months for general employees. For certain managerial positions, the initial probationary period may be extended up to 6 months.



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Methodological tool

- Employment contract
- EUPA_LO_141_M_001



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Termination of employment



The employment contracts can be terminated in writing by both parties as follows:

- **mutual agreement**
- **immediate termination**, while in this case, the employer must terminate the employment within two months since becoming aware of the grounds for the immediate termination, and at least at the latest within one year of the day on which those ground arose. This method of termination of employment relationship can be used only in exceptional circumstances stipulated by the LabourCode



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Termination of employment



The employment contracts can be terminated in writing by both parties as follows:

- **termination in the probationary period** by both the employer or employee who may terminate the employment during probationary period without providing any reason for termination by a written notice that should be given and delivered to the other party at least 3 days before the day of stipulated termination
- **notice**, in this case both employer and employee may terminate an employment contract by a written notice. The employee may terminate the employment contract for any reason or without stating any reasons. On the other hand, the employer may terminate the employment contract only in the situations expressly stipulated in the Labour Code



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Termination of employment



The employment contract terminates also:

- by lapse of time in case of the employment contract concluded for definite period
- expiry of residence permit in case of foreign employees, either by virtue of time or revocation



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Termination of employment



Period of notice

- Where notice has been given, the employment relationship shall terminate upon expiration of the period of notice.
- The period of notice shall be at least one month
- In specific circumstances at least 2 months
- two months if the employment relationship lasted 1-5 years and three months if it was more than 5 years



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Regular working time

- The maximum weekly working time is 40 hours, employees working on the basis of a two-shift system may work up to 38.75 hours per week and employees working on a three -
- shift system or who are involved in continuous operation may work up to 37.5 hours per week. It is also possible to agree on an uneven distribution of working time with the representatives of the employees.



Overtime

- In general upon agreement with the employer, employees may perform overtime work. Overtime work may reach up to 400 hours per calendar year.
- Of this time, the employer may order the overtime work in the extent of up to 150 hours per calendar year, the remainder of overtime work shall be agreed with the employee. For the work performed in excess of the standard working time, the employee is entitled to an allowance, specifics of which are regulated in the Labour Code.



Time off

- Any employee who works for the same employer constantly for at least 60 days in a calendar year is entitled to annual paid leave on a proportionate basis. The basic annual leave entitlement is at least 4 weeks, rising up to 5 weeks for employees who are 33 years old or older.





Wages may not be lower than the minimum wage determined by special regulation.

- Wage conditions are agreed by the employer and the competent trade union body in a collective agreement, or with the employee in the employment contract.
- In the pay conditions, the employer shall agree in particular the form of employee remuneration, the basic rate of pay and other types of compensation for work and the conditions for their provision.
- The basic rate of pay is compensation provided according to the length of time worked or the performance that is achieved.
- Employees are entitled to a wage surcharge for working overtime, at night, during weekend and public holiday and working under difficult conditions



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- Termination of employment of an employee or, more commonly, a group of employees (collective layoff) for business reasons, such as personnel management or downsizing an organization.
- Specific aspects of labour law must be obeyed
- Usually guidance and compensation is provided by employer



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Transfer

- The terms of an employment contract may only be altered if the employer and the employee agree on their alteration, employee is obliged to perform work of a type other than that agreed in his employment contract, or to perform work at a place other than that agreed in his employment contract, only in the cases mentioned in the Code.
- Employer can transfer the employee only based on health issues strictly according to the Code (such as pregnancy and criminal proceedings)



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- If an employer with a legal successor dissolves, rights and obligations arising from labour-law relations shall pass to such a successor, unless otherwise stipulated by special regulation
- if a business unit, which is an employer or a part of an employer for the purposes of this act or if a task or activity of an employer or part thereof is transferred to another employer, the rights and obligations arising from the relationships governed by labour law with the transferred employee shall be transferred to the transferee employer.
- If a transfer results in significant changes in an employee's working conditions and the employee does not agree with the change, employment shall be terminated by agreement and employee shall be entitled to a severance allowance



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- 1. In pairs, discuss and list possible issues that may arise in the company, related to H&S**
- 2. In a class, discuss possible solutions to those problems**

Group discussion





- H&S in maternity (defined in Labour code)
- Risk assessment
- H&S training and consultation
- First aid facilities
- Equipment and protective clothing
- Industrial accidents/occupational diseases



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Common workplace dangers / hazards:

- **physical** – including vibration, noise and slips, trips and falls;
- **ergonomic** - physical factors that harm the musculoskeletal system, such as repetitive movement, manual handling and poor body positioning;
- **chemical** – any substance that can cause harm to your employees;
- **biological** -bacteria and viruses that can cause health effects, such as hepatitis, ...





Common workplace health risks

- breathing problems;
- skin irritation;
- damage to muscles, bones and joints;
- hearing damage;
- reduced wellbeing.



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1. Safety programs create productive work environments
2. Absenteeism drops when effective safety programs are introduced
3. Work premises are kept to higher standards
4. A safe work environment produces happier employees
5. Employee insurance claims decrease in safe work environments
6. A company's most valuable asset is protected — its people
7. Safety programs enable a company to win and retain business customers





8. Safety programs create an environment where safety improvements are considered, encouraged and implemented
9. Safe work environments enhance the brand value and goodwill for a company.
10. Safety reduces business costs and disruption



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Methodological tool

- H&S in my organization
- EUPA_LO_142_M_001



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- **Review Question 1**
 - List the most important aspects of Employment law and health and safety related to organization
- **Review Question 2**
 - What are requirements of employment contract?
- **Review Question 3**
 - How can you stay up to date and informed about the latest changes in legislation related to employment law and health and safety?



- The most important aspects of law related to employment in organization:
 - Employment contracts and conditions
 - Termination of employment
 - Redundancies
 - Wages and salary
 - Working hours
- Common workplace dangers categories
 - Physical
 - Ergonomic
 - Chemical
 - Biological





Well Done!

**You have
completed
this unit**