

EXPERT Labor law

FINE-TUNING EMPLOYEES' RIGHTS

New EU directives put new obligations on employers

In 2019, three new directives were added to employment law at the EU level. The new regulations involve such issues as work-life balance, informing employees of working conditions, and the protection of whistleblowers.

WORK-LIFE BALANCE

According to the drafters of the Work-Life Balance Directive (Directive (EU) 2019/1158 of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU), the aim of the directive is to address the problem of the underemployment of women and to support their career development through better conditions allowing them to balance professional and private duties. The solutions provided by the directive address issues of equal treatment and equal opportunity on today's labor market, promote non-discrimination, and foster gender equality. The EU lawmakers pointed out that differentiation in the situation of women and men on the labor market is most strongly felt in the case of parents and others bearing the burden of caretakers. Furthermore, existing legal frameworks at the level of the EU and the member states have offered only limited incentives for men seeking to share caregiver obligations equally with women. To eliminate this differentiation and pursue the principle of equality of opportunity on the job market for men and women, and to help parents and other caretakers to better reconcile professional employment and caregiving duties, the directive adopts the aims of improving access to such work-life balance

solutions as holidays and flexible working arrangements, and increasing the degree to which men take parental leave and avail themselves of flexible working arrangements. The directive sets minimum requirements for paternity leave, parental leave, and carers' leave, as well as flexible working arrangements for employees who are parents or carers. It will cover all workers holding an employment contract, including those working part-time or for a definite period or under a contract with a temporary employment agency.

The member states have until August 2, 2022, to implement the Work-Life Balance Directive.

WORKING CONDITIONS

The new Directive (EU) of 20 June 2019 on transparent and predictable working conditions in the European Union includes an update and the expansion of employers' existing obligations to inform employees of working conditions, arising under the current Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship, and also set new minimum requirements to ensure all employees, including those working under atypical contracts, greater transparency and predictability in their working conditions. The new directive supersedes Directive 91/533/EEC, which will be repealed three years after the effective date of the new directive.

As stated in the preamble to the new directive, since the adoption of the previous directive in 1991,

"labour markets have undergone far-reaching changes due to demographic developments and digitalisation leading to the creation of new forms of employment, which have enhanced innovation, job creation and labour market growth. Some new forms of employment vary significantly from traditional employment relationships with regard to predictability, creating uncertainty with regard to the applicable rights and the social protection of the workers concerned."

Given this context, the European Commission launched a reform of the existing regulations to improve working conditions by promoting greater transparency and predictability of employment, while ensuring the ability for the labor market to adapt. This is to be achieved through specific goals set by the Commission, including improved access by employees to information on their working conditions, improved working conditions for all staff, particularly those employed in new, non-standard forms, while maintaining the possibility for adaptation and innovation on the labor market, improved compliance with standards for working conditions through better enforcement of the regulations, and greater transparency on the labor market, without imposing excessive burdens on enterprises of various sizes. These aims are reflected in the scope of the directive, which specifies employers' obligations related to informing employees of the basic aspects of the employment relationship, minimum requirements for working conditions (e.g. the maximum length of probation periods, and requirements for predictability of working time), requirements concerning employees' rights to pursue claims, and protection against negative consequences from exercise of their rights provided for in the directive.

The member states must take the steps necessary to execute this directive by August 1, 2022.



By **Aleksandra Trzcinska**, Associate, Łaszczuk and Partners

WHISTLEBLOWING

According to the drafters of the new Whistleblowing Directive (Directive (EU) 2019/1937 of 23 October 2019 on the protection of persons who report breaches of Union law), the activity of persons reporting (within an organization or to an external body) or disclosing (to the public) information about abuses, obtained in a work-related context, "play a key role in exposing and preventing such breaches and in safeguarding the welfare of society. However, potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation." Thus there is a need to provide effective whistleblower protection, which should translate into better protection of the public interest.

Under this directive, any institution, public or private, employing at least 50 people will have to establish a procedure for reporting irregularities and abuses. Whistleblowers will be able to disclose information to a designated person within the organization (internal channel), or directly to the competent authorities (external channel) or the media (public channel). A whistleblower can be any person in a position of professional, economic or factual dependency, regardless of the legal nature of the ties with the given organization, even if connected to the organization only indirectly or not for payment. Protection should also be ensured for third parties providing confidential advice to whistleblowers related to their reports. Persons with the status of whistleblower must not be persecuted, suspended, demoted or intimidated.

The member states have until December 17, 2021, to implement this directive.