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The IBA Global Employment Institute

# Eleventh Annual Global Report

National regulatory trends in human resources law



**Prepared by**

The International Bar Association Global Employment Institute

The International Bar Association (IBA), the global voice of the legal profession, is the foremost organisation for international legal practitioners, bar associations and law societies. Established in 1947, shortly after the creation of the United Nations, it was born out of the conviction that an organisation made up of the world's bar associations could contribute to global stability and peace through the administration of justice. In the ensuing 70 years since its creation, the organisation has evolved, from an association comprised exclusively of bar associations and law societies, to one that incorporates individual international lawyers and entire law firms. The present membership is comprised of more than 80,000 individual international lawyers from most of the world's leading law firms and some 190 bar associations and law societies spanning more than 170 countries. Through its global membership the IBA influences the development of international law reform and shapes the future of the legal profession throughout the world.

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Please note that the information contained in this report is accurate as of the time of the collection of information from the country reporters and does not reflect subsequent legal or factual developments.

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# 1. Introduction

The Annual Global Report (AGR) is an annual report prepared by the IBA Global Employment Institute (GEI) highlighting specific general international trends in human resources law. This is the 11th AGR and is based on responses from lawyers in 55 countries. The methodology used is described in section 2. The 11th AGR covers trends in human resources law during the calendar year 2021 and, in some cases, (parts of) 2022. Each AGR builds on the historical perspective of previous editions. This may prompt changes to the topics covered in future editions of the AGR.

Please note that it is not the intention or purpose of the AGR to set out the law on any particular topic; its aim is to highlight changes and trends. Any reference to a particular law is not intended to be a description or summary of that law and should not be relied on as a statement of the law or treated as legal advice. Readers should seek appropriate legal advice before taking any action.

## 2. Methodology

Lawyers from 55 countries (Schedule 1) were asked to respond to the questionnaire (Schedule 2). The questions were designed to cover the most relevant issues relating to employment, industrial relations, discrimination and immigration law. Lawyers were asked to consider changes during 2021 (and the first half of 2022), and very briefly explain them and their significance. The answers to the questionnaire have been consolidated and summarised in section 3 of this report (Trends and Developments). Although survey responses mostly reflect the status as of March/April 2022, in some instances, especially where legislative proceedings were pending, the status of such proceedings was verified and where possible updated during the drafting process. As previously noted, the AGR's goal is to highlight general international trends in human resources law. Readers seeking more in-depth analysis are welcome to contact the GEI or the lawyers who participated in the survey.

On behalf of the GEI Council, Björn Otto (CMS Germany) and his team (in particular Carolin Millgramm, Fritz Reckenfelderbäumer and Amelie Spanehl) took lead responsibility for coordinating and drafting the AGR. They updated the questionnaire with the help of co-author Todd Solomon (McDermott Will & Emery, US, GEI Council Member), contacted lawyers from different countries (Schedule 1) and reviewed the completed questionnaires. Otto and his team then analysed the survey results and wrote the draft AGR, assisted by Solomon and a team of McDermott Will & Emery lawyers. The GEI Council wishes to convey its gratitude to all those involved, for their participation and interest in the development of the survey and the preparation of the AGR.

## 3. Trends and developments

### 3.1 Termination of employment, retirement issues and employment disputes

#### *Termination of employment*

According to the responses, employers in almost all participating countries generally comply with the regulations and procedures for terminating employees. For instance, the Czech Republic reported that, in cases where there is no legal ground for the termination of an employee, companies prefer to work towards an amicable agreement rather than giving a legally doubtful notice of termination. This way, unnecessarily high costs resulting from non-compliance with statutory termination procedures can be avoided. Although many respondents did not identify any new developments in this area, some countries reported legislative changes. Most notably:

- In Argentina, employees hired before 12 December 2019 could not be dismissed during the period from 12 December 2019 through to 31 December 2021, otherwise they were entitled to double severance benefits. These restrictions have since been lifted.
- The Swedish government submitted proposals for new legislation on security, adjustment and employment protection on 27 January 2022. The new regulations include additional exceptions to the ‘last in, first out’ principle and an exemption for the employer to continue paying wages during an ongoing dispute over dismissal. Furthermore, the rules for dismissal due to personal reasons have been clarified. The reforms entered into force on 30 June 2022.
- The French ‘Macron scale’, a grid that has been used by courts since 2017 to determine which compensation claims an employee is entitled to in the event of termination without cause, was controversial for a long time, but in May 2022 the French Supreme Court ruled in favour of the ‘Macron scale’. However, the discussion has been reignited following the European Committee of Social Rights assumption in November 2022 that the compensation ceiling is too low and that the scale is, therefore, not in line with the European social scale.
- The Italian Budget Law 2022 came into force on 1 January 2022 and provides for a special information and consultation procedure for companies with 250 or more employees if they wish to shut down individual production units, thus fully decommissioning the relevant activities and dismissing at least 50 employees. This procedure does not apply to employers whose economic–financial conditions are likely to lead to crisis or insolvency.
- In Ukraine, legal changes have resulted from the introduction of martial law, which also affect the area of termination of employment relationships. For example, additional war-related grounds for termination have been introduced and the prior consent of the trade union is, in principle, no longer required for termination, unless the dismissed employee is elected to a trade union body.
- In Russia, a law has come into force that standardises the suspension of employment for the duration of military service and clarifies that the employer is not entitled to terminate the

employment relationship during the said suspension. However, the employer now has the right to terminate the employment relationship if the employee is absent from work after the expiration of three months from the date of discharge from military service.

In Ontario, Canada, Bill 27 or the Working For Workers Act 2021 received Royal Assent in December 2021 and amends the Employment Standards Act to effectively prohibit non-competition covenants in the employment context. This does not apply to executives. The United States reported changes concerning the enforcement of restrictive covenants and confidentiality obligations. A growing number of US states are supplementing or altering their common law with statutes that limit the scope of restrictive covenants. The ways in which these states are controlling restrictive covenant use are varied. For instance, Colorado is known for its strict oversight, imposing criminal penalties for employers violating its statute. Illinois' recent amendments, effective in 2022, expand its comprehensive approach to regulating restrictive covenants for employees in Illinois.

A few participating countries like Estonia, Latvia, the Netherlands, Portugal, the US and South Korea have not reported on any legal changes to prevent dismissals in the context of the Covid-19 pandemic between 2021 and 2022. Many countries indicated that regulations implemented during the early days of the pandemic have now been withdrawn in whole or in part, or at least have not been extended. For example, in Chile, several employment protection regulations were introduced, these measures were then gradually withdrawn. In Colombia, measures that limited an employer's ability to terminate contracts in favour of unpaid suspensions were implicitly waived as a return to on-site work was gradually implemented. While government authorities in India opposed the termination of employment due to Covid-19 throughout 2021 and 2022, these orders have either been withdrawn or are no longer being strictly enforced. Serbia had different incentives in place, like a wage subsidy programme, deferral of salary tax and social security contributions. As of April 2022, the aforementioned assistance is no longer provided.

Some countries, meanwhile, have created comprehensive new regulations or extended existing regulations to prevent dismissals/redundancies and, more generally, spoke of an ease in the impact of the Covid-19 pandemic on the labour market throughout the year. For instance, Switzerland extended its existing short-time work scheme in order to avoid mass lay-offs in the business sectors affected by the restrictive measures taken to contain the pandemic. In Belgium, the system of temporary unemployment, which enables employers to temporarily suspend employment contracts, was used less often in 2021 than in 2020. Poland noted the wage subsidies and other benefits paid to employers on the condition they do not proceed with collective dismissals. The Malaysian government implemented a wage subsidy programme, which provides wage subsidies to eligible employers and was still in force during the reporting period.

### *Retirement*

According to the survey, no changes regarding early retirement were observed in most countries. As of 2021, countries like Latvia, Lithuania, Singapore and Sweden noted an increase in the retirement age in 2022. Some individual countries, like Portugal, reported that the retirement age is expected to decrease by three months to 66 years and four months in 2023. This is a consequence of the reduction in life expectancy due to the pandemic. In some cases (eg, Serbia and Switzerland), the retirement age has increased for women only.

However, the possibility of early retirement is still provided for in a few countries. This applies all the more to the ability of employers to impose early retirement. For instance, an employer's imposition of early retirement on an employee is illegal in Mexico. As of 1 January 2022, Danish employees may retire one, two or three years earlier than the normal retirement age depending on the number of years the employee has been in the labour market due to a new early pension law reported on last year. In Portugal in 2022, employees received a lower cut in the value of their age-based pension as compared with 2021. This is a result of the decrease in the average life expectancy during the period 2019–2021. While the reduction in early retirement pensions in Portugal was 15.2 per cent in 2021, this lessened to 14.06 per cent in 2022. In Serbia, for example, employers cannot impose early retirement, but if an employee wishes to retire early, the employment relationship ends at the employee's request and the employee is entitled to a severance payment due to their retirement.

Only some of the participating countries identified concrete efforts to motivate employees to work beyond statutory retirement age. Spain promotes so-called active retirement, in which employees having reached the regular retirement age can combine the receipt of a pension with their own (self-)employment. The Swedish government has decided that those who work longer should receive certain amounts of tax relief. This relief becomes even more significant from the year the employee turns 66. Those who retire after the age of 65 will also pay less income tax. In other countries, more flexible retirement and financial incentives are options under consideration to motivate older workers to work beyond retirement age. Estonia pointed out that the mere fact that the average pension is less than 40 per cent of the average wage motivates workers to continue working, once again highlighting the problem of public pension funds.

In Belgium, efforts have been made to make it easier for pensioners to work temporarily without losing their pension. A similar approach was observed in Canada, where the Government of Québec put in place financial incentives for retired teachers to come back to work in the current labour shortage context. It must be said, however, that these changes were primarily related to shortages in the labour market as a result of the Covid-19 pandemic.

Although some countries, like Australia, Hungary, India, Luxembourg and Singapore, reported they were not very concerned, most participating countries still see the limited level of statutory pensions as a serious problem. In this regard, the fundamental problem stems from the fact that the population of many (especially western) countries is, on average, getting older. Accordingly, the working population cannot generate enough income to pay, in sufficient amounts, into national pension funds. For example, Argentina admitted to having one of the worst retirement systems in the world, while the Czech Republic noted that the annuity provided is more like pocket money than an income on which to live. Ireland announced a new workplace auto-enrolment pension scheme in March 2022. Under auto-enrolment, employees will have access to a workplace pension savings scheme, which is co-funded by their employer and the state. The employee is free to leave the system, but in order to encourage workers to participate, both the employer and the state will provide a top-up to the money saved by the worker. The plan is to have the system in place by 2023 so that workers can be enrolled by 2024. In Poland, the government is addressing the issue mostly by increasing taxes and providing short-term relief benefits to pensioners. In Brazil, employers and employees are using private pension plans to complement or replace the limited social security public pension. A similar approach exists in Mexico, for example, where some employers implement private pension plans to



supplement the pension of their employees. Although there is currently no concern about limited pension funds in Albania due to its comparatively young population, the increasing emigration of young workers and the declining birth rate may lead to problems in the future.

Speaking of private (meaning company-sponsored) pension schemes, last year's conclusion that private pension systems are not yet very widespread has been reconfirmed this year. Yet in Germany, any employee with a company pension contract is entitled to a 15 per cent subsidy to be paid by the employer (as of 2022). This has already been applied to new contracts since 2019, and from 2022 the employer must also pay the subsidy for pre-existing contracts. In Switzerland, the government has introduced plans to reform private pension schemes, lowering the mandatory conversion rate, which will result in lower monthly pensions being paid out. An effective reform and improvement to the system of private pension schemes is also envisioned by the government in Belgium. In Thailand, the Ministry of Finance created an opportunity to allow the suspension or deferral of contributions to the provident fund for both employers and employees until June 2022. Furthermore, the Thai government approved the draft National Pension Fund Act to establish a mandatory pension fund for the private sector.

### *Employment disputes*

Just like last year, most of the respondents did not note any changes in the way employment cases are heard before courts. Some countries reported on temporary measures adopted due to Covid-19. In almost all countries, court proceedings are held publicly. For example, Sweden covered the generally applicable principle of openness that can be restricted in certain, mostly personal, matters. Following the decision of the Irish Supreme Court in *Zalewski v Adjudication Officer & Ors* [2021] IESC 24, there has been a significant change in Ireland regarding the way employment cases before courts and tribunals are reported. From now on, proceedings must be conducted in public, including publishing the parties' names, and all decisions made by the Workplace Relations Commission (WRC) are published online. This ensures that the way the WRC is administering justice is comparable to the standard applied in court.

Even though there were some new additions by the participating countries, the general answer to the question of whether labour disputes are resolved more often in court or via arbitration/mediation has not changed. In most countries, labour disputes are resolved before courts. In some countries, arbitration or other conciliation procedures are required before a claim is heard in front of a formal court, or such proceedings are embedded in statutory court procedures. These preliminary conciliation processes can be very fruitful and can bring an employment dispute to an amicable settlement at an early stage. In Australia, a significant percentage of disputes are resolved during the preliminary conciliation process. In Ireland, employment disputes must be brought before the WRC, already mentioned above. The option of mediation and early resolution of disputes are integral parts of proceedings before the WRC. In Israel, most personnel issues are resolved in court, while organisational disputes are solved through arbitration. Even though arbitration is less common in Sweden, it is more frequently used when it comes to disputes concerning top executives. In Taiwan and New Zealand, most employment disputes are settled during mediation. However, since the Labour Incident Act was passed in 2020, court procedures are more accessible to workers in Taiwan. In Romania, the Labour Code was amended during 2021 to allow parties to an employment contract

to include a clause stating that any individual labour dispute will be settled amicably through mediation. In Kenya, alternative dispute resolution methods, such as arbitration and mediation, are increasingly being used. South Africa noted that employment disputes are largely resolved by arbitration proceedings.

Most respondents indicated that holding court hearings by video transmission is legal and has increased significantly since 2020, even though it is still not very common. Many countries (eg, Spain) limit the use of video transmission to some specific matters, like the hearing of a witness and only under certain conditions. In South Korea, Article 287-2 of the Civil Procedure Act and Article 266-17 of the Criminal Procedure Act entered into force in August 2021, allowing hearings to be held by video. In Singapore, the courts implemented video hearings as a default option with a view to containing the Covid-19 pandemic. This also applies to most civil pre-trial conferences held in South Korea. However, with restrictions being lifted again, countries like Belgium, Canada, France, Hungary and India stated that court hearings are being held on site again. Finland anticipates this kind of development too. Only some countries, did not note any changes due to the Covid-19 pandemic. For example, in Serbia and Taiwan video hearings are rather uncommon and there were no remarkable changes to the court practice due to the Covid-19 pandemic, and in Venezuela, regardless of the Covid-19 pandemic, it is still not legal to hold court hearings by video.

## 3.2 Corruption and whistleblowing

There are many ways to increase the protection of whistleblowers, and the respondents use them to varying degrees. New York (US) passed an amendment to its labour laws, which expanded its whistleblower protection. In Japan, companies with 300 employees or more have to establish a whistleblowing hotline. The Financial Consumer Agency of Canada has issued guidance on whistleblowing procedures to prepare domestic and authorised foreign banks for the upcoming entry into force of the new whistleblowing provisions in the Bank Act.

Several countries reported practices that strengthen the rights of whistleblowers, although there were no legal changes in a few countries in this regard. In many cases, this development was significantly shaped by measures taken by employers. For instance, South Africa noted that, in practice, there has been an increased drive to protect whistleblowers against victimisation and retaliation. Many employers' whistleblower policies provide for anonymous reporting. A similar observation was also reported by other countries like, Brazil, Bulgaria, the Czech Republic and Mexico. Even though Mexican labour law does not regulate whistleblowing, whistleblowers are afforded some protection under the general prohibition on discrimination.

The deadline for the implementation of the European Union Whistleblower Directive (2019/1937) has expired. By 17 December 2021, EU Member States were supposed to review their national laws and, if necessary, bring national whistleblower protections up to the standard set by the Directive. The aim of the EU Whistleblower Directive is to strengthen the protection of whistleblowers and ensure that they are not threatened with disadvantages in the workplace. The countries that implemented the Directive in time have been joined by, for example, Cyprus, Denmark and Sweden in this year's report. According to the Directive, all companies with more than 249 employees had to establish a whistleblower scheme before 17 December 2021, which was also the day the Danish Act implementing the Directive entered into force. Companies with 50 to 249 employees were given a longer deadline. Although the deadline has passed, some Member States have now implemented the Directive or are working on it. To meet the requirements of the Directive, France, Germany, Ireland, Latvia, Luxembourg, Portugal and Spain have adapted or were in the process of adapting their national law in 2022. Due to Brexit, the United Kingdom is not required to implement the EU Directive; however, the question of further protection for whistleblowers also came up in the UK.

There were no new reports of developments regarding legislation on corruption and bribery. However, Taiwan's government has published Business Principles for Countering Bribery, which are not mandatory and can be adopted by employers on their own initiative. In Israel, the enforcement of corruption and bribery law was quoted as being quite effective, according to public opinion. China has found that newly introduced anti-corruption hotlines are a useful tool in the fight against corruption. Other countries, such as Singapore, do not seem to have any real problems with bribery and corruption. According to the 2021 Corruption Perceptions Index released by Transparency International, Singapore is ranked as the fourth least corrupt nation out of the 180 countries and territories, according to their perceived level of public sector corruption.

### 3.3 Alternative workforce

The increase in the alternative workforce observed over the last couple of years has remained unchanged this year in most of the countries and continues to preoccupy courts as well as national legislators. The Polish government introduced a major tax reform, the so-called ‘Polish Order’ (Polski Ład), that modifies the rules on taxation and social security contributions for employees, as well as independent contractors. The effect this reform will have on the popularity in the employment of independent contractors and self-employed workers remains to be seen.

Although the number of alternative workers has increased significantly, some of the respondents (eg, the Czech Republic) are unable to resolve the shortage of workers, even with gig economy workers.

Judicial decisions on whether a working person is classified as self-employed or as an employee are highly case specific and usually concern individual professions. In Belgium, the Labour Tribunal of Brussels ruled on 8 December 2021 that Deliveroo riders are self-employed and, thus, do not qualify as employees. However, since this first labour law case concerning the qualification of platform workers could have a precedent-setting effect, the labour public prosecutor’s office lodged an appeal against the judgment (as of July 2022). In Malaysia, the Kuala Lumpur High Court established on 9 July 2021 that Grabcar drivers are not employees under Malaysian employment law and cannot file a representation for unfair dismissal at the Industrial Court. The Swedish Labour Court has yet to rule on the distinction between employees and platform workers. Since the Swedish Transport Workers’ Union filed a lawsuit against a well-known platform company at the end of 2021, a decision is expected in the near future.

On the other hand, the Social Security Court for the Canton of Zurich (Switzerland) found on 20 December 2021 that Uber drivers are to be considered employees and not independent contractors. For Uber drivers working in Geneva, the Swiss Federal Court also ruled on 3 June 2022 in a parallel case that such workers are to be regarded as employees. In New Zealand, an Employment Court concluded in 2022 that four Uber and Uber Eats drivers should be classified as employees. The UK Supreme Court ruled similarly in a landmark decision in February 2021, classifying Uber drivers as workers rather than self-employed contractors. Some provincial courts in Argentina have also recognised the labour benefits of gig workers.

In the US, a rule by the US Department of Labor (DOL) which clarified the definition of ‘employee’ under the Fair Labor Standards Act was withdrawn in mid-2021. The DOL reverted to its less clear ‘totality of the circumstances’ test to distinguish employees from self-employed persons.

As was the case last year, respondent countries introduced several new measures or modified existing regulations. In general, these regulations were most of the time intended to provide the alternative workforce with a certain level of protection. For example, the Netherlands reported on the circumstances from which the necessity of such regulations arise and the problems that platform workers face in the gig economy. Although these jobs are often relatively easy to get and due to flexible working hours seem particularly attractive to the younger population, the Dutch Labour Inspectorate recognises the exploitative character in certain areas of the labour market. In this regard, it carried out investigations that show that breaches of employment and health and safety regulations occur more frequently regarding platforms for delivering meals (so-called *Flitsbezorgers*).

Among other things, the following regulations have been adopted or amended to further expand the rights of alternative workforces:

- In Brazil, Law No 14,297 was enacted on 6 January 2022 providing protective measures to gig economy workers during the pandemic.
- In April 2022, Bill 88 or the Working for Workers Act of the Ontario (Canada) government received Royal Assent and will grant digital platform workers comprehensive rights, like a minimum wage and rights to resolve disputes related to work, once it comes into force.
- In Chile, Law No 21,431 was published on 11 March 2022 and entered into force on 1 September 2022. This law regulates the relationship between employees of digital platforms (regardless of whether they are dependent or independent) and their employers. The law aims to protect people who provide services through digital service platforms and who, until now, have been excluded from the country's labour legislation. Overall, Chile is one of the first countries to comprehensively regulate this issue.
- The Norwegian government has ensured, through an amendment to the Working Environment Act, that from 1 July 2022 all temporary employment relationships must be justified by a legal basis. A valid reason for temporary employment is, for example, the interim replacement of another employee.
- Both Denmark and Ireland reported on the new EU Directive 2019/1152 on transparent and predictable working conditions that had to be implemented by 1 August 2022. The scope of the Directive extends to forms of employment that are often excluded, such as short-term employees and domestic workers, as well as platform workers, and sets out further minimum requirements for their working conditions that companies will have to comply with in the future. Furthermore, in Ireland, a new Labour Bill was proposed in 2021, addressing the protection of platform workers and the issue of bogus self-employment. Portugal also reported on a planned new regulation that would provide better protection in the future for workers that are subject to bogus self-employment contractual relationships.
- In China, guidelines were issued on 16 July 2021, dividing workers employed by platforms into three categories. Workers in the third category (so-called 'incomplete employment relations'), unlike workers in the first category, do not fully meet the criteria for establishing employee status, but they are granted basic rights, such as a guaranteed minimum wage payment and social security.
- In April 2021, several Mexican labour, social security and tax-related laws were approved and published. Their main purpose is to prohibit the subcontracting of personnel.
- In Spain, a reform to the labour law was passed on 29 December 2021, limiting the use of temporary contracts and promoting the use of permanent contracts. In addition, the so-called 'Riders Act' was passed in May 2021, which stipulates that 'riders' (workforces for delivery services) have employee status in certain circumstances. However, the law is still controversial, especially since a considerable number of riders are in favour of being treated as self-employed.

Regarding temporary employment, in Germany, the minimum wage and the amount of annual leave for the temporary staffing industry has increased. In Lithuania, the engagement of temporary workers is rather uncommon. Only in the IT and financial services sectors are temporary workers being employed more often. Hungary reported the observation that temporary staffing agencies provide outsourced services rather than temporary staffing. Just like last year, some rules on the use of temporary workers in Belgium were relaxed due to the Covid-19 Omicron wave.

## 3.4 Flexible working

### *Overall trends*

The progressive spread of flexible working in the labour market appears to be continuing. The benefits of flexible working are something that employees in most participating countries do not want to miss, regardless of the current status of the Covid-19 pandemic. Accordingly, it is not surprising that an increasing number of countries are further regulating flexible working by law, on the one hand to meet employee's expectations, but also to take sufficient account of the individual interests of employers when organising their businesses. Turkey serves as an example, which reported a significant increase in flexible working arrangements. On the other hand, the Covid-19 pandemic has shown that flexible working will continue to be a suitable means of dealing with exceptional situations that affect working practices. In this regard, Ukraine has noted that, due to the ongoing Russia-Ukraine conflict, remote work is the only possible work model to be considered in many areas.

Just like last year the most common types of flexible working are flexible working hours, part-time work and remote/telework. Regarding flexible working hours, Germany and the US, for example, reported on the most common model of flex time (called '*Gleitzeit*' in Germany), where employees have a fixed amount of weekly working time, but are allowed to distribute their specific working time over the weekdays as they see fit. Usually there are certain core hours (called '*Kernarbeitszeit*' in Germany) during which employees have to be at work. In Venezuela, hybrid working arrangements in which employees work on site for an average of three or four days are very common.

However, there are also many other types of working arrangements mentioned by only a few countries. As an example, the Czech Republic reported on working arrangements, like a shorter working week or unlimited holidays, which at this point are relatively innovative and rather uncommon so far.

### *Legal rules*

Many of the legislative changes this year related to the Covid-19 pandemic, which also preoccupied governments during much of this year's report (see section 3.16). However, some countries implemented more general regulations, such as the following:

- In Colombia, several laws including the Work from Home Law (Law No 2088 of 2021 and Decree No 649 of 2022) and the Remote Work Law (Law No 2121 of 2021 and Decree No 555 of 2022) have been enacted and further shape the flexible working environment.
- Hungary transposed the flexible working regulation as part of the Labour Code, which was enacted due to the Covid-19 pandemic.
- The Irish government published a general scheme for the Work Life Balance and Miscellaneous Provisions Bill 2022, which will implement the EU's Work-Life Balance Directive 2019/1158. The scheme is in fact more expansive than the Directive in some areas and will introduce a right to request flexible working, as well as a right for employees to take up to five days unpaid leave per year to provide medical care for family members.

- In Malaysia, the legislative process to amend the Employment Act 1955 is underway. This amendment is intended to introduce a flexible working arrangement in terms of the hours and the place of work. However, this arrangement is subject to an employee's request and the employer's approval.
- Portugal adjusted Law No 98/2009 (the professional diseases and work accident regime) in order to extend the protection provided to teleworkers.
- The Serbian Ministry of Labour published the Guide for Safe and Healthy Work from Home, to ensure the safety and health of individuals while working from home.
- In the United Arab Emirates (UAE), the new labour law came into force on 2 February 2022, which defines and recognises six labour models. In general, this amendment to the labour law is expected to lead to a long-term increase in the use of flexible working arrangements.

### *Right to disconnect*

Regarding the right to disconnect, some respondents followed the countries that had already implemented legal rules or corporate practices last year. Colombia, which last year merely introduced guidelines regarding a right to disconnect, published a new law on 6 January 2022 requiring employers to guarantee the right to disconnect for those employees who work remotely or at home. In Portugal, Law No 83/2021 establishes the protection of the employees' right to disconnect. Accordingly, the employer must abstain from contacting employees during their resting period most of the time, as the breach of this duty is punishable with a fine. In Argentina, employees have been granted the right to disconnect under the Remote Work Act. In Belgium, the federal administration introduced a right to disconnect only for its civil servants and contractual workers. However, the federal minister for work plans to introduce a similar system for the Belgian private sector. Some European countries (eg, Romania) also assume that current developments at the EU level will lead to changes in the future with regard to a 'right to disconnect' at the national level as well.

The Canadian government issued the final report by the Right to Disconnect Advisory Committee. In this respect, it remains to be seen whether there will be a legal formulation of a right to disconnect in the future (as of March 2022). In 2021, a new law on disconnecting from work received Royal Assent, but only applies in Ontario (Canada). However, this legislation does not confer a right to disconnect in the traditional sense, but rather places an obligation on employers with 25 or more employees to implement a policy to promote an adequate work-life balance.

Furthermore, some countries that have not yet legislated on the right to disconnect (eg, Australia, Japan, Luxembourg and Singapore) reported an increase in the debate on the subject. This leads to transitional non-binding recommendations on wellbeing in workplaces in countries such as Singapore, or, as seen in South Korea, changes in corporate practices based on adopted internal regulations. Even though there are no legal provisions on the 'right to disconnect' in Kenya, individual companies nevertheless grant their employees such a right in their working practices.



### 3.5 Family-friendly policies

The progressive development of maternity and paternity leave continues. In addition to the extension of time off granted for family reasons, the increasing flexibility of these institutes also plays a major role in most countries. Existing arrangements are intended to be attractive for a wide variety of family compositions and to cover the individual needs of families.

In this regard, many countries further enhanced their family-friendly policies during the year covered by this report. In general, the regulations introduced pursue the goal of striking the right balance between workplace and family responsibilities. The Irish government announced its intention to increase parental leave and benefits from five to seven weeks in the near future. In addition to this, the Maternity Protection (Amendment) Bill has been proposed by the Irish government, which will extend the period during which breastfeeding breaks can be taken. In Vietnam, mothers were previously allowed to take daily breaks of 60 minutes to breastfeed their child, but now mothers can waive said breaks for additional compensation. Germany implemented new regulations on parental allowance, which have been in force since September 2021. The working hours permitted during parental allowance and parental leave have been increased. Furthermore, the partnership bonus, which supports the parallel part-time work of both parents has been simplified and made more flexible concerning various aspects. In Kenya, the Employment (Amendment) Act 2021 introduced adoption leave for the benefit of expectant adoptive parents and, in addition to annual leave, entitles them to one month of paid leave from the date of placement of the child.

On 12 October 2021, the Senate of the Netherlands approved the Paid Parental Leave Act. As of 2 August 2022, parents are entitled to nine weeks of paid parental leave during their child's first year. Within the first seven years of the child's birth, the parents have the right to use 17 additional weeks of unpaid parental leave and can even add remaining weeks if they were not able to use all the nine weeks during the first year that the child is born.

Just like Ireland reported last year, this year, Denmark implemented the EU Work–Life Balance Directive 2019/1158 and introduced substantial changes to the country's maternity and paternity/co-mother leave rules. The new rules entered into force on 2 August 2022 and include significant changes to the distribution of the weeks of leave, with the aim being that both parents should take part of the parental leave. In Finland, a reform to parental leave was due to enter into force in August 2022, improving gender equality in the working life, taking better account of the different types of families, as well as increasing the number of parental leave days. The reform also allows parents to transfer up to 63 days of their total parental leave days to the other parent. A similar draft law is under consideration in Luxembourg. Another ongoing legislative process in Luxembourg, currently aims to implement a change to the conditions for parental leave. Following a ruling by the Court of Justice of the European Union (CJEU) on 25 February 2021, in Case C129/20 *XI v Caisse pour l'avenir des enfant*, in which the Court stated that Luxembourg's legislation on parental leave does not comply with EU law, the draft legislation now seeks to lower the requirements for parental leave.

Another aspect of family-friendly policies that has a direct impact on the labour market is employment protection in favour of prospective mothers. Regarding this topic, Mexico reported on a non-binding precedent stating that labour courts must examine the case in terms of gender

discrimination and determine whether the evidence presented by the employer is sufficient to prove that the dismissal was not due to the employee's pregnancy. In Peru, as in almost all other countries, dismissal on the grounds of pregnancy, childbirth and breastfeeding is considered null and void. Proposals have been made in the UK to provide greater protection against dismissal for employees during pregnancy, maternity leave and the first six months after the end of maternity leave. The UK government has shown itself to be open to increased protection; however, the UK has not reported on any concrete changes.

Regarding parents' rights during the Covid-19 Delta and Omicron variant waves, Sweden implemented different measures that helped families during times when Covid-19 was most prevalent. For example, pregnant women were eligible for pregnancy benefits, because Covid-19 infection was considered a risk to pregnancy in certain situations. Furthermore, parents could receive a 'temporary parental benefit' if the parent gave up gainful employment to care for a child due to the closure of schools or preschools linked to the pandemic. Poland reported on similar measures. Most of these regulations have since been lifted.

Similar to last year, only a few respondents (eg, Denmark, India and Malaysia) reported on employers being receptive to paying enhanced benefits over and above their legal obligations. Many Australian employers (three in five employers according to 2020–21 Workplace Gender Equality Agency (WGEA) data) offer some kind of enhanced benefits, and some larger employers in Norway are receptive to covering the difference between the Norwegian National Insurance social benefits relating to maternity and paternity leave and the employee's regular remuneration. In Israel, additional benefits depend primarily on corporate policy, the sector and the seniority of the individual. However, in the public sector enhanced benefits supplied by the employer are uncommon.

### 3.6 Absenteeism due to stress and mental health issues

Although mental health issues and excessive stress in the workplace are not entirely new problems in many countries, the Covid-19 pandemic has nonetheless contributed to an increased focus on mental health by both employers and administrators in many countries. In particular, the protection of the mental health of remote workers is a major topic.

The so-called ‘Great Resignation’ (also known as the ‘Big Quit’) that was observed, in particular in the US, during the pandemic serves as an example of the negative impact of the pandemic on the mental health of employees and the problems that can accompany frequent remote working. Between July and November 2021, according to the US Department of Labor, 21.3 million employees quit their job. According to those quitting, the reasons included working under stressful conditions and not being appreciated by their employer. However, this observation is not an isolated case. Other countries (eg, Germany) have also observed and reported on a similar trend. In addition, studies from various countries (eg, Argentina and Canada) have shown that increased stress and mental health issues became more prevalent during the pandemic.

Regarding measures taken by the administration, Ireland and Latvia are both trying to address the problems by providing financial resources. While the government of Latvia approved the Ministry of Health’s proposal to issue additional funding of €7m to provide psychological support to the population, Ireland has earmarked an additional €10m in its 2022 state budget to more effectively promote supportive mental health efforts.

In Peru, an administrative directive indicated that the employer must establish corrective and preventive measures to avoid psychological risk factors generated as a result of working during the Covid-19 pandemic. In Mexico, the new Remote Working Reform specifies that in the future, a certain standard regarding the health (including mental health) and safety of remote workers will be mandated. The Irish government lifted many of the Covid-19 restrictions on employers and employees. However, to further assist workers who may have difficulty transitioning back to work, the Irish government continued to emphasise that employers work with workers to reach an amicable agreement.

The Norwegian government implemented changes to the regulation on working from home. From now on, the provisions on working hours will apply regardless of whether employees work from home or from the office. The changes are intended to support home workers who, as experience shows, often struggle with blurred boundaries between their free time and working hours.

In addition to governmental actors, employers in different countries have also tried to help their employees with mental health problems through various internal offers. While in Latvia and Nigeria, employers sometimes offer (voluntary) therapy sessions as an additional benefit, in Taiwan, some employers have set up video counselling for their employees to discuss their mental health issues. In South Africa, many employers increasingly educate their employees on the importance of maintaining a healthy work–life balance and have accessible wellness programmes for employees at the employers’ cost. The protective measures taken by German employers amount to granting flexible working hours and sufficient rest time. Myanmar reported on the recreational programmes offered by different employers, and in Kenya employers addressed employee stress and mental health

by introducing training sessions on mental health and mental health hotlines.

Even though many of the changes regarding the handling of mental health problems are connected with the Covid-19 pandemic, there are some measures that are not directly related to the pandemic. In South Korea, the legislature expanded the existing obligation on the employer to protect its employees from verbal abuse by third parties. In Thailand, the Department of Mental Health has provided a hotline for people struggling with mental health issues; however, the use of this hotline decreased during the pandemic. The Swedish government has underlined the relevance of issues related to digital working and emphasised that the government's Work Environment Strategy 2021–2025 will be aligned accordingly. The Ukrainian Cabinet of Ministers approved an action plan in October 2021 to bring mental healthcare into compliance with international human rights law by 2023 and to improve mental healthcare overall. Furthermore, the UK pointed out that the increasing focus on environmental, social and governance (ESG) by many employers also brings with it an enhanced empathy for mental health issues and the wellbeing of their employees (see section 3.10).

### 3.7 Data protection, privacy and human rights

#### *Data protection and privacy*

Since both employees and employers frequently come into contact with sensitive data in the workplace, data protection and privacy in the workplace is subject to constant legal and practical change. Most of the respondents are continuously trying to develop their regulations to bring their data protection measures up to a modern and effective standard. In this regard, just like last year, many countries have introduced new regulations or amended existing ones.

Japan adopted an amendment to the Act on the Protection of Personal Information in April 2022, and in South Korea another amendment to the Personal Information Protection Act is currently under discussion. In the UAE, Federal Decree Law No 31 of 2021 regarding personal data protection was introduced and will come into effect once the UAE Cabinet publishes executive regulations to complement the law. Federal Decree Law No 31 of 2021 is the first comprehensive data protection law in the UAE and, among other things, prohibits the processing of personal data without the consent of the individual, unless an exception applies. In Finland, a working group is preparing a proposal to amend the regulation on the collection of personal data of an employee. Denmark reported on a proposed regulation on artificial intelligence (AI) proposed by the European Commission in April 2021, which also includes several data protection requirements for the use of high-risk AI. Vietnam's Ministry of Public Security has published a draft decree on personal data protection. The draft would impose additional obligations on Vietnamese employers, requiring them to register with the Personal Data Protection Commission in order to process sensitive data, such as information on finances and health status. In China, data protection was further flanked by the Personal Information Protection Law enacted in 2021. Article 6 of the Chinese law sets out the basic requirements for handling personal data, which must also be complied with in the workplace.

A recent privacy issue that first arose in the context of the Covid-19 pandemic is whether employers are entitled to check their employees' vaccination status (see section 3.16). In this regard, the competence of the employer varies among the participating countries. In Latvia and Hungary, an employer is entitled to check the vaccination status of its employees. However, an employer is not allowed to copy or store the certificate under Latvian law. In Belgium, the said right of the employer is under discussion and is predominantly considered to be a violation of both the EU's General Data Protection Regulation 2016/679 (GDPR) and the right to privacy.

While companies from many countries (eg, Brazil, Luxembourg and South Africa) are adopting internal policies governing their employees' use of social media, there is also an increasing number of court rulings (eg, Italy) regarding the termination of employees directly connected to their use of or behaviour on social media platforms. In the US, the US Court of Appeals affirmed a lower court's decision on 4 March 2021. The Court held that a termination issued on the basis of a social media post advocating violence was lawful. In Turkey, the Turkish Constitutional Court ruled that the termination of a contract based on the use of WhatsApp during working hours was unlawful and violated the individual's constitutional rights since the termination was based on illegal surveillance by the employer.

Portugal reported on its strict rules on the implementation of remote surveillance by employers. In Switzerland, media outlets have reported an increase in the use of surveillance software by employers. In Canada, the Ontario government has passed legislation that, among other things, requires employers to establish a written policy on the purposes and circumstances of planned electronic monitoring.

### *Human rights*

In the course of this year's report, many participating countries also reported on legal efforts to improve human rights in the workplace.

An important role here is to raise awareness of problematic circumstances in individual supply chains, which are often difficult to see, and to make human rights violations visible. In Germany, a supply chain law (*Lieferkettensorgfaltspflichtgesetz*) was enacted for the first time. From now on, companies in Germany are responsible for ensuring that their suppliers comply with elementary human rights standards. In addition to this, as of 2022, companies whose seat, head office or principal place of business is located in Switzerland must comply with due diligence obligations concerning their supply chain and report thereon if they place in free circulation or process in Switzerland minerals from conflict-affected and high-risk areas, or if they offer products or services in relation to which there is a reasonable suspicion that they have been manufactured or provided using child labour. In Norway, the Transparency Act entered into force on 1 July 2022 and is intended to promote enterprises' respect for fundamental human rights and decent working conditions, in connection with the production of goods and the provision of services.

In Singapore, the Tripartite Guidelines on Fair Employment Practices (TGFEP) reported on last year are not legally binding. However, on 29 August 2021, Singapore's Prime Minister Lee Hsien Loong announced that the Singapore government will enact new laws to enshrine the TGFEP and, thus, strengthen its influence. In the meantime, employers who do not abide by the TGFEP may have their work pass privileges curtailed. South Korea reported on a pending bill, the Human Rights Policy Framework Act, that, if passed, will also affect private companies, as they should seek remedies for the victims of human rights abuses and will be required in part to provide human rights education to their employees.

In some countries, questions have arisen about the extent to which mandatory vaccination is compatible with human rights. In the UK, for example, the majority view is that, given the right to protection against the spread of disease, compulsory vaccination is consistent with human rights.

### 3.8 Discrimination in the workplace

Once again, many respondents reported on various legislative and practical changes in the area of discrimination in the workplace. Overall, many of these changes are aimed at tackling gender and age discrimination. For example, Serbia reported on amendments to the Law on the Prohibition of Discrimination adopted in 2021 to breakdown prejudices about race, colour, religion, gender and other reasons for discrimination. Furthermore, the Serbian law provides that special measures introduced to achieve full equality are not considered discrimination (‘affirmative action’).

In Ukraine, the labour law was amended to the effect that certain requirements for a professional activity, which have their basis in the specific type of employment itself, are not considered discrimination. In addition, Ukrainian labour law now allows employees to file complaints with various complaint bodies in cases of discrimination.

The Danish Parliament has passed an Act that explicitly prohibits harassment of employees based on their gender identity, gender expression and gender characteristics, further protecting employees in the lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI+) community from discrimination in the labour market.

In May 2022, the National Council of Provinces in South Africa passed the Employment Equity Amendment Bill. The bill has yet to be signed by President Cyril Ramaphosa. Additionally, the Code of Good Practice on the Prevention and Elimination of Harassment in the Workplace was published by the South African government. This code aims to prohibit unfair discrimination and to create workplaces in which all employees are treated with dignity. A similar approach was reported by Latvia, where the Ministry of Welfare has published guidelines for the strengthening of gender equality.

In Norway, the Equality and Anti-Discrimination Act has been changed and from now on includes provisions that require private and public undertakings to ensure that they have ‘universal designs’ at the level of information and communication, which means that the employer is required to ensure that the general functions in this area can be used by all employees regardless of their physical abilities and limitations.

Rather general changes have been made in Spain, where the Comprehensive Law for Equal Treatment and Non-Discrimination was approved. Key new measures include:

- the broadening of the grounds for discrimination, introducing illness or health condition, genetic predisposition to suffer from pathologies and disorders, age, gender expression, language, socio-economic situation and ‘any other personal or social circumstance’;
- the elaboration of an equality plan (compulsory for all companies with more than 50 workers);
- the liability of employers for the damage caused by discrimination in cases where the employer has not established sufficient methods or instruments for the detection of discrimination; and
- the establishment of the Independent Authority for Equal Treatment and Non-Discrimination.

Overall, more countries reported that workplace discrimination training, based on employer-led initiatives, is becoming more common. In Japan, the Equal Employment Opportunity Act requires employers to provide training for their employees. In Peru, employers must implement specific policies on equal pay and sexual harassment in the workplace, which often includes training. Serbia reported mandatory training on education, science and technological development to train employees, promote gender equality and create better awareness of the issue. In Mexico, it is becoming more common for employers to make employees aware of workplace discrimination. In Finland, training is provided primarily for managers. Despite this development, such training is still rather uncommon in most countries.

Most countries found again this year that employers generally comply with anti-discrimination laws. However, according to the Bulgarian Deputy Director of the Commission for Protection against Discrimination, the analysis of working practices in Bulgaria shows that some employers have discrimination practices mainly related to disability, age, gender and ethnicity. Other countries also reported that, while legal protections against discrimination in the workplace exist, in practice, there is often a lack of enforcement of these rules in the workplace.



### 3.9 Diversity

According to the responses from the various respondents, diversity remains a topic of general interest this year. In addition to government efforts to ensure gender parity in the labour market with the help of various measures, an increase in initiatives on the part of employers aimed at creating a respectful and unprejudiced working environment have also become apparent in recent years. In this regard, Irish companies have begun to recognise the advantages of hiring a diverse workforce, and employers from different countries are offering diversity training to help move their own corporate cultures in a more tolerant direction.

Nevertheless, development towards true diversity is a long process that is far from complete in many areas. Following on from this, the US has indicated that a corporate policy striving for diversity is not enough on its own and that employers are instead required to study their own workforces and make the necessary adjustments.

Many national approaches to introducing specific quotas are intended to counteract the fact that women continue to be underrepresented at the level of corporate boards. In these positions in particular, a notably high gender disparity can often be observed in practice. The German Act for the Equal Participation of Women and Men in Leadership Positions in the Private and Public Sector ('FüPoG II') came into force in August 2021. FüPoG II introduced a gender quota on supervisory boards and obliges large companies to set binding targets. In addition, the executive board of a listed company with equal co-determination and more than three members must in future be composed of at least one woman and at least one man, and companies in which the German government holds a majority stake will also be subject to stricter requirements in terms of gender parity in the future. The Netherlands reported on a law passed on 28 September 2021, which stipulates that, in the future, supervisory boards must be made up of at least one-third women and one-third men. France passed a law in December 2021, which, among other things, stipulates that the proportion of women on supervisory boards should increase to 30 per cent by 2025 and 40 per cent by 2030, and also requires employers to publish information on gender equality practices in their companies. In addition, disclosure requirements and sanctions were strengthened by the French Parliament in 2022. In Finland, there have been considerations on regulating a quota for women on the boards of companies; however, such regulation is still in progress.

In China, the State Council issued the Programme for the Development of Chinese Women in 2021, which stipulates that the proportion of women among employed persons should be maintained at around 45 per cent, and that the proportion of women among senior professionals and technicians should reach 40 per cent. In Vietnam, there are no mandatory quotas to be met by companies, but incentives are granted in the form of tax benefits depending on the percentage of female employees. Singapore has made progress, as it did last year, towards its self-imposed goal of increasing the percentage of female members on the boards of the top 100 companies listed on the Singapore Exchange to 20 per cent. While 16 per cent of the board members of said companies were female in 2020, the proportion rose to 18 per cent as of 30 June 2021.

However, in some countries, the introduction of certain quotas or other targets is proving to be a rather difficult task. According to a study by the Conference Board of Canada in 2021, corporate disclosure requirements in Canada seem to have only limited influence, so the introduction of

hard quotas with corresponding sanctions is to be considered in the future. In Argentina, the Superintendency of Companies is currently calling for gender parity or other quotas on the boards of private companies, but it faces constitutional objections, so it is not yet possible to foresee the implementation of corresponding changes in concrete terms. In Sweden, the general introduction of quotas in hiring is not permitted. Although positive discrimination may be compatible with the Swedish Discrimination Act under certain conditions, the employer must always be able to take individual assessments into account when making decisions, so they cannot make the decision to hire a person from an underrepresented gender solely on the basis of gender.

In many countries, religion plays a rather subordinate role in the workplace. While employers are generally not allowed to discriminate against employees on the basis of their religious beliefs (see section 3.8), in many countries (eg, Cyprus and Albania) employers are not required to provide accommodation or other facilities for the benefit of religious believers. In this context, Finland pointed out that adjustments made by the employer based on religious beliefs could be considered discrimination against other employees, as religion is not a basis for granting special treatment to employees.

In other countries, however, employers tend to set up workplace-based modifications for the benefit of their employees. For example, in Israel, a nation where most of its residents have religious beliefs, there are kosher kitchens and dining rooms in workplaces, and in Canada reasonable accommodation for religious practices or beliefs is required by law and, accordingly, must generally be provided by the employer. Some Chinese companies offer special halal meals in their canteens, but overall, such practices are the exception.

Many countries (eg, Spain) also use quotas or certain minimum target percentages to promote individuals with disabilities in the workplace. In Luxembourg, the public sector is required to employ full-time employees recognised as disabled up to a percentage of five per cent of the total workforce, and in the private sector the relevant percentage varies depending on the size of the company. In practice, however, many Luxembourg companies fail to meet the set quotas and accept the penalty that this entails. Also, in Argentina, four per cent of public sector administration jobs must be filled by disabled workers. In China, employers must employ people with disabilities in accordance with the locally established quota and can apply to the government for premium payments if this quota is exceeded.

## 3.10 Behaviour in the workplace and sustainability

### *Behaviour in the workplace*

Even though awareness and widened consciousness, especially about sexual harassment, seems to have further increased in many countries (eg, Argentina, Belgium, Chile and especially the Netherlands), only some countries reported on changes to laws or employer practices regarding sexual harassment in the workplace. In Australia, the Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021 commenced on 10 September 2021 and introduced, among other things, a definition of sexual harassment as well as the confirmation that sexual harassment may be a valid reason for dismissal. In Serbia, gender-based and sexual harassment has been prohibited not only in the workplace but also during employment, professional development and promotion. On 3 March 2022, the US enacted a law prohibiting employers from enforcing pre-dispute arbitration agreements and class action waivers that concern sexual harassment and sexual assault claims. Meanwhile, a new draft amendment has been prepared in China, which aims to help identify and define sexual harassment, and also provides for a complaint mechanism to the relevant employer and individual state authorities for the benefit of sexually harassed women. In Spain, all companies are required to draw up a protocol against harassment at work, which must include the necessary measures to prevent, avoid and eliminate any type of harassment at work. New Zealand reported on current efforts to introduce a law that would give victims of sexual harassment in the workplace a reasonable amount of time to process what happened before reporting the incident. While an employee in New Zealand must currently file a complaint within 90 days, a current draft of the law would give an employee 12 months to file a complaint in the future.

In South Africa, another Code of Good Practice was published on 18 March 2022. From now on sexual harassment also includes ‘same sex’ harassment and behaviour like ‘following’, ‘watching’ and the display by electronic means of sexually explicit pictures or objects, provided that the person to whom they are shown considers them unacceptable.

In the wake of the increased awareness of sexual harassment in the workplace, employers in different countries have revised their internal regulations and practices. For example, some employers in Singapore and large companies in Australia provide training on appropriate workplace behaviour. In Belgium, some companies seek redress from external prevention advisers, who are specialised in this area. In the Czech Republic, employers are taking a more decisive approach to cases of sexual harassment and are increasingly drawing consequences from them.

### *Sustainability/ethical business*

Sustainability is becoming increasingly covered by government actors and employers. For example, in Germany, Thailand and the US, the concept of ESG has become increasingly relevant over the last few years and, overall, the abbreviation ESG, as well as corporate social responsibility (CSR), can be heard more often. In many countries, state bodies have been trying to further implement sustainable working practices in different companies by introducing various new guidelines and measures. In this context, Vietnam reported on foreign-invested companies paying increasing attention to CSR initiatives. As an example, Vietnam cited Unilever, which has a comprehensive CSR programme and pays a so-called ‘living wage’ that is well above the minimum wage.

To meet this demand for greater sustainability, government institutions in the countries surveyed have taken different approaches. In Belgium, for example, the government has declared that all company cars must be fully electric by 2026 in order to be tax-deductible. In this way, the Belgian government hopes to quickly build up a green car fleet and first successes are reflected in the increased sales of electronic cars. In Taiwan, the government has announced a new clause that larger companies should set up initiatives for transitioning to at least ten per cent green energy within five years from 2021. Meanwhile, Singapore has launched the Enterprise Sustainability Programme to support Singapore businesses in their sustainability initiatives, and in Italy the Ministry of Labour has drawn up a protocol to help companies put social and environmental responsibility measures into practice.

Overall, employers in many countries are increasingly working towards making their own workplaces more eco-friendly. Measures taken in this regard are just as varied as the actions by the different governments. Some countries like Brazil, the Czech Republic and Chile reported on a reduction in the use of plastic cups and paper. In Portugal, many companies have implemented policies on electricity conservation, recycling and other environmentally friendly specifications. There is also more focus on the ethical behaviour of Portuguese employers, as supporting families in need with pro bono work, increased volunteering and donations have become more common.

### 3.11 Technology and artificial intelligence

The entry of artificial intelligence (AI) into the labour market raises the question of comprehensive rules that adequately balance the numerous benefits of modern software (eg, the simplification of workforce analytics and the recruitment service) and the associated risks. However, most of the countries surveyed have not reported on any new laws being adopted that are related to the use of AI. Instead, countries like Ireland and Serbia have adopted national strategies for the development of AI in the future, with Ireland committing to a people-centred and ethical approach regarding the development and use of AI. In Chile, the Ministry of Science, Technology, Knowledge and Innovation presented the first policy regarding AI.

Only a few countries reported on new laws adopted. In Canada, Bill 64 received Royal Assent following its adoption by the Québec National Assembly and provides for a duty on employers to inform employees should a decision be taken solely on the basis of an automated system. This regulation follows the lead of regulators in Europe and South America. As of April 2022, the amendments had not yet come into force. In China, although no law on AI has yet been enacted at the national level, some local legislators have already made initial attempts to regulate AI by law. For example, the Shanghai People's Congress voted to adopt regulations that, once enacted, will ensure basic rules such as legal compliance and ethical ground rules in the field of AI. In Israel, further legislation regarding AI is currently a topic of discussion and some European respondents mentioned the draft regulation issued by the European Commission on 21 April 2021, which aims to establish harmonised rules on AI, and which was reported on in last year's report.

The Ipsos survey for the World Economic Forum published on 5 January 2022 found that 60 per cent of adults from 28 countries expect that AI will profoundly change their daily lives in the next three to five years, which illustrates the potential generally attributed to AI. In addition, different sectors in many countries already have some kind of AI in place to simplify workplace related processes. For example, the use of integrated search engines to find a suitable candidate is a common use of AI in France. That said, the question about whether there has been an increase in employer reliance on AI/workforce analytics software was not answered consistently by the respondents. While some countries such as Estonia, Hungary, Nigeria and Peru did not see a large increase, and Romania and Portugal reported only a gradual increase, other countries saw a significant increase in the use of AI by companies over the last year. In Germany, around one in ten companies used AI in 2021, nearly double that of 2019. Similar figures were reported in the UK, where about 15 per cent of all companies have adopted at least one AI technology, according to a report by the Department for Digital, Culture, Media and Sport. Overall, it can be said that the big breakthrough in AI/workforce analytics software is still pending.

The impact of the use of AI and new technologies in the labour market differs significantly between sectors. While the phenomenon of AI-related job loss is particularly evident in some occupational fields, other sectors have so far remained unaffected by the changes. The US reported on the use of AI to perform large-scale contract review and in the legal field US law firms are taking advantage of AI in the review of electronic files and documents. Following on from this, Brazil noted an increase in job losses in the legal sector. Poland, Ireland and the US reported on visible job losses due to modern technologies in the fields of retail and customer support, further accelerated by the

Covid-19 pandemic. However, there are also new jobs created in the digital industry, in cybersecurity and especially regarding the development and adoption of AI. For example, Vietnam has reported that more foreign IT companies are trying to hire skilled workers and are increasingly investing in domestic technology start-ups. In New Zealand, the AI Forum, a working group formed by employers and the government, has concluded that different effects, depending on the sector, make it difficult to assess whether the increasing use of AI will lead to job growth or job losses in the long term.

To ensure that employees obtain the skills required in an increasingly digitalised economy some countries have implemented forms of funding (eg, Latvia) or fiscal benefits for employers who provide apprenticeship programmes for their employees (eg, Argentina). Employer-led initiatives mostly consist of training and digital education of their employees.

## 3.12 Unions, collective bargaining and industrial action

### *Legal changes*

In most of the countries surveyed, there were no legislative changes in relation to collective bargaining, freedom of association or other industrial action.

However, South Korea reported on an amendment to the Trade Union and Labour Relations Adjustment Act that enacted the following changes effective as of 6 July 2021:

- from now on ex-employees will generally be allowed to remain union members regardless of the reason for the termination of their employment, strengthening the rights of union members;
- in multi-union workplaces, the employer that started bargaining with one union should also now bargain with other unions that have requested bargaining; and
- the maximum period of validity of a collective bargaining agreement has been increased from two to three years.

In Germany, the Works Council Modernisation Act, which was already the subject of the last report, came into force in June 2021. The public transport company in Flanders (Belgium) has introduced a system of guaranteed services to provide a minimum level of transport during periods of strike action. The system was approved by the Flemish government; however, the unions have attacked the system before the constitutional court.

In Ireland, the Supreme Court partly overturned a decision by the Irish High Court in a landmark ruling, which held that the provisions of a law under which so-called Sectoral Employment Orders are made are constitutional. Sectoral Employment Orders are judicial recommendations in which the courts may on request of trade unions and employer representatives, under certain conditions and with the approval of the Minister for Business, Enterprise and Innovation, impose binding terms and conditions of employment (eg, minimum rates of pay and sick pay) on specific sectors.

Argentina and Australia both reported on problems that have occurred due to slow formal collective bargaining processes. In Argentina, inflation affects the purchasing power of salaries shortly after they have been agreed upon, and in Australia, the federal government has presented a draft law that aims to streamline the said processes. However, the collective bargaining aspects included in the bill were not pursued.

### *Strike action*

Once again, many countries reported numerous strikes in various sectors. Particular segments of the labour market that were frequently affected, according to respondents, were the healthcare sector, as well as the transport and delivery industry. The education sector was also affected by strikes in various countries. For example, the UK and the US reported strikes by several universities in 2021. Countries such as Norway, Portugal and Taiwan also reported an increase in the number of strikes in the aviation sector.

In Germany, there was a strike at Deutsche Bahn (a federally owned mobility and transport group with rail travel as its core business), which led to many train cancellations in the summer of 2021. The UK reported on what was expected to be the longest strike in the history of the London Underground, which started on 7 January 2022. In Lithuania, there were strikes by public transport drivers in the Lithuanian capital Vilnius due to the low level of salaries. In Peru, strikes in the transport sector were mainly due to increased fuel and toll prices.

In South Korea, cargo transportation workers decided to strike, requesting the expansion and extension of the so-called 'Safe Rates' system; a system that protects the minimum rates of pay to ensure that transportation workers are not tempted to violate safety regulations due to insufficient income.

In the US, nurses at a Massachusetts hospital went on strike for 301 days in order to push for better staffing assignments, workplace safety and adequate pay. This strike was the longest strike by nurses in Massachusetts history. Denmark also saw significant strikes by Danish nurses as a result of a failed collective agreement, and in Turkey, medical doctors went on strike due to increased violence against doctors in hospitals. The Netherlands and Israel have cited understaffing as a major complaint by workers in the health sector.

Although the overall situation caused by the Covid-19 pandemic has tended to ease, Covid-19 aftereffects were noted as a key reason for different strikes by workers. Poor working conditions, overwork associated with increased workloads and increased inflation with no change in income were often linked to the pandemic and were cited as triggers for conflict between employers and unions.

By contrast, there were no newsworthy strikes in some countries, such as Brazil, the Czech Republic and Malaysia.

### *Influence of the Covid-19 pandemic on trade unions*

While union membership has increased in some countries as a result of the Covid-19 pandemic (eg, Belgium, Mexico and, to some extent, Ukraine), labour market uncertainties in other countries do not appear to be having an impact on the decline in union membership, which has been observed for some time. In the Netherlands, unions have welcomed a lot of younger members but, overall, the number of members seems to be in constant decline.

A vivid example of the impact of the Covid-19 pandemic on employee organisation was provided by the US. There, as working conditions continued to deteriorate, a few workers ensured the first unionised Starbucks workplace in the US. In Nigeria, labour organisations became increasingly active in protecting the welfare of their members during the Covid-19 pandemic.

In Sweden, the long-term downward trend in union membership among workers (falling from 77 per cent in 2006 to 68 per cent in 2019) was interrupted as a result of the Covid-19 crisis, and in the first quarter of 2021 union membership was around 70 per cent.



### 3.13 Minimum wage, banking reform and executive remuneration

#### *Minimum wage/remuneration models*

Although none of the participating countries introduced a completely new concept of statutory minimum wage in advance of this year's report, numerous respondents already have some form of minimum wage in place. The specific form of the minimum wage varies, and the amount is linked to different factors. The UK has a national minimum wage, as well as a national living wage, which increase yearly and depend on the person's age and whether they are an apprentice. Germany reported on additional industry-specific minimum wages that exceed the statutory minimum wage. In Switzerland, there is no nationwide statutory minimum wage, but several cantons have enacted legislation to this effect, most recently Basel-Stadt.

Other countries do not have a statutory minimum wage. In some northern European countries in particular (eg, Denmark, Finland and Sweden), the negotiation on guaranteed wages is a matter for collective bargaining. Singapore does not have a nationwide statutory minimum wage, but rather a Progressive Wage Model (PWM) that provides for a sector- and skill-dependent wage system comparable to a 'ladder'. According to the PWM, wages evolve in parallel with workers' advancing skills. In Italy, the introduction of a statutory minimum wage has recently been at the centre of political debate.

As in the previous year, many of the countries surveyed that already have an active statutory minimum wage system have increased wages again. Some countries noted the impact of rising inflation. While Poland and Nigeria reported a rather unclear impact of the minimum wage on the labour market and citizens' purchasing power caused by inflation, Argentina and Brazil stated that current inflation rates require regular adjustments. Vietnam also adjusted the minimum wage in 2022 as a result of inflation, while deliberately refraining from increasing it in 2021 due to the strain on the economy associated with the Covid-19 pandemic. In addition, employers in different countries will face further financial challenges as a result of rising minimum wages and will have to factor increased labour costs into their business planning. In this regard, Spain mentioned that the increase may negatively affect businesses still suffering from the economic impact of the pandemic. As a result of the minimum wage and its constant increase, employers in labour-intensive sectors in Kenya are increasingly relying on outsourcing and are using temporary workers more frequently.

Even if many companies' remuneration models still follow the traditional structure of a fixed salary and variable profit sharing (bonus), individual remuneration models are becoming more and more widespread. In general, employers hope that this will set them apart from other job offers on the labour market and attract employees to their company. Serbia observed bonus schemes, option or share plan schemes and an increasing focus on performance-based salaries as a trend among white-collar employees. In Hungary, so-called non-wage benefits are tax privileged and the government is increasingly incentivising their use. Venezuela has changed its remuneration model for payment of wages in US dollars, leading overall to a general increase in remuneration. Regarding variable compensation, some Swiss companies have shifted their focus away from individual to team performance and increasingly extend key performance indicators (KPIs) to ESG and CSG aspects.

In some countries, Covid-19-related remote work also led to remuneration-related changes. For

example, Peru and South Africa reported on different measures to cover remote working expenses (eg, internet activity and ancillary expenses). In Portugal, Law No 83/2021 provides for an extension of employers' responsibility for the costs of teleworkers. Overall, geographic location is still a relevant factor for determining pay. However, countries like Lithuania, Ireland and Peru noted that this may not be the case in the future.

In Ukraine, for the period of martial law, changes were introduced with regard to the general payment of wages. Accordingly, the employer is not responsible for a delay in the payment of wages if it was caused by hostilities or other circumstances of force majeure.

### *Financial institutions/banking reform*

The Central Bank of Ireland and the Irish government are planning to legislate new rules that would provide the central bank with additional powers to make senior bankers more individually accountable for failings or wrongdoing. The proposed Central Bank Individual Accountability Framework Bill 2021 seeks to impose core duties on all employees of financial services providers, with additional obligations on senior executives.

In Turkey, following the post-financial crisis regulations, there have been legal developments with a view to strengthening financial institutions' positions and liquidity.

### *Executive remuneration*

Many of the countries surveyed did not note any changes with respect to executive remuneration. In addition, statutory regulations on executive pay tend to be the exception. In Singapore, as in many other countries, there is no legislation that directly defines or regulates executive remuneration. However, there are regulations in certain sectors of the Singapore labour market that require oversight on executive remuneration and/or disclosure of such remuneration.

Ireland reported on a trend of significant increases in the pay packages of chief executives in Ireland's top listed companies. The median remuneration for senior executives at eight of the top ten companies listed on the Ireland Stock Exchange Overall Index (ISEQ) rose by 66 per cent, according to their annual reports for 2021. In Serbia, amendments to the Company Law were adopted and the modified article now clarifies that the total remuneration of a director includes the salary received for their work on the basis of the engagement contract and may include the right to incentives through the allocation of shares or warrants.

The Financial Accountability Regime Bill 2021 was introduced in the Australian House of Representatives on 28 October 2021, which aims to further increase the accountability of senior management of authorised deposit-taking institutions for regulatory breaches and other failures. It is currently proposed that under the bill, 40 per cent of an accountable person's variable remuneration is required to be deferred for a minimum of four years, but only if the amount to be deferred is greater than AU\$50,000.

### 3.14 Gender pay gap/equal pay for equal work

Although most countries have anti-discrimination laws and actively strive for equal pay for equal work, in practice, there are often still significant differences between the salaries of men and women. In the Czech Republic, for example, it was found that, in the area of pay, there is often a discrepancy between the situation prescribed by law and the reality. While some countries (eg, Hungary, Norway and Taiwan) have seen increasing wage equalisation, others have reported stagnating declines or even widening wage gaps.

Some countries reported on the negative impact the Covid-19 pandemic has had on the progress made in the last few years. In the US, the Covid-19 pandemic stalled gains made towards closing the pay gap and, at the beginning of 2021, women's labour force participation rate was back to the same level as April 1987. In Sweden, Portugal and the UK, the Covid-19 pandemic led to setbacks in the area of indiscriminate pay, as women in particular lost income.

Several countries introduced new legislation addressing the gender pay gap and the reporting of gender pay disparities. In Canada, a new equal pay law, the Pay Equity Act, came into effect in August 2021, and in Italy the Equal Pay Law has come into force. Among other things, the Italian law provides for further reporting obligations on companies with more than 50 employees and opens up the possibility of obtaining a so-called gender equality certificate and tax exemptions for companies that actively try to close the gender pay gap. On 28 September 2021, the Netherlands passed a law to ensure a more balanced ratio of men and women on the management board and supervisory board of companies in the future.

Many countries are trying to counter the gender pay gap through additional transparency on pay structures. The Irish Gender Pay Gap Information Act 2021, reported on in last year's AGR, has now been passed and will help highlight pay gaps in larger companies in the future. In the meantime, in 2021, Serbia adopted the new Law on Gender Equality, which requires employers in the private and public sectors, among other things, to inform employees or their representatives about salary differences between women and men. The Finnish government is planning a new law that will allow workers to check what their colleagues earn if they suspect they are being discriminated against. In the US, there has been little movement at the federal level, but in November 2022, New York City joined several other US cities and states that maintain pay transparency laws, which require employers to publicise both the respective minimum and maximum wages that the employer expects to pay when advertising a job, promotion or transfer opportunity.

In Chile, a group of congresswomen submitted a bill in January 2021, which proposes setting a maximum legal difference between salaries of 20 per cent and adds that deviations above this limit would be considered arbitrary discrimination.

Participating countries are not only trying to counteract the gender pay gap through new legislation, but are also trying to raise awareness of the issue among the population in general. Germany reported on the Equal Pay Day, which symbolically marks the day in the year until which women work for free, while men are paid for their work from the beginning of the year. The Equal Pay Day 2022 was held on 7 March 2022. Luxembourg joined the Equal Pay International Coalition (EPIC) in April 2021 and aims to achieve equal pay by 2030.

## 3.15 Immigration and talent issues

### *Responding to talent shortages*

As in previous years, most countries surveyed reported an ongoing skills shortage. Only a few countries, such as India, Chile and Colombia, reported no issue in this regard, while the latter even observed an excess of qualified professionals due to immigration. Skills shortages exist in most occupations and vary depending on the regional and/or internal factors relevant to the specific labour market; they also exist in some countries in low- and non-qualified job positions. However, skills shortages were most often mentioned in the technology sector (IT, information and communications technology, AI etc), science, technology, engineering and mathematics (STEM) occupations, the building and construction industry and the healthcare sector. The situation has worsened in healthcare during the pandemic, because the devastating effects of the Covid-19 pandemic have contributed to a higher demand for employees, especially in the health sector. In addition, more traditional sectors have also been affected by the shortage of skilled workers in some countries. Spain reported problems in the agricultural sector, mainly due to the trend of young people moving to cities after leaving school. On the other hand, skills shortages have been mitigated by the Covid-19 crisis, which has resulted in a reduction in jobs and refugees bringing new talent into countries.

Germany reported on the surprising phenomenon of the skilled labour paradox, which is characterised by the increasing labour shortages in certain sectors and regions, while at the same time, there is a labour surplus in other sectors and regions. Increasing digitisation in particular intensifies this effect, since on the one hand, activities are increasingly being automated, while on the other hand, new jobs are being created in the IT sector (see section 3.11). Like other countries, Germany is significantly affected by a shortage of skilled workers in certain occupational fields, such as the healthcare, IT and education sectors.

The reasons for the talent shortage are as varied as the industries and sectors in which they occur. They range from the impact of high emigration rates to a lack of education or vocational training. Most countries attribute the skills shortage in the national labour market to an outflow of talent, partially due to foreign companies recruiting abroad (eg, Albania, Argentina, Serbia, Brazil, Hungary, Mexico, Poland, Portugal and Taiwan). This 'brain drain' often happens as a result of the higher salaries or better working conditions being offered in other countries.

In general, some countries pointed out that in sectors with low salaries, the lack of skilled employees was higher, such as in blue collar occupations, or roles involving teachers. Mexico reported the same phenomenon in industries with bad working conditions, such as the food industry. In this context, some countries, such as Poland and Sweden, also reported that graduates continue their studies through higher education, while the labour market needs specialists in areas where practical skills are necessary, not theoretical knowledge.

References to a structural economic, global or demographic change were just as common. One of the named factors was the ageing population and/or a low birth rate. Besides the resulting demographic change, the growing elderly population also contributes to rising demand for healthcare personnel, which in turn contributes to the overall skills shortage. According to the US, record-high resignations

in 2021 were a further driver of skills shortages. In addition, countries like Finland, South Africa, Estonia and Ireland reported that one of the leading causes is the growth of the economy and the increasing role of digital technologies. As a result, the skills system is often not fully responsive to the needs of the labour market, leading to an imbalance between supply and demand.

For skills shortages in areas where constant in-depth expertise is mandatory, deficits in higher education, a lack of specialisation programmes or vocational training and a lack of interest in certain fields, such as STEM, are cited as further causes.

Due to the Covid-19 pandemic, border closures and the need for employees in jobs connected to testing and vaccination led to a temporary shortage in other industries. On the other hand, there was a temporary decrease in skills need during the pandemic for certain occupations due to national lockdowns (eg, hairdressers, taxi drivers and bar staff). After the reopening of most industries, some countries (eg, Denmark, Switzerland and the US) have described a renewed increase in skilled talent.

### *Governmental strategies*

The vast majority of the countries surveyed are taking action to compensate for an existing skills shortage or to mitigate the prospect of such a shortage. Various countries have long-term national strategies in place aimed at compensating for labour shortages, such as the newly introduced National Infrastructure Plan of March 2022 in South Africa. These strategies mainly revolve around activating unused potential. For example, the Serbian ‘Youth Guarantee’ system (as of February 2022, this was planned for implementation by June 2022) aims to provide young people with job offers, practical work experience, or education within four months of becoming unemployed or completing formal education. On the other hand, the government simply providing information to aid reintegration into the labour market was not deemed successful in some countries, such as Argentina and Mexico.

Frequently used programmes generally revolve around skilled migration. One measure is the improvement of prediction lists for skills shortages. As an example, Latvia implemented a forecasting platform in 2021. The Australian government uses Skilled Migration Occupation Lists, which it regularly updates to reflect genuine skills needs where migration is an appropriate response, to target migration in areas of skills shortage. In this context, many countries have made adjustments lately. This includes the simplification of employment for foreigners, especially for highly qualified people, expanding permits to family members, or establishing pop-up recruitment centres in other countries. In Germany, the ministries involved in drawing up a strategy to combat the shortage of skilled workers have agreed that, in future, it will be even easier and quicker to recruit skilled workers from third countries into the German labour market and easier for potential employees from outside the EU to find a suitable job in Germany. A new bill in Sweden aims to counteract the exploitation of labour immigrants, and to attract and retain international skills and counteract so-called ‘skills expulsions’. Furthermore, Denmark is lowering the minimum salary requirement for international workers as of July 2022.

Another very common response to skills shortages is reskilling and upskilling schemes. In connection with those measures, the NextGenerationEU Plan proposed by the European Commission aims to invest € 450m. When it comes to skills training, some countries (eg, South Africa and Luxembourg),

also reported collaborations with employers. In addition, most countries are changing the educational and vocational system in line with labour market needs. Regarding changes to the labour market, the Swedish government decided on 27 January 2022 on a major reform of the labour law rules intended to improve the long-term flexibility, adaptability and security of the labour market. It will be much easier for middle-aged people with work experience to further their education with the help of a student grant, corresponding to at least 80 per cent of the person's salary.

Other countries that noted a strong brain drain aim to respond by improving employment conditions. This includes increasing wages, especially for people working in the healthcare sector, and tax exemptions to enhance competitiveness. Moreover, some governments are giving out scholarships to students in industries with skills shortages.

### *Employer strategies*

When it comes to responding to skills shortages, many employers have developed different strategies. Again, the type of measure usually depends on the scope and kind of skills shortage. However, corresponding to governmental measures, the most reported response to a shortage of talent is recruiting foreign workers. Besides that, training employees and outsourcing also appear to be commonly used strategies, though the latter faced some challenges during the Covid-19 pandemic. Regarding skills training, South Africa reported that employers have given scholarships and loans to employees. Furthermore, many employers have extended recruiting by using either fairs or agencies (Luxembourg), diversifying their talent pools, or partnering with schools to recruit graduates. On top of that, the re-hiring of retired employees or hiring people with a lack of skills and training them up is quite common. Moreover, in Denmark, in spring 2022, tripartite negotiations on upskilling began to create a more modern and attractive upskilling system through digital initiatives. Often in those specific areas, training is combined with incentives. In many countries, there are also government initiatives, for example, in Mexico, where free virtual training is offered, or in Thailand, where a mobile learning app is available. In some countries, however, there are a few employers who do not participate in such programmes.

Employers are also trying to attract workers through appealing working conditions (eg, flexible working or working from home arrangements), generous benefits or higher wages. Alternative work forms, such as temporary work, overtime concepts, part-time work and job-sharing are also used to deal with talent shortages. According to reports from Hungary and Luxembourg, in some cases employers even reorganise their business to increase efficiency.

### *Refugees*

The majority of respondents consider their country to be a common destination for foreign populations seeking refugee status. While Latin American countries reported that most refugees come from Venezuela, in Europe, North America and Asia, there was a notable increase in refugees from Afghanistan, Belarus and Ukraine due to recent crises. On the other hand, some countries, such as Sweden, reported a decrease in refugee flows, with Belgium reporting such a decrease even before the pandemic. Lastly, some respondents classified their country rather as a transit country. Those respondents that did not view their country as a common destination for refugees see the

possible cause as being related to the low financial support provided by the state, the closed-door policy due to limited land and natural resources, the climate and the specific location.

Almost all countries have introduced different concepts to encourage the integration of refugees into society and the workforce in recent years. These include help with immigration status and general assistance, education and training and integration courses; improving employment opportunities; and skills recognition, and more general needs such as financial support, food, housing and medicine.

In general, integration issues are a highly debated subject. Regarding integration courses, in January 2022, the Swedish Migration Agency was commissioned by the Swedish government to provide a mandatory social introduction to asylum seekers, within the first 14 days of arriving in the country. The Swedish Migration Agency had previously offered a shorter and more limited introduction. The content of the introduction is intended to help asylum seekers to understand the asylum process and Swedish society, such as Swedish legislation, norms and values, including issues such as racism, LGBTIQI+-related discrimination, honour-related violence and oppression, and gender equality. The government has also appointed a delegation commissioned to promote collaboration between the various involved parties that are important for new arrivals to establish themselves in working life, for example. The agency was required to submit its report no later than 28 February 2023.

On the contrary, some countries reported stricter rules concerning the acceptance of refugees in the country. For instance, Japan, Peru and Poland reported more protectionist policies. In Cyprus, one of the European countries with the most refugees admitted per capita relative to its own population, the government has announced a change of course in asylum seeker policy. In addition, a special court has been established to review applications by refugees and asylum seekers in Cyprus.

Regarding the most recent refugee wave of Ukrainians in Europe, due to the Russian war in Ukraine, many countries have adopted new measures or programmes. This includes lifting visa requirements and temporary protection visas, and the issuing of work permits (see section 3.17).

The vast majority reported that the Covid-19 pandemic has widely affected both refugee figures and refugee integration programmes. In most countries, the number of refugees has decreased significantly (eg, Mexico reported a decrease of 50 per cent and Australia reported the lowest population growth in more than a century) due to limited mobility and despite the fact that access was not generally denied. Transit countries mentioned refugees stranded in camps and more asylum seekers deciding to stay in the transit country. South Africa even described a rise in illegal border crossings. Aligned with the lifting of pandemic-related measures in many countries, the number of refugees seeking asylum has returned to pre-pandemic numbers. In Italy, in 2021, the numbers even doubled compared with 2020, and in Mexico, in 2021, there was an all-time high in asylum applications, including a 1000 per cent increase in applications from Venezuelans. Some countries believe that this partially drastic increase is aggravated by the worsening economic situation in the origin countries.

### *Foreign nationals, immigration and business visitors*

Several countries reported recent changes in immigration laws resulting in relaxed requirements to obtain residence or a visa, often connected to easier access to employment for foreign workers.

Especially for highly skilled workers in critical sectors and international students after completing education, many countries have exceptions to the rules to combat skills shortages. Besides the requirements to obtain permits, some countries reported simplifications to the application procedure, especially with regards to online applications. For example, Nigeria and Kenya have introduced digitised application processes for certain work permits and visas, to enable such permits and visas to be obtained faster and more effectively. In addition to this, France launched an online work permit application service in April 2021.

In Canada, the Ontario government's Bill 27, which received Royal Assent in December 2021, amends the Employment Protection for Foreign Nationals Act, to create a prohibition against collecting fees or using recruiters that charges fees to foreign nationals. The Canadian government has also been planning, through the Super Visa Programme, to permit parents and grandparents to stay in Canada for an extended period as of 4 July 2022. In January 2022, the Brazilian National Immigration Council published a new resolution for temporary visas and residence authorisations for 'digital nomads' (immigrants who work remotely for a foreign employer without any employment relationship in Brazil). To obtain this type of visa, immigrants need to present certain documents, such as health insurance documents and documents that prove their 'digital nomad' status. Immigrants' initial period of residence may last up to one year. Meanwhile, in Germany, a so-called right of opportunity to stay ('*Chancenaufenthaltsrecht*') was being discussed during the reporting period. Through this right, the federal government wants to provide rejected asylum seekers who have lived in Germany for at least five years on 1 January 2022, who have not committed any criminal offences and who profess to support Germany's free and democratic constitutional order, a one-year residence permit on probation in order to fulfil the other requirements for a right to stay during this time. In June 2022, a first draft was presented by the German Federal Ministry of the Interior. A new law came into effect in the UAE on 2 February 2022 and its executing regulations have introduced various types of further work permits (eg, for individuals holding a so-called 'golden visa', as well as for self-employed individuals). Furthermore, the UK introduced a system regarding the 'right to work' check on 6 April 2022 and revised the code of practice for employers on avoiding discrimination while preventing illegal working. In line with this is the European Travel Information and Authorisation System (ETIAS) visa waiver for short-term stays in the EU, which will acquire a visa from non-EU visitors, who previously had the right of visa-free entry into the Schengen area, starting from May 2023. In China, although there has been no change in the law, the authorities in Shanghai have stipulated that young foreign talent in certain key fields, such as science, agriculture and the medical field, can apply directly for a foreign talent visa. In addition to an entitlement to other benefits, this visa has a term of five to ten years and allows multiple entries into the country for 180 days at a time. In Ukraine, in gratitude for the Polish assistance received during the Russia-Ukraine conflict, the law was amended to provide various guarantees for Polish citizens in the areas of education, medicine, business, science and employment, and to significantly simplify the procedure for obtaining a temporary residence permit. In 2022, a new federal law came into force in Russia, which, among other innovations, expands the circle of persons who can obtain a permanent residence permit in Russia through the simplified procedure and provides for a transitional residence permit for foreign students.



Other countries adopted more restrictive rules (eg, South Africa and the US). Specifically, Singapore raised the minimum salary requirements necessary for receiving a work pass over the course of 2020 and 2021, with these requirements being raised further over the course of 2022 and 2023 for employment pass candidates. Chile will establish rules that make deportation of illegal immigrants easier.

Due to the Covid-19 pandemic, almost all countries had temporarily adopted entry restrictions (border closures, test or vaccine requirements and quarantines) and paused immigration procedures. In general, in most countries, only a reduced number of business visas were issued and only under strict circumstances (eg, special causes, such as urgency regarding the national economy, or only by formal invitation). However, permits already issued were extended automatically or more easily in many countries. As of summer 2022, many of those restrictions had been lifted or reduced to a minimum.

## 3.16 Covid-19

During the period covered by this year's report, Covid-19 continued to significantly impact labour markets and workplace life in general, particularly due to the rapidly spreading Omicron variant.

The Omicron variant has once again shown that, on the one hand, countries are affected to different degrees and, on the other, the wave-like spread of the virus leads to very different phases of the pandemic. While in some months, the spread – and thus the range of measures taken – was enormous, there were also phases of decline and easing throughout the year covered by the report. Denmark, where unlike many other countries, no further measures were taken in the autumn of 2021, can serve as an example of these major differences. The aforementioned observation leads to many changes in the labour market, which must constantly respond and adapt in the best possible way to the restrictions currently in force.

In mid-2022, the pandemic situation seemed to have calmed in most countries, so the impact of Covid-19 on the labour market was tending to decline. Accordingly, many measures were not extended or were kept to a minimum. For example, on 21 February 2022, the UK government published its 'Living with Covid-19' plan, under which all remaining legal restrictions, such as self-isolation and the wearing of face masks in public, were lifted. In Brazil, the state of emergency ended on 31 December 2021, with most of the measures implemented ending. In India, the central and state governments issued periodic orders, but no major legislation was enacted to address the pandemic's effect on human resources issues. In South Korea, there were no significant legislative changes, since existing laws were deemed sufficient to protect workers. Following on from this, the labour market in Germany had almost returned to the pre-pandemic level at the beginning of 2022. In Sweden, it is no longer possible to apply for the short-time work allowance implemented in response to the Covid-19 pandemic. The last day to apply for the July–September period covered by the Swedish programme was 30 November 2021. In Turkey, many common measures that were taken were active for part of 2021, though many of them were terminated during the later stages of the pandemic. In Venezuela, employers are urging their employees to return to the office to work after a long period of recommending remote working.

In many of the countries surveyed, however, the regulations were still in force during some of the period covered by this year's report. Most of those regulations introduced known measures (furlough and short-time schemes, financial government support etc) that were already introduced in 2020 and covered in last year's report. In China, restrictive measures, such as mandatory testing and lockdown in limited areas, are still in applied when a certain number of new infections occur.

### *Working from home*

Working from home was a measure taken in almost all countries to reduce face-to-face encounters and, thus, minimise the number of infections in the workplace. According to Statistics Canada, as of February 2021, almost 5.5 million Canadians were working remotely, which equates to more than a quarter of the country's labour force.

While it was at the employer's discretion whether employees could work from home in many countries, other countries mandated that employees work from home whenever possible during the

Delta and Omicron waves. In Chile, a new law was passed on 24 November 2021 in order to mandate that employers offer a telework regime to employees meeting certain medical or family conditions. Overall, the regulations in different countries are designed quite differently. For example, working from home is not explicitly regulated by law in some countries (eg, South Africa), but there are recommendations to introduce remote working in order to minimise the number of employees in the workplace. In Belgium, the national social partners concluded a new national collective bargaining agreement on ad hoc telework as a result of the Covid-19 pandemic.

Furthermore, the trend observed in last year's report of offering teleworking/remote working irrespective of the current status of the Covid-19 pandemic was confirmed in this year's report. Even though the end of the pandemic cannot yet be assumed with certainty, almost all respondents envisage that remote working will be kept beyond the end of the pandemic. Despite existing regulations having been reduced to a minimum in most countries today, a considerable number of employees regularly work from their home office. In this respect, the expectation in most countries, which was widespread in the last report, has already been confirmed.

Many countries named the hybrid work model as a trend that will be the most suitable option for the future, combining pre-pandemic practices and the benefits of remote working, such as less travel time, less office space needed and the general boost provided by digital communication in the workplace. Ireland noted changes in this area, with the Right to Request Remote Working Bill being published in 2022. The bill proposes the introduction of a right for employees to request, via a prescribed process, a remote working arrangement, either full-time or part-time and is available to all employees who have six months' service with their employer.

In Portugal, a new law that redefined the remote working regime came into force on 1 January 2022. The new regulation applies to the public and the private sector, and sets out the specific circumstances in which an employee has the right to work remotely. In Turkey, the regulation on remote work entered into force on 10 March 2021. The regulation defines the details, procedures and processes for remote working and requires employees to take certain measures before entering into a remote work contract. A few countries, like Serbia and Sweden, reported on a new challenge regarding human resources, namely adapting insurance coverage under labour law to the working situation in the home office. Legislators in Germany have also addressed this issue and made legal adjustments in June 2021.

Furthermore, many countries (eg, Russia) stated that the reduction in in-person meetings and business travel caused by the increase in remote working might be a trend that will stay regardless of how long the pandemic situation continues. Additionally, many respondents (like Chile, Germany and Singapore) assume that the Covid-19 pandemic will permanently change digitisation and technology in the workplace. Employees will probably place greater demands on their employers in terms of the technical equipment needed to meet their ideas on flexible work.

### *Labour market*

Due to the ongoing Covid-19 pandemic in 2021, the labour market continued to be affected. The intensity still varied between sectors. Especially in sectors often affected by regulations to prevent the spread of the virus (restaurants, tourism and travel sectors), countries like Japan, Taiwan and

Turkey reported that the crises led to increased problems. Moreover, the working conditions in the healthcare sector in many countries were severely affected (eg, France and Germany), leading to increased tension in the sector. Just like last year's AGR, some countries like Argentina and Australia reported a rather minor impact. However, many countries (eg, Chile, Estonia, Israel, Mexico, Myanmar and Portugal) still struggle with an increased unemployment rate compared with the years before the pandemic.

While the Czech Republic reported on a general lack of available employees caused by the Covid-19 pandemic, in Switzerland, this problem only occurred in some sectors of the labour market like the gastronomy and hospitality industries. Japan and Thailand noted problems connected with the absence of foreign workers.

On the other hand, numerous countries reported signs of recovery shown by the decrease in unemployment rates (eg, Luxembourg, Peru and Serbia). In Singapore, the unemployment rates are near pre-pandemic levels and, compared with 2020, the numbers are significantly lower. After facing significant difficulties during Covid-19, New Zealand's unemployment figures are now at their lowest level in 15 years. Taking the unemployment rate of 4.8 per cent in April 2022 into account, the Irish labour market also appears to be on the path to recovery.

Portugal covered the pandemic's worrying effect on the ongoing progress regarding gender equality in the labour market. Due to school closures, children had to be cared for at home more frequently. In practice, the tasks involved with the increase in childcare were more often performed by women.

Many countries (eg, the UAE) pointed out increasing issues with mental health and the maintaining of a healthy work-life balance due to the lack of physical interaction and increased remote working. In Canada, remote work has sparked a debate about work-life balance. The Netherlands reported issues in making sure that every employee felt included and keeping them involved even though they were working from home. This may be related to the avoidance of company events and large gatherings, which was cited by some respondents as an implemented provision to ensure safety related to Covid-19.

### *Vaccination and testing at the workplace*

Most of the participating countries reported on the common practice of testing in the workplace. In many countries (like Belgium) testing was mandatory throughout or at some point in the year. Mexico found that numerous companies conducted random testing because they were not able to pass the cost of the testing onto the employees who were being tested. In Ireland, any mass testing of employees by employers must be conducted on a voluntary basis. In Germany, employers and employees that came into physical contact with others in the workplace were only allowed to enter workplaces if they were able to prove that they had been vaccinated against, had recovered from Covid-19, or had a negative test result ('3G'). For most of 2021, workers could get tested at testing stations for free in Germany.

As the number of available vaccines increased, the question of mandatory vaccination in the workplace also became much more important. Participating countries reported divergent approaches. While in some countries like Belgium, the Czech Republic, Ireland, Lithuania, Portugal and Turkey, vaccination was voluntary in most cases, in other countries, employers were able to

order mandatory vaccination (eg, Australia, South Africa and some US states). If the employee did not comply with the order, this could lead to the full suspension of the contract under certain circumstances. In Kenya, the head of the civil service issued a directive that all public servants had to be vaccinated by 23 August 2021 or face disciplinary action. In the US, some cities and states required certain companies to mandate that their employees were vaccinated (subject to certain exceptions, based on medical or other reasons). In some countries, vaccination is mandatory, either completely or for certain population groups.

In the US, a federal mandate directing companies with over 100 employees to impose obligatory vaccination or weekly testing was overruled by the Supreme Court in January 2022. However, the latter did allow a rule requiring healthcare workers to be vaccinated against Covid-19. As of the publication date of this report, most Covid-19 vaccination mandates in the US have been lifted.

The possibility for Hungarian employers to make vaccination mandatory, which was mentioned in the last report, became controversial. As reported, many companies have not made use of this option since they did not want to risk a public backlash.

In Poland, employers were not allowed to order mandatory vaccinations or tests. However, some employers tried to motivate their employees to get vaccinated by offering additional benefits. Most countries (Belgium, Bulgaria, the Czech Republic, Finland, Latvia, Sweden and Taiwan) reported that employers generally encouraged their employees to get vaccinated. In Turkey, the Ministry of Labour and Social Security issued a letter, dated 2 September 2021, regarding vaccination and testing policies. The letter suggested employers assist in educating their unvaccinated employees about the risks associated with Covid-19 infection, among other things.

Employers' ability to check their employees' vaccination status varied. In most countries, employers are allowed to check the vaccination or recovery status of employees, while in some (eg, Italy and in some states in India) there is or was an obligation to check the vaccination status. In Denmark, employers are no longer required to obtain vaccination or test certificates. Some employers in Denmark continue to check the vaccination status, citing their managerial right to do so. Ireland reported that there is no legal basis for collecting vaccine status data unless vaccination becomes mandatory in the future, which, by its own estimation, is rather unlikely. In Norway, too, verification of vaccination status by the employer is an exception and requires justification on a case-by-case basis.

In most countries, various hygiene practices in the office are still in place. The wearing of face masks, the sanitisation of the workplace and frequent handwashing or use of sanitiser are often reported. It is mostly assumed that a higher standard of hygiene will be established in the future, irrespective of the development of the pandemic.

## *Outlook*

It has now become clear in most countries that measures are best suited to effectively prevent the further spread of the virus so that governments can act quickly and revert to the known measures when they become necessary.

As in the past, these measures must be carefully weighed against the impact on the labour market. In this respect, Belgium has already expressed its assumption that a considerable number of financially-supported companies might go bankrupt in the near future.

### 3.17 Impact of other political and world events

Most countries reported no new issues compared with last year's report regarding ongoing trade conflicts (US/China, China/EU and EU/US). However, many countries pointed out the effects the ongoing war between Ukraine and Russia has had on human resources. For example, Poland reported on the upcoming task faced by human resources from the mass flow of immigrants. New regulations governing the status of Ukrainian citizens entered into force, with retrospective effect from 24 February 2022. Overall, these regulations are intended to help Ukrainian immigrants gain a foothold and establish a livelihood in Poland. Similar laws have also been enacted in the Czech Republic, granting Ukrainians residing in Ukraine prior to the war temporary protection and the same legal position as foreigners with permanent residence in the Czech Republic for the purpose of employment and self-employment. The entire effect this conflict will have on economies and labour markets still remains to be seen. Many countries lifted their visa requirements for Ukrainian citizens (eg, Ireland and France). The lifting of visa requirements allowed Ukrainians to work legally in Ireland leading to an increased number of job seeking people who could easily access the labour market. On the Russian side, the conflict has also had an impact on the labour market. For example, following the events of 24 February 2022, various companies left Russia and shifted their business activities abroad. Furthermore, a considerable part of the Russian working population also left the country shortly after the partial mobilisation.

Effects associated with the armed conflict, such as increased gas prices, have also influenced the labour market, at least indirectly. According to Spain, companies have had to cope with a sharp increase in production costs, which could also affect their economic performance in the long term and, thus, require adjustments to the workforce. Following on from this, Belgium reported on the increase in energy costs for companies, which occurred because of the ongoing tensions with Russia. Germany, just like many other European countries, has also been affected by both rapidly rising energy costs and soaring inflation. These additional costs could result in restructurings among staff. The US noted that the severe sanctions against Russia (23 February 2022) and the escalating conflict might harm trade between Russia and the US for years to come. As a result of the war in Ukraine, some countries expect the expansion of renewable energy generation to be accelerated. Therefore, securing skilled workers may gain additional importance.

Commenting on the renewable energy sector, some countries mentioned the general effect the European Climate Law 2020/0036 has had on the labour market. Portugal also mentioned the change brought about by clients' increased desire to consider not only price and quality but also companies' ESG strategies when making business decisions. The increased demand for green jobs will also affect the labour market in the long term. The Danish Finance Act for 2022 introduced several initiatives to meet EU obligations (eg, a 70 per cent reduction in greenhouse gas emissions by 2030). These regulations and objectives will necessarily cause changes to the Danish labour market in the coming years. Kenya, the UK and Vietnam have pointed to the increased job opportunities that come with promoting the sustainability sector (eg, solar and wind energy). There is also a growing need among individual companies for skilled workers who are explicitly qualified to deal with issues related to sustainability. On the other hand, China reported that especially polluting sectors are struggling with climate change-related regulations and that economic regression in these sectors may lead to job losses and ultimately unemployment.

Regarding Brexit, some European countries like Belgium, Denmark, Finland and Hungary reported

on the stricter conditions employees from the UK have to match since Britain's departure from the EU. Singapore noted the UK–Singapore free trade agreement (FTA), which has been valid since 1 January 2021 and mirrors the FTA with the EU. Norway concluded an FTA with the UK in July 2021, which came into force on 1 December 2021.

As a political development on the regional scale, Canada reported on the efforts of the Government of Québec to protect the French language. In this regard, Bill 96 received Royal Assent on 1 June 2022. This bill will have effects on the Canadian workplace, as it clarifies and/or creates new obligations for the employer to ensure the predominance of the French language in the workplace.

## 3.18 Global leadership issues

### *Current human resources challenges*

As was the case last year, countries' responses diverged when asked about current human resources challenges. Overlaps occur primarily when individual countries are comparable due to their socioeconomic structure. For example, changes around the pension system and retirement are naturally at the centre of political debate especially in those countries where, from a demographic perspective, there is a shift towards an increasingly aging society. Nevertheless, some tendencies and trends can be identified across countries.

In this year's report, Covid-19 remains a topic that has occupied the majority of participating countries in the field of human resources. In many of the participating countries, questions about mandatory vaccination, testing and labour responses to partial closures arose during the time period covered by the report. However, compared with last year, it is noticeable that with the general easing of the pandemic worldwide, a change has taken place insofar as the long-term consequences of the pandemic are now the focus of legislative and employer efforts concerning the labour market. The expectation expressed in the last report that the Covid-19 pandemic and its economic consequences will continue to be among the key human resources challenges in the future has, thus, been confirmed.

The general shortage of skilled workers in the labour market continues to occupy a considerable number of participants and, subsequently, leads to different measures being taken at the national level. Furthermore, the sharp rise in alternative work models (especially the 'gig' economy) and issues surrounding the granting of employee benefits has attracted the attention of legal policy in many countries. There are a number of recent court decisions in this area which, at least in part, contribute to a better distinction between employees and self-employed persons.

Increasingly, equal and inclusive work environments took another step forward this year. Several countries reported that noticeably more employers perceive the comprehensive benefits of diversity and want to consciously guide corporate structures in the corresponding direction. In addition to closing the gender pay gap, this includes supporting numerical minorities, such as the LGBTQI+ community or people with disabilities, through affirmative action and comprehensive protection against discrimination.

### *Litigation*

Once again this year, there has been little change in the field of litigation. As before, a large proportion of the disputes brought before the labour courts in the individual countries relate to allegedly unlawful and, therefore, invalid terminations.

However, disputes over compensation payable by the employer in the broadest sense also account for a considerable proportion, and, in some countries, even make up the dominant share of the total number of pending cases. An increasingly diverse and discrimination-sensitive work environment is also accompanied by increased litigation in which employees make allegations of discrimination and harassment.



### *Future human resources challenges*

Many of the human resources challenges that can currently be identified will continue to occupy the respective countries in the future. The steady advance of digitisation and the increased use of AI also raises consequential questions in the labour market and in the area of human resources. Some countries reported difficulties in adapting labour legislation to the rapid pace of progress and, thus, in keeping the law up-to-date. In addition, the further development of data protection also plays a major role as a counterweight to this digital progress. In particular, compliance with new data protection regulations was cited as a key challenge at company level.

Even though some progress has been made in individual countries in distinguishing between employees and self-employed persons, dealing with alternative work models is still an issue that concerns many participating countries. Atypical work arrangements are likely to remain a widespread phenomenon in the labour market in the future, and legislators and courts will continue to be concerned with creating appropriate framework conditions. In addition, remote work-related models (eg, hybrid models) will also play a major role in the future, according to many respondents.

Finally, challenges that originate outside the labour market but whose impact on human resources should not be underestimated must also be taken into account. In addition to the consequences of Covid-19, the effects of the Ukraine–Russia conflict and rising inflation were also mentioned, all of which could have an exacerbating influence on already existing challenges.

## 4. Conclusions

In summary, it can be said that the trends outlined in the 11th edition of this report largely continue developments presented in previous reports. Many of the core topics from the last few years have also had a significant impact on the course taken in 2021 and 2022. This is not only true with regard to the Covid-19 pandemic, which initiated, among other things, the trend in mobile working. In addition, dealing with the ongoing shortage of skilled workers in many countries also remains a focus. However, in contrast to the situation on which the last report was based, the pandemic had receded in most countries in early 2022. In this respect, the first vague tendencies can be observed as to whether and to what extent the trends that emerged during the pandemic will remain relevant in a post-pandemic world and in which direction the often cited ‘new normal’ in the world of work could develop.

In addition, human resources law also faces new challenges. The war between Russia and Ukraine that broke out at the beginning of 2022 is an event that will have far-reaching effects beyond the territorial boundaries of the parties to the conflict, and these are already becoming apparent. The exact effects will only be determinable in the future and, from today’s perspective, will find their way into future reports.

### *Labour market*

In 2021 and 2022, the generally persistent shortage in skilled workers remained a challenge in most countries. The reasons for this phenomenon, which can be observed globally, are as manifold as the sectors affected (particularly frequently mentioned: technology, STEM occupations, building and construction and healthcare). In many countries, the shortage in skilled personnel is due to the fact that domestic employers cannot compete with the working conditions offered by foreign companies. This results in increasing emigration rates, especially among the population of top performers and the highly educated and, thus, in a loss of talent (the so-called brain drain). The Covid-19 pandemic has also highlighted existing problems in the understaffed healthcare sector in many countries, which have been exacerbated by the additional need for personnel. As the pandemic receded in 2022, however, partial successes were recorded in addressing the shortage of specialists. For example, entry restrictions have been increasingly withdrawn and the number of new immigrants has risen again, with some countries reporting an associated increase in qualified talent.

Many of the participating countries are attempting to address the shortage of skilled workers with the help of national strategies, which in summary are primarily aimed at activating the potential available in their own countries and promoting the immigration of skilled workers from other countries through additional incentives. Re- and upskilling schemes are also measures that countries are regularly resort to. Furthermore, employers in many countries have found ways to mitigate the effects of the skills shortage through outsourcing, the in-house training of their own workforce and the use of alternative work forms.

### *Discrimination and diversity*

Tackling discrimination in the workplace and promoting a diverse work environment are long-term

tasks and, as such, can only be realised through constant stocktaking and adjustments with regard to employer and government policies. Irrespective of this, numerous measures were taken during the reporting period to move a step closer to the goal of a discrimination-free and diverse working environment. For example, new quotas were introduced in individual countries and extended to other areas. In addition, in practical terms, some countries saw an increase in the number of women in positions where they are often underrepresented. There has also been further progress in strengthening the positions of members of the LGBTQI+ community and protecting them from discrimination. In addition, employers are increasingly taking the initiative and offering training and education to communicate diversity as a corporate value to their workforce.

### *Alternative working arrangements/demands for greater flexibility*

The legal handling of the rapid rise of alternative work models and especially platform-based work has led to newsworthy developments. As was the case in the last report, attempts are being made in many respects to grant employees from the gig economy, at least in part, more extensive protection. On the one hand, workers from the gig economy were again classified as employees this year on the basis of various court rulings; on the other hand, various legal amendments were introduced which are intended to contribute to better differentiation and grant platform workers further protection, such as the minimum wage. This trend is far from over and further measures are expected in the future. The aim of these measures is to create fair working conditions across the board, irrespective of the specific form of the employment relationship, without overly restricting the significant employer demand for flexibility in the labour market.

The practice and benefits of remote working have continued to prove their worth this year in the wake of the Covid-19 pandemic and, as a result, working from home has now become an integral part of everyday working life in many different sectors globally. Moreover, remote work will also be of great importance in managing potential future crises, as the current Russia–Ukraine conflict illustrates. Most of the legal changes reported by the survey participants are intended to clarify the conditions under which employees can work remotely and to address previously unresolved issues, such as insurance coverage in the home office under employment law. Closely related to remote working is the ‘right to disconnect’, which is still being discussed and introduced in various countries.

However, as the pandemic subsides, a return to work can also be observed in many countries and industries. So, regardless of the fact that teleworking is by its very nature only an option for a subset of occupational groups, the advantages of working locally should not be ignored. The exact significance remote working will have in the future is, therefore, still unknown and monitoring upcoming developments will be a focus of future reports.

### *Covid-19*

During this year’s 2021 and 2022 reporting periods, the impact of the Covid-19 pandemic on the field of human resources law cannot be ignored. It was part of the very nature of the pandemic that individual countries were affected to different degrees at different times, as well as the measures taken to contain it. Nevertheless, it could be observed across the globe that almost all countries at one point in time resorted to the tried and tested measures such as remote working, extensive

hygiene measures, testing and vaccination as a prerequisite for access to the workplace, and social plans and other job-preserving measures (eg, short-time work) in order to make the working environment safe and to mitigate the economic impact of the pandemic on the labour market. In this respect, the trend that can be observed was that in the early days of the pandemic, government practices had already been developed in most countries that government bodies were able to draw on to cope with the renewed Covid-19 variant waves.

With an increasingly accessible vaccine, the issue of mandatory vaccination in the workplace also became a more important issue. While in some countries employers were able to mandate vaccination, in many other countries, mandatory vaccination was waived and regular testing was retained as an alternative for employees. In some cases, regulations also differed by occupation, with stricter regulations applying to employers in the health sector.

Although not applying to all countries, the overall trend observed was that in many countries the next phase of the pandemic began during 2022, as the earlier stages of the pandemic subsided. This is because, irrespective of the fact that a certain end to the pandemic cannot yet be predicted, long-term effects will continue to have a significant impact on the labour market in the future and keep government actors busy globally.

### *Other notable trends*

#### RECENT POLITICAL AND SOCIAL DEVELOPMENTS

The main political event mentioned was the Russia–Ukraine conflict, the (partly indirect) effects of which were also noticeable to a significant extent in the area of human resources law in some countries. In addition to the increase in Ukrainian immigrants, who were granted various privileges in many of the European countries, rising gas prices should also be mentioned here, which in turn has resulted in increased costs and additional pressure on companies in various sectors. The way companies in affected countries deal with these challenges may become clear in the future.

#### RETIREMENT

Once again, retirement age has been raised in many of the countries surveyed and only in a few cases do participants assume that the retirement age could fall in the future. Governments and employers are taking various measures to relieve the increasingly burdened pension systems, but many countries nevertheless assume that the pension system will have to be reformed in the long term.

#### STRESS AND MENTAL HEALTH

Mental health has become an important issue, especially because of the Covid-19 pandemic. Various countries reported that mental health is a factor that can ultimately lead to job abandonment. In order to prevent this and to promote the mental wellbeing of employees, many governments provide financial resources and employers offer assistance, such as therapy sessions and training.

#### DATA SECURITY AND PRIVACY

Data protection has been driven forward in many countries by flanking regulations and, in some

cases, by entirely new laws. To the extent that employee monitoring using surveillance equipment is permissible at all, current developments show that most countries are taking a restrictive approach and only permit such monitoring in strictly limited cases.

AI

There have been isolated reports of legislative undertakings and adapted government strategies to regulate the handling of AI and questions concerning its ethical use. Even if the big breakthrough in the use and regulation of AI in the human resources sector is still to come and previous deployments have covered rather smaller task areas, a few countries reported a noticeable increase in the use of AI, especially in the last year.

#### UNION ACTIVITY/STRIKES

Both during the peak phase of the Covid-19 pandemic and in the later phase, when case numbers were already declining, there were many strikes across different sectors. According to the participants' responses, the health sector, the education sector, passenger transport in the broadest sense (rail and aviation) and cargo transport were particularly affected. Even after the pandemic situation had eased, strikes could often be attributed to Covid-19 after-effects, such as the increasing cost of living.

#### REMUNERATION

The way the minimum wage is handled varies from country to country. While in some countries a statutory minimum wage is set, in others the negotiation of guaranteed wages is subject to collective bargaining. In addition, different individual remuneration models are becoming increasingly popular. Many countries are trying to counter the gender pay gap by increasing transparency.

#### CORRUPTION AND WHISTLEBLOWING

The rights of whistleblowers have been further strengthened. Even after the deadline for the transposition of the new Whistleblower Directive (EU) 2019/1937 expired on 17 December 2021, some countries have harmonised their national laws in line with the requirements or are in the process of doing so.

#### DISPUTES AND LITIGATION

Generally speaking, labour disputes are more likely to be settled in court rather than through arbitration/mediation. Video transmitted court hearings are legal in many countries under certain conditions and were increasingly held during the height of the pandemic. However, as the pandemic subsided, court hearings have returned to courtrooms and are being held on-site again.

#### SUSTAINABILITY/ETHICAL BUSINESS

The topic of sustainability has experienced a considerable boost and the concept of ESG has increasingly found its way into the corporate strategies of many companies worldwide.

## 5. About the IBA and GEI

The IBA GEI was established in 2010. Its primary purpose is to develop a global and strategic approach to the main issues in the human resources and human capital fields for multinationals and global institutions.

The Executive Council Officers of the IBA GEI are:

- Co-Chair: Todd Solomon
- Co-Chair: Chris van Olmen
- Vice-Chair: Oscar De la Vega Gómez
- Vice-Chair: Ignacio Funes de Rioja
- Vice-Chair for Institutions: Peter Talibart
- Vice-Chair for Knowledge Management: Valeria Morosini
- Vice-Chair for Internal Affairs: Ignacio Funes de Rioja
- Vice-Chair for Communications: Jelle Kroes
- Vice-Chair of Membership: Philip Berkowitz
- Vice-Chair for Diversity and Inclusion: Anne Frances O'Donoghue
- Secretary: Regina Glaser
- Council Members:
  1. Patrick Benaroché
  2. Philip Berkowitz
  3. Juan Bonilla Blasco
  4. Marianne Granhøj
  5. Karl Waheed

# Schedule 1: Countries and lawyers

## **Albania**

Jonida Braja (Wolf Theiss) – Employment and immigration law

## **Argentina**

Juan Javier Negri (Negri & Pueyrredon) – Employment and immigration law

## **Australia**

Adrian Morris and Alexandra Goodman (Ashurst) – Employment and immigration law

## **Belgium**

Chris Van Olmen (Van Olmen & Wynant) – Employment and immigration law

## **Brazil**

Patricia Barboza, Maury Lobo de Athayde and Poliana César (CGM Advogados) – Employment and immigration law

## **Bulgaria**

Youliana Naoumova (Djingov, Gouginski, Kyutchukov & Velichkov) – Employment and immigration law

## **Canada**

Patrick L Benaroch and Charif El-Khoury (Stikeman Elliott) – Employment and immigration law

## **Chile**

Óscar Aitken (Carey) – Employment and immigration law

## **China**

Carol Zhu (Zhong Lun) – Employment and immigration law

## **Colombia**

Lorena Arámbula and Ángela Cubides (Dentons Cardenas & Cardenas Abogados) – Employment and immigration law

## **Cyprus**

Andreas Thoma (Hadjianastassiou, Ioannides) – Employment and immigration law

## **Czech Republic**

Andrea Krásná (Baroch Sobota) – Employment and immigration law

## **Denmark**

Anders Etgen Reitz (IUNO) – Employment and immigration law

## **Estonia**

Heili Haabu (COBALT) – Employment and immigration law

## **Finland**

Jani Syrjänen (Borenius) – Employment and immigration law

## **France**

Karine Audouze and Louise Thomas (UGGC Avocats) – Employment and immigration law

## **Germany**

Björn Otto and Carolin Millgramm (CMS Hasche Sigle) – Employment law

Gunther Mävers (michels.pmks) – Immigration law

## **Hungary**

Hédi Bozsonyik (Szecskay) – Employment and immigration law

## **India**

Vikram Shroff and Archita Mohapatra (Nishith Desai Associates) – Employment and immigration law

## **Ireland**

Triona Sugrue (A&L Goodbody) – Employment and immigration law

## **Israel**

Tsvi Kan-Tor and Daniel Aspiro (Kan-Tor & Acco) – Employment and immigration law

## **Italy**

Angelo Zambelli (Zambelli & Partners) – Employment law

Marco Mazzeschi (Mazzeschi) – Immigration law

## **Japan**

Masako Banno (Okuno & Partners) – Employment and immigration law

## **Kenya**

Sean Omondi and Allan Kakai (RONN Law Advocates) – Employment and immigration law



## **Latvia**

Sintija Radionova (WALLESS) – Employment and immigration law

## **Lithuania**

Robert Juodka and Greta Bagdanavičiūtė (PRIMUS) – Employment and immigration law

## **Luxembourg**

Anne Morel, Pauline Wirtzler and Alexandra Simon (Bonn Steichen & Partners) – Employment and immigration law

## **Malaysia**

Vijayan Venugopal (Shearn Delamore & Co) – Employment and immigration law

## **Mexico**

Francisco Javier Peniche Beguerisse and Julio Rodrigo Alvarez Ortega (Creel, García-Cuéllar, Aiza y Enríquez, SC) – Employment and immigration law

## **Myanmar**

Pimvimol (June) Vipamaneerut (Tilleke & Gibbins) – Employment and immigration law

## **Netherlands**

Martin Beijneveld (Adriaanse van der Weel) – Employment law

## **New Zealand**

John Rooney (Simpson Grierson) – Employment and immigration law

## **Nigeria**

Adekunle Obebe (Bloomfield) – Employment and immigration law

## **Norway**

Stein Kimsås-Otterbech (Thommessen) – Employment and immigration law

## **Peru**

Mario Pasco Lizárraga and Iván Blume (Rodrigo, Elías & Medrano) – Employment and immigration law

## **Poland**

Tomasz Rogala, Piotr Kozłowski and Marcin Snarski (PCS Paruch Chruściel Schiffter Stepień | Littler Global) – Employment and immigration law

## **Portugal**

Sofia Costa Lobo (CMS – Rui Pena & Arnaut) – Employment and immigration law

## **Romania**

Ileana Glodeanu (Wolf Theiss) – Employment and immigration law

## **Russia**

Irina Anyukhina and Elena Chershintseva (ALRUD) – Employment and immigration law

## **Serbia**

Milena Jakšić Papac (Karanovic & Partners) – Employment and immigration law

## **Singapore**

Jenny Tsin (WongPartnership) – Employment and immigration law

## **South Africa**

Irvin Lawrence and Kara Barnard (ENSafrica) – Employment and immigration law

## **South Korea**

Soojung Lee, Christopher Mandel and Tae Eun Lee (Yulchon) – Employment law

## **Spain**

Diana Rodríguez Redondo (Marimón Abogados) – Employment and immigration law

## **Sweden**

Jonas Lindblad (Nordia Law) – Employment and immigration law

## **Switzerland**

Gustaf Heintz (Walder Wyss) – Employment and immigration law

## **Taiwan**

Christine Chen (Winkler Partners) – Employment and immigration law

## **Thailand**

Santhapat Periera, Pimvimol (June) Vipamaneerut, Chusert Supasitthumrong, Michael Ramirez, Penrurk Petchmani, Nutavit Sirikan, Thammapas Chanpanich, Napassorn Lertussavavivat, Ketnut Pukahuta, Dusita Khanijou and Suphitsara Jaturaphitjaroen (Tilleke & Gibbins) – Employment and immigration law

## **Turkey**

Emre Atayilmaz (PAE Law) – Employment and immigration law

## **United Arab Emirates**

Rebecca Ford and Sarit Thomas (Clyde & Co) – Employment and immigration law

## **United Kingdom**

Paul McGrath and Charlotte Moorhouse (McDermott Will & Emery) – Employment and immigration law

## **United States**

Abigail M Kagan (McDermott Will & Emery) – Employment and immigration law

## **Ukraine**

Oksana Voynarovska, Valeriya Bezpala and Anna Nekrasova (Vasil Kisil and Partners) – Employment and immigration law

## **Venezuela**

John D Tucker (LEGA Abogados) – Employment and immigration law

## **Vietnam**

Thomas J Treutler, Loc Xuan Le, Vinh Quoc Nguyen, Kien Trung Trinh and Sarah Galeski (Tilleke & Gibbins) – Employment and immigration law

# Schedule 2: Questionnaire

## 2022 Annual Global Report Questionnaire

Please briefly respond to each question. When relevant, please describe both legal rules and employee/ employer practices (whether or not legally required).

### I. Country:

### II. Attorney name(s) and Employer to list in the Annual Global Report:

## I. Immigration and Talent

### A. Skills shortage and changing skills requirements

1. Is there a skills shortage in your country? In which industries? What are its causes?
2. How is the government responding to any skill shortage?
3. How are employers responding to any skill shortage (outsourcing, recruiting foreign workers, training, re-hiring retired employees/pensioners, etc)?
4. How are the government and employers addressing changes in skills needed in the workplace?

### B. Foreign nationals and business visitors

1. What changes have there been to your country's laws regarding foreign nationals, including the right to obtain permanent residence and changes in the rights and benefits of their family members?
2. Have there been any changes in your country regarding short-term assignments for business visitors (eg, limits on length of stay, reporting requirements, specific visa obligations), in particular with regard to the Covid-19 pandemic?

### C. Refugees

1. Is your country a common destination for foreign populations seeking refugee status? If so, how is your country encouraging the integration of refugees into society and the workforce?
2. Have refugee/migration flows changed due to the Covid-19 pandemic? If so, in which way?

## II. The Work Environment

### A. Work-life balance

1. What changes have there been in your country's laws that are intended to have an impact on flexible working practices, including remote working and flexible hours?
2. Are employers applying flexible working practices to a greater degree?
3. What types of flexible working arrangements are most common in your country?
4. Are employees entitled to remote working/working from home (WFH)/flexible hours due to the Covid-19 pandemic (eg, to ensure childcare while schools and nurseries are closed or to reduce encounter related infection risks) or are employers and/or employees even obliged to stay away from the office where practicable/feasible?
5. Have there been any changes in legal rules or corporate practices regarding the 'right to disconnect' from work (ie, certain hours or days when an employee is not obligated to monitor or respond to work communications)?
6. Have there been any changes in the rules relating to maternity, paternity, or dependents? Are employers receptive to paying enhanced benefits over and above their legal obligations?

**B. Alternative workforce**

1. Have there been any developments relating to the use of temporary workers, including independent contractors, agency workers, the 'gig' economy, and crowd-working schemes?
2. Have regulations been enacted to ensure adequate payment, working conditions or social security (insurance) for 'gig' economy workers?

**C. Stress and mental health**

1. Have there been any legal developments or employer-led changes in response to employee stress and mental health issues resulting from the Covid-19 pandemic, in particular with a view to remote working?
2. Have there been any legal developments or employer-led changes in response to employee stress and mental health issues unrelated to the Covid-19 pandemic?

**D. Collective bargaining**

1. Have there been any significant strikes or other organised employee/industrial action in the public or private sectors?
2. What legal changes have there been in relation to collective bargaining, freedom of association, strikes, or other industrial action?
3. Did Covid-19 have an impact on the level of employee organisation/union membership?

**E. Remuneration**

1. Has a statutory minimum wage been introduced or modified in your country? What effects on the labour market can you identify in this context?
2. What changes have there been with regard to gender equality in remuneration, including legislation addressing the gender pay gap and the reporting of gender pay disparities? Are such laws showing effect?
3. What trends can you identify in terms of remuneration models and compensation structure?
4. Since the introduction of post-financial-crisis regulations, have there been legal developments regulating financial institutions and their executives?
5. Have there been changes with respect to executive remuneration (eg, CEO pay ratio, etc)? Are laws on executive remuneration enforced and, if so, how - by the government, or in the courts?
6. What remuneration related changes have there been, if any, with regard to the Covid-19 pandemic (eg, remote working packages, special bonuses, salary cuts)? If workforces become more agile due to Covid-19, is geographic location still a relevant factor for determining pay?

**F. Corruption and whistleblowing**

1. Have there been any legal or employer changes to address corruption and bribery in the workplace, including whistleblowing procedures? Have these been effective?

**G. Privacy**

1. Have there been any legal or employer changes related to privacy, surveillance, data protection, and the use of social media in the workplace?

**H. Human Rights**

1. Please describe any developments related to the protection of human rights in the workplace, including legal requirements and employer practices.

## **I. Discrimination**

1. What changes have there been in laws on discrimination in the workplace by reason of gender, sexual orientation, age, race, ethnicity, religious belief, or disability?
2. Do employers in your country provide training to their employees about workplace discrimination laws? Do employers generally comply with anti-discrimination laws?

## **J. Diversity and inclusion**

1. Have there been any developments in law or employer practice relating to the imposition of government quotas or targets for gender parity, including board membership, or employment of individuals with disabilities?
2. To what extent do employers in your country make accommodations for religious practices or beliefs?
3. Have there been any other changes in law or corporate practices designed to increase diversity in the workplace?

## **K. Sexual harassment**

1. Have there been any changes in laws or employer practices regarding sexual harassment in the workplace?

## **L. Sustainability/ethical business**

1. Have there been any changes in laws or employer practices regarding sustainability/ethical business/green behaviour in the workplace (eg, anti-modern slavery regulation, corporate social responsibility initiatives)?

## **M. Technology/artificial intelligence**

1. Has there been an increase in employer reliance on artificial intelligence/workforce analytics software in your country?
2. Have artificial intelligence tools resulted in a loss of jobs or in the creation of new jobs in your country? If so, in which areas/industries?
3. Have there been any laws adopted in your country related to the use of artificial intelligence?
4. Who is responsible (state/government, employee, employer) for ensuring that employees obtain the skills required in an increasingly digitalised economy? Are there specific programs of government bodies/authorities providing training/support in this respect?
5. Have you noticed any effects of digitalisation/technical systems on employee representation?

## **III. Separation from Service**

### **A. Termination**

1. What changes have there been that affect the ability of employers to dismiss employees? Do employers in your country generally observe these procedures?
2. Are there other trends or specific models besides termination to reduce headcount/workforce related costs in your country?
3. Have there been any significant changes in relation to enforcement of restrictive covenants and obligations of confidentiality?
4. Have measures been taken in your country to ease the impact of Covid-19 on the labour market and to avoid dismissals/redundancies? If so, what laws and measures have been implemented (eg, extended furlough schemes, etc)?

## **B. Retirement**

1. Have there been any legal or employer changes related to early retirement, including the ability to impose early retirement?
2. Have there been government or employer efforts to incentivise employees to work longer due to longer life expectancies, financial need, lack of qualified workers, or other demographic or corporate needs?
3. Are limited public pension funds a concern, and how are the government and employers addressing this issue?
4. Have there been any developments regarding private (company sponsored) pension schemes?

## **C. Employment disputes**

1. Have there been any changes in the way employment cases before the courts and tribunals are reported, including the power to restrict reporting at the request of the parties?
2. Are employment disputes resolved more often in court or via arbitration proceedings?
3. Is it legal and common to have employment court hearings held by video rather than on-site in your country? Have there been changes due to the Covid-19 pandemic in this respect?

# **IV. Impact of Recent Political and World Events**

## **A. Covid-19 pandemic**

1. How has Covid-19 impacted the workplace in your country?
2. How has Covid-19 impacted the labour market in your country?
3. Please shortly summarise the main legislation adopted to address the pandemic's effect on human resources issues in your country.
4. Besides regulations implemented by the government, what are measures that employers take to ensure safety in relation to Covid-19 (eg, mandatory testing/vaccination, home office)?
5. What global human resources issues have arisen, or do you expect to arise, with respect to the Covid-19 pandemic and the resulting impact on the economy?
6. Are there any practices, rules or trends that were established during the Covid-19 pandemic that you envisage to be kept beyond the end of the pandemic (eg, remote work, different hygiene practices in the office, less in-person-meetings, less business travel)?

## **B. Other recent and political world events**

1. What global human resources issues have arisen, or do you expect to arise, with respect to current trade conflicts (eg, US–China, US–EU) and the resulting impact on the economy?
2. Have you seen labour and employment issues and legal changes in relation to the uncertainties surrounding Brexit, and do you expect additional developments now that Brexit has taken place?

### **Have you seen any other changes in the workplace as a result of increased isolationism/nationalism?**

3. Have there been notable human resources issues or regulatory developments in relation to other political developments (on a global and/or regional scale)?
4. Have you noticed any effects of climate change/climate change-related regulations on the labour market in your country?

## **V. Summing Up Current and Future Trends**

- A. What do you consider to be the top three challenges in the area of human resources law and practice in your country right now? Is your government considering or implementing any solutions?**
- B. Which human resources issues in your country generate the most litigation?**
- C. Which challenges in the area of human resources law and practice do you expect to become more important over the next five to ten years?**





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