



# Global Labor and Employment Law strategic guide

Bringing the S to ESG

July 2022

The EY logo consists of the letters 'EY' in a bold, white, sans-serif font. A yellow diagonal bar is positioned above the 'Y'.

Building a better  
working world

# Editor's letter



**Paula Hogéus**

EY Global Labor and Employment  
Law Leader and Nordics Law Leader  
[paula.hogeus@law.se.ey.com](mailto:paula.hogeus@law.se.ey.com)

What do we mean when we speak about labor and employment law in the Environment, Social and Governance (ESG) context? It's safe to say that labor and employment law belongs in the "S" of ESG – that is, social governance. Examples of some specific topics that connect labor and employment law with ESG include:

- ▶ Diversity, equity and inclusion (DE&I)
- ▶ Discrimination and equal treatment
- ▶ Pay transparency and minimum wages
- ▶ Collective bargaining agreements and social partnership
- ▶ Health and safety at the workplace
- ▶ Whistleblowing functions and non-retaliation

In previous years, many companies simply focused on ensuring compliance with various legal regulations. Now, with the increasing focus on ESG, we see that things are shifting. Corporations are important players in the global market, not just in relation to clients or customers, but also in relation to their employees. Instead of focusing on meeting minimum legal requirements, many companies are now eager to go beyond that in order to be "good citizens", thereby attracting and retaining talent. Global employers are also aware of the potential reputational risks which may arise from failure to comply – whether real or perceived.

With increasing regulations on corporate sustainability policies, workforce-related compliance is key. These are issues that many employers are facing, particularly those working in a multi-jurisdictional context with legal regulations varying from jurisdiction to jurisdiction.

We can also see that topics like human rights or corporate sustainability due diligence are becoming increasingly important. In February 2022, the EU Commission adopted a proposal for a directive on due diligence, which aims to foster sustainable and responsible corporate behavior. Though this is only a proposal for a directive, it highlights the importance of ESG within workforce-related areas and the regulatory trend.

This is something that is on the horizon, and something that employers will need to contend with in order to act as responsible global citizens. Taking this into account, corporations must evaluate whether to apply a one-size-fits-all policy framework or try to monitor and adapt to workplace regulations in different jurisdictions.

In this edition of EY's Global Labor and Employment Law Strategic Guide, we survey legal regulations relating to ESG in jurisdictions.

*The content is based on information current as of 30 June 2022.*

# Contents

Jurisdiction: (Click jurisdiction name to access full report)	Are there any statutory regulations for providing health and safety provisions in writing at the workplace?	Are there any specific employee/employer representative bodies that need to be appointed for supervising health and safety at the workplace?	Are there any statutory recurring procedures to be taken with respect to health and safety at the workplace?	Are there any mandatory recurring procedures to be taken by the employer in order to prevent discrimination and sexual harassment?	Are there any mandatory recurring procedures to be taken by the employer in order to ensure equal pay?	Is there a minimum wage that applies under law (including statutory collective bargaining agreements)?	Is there local legislation concerning human rights due diligence and/or supply chain due diligence?
<b>Argentina</b>	✓	✓	✓	✓	✓	✓	✗
<b>Australia</b>	✓	✓	✓	✗	✓	✓	✓
<b>Austria</b>	✓	✓	✓	✓	✓	✓	✗
<b>Belgium</b>	✓	✓	✓	✓	✓	✓	✗
<b>Canada</b>	✓	✓	✓	✓	✓	✓	✗
<b>China Mainland</b>	✓	✓	✓	✓	✓	✓	✗
<b>Costa Rica</b>	✗	✗	✓	✓	✓	✓	✗
<b>Czech Republic</b>	✓	✗	✓	✗	✗	✓	✗
<b>Denmark</b>	✓	✓	✓	✓	✓	✗	✗
<b>Finland</b>	✓	✓	✓	✓	✓	✗	✗
<b>France</b>	✓	✓	✓	✓	✓	✓	✓
<b>Germany</b>	✓	✓	✓	✗	✓	✓	✓
<b>Greece</b>	✓	✓	✓	✓	✓	✓	✗
<b>Hong Kong</b>	✓	✗	✓	✗	✓	✓	✗
<b>Indonesia</b>	✓	✓	✓	✓	✗	✓	✓
<b>Ireland</b>	✓	✗	✓	✗	✓	✓	✗

# Contents (contd.)

Jurisdiction: (Click jurisdiction name to access full report)	Are there any statutory regulations for providing health and safety provisions in writing at the workplace?	Are there any specific employee/employer representative bodies that need to be appointed for supervising health and safety at the workplace?	Are there any statutory recurring procedures to be taken with respect to health and safety at the workplace?	Are there any mandatory recurring procedures to be taken by the employer in order to prevent discrimination and sexual harassment?	Are there any mandatory recurring procedures to be taken by the employer in order to ensure equal pay?	Is there a minimum wage that applies under law (including statutory collective bargaining agreements)?	Is there local legislation concerning human rights due diligence and/or supply chain due diligence?
Italy	✓	✓	✓	✓	✗	✓	✓
Latvia	✓	✓	✓	✓	✓	✓	✗
Lithuania	✓	✓	✓	✓	✓	✓	✗
Mexico	✓	✓	✓	✓	✓	✓	✗
Netherlands	✓	✓	✓	✓	✓	✓	✗
New Zealand	✗	✗	✓	✗	✗	✓	✗
Norway	✓	✓	✓	✓	✓	✓	✓
Peru	✓	✓	✓	✓	✓	✓	✗
Poland	✓	✓	✓	✓	✗	✓	✗
Portugal	✓	✓	✓	✓	✓	✓	✗
Romania	✓	✓	✓	✗	✗	✓	✗
Spain	✓	✓	✓	✓	✓	✓	✗
Sweden	✓	✓	✓	✓	✓	✗	✗
Switzerland	✓	✗	✓	✗	✓	✗	✓
United Kingdom	✓	✗	✓	✓	✓	✓	✓
Uruguay	✓	✓	✓	✓	✗	✓	✗

# Argentina



**Nicolás Nigrelli**  
nicolas.nigrelli@ar.ey.com



**Javier Sabin**  
javier.sabin@ar.ey.com

## Health and safety at the workplace

In relation to employees and their rights, Argentinean employer's duties are to comply with section 75 of Law 20,744 (ECL) which states that the employer must observe the laws on health and safety at work (Laws 19,587, 24,557, 26,773 and 23,660) and to ensure breaks and observe the limits on working hours set out in Law 11,544.

Argentine law establishes a system to reduce workplace risks and to indemnify employees who become ill or injured at work. Pursuant to Law No. 24,557 and Law No. 26773 (LRT), all workers employed in the private sector are generally protected by its provisions.

## Non-tolerance for discrimination and sexual harassment

In February 2022, Convention 190 of the International Labor Organization (ILO) entered into force in Argentina, as it was ratified via Law 27,580.

This Convention is the first international treaty to recognize the right of everyone to a workplace free from violence and harassment, including gender-based violence and harassment.

Further, Argentinean labor law (ECL), which governs employment relationships in the private arena, establishes that all forms of discrimination between employees based on sex, race, nationality, religion, political opinion, union, or age is prohibited.

Moreover, section 1 of Law 23,592 sets out that anyone who arbitrarily prevents, obstructs, restricts or in any way undermines the full exercise, on an equal basis, of the fundamental rights and guarantees recognized in the National Constitution, will be obliged, at the request of the injured party, to nullify the discriminatory act or cease carrying it out and to repair the moral and material damage caused. For the purposes of this law, discriminatory acts or omissions determined for reasons such as race, religion, nationality, ideology, political

or union opinion, sex, economic position, social condition, or physical characteristics will be particularly considered.

## Equal pay

According to Argentinean law, employees should receive equal payment for the same tasks performed. Further, women's full capacity to enter into all types of agreements and equal pay to men and women who perform jobs of equal value is recognized by law.

Moreover, Law No. 26,485 on Comprehensive Protection for Women, enacted in 2009, establishes that the limitation or control of women's earnings, as well as receiving lower pay for the same job within a same workplace is deemed to constitute economic and financial abuse.

## Minimum wages

In Argentina, a single general minimum wage is established for all industrial and office workers. In addition, there are collective bargaining agreements that regulate employment conditions for specific activities (Section 116-120, ECL).

## Human rights due diligence

In accordance with the United Nations Guiding Principles on Business and Human Rights, companies in the world must have appropriate policies and procedures, as well as due diligence, to identify, prevent and mitigate all the negative consequences for human rights that they may cause. The due diligence process should include an assessment of the actual and potential impact of the activities on human rights. The monitoring of the effectiveness of the response must be based on adequate indicators.

Therefore, it will be a great challenge for companies in Argentina to guarantee the proper implementation of these kinds of processes regarding human rights.

# Australia



**Andrew Ball**

andrew.ball@au.ey.com



**Donna Trembath**

donna.trembath@au.ey.com

## Health and safety at the workplace

Australian legislation requires employers to ensure, so far as reasonably practicable, the health and safety of workers and other persons at the workplace.

Under the model Work Health and Safety Act (Model WHS Act), which applies in all states and territories (other than Victoria), it is generally not mandatory for employers to provide employees with information in writing about WHS. However, there are some exceptions (e.g., providing employees with Material Safety Data Sheets about precautions regarding hazardous chemicals).

Under the Model WHS Act, there are provisions for electing a health and safety representative (HSR) at the request of a worker, and electing health and safety committees on request by an HSR or five or more workers. Otherwise WHS committees are not mandatory.

Depending upon the industry, there are necessary recurring procedures necessary to be taken with respect to health and safety, including electrical testing and tagging, licensing, accreditation and other testing requirements. The requirement details are contained in the Model WHS Act, regulations and specific legislation (e.g., mining or transport industry legislation).

## Non-tolerance for discrimination and sexual harassment

There are no mandatory recurring procedures to prevent discrimination and sexual harassment. However, in practice, at a minimum, it is necessary for employers to have a written anti-discrimination policy to defend against discrimination and sexual harassment claims. Both State and Federal Governments have anti-discrimination legislation that makes it unlawful for an employer to discriminate against an employee, or prospective employee, on certain prohibited grounds (e.g., age, race, sex or disability). From 2021, employees may also apply for “stop sexual harassment” orders from the Fair Work Commission.

## Equal pay

The Workplace Gender Equality Act 2012 (Gender Equality Act) applies to non-public sector employers with 100 or more employees.

Employers must submit an annual report to the Workplace Gender Equality Agency (WGEA) providing information about employee remuneration and structuring. This report must be signed by the CEO/head of business or relevant equivalent. The WGEA uses this information to calculate the gender pay gap. However, an organization is entitled to keep its own pay gap information confidential.

## Minimum wages

There is a national minimum wage that applies under law, currently AUD 21.38 per hour, increasing on 1 July each year. Australia also has a system of modern awards that set minimum terms and conditions of employment including wages, overtime, penalty rates, allowances and loadings.

## Human rights due diligence

Modern slavery legislation applies to supply chains, including the Modern Slavery Act 2018, which imposes a reporting requirement on large organizations and other entities with annual consolidated revenue of at least A\$100m. The entity must identify and address its modern slavery risks in this report. The state of New South Wales has introduced similar modern slavery legislation for government agencies in 2022.

Many of these laws have been introduced in the past decade. Keeping up-to-date with anti-modern slavery obligations should be an integral part of organizations' ESG strategy.

# Austria



**Helen Pelzmann**  
helen.pelzmann@eylaw.at



**Susanne Paul-Malek**  
susanne.paul-malek@eylaw.at

## **Health and safety at the workplace**

According to Austrian law, employers are required to ensure the protection of employees in all aspects of their employment and are responsible for the safety and health protection of their employees. The specific regulations in this regard are provided by the Austrian Occupational Safety and Health Act (ASchG) and the related regulations. Employers are required to identify and assess existing safety risks. Accordingly, the employer is required to define measures to prevent or mitigate such risks. Violations of the provisions of the ASchG are subject to considerable administrative penalties.

## **Non-tolerance for discrimination and sexual harassment**

The general principle of equal treatment strictly bans an employer from treating an employee less favorably than the majority of employees in the company without objective justification. The key element of the Austrian Equal Treatment Act (Gleichbehandlungsgesetz, or GIBG) is the concept of anti-discrimination. While discrimination might take various forms (harassment, discrimination in pay, etc.), its common characteristic is that a particular person receives less favorable treatment than other persons placed in similar conditions. To prevent such discrimination, the GIBG provides that unequal treatment on the grounds of certain characteristics is prohibited and subject to administrative penalties.

## **Equal pay**

Pursuant to the GIBG, companies with more than 150 employees are required to provide their employees with a “pay analysis report” every two years. The objective of this provision is to make visible the differences in income between women and men that may exist within the company. In addition, employees who believe they are experiencing pay discrimination have the means of accessing information on the incomes of other employees to carry out an objective assessment.

## **Minimum wages**

In general, there is no statutory minimum wage/salary for employees in the private sector. However, mandatory minimum wage/salary entitlements are usually set in collective bargaining agreements. In the event of underpayment, administrative penalties may be imposed under the Austrian Wage and Social Dumping Prevention Act (LSD BG) and in other legislative instruments. The LSD BG also provides those minimum pay standards for posted and assigned employees.

## **Human rights due diligence**

There is currently no Austrian legislation with regard to human rights due diligence.

The main Austrian statutory principles on human rights are the Austrian Fundamental Law (Staatsgrundgesetz) and the European Convention of Human Rights and Fundamental Freedoms (ECHR). In addition, key fundamental rights are set out in the Federal Constitutional Act (B VG) itself, for example in Art 7B (general principle of equality) and Art 83(2) (right to a fair trial). Numerous other constitutional laws and provisions which may be viewed as human rights are regulated via other laws, such as the prohibition of all forms of racial discrimination, the protection of personal freedom and an individual’s data privacy.

# Belgium



**Barbara François**

barbara.francois@be.ey.com



**Marie-Emilie Truyens**

marie-emilie.truyens@be.ey.com

## Health and safety at the workplace

In general, the employer, acting as a bonus pater familias, has an obligation to guarantee that employees are able to perform their work under the appropriate health and safety standards at work (Art 20, 2° of the Employment Contracts' Act of 3 July 1978).

The most relevant regulation on health and safety is the Wellbeing Act of 4 August 1996 and the Code on Wellbeing at Work of 28 April 2017. The Wellbeing Act obliges employers to take all measures necessary to promote and guarantee the wellbeing of their employees at work.

The legislation on wellbeing at work defines principles, but not the means to achieve these principles. This grants flexibility to the employer. The employer must instruct employees regarding health and safety at work and set out measures to ensure compliance.

In addition to safety, some of the wellbeing obligations the employer faces that are covered in the Wellbeing Act include:

- ▶ Psychosocial aspects
- ▶ Ergonomics
- ▶ Employment hygiene

Furthermore, the employer is required to publish several mandatory documents pertaining to health and safety at work. The most important ones are:

- ▶ A five-year Global Prevention Plan (including the company's risk analysis and the envisaged prevention activities, taking into account the size of the company and the nature of the risks)
- ▶ An Annual Action Plan (derived from the five year Global Prevention Plan)
- ▶ Work Rules (establishing the general working conditions and specific provisions regarding psychosocial risks at work)

Non-compliance with health and safety obligations can be sanctioned under the Belgian Social Penal Code, (if necessary) the Penal Code or Civil Code.

## Non-tolerance for discrimination and sexual harassment Discrimination

The Belgian Constitution guarantees the equality of Belgian citizens and the equality between men and women. It also guarantees the exercise of the rights and freedoms for all Belgian citizens without any discrimination.

The protected criteria under the Anti-Discrimination Act of 10 May 2007 (and related legislation) are the following:

- ▶ Sex
- ▶ Sexual orientation
- ▶ Religious or philosophical belief
- ▶ Disability
- ▶ Marital status
- ▶ Birth
- ▶ Wealth
- ▶ Political conviction
- ▶ Labor union membership
- ▶ Age
- ▶ Language
- ▶ Current or future health condition
- ▶ Physical or genetic characteristics
- ▶ Social background
- ▶ Race
- ▶ Skin color
- ▶ Nationality
- ▶ National or ethnic origin or descent





# Belgium

Direct or indirect discrimination based on one of the protected criteria is forbidden. If, in the framework of an employment relationship, direct or indirect discrimination is established, criminal or civil sanctions (or both) may be imposed.

## **Sexual harassment**

The wellbeing regulation provides for specific rules regarding psychosocial risks at work (including sexual harassment). It is the employer's responsibility to take the necessary measures to prevent psychosocial risks at work, to prevent the damage resulting from these risks and to limit this damage.

An employee who is the victim of sexual harassment at work may claim compensation for the material and moral damage suffered. Further, under Belgian law, the claimant of sexual harassment, or any witness formally intervening, is protected from retaliation measures.

## **Equal pay**

The Anti-Discrimination Act of 10 May 2007 prohibits any discrimination in the framework of the employment relationship, including any concerning the remuneration received for work performed.

Furthermore, Collective Bargaining Agreement (CBA) no. 25 sets out specific clauses that impose equal pay for men and women for equal or equivalent work.

Belgium has taken additional measures to eliminate the gender pay gap. For example, the CBAs and function classification systems at industry level must be gender-neutral. These measures seem to be effective since, according to the latest figures from the Belgian statistical office, the pay gap between men and women in Belgium has decreased from 10.2% in 2010 to 5.3% in 2020.

## **Minimum wages**

In principle, minimum hourly wages (for blue-collar employees) or minimum monthly wages (for white-collar employees) are fixed by industry in CBAs. However, these minimum wages may never be lower than the guaranteed average minimum monthly pay determined in a CBA concluded at national level.

## **Human rights due diligence**

At present, there is no specific regulation in Belgium establishing a human rights due diligence obligation for companies.

However, a National Action Plan on Business and Human Rights was concluded in 2017. In the context of the National Action Plan, various resources were developed to provide individuals and organizations with additional explanations on how human rights can be integrated into the functioning of organizations (e.g., the [Human Rights Toolbox](#) and a [brochure](#)).

# Canada



**Bianca Maria Tedesco**  
bianca.m.tedesco@ca.ey.com

## Health and safety at the workplace

In Canada, labour and employment laws are the responsibility of each province and territory. Certain workplaces are regulated by the federal government, which has its own labour and employment laws.

Generally, the legislation applicable will depend on the province or territory where an individual works. Federal legislation only applies to federally regulated industries and federal Crown corporations across Canada, regardless of location.

Applicable statutes outline the rights and responsibilities of the employer, supervisor, and worker. For example, typical legislation entitles all workers to know about health and safety matters, participate in decisions that could affect their health and safety, and the right to refuse work that could affect their health and safety and that of others.

Naturally, over the past several years, and in particular response to public health directives requiring social distancing, remote work has risen, and in some cases, an employee's home may be considered an extension of the workplace. Specifically, if the home is where the employee is engaged in work for his or her employer. In such jurisdictions, requirements and duties set out in Occupational Health and Safety Legislation ("OHSL") may apply, including general duty clauses, which require employers to take precautions for the protection of workers.

In addition to OHSL, the Workplace Hazardous Materials Information System (WHMIS) is Canada's national hazard communication standard that applies in all Canadian workplaces. It is a comprehensive plan for providing information on hazard classification, cautionary labelling of containers, the provision of material safety data sheets, and worker education and training programs.

## Non-tolerance for discrimination and sexual harassment

Discrimination, Harassment, and Sexual Harassment are all prohibited under OHSL and human rights legislation.

In Canada, the rights of employees and the responsibilities of employers regarding sexual harassment are set out in provincial/territorial legislation (human rights and/or OHSL) or Federal legislation (Canada Labour Code and the Canadian Human Rights Act).

For example, the prohibited grounds of discrimination under the Canadian Human Rights Act, are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability, and pardoned conviction. These prohibited grounds of discrimination are largely consistent with the grounds set out under provincial legislation.

Sexual harassment as defined under the Canada Labour Code, includes any conduct, comment, gesture, or contact of a sexual nature that is likely to cause offence or humiliation to any employee; or that might, on reasonable grounds, be perceived by that employee as placing a condition of a sexual nature on employment or any opportunity for training or promotion.

Similar language is set out by the provinces and territories in their relevant employment standards legislation and/or OHSL.

In most jurisdictions, applicable legislation requires employers to implement certain policies and procedures to prevent and respond to occurrences of workplace violence and harassment.



# Canada

## **Equal pay**

In many Canadian jurisdictions, workers are entitled to workplace compensation practices that are free from gender-based discrimination, often referred to as “equal pay for equal work” or “pay equity”. Several, but not all, provinces have enacted pay equity laws.

Pay equity attempts to equalize wage rates between workers performing work of equal value.

In addition to working to prevent gender-based discrimination in compensation, the federal government enacted the Employment Equity Act (“EEA”), which applies to federally regulated workplaces with 100+ employees and provincially regulated employers participating in the Federal Contractors’ Program. Employment equity laws are designed to eliminate barriers to employment for equity-seeking groups, namely: women, aboriginal peoples, persons with disabilities, and members of visible minorities. Employers subject to these laws must prepare an employment equity plan which specifies the policies and practices that they will undertake to achieve employment equity. Pay transparency is an additional new requirement under this federal law.

## **Minimum wages**

As Canada’s employment laws are a matter of provincial and territorial jurisdiction (except with respect to Federal undertakings), each province and territory sets its own minimum wage. At the time of writing, minimum wages across Canada range between CAD\$11.81 to CAD\$15.70 per hour. Employment standards legislation in each jurisdiction also sets out minimum hour entitlements, maximum hours of work and overtime entitlements.

## **Human rights due diligence**

There is currently no legislation requiring employers to undertake human rights due diligence. Canada expects companies to voluntarily respect human rights when operating abroad.

The Canadian government is continuing to review proposed laws to promote human rights due diligence by companies and to encourage and facilitate the sharing of best practices. Currently under review is the Modern Slavery Act, which would prohibit the import of goods manufactured or produced, in whole or in part, by forced labour or child labour. Advocacy groups are also calling on Canada to adopt legislation with respect to human rights and environmental due diligence abroad.

# China Mainland



**William WL Zhang**

william-wl.zhang@cn.ey.com



**Annie HP Li**

hui ping.li@chenandco.com

## **Health and safety at the workplace**

The China Labor Law sets out the generally applicable health and safety rules in the workplace. Employers should provide employees with national standard safety and sanitation conditions and the necessary labor protection equipment, as well as carry out regular health examinations for employees engaged in work involving occupational hazards. In addition, there are hundreds of rules on workplace safety standards for different industries and job position-specific requirements.

An employment contract must include contents concerning labor protection, work conditions, and protection against, and prevention of, occupational hazards. Employees are entitled to criticize, expose or institute legal proceedings based on inadequate safety or sanitation conditions. Employees must strictly comply with their employers' safety rules.

Employers may face liability for their failure to maintain a safe and healthy working environment in the event of an incident.

## **Non-tolerance for discrimination and sexual harassment**

The PRC Labor Law specifies that employees should be treated equally regardless of their ethnic group, race, sex or religious belief and thus should not be discriminated against on account of any of these aspects in their employment.

Sexual harassment is forbidden, and it is prohibited to injure a person's reputation or personal dignity by insult or slander.

The employer should take reasonable precautions, accept and hear complaints, investigate and handle cases, and take other similar measures to prevent and stop sexual harassment conducted by a person taking advantage of their position and power or a superior-subordinate relationship.

## **Equal pay**

At present, the collective bargaining system in China is not extensively developed; most enterprises do not have collective bargaining agreements and are using industrial or regional collective bargaining agreements as a starting point. Equal pay for equal work is a distribution principle established by Article 46 of the Labor Law. This means that employers must pay approximately the same remuneration to employees holding the same job title and providing the same services. In principle, equal pay for equal work is relative instead of absolute. Even between employees holding the same job title, there are differences in seniority, capability and experience. A small difference in remuneration does not violate the principle of equal pay for equal work as long as the remuneration is approximately the same.

## **Minimum wages**

China does not have a uniform minimum wage standard at the national level. The specific minimum wage standards are determined by provincial governments, autonomous regions or municipalities directly under the central government. The wages of an employee cannot be lower than the minimum wages stipulated by the local government unless the employee did not provide services to the employer within the statutory working time or the working time as agreed upon in the employment contract due to the employee's personal reasons.

## **Human rights due diligence**

There is no local legislation regarding human rights due diligence.

# Costa Rica

## Health and safety at the workplace

The handling of the workforce may directly impact how investors and potential employees value your business. Based on the above, it is vital to consistently reassess concepts such as productivity and the company's culture.

The matter of wellbeing in the workplace has been constantly evolving since the emergence of Labor and Employment Law. However, it is safe to say that the issue of health and safety at the workplace will remain the main topic of discussion in the years to come.

There is a clear need for employers to adapt faster and more efficiently. New technologies, working with global teams located in different timezones, constant communication and hyper-connectivity have brought new issues to the table, specifically in relation to employees' physical and mental health.

In Costa Rica, there is a constitutional mandate for employers to apply all required measures to ensure a healthy work environment. Based on this mandate, during the pandemic, employers have been allowed to request mandatory vaccination, social distancing and mask use in their facilities.

Additionally, Costa Rican employers must comply with a policy against occupational hazards and report employees to the Social Security Administration (CCSS) to ensure that employees have access to health care, even if the accident or illness is not work-related.

In 2022, legislation regarding the right to disconnect came into force. Thus, companies should be issuing internal regulations and communications to inform employees of the procedures set in place to implement the new law.

## Discrimination, equal pay and sexual harassment

There has been a law in force in relation to sexual harassment since 1995. This law establishes a protection against dismissal for any employee that files a sexual harassment claim and defines the specific procedure that should be followed to investigate the claim and properly grant the right of defense to the respondent.

Also, since 2017, Costa Rica has reinforced its rules against discriminatory practices in all stages of the employment relationship. These rules protect candidates against discrimination in the recruitment process, and employees from discriminatory practices even when the employment relationship comes to an end.

This ensures that labor decisions are properly substantiated on an objective reason. Due to the above, filling specific diversity quotas may be a contingent practice for employees, if based solely on the employees' personal traits and not on their experience, competences, etc.

All employers should promote impartiality and fairness within their internal policies and procedures. Pay transparency and policies that guarantee equal pay are also vital. It is key to train all decision-making employees to identify unconscious biases and focus on the company's business needs and the abilities, experience, talents and skills that each employee has to offer.



Laura Navarrete Hernández  
laura.navarrete@cr.ey.com



# Costa Rica

## Minimum wages

Annually, Costa Rica updates the minimum wage applicable to each position or category of employee. There is not just one minimum wage, but there are multiple categories. The applicable wage will depend on the employees' tasks and duties.

## Human rights due diligence

There is currently no Costa Rican legislation with regard to human rights due diligence.

## Summary

A diverse and inclusive workplace leverages from the different perspectives, becomes more innovative and collaborative, and strengthens the employees' capacities to work on a globalized environment.

Companies face the challenge of adjusting to this new reality and creating internal rulings that adapt to both the employer and the employees' needs and expectations (even if the authorities have not defined laws or established proper guidance on how to deal with certain issues).

The way a company manages the relationship with its personnel is essential for becoming an employer of choice and defining how competitive a business is.



# Czech Republic



**Ondřej Havránek**

ondrej.havranek@cz.eylaw.com



**Barbora Suchá**

barbora.sucha@cz.eylaw.com

## Health and safety at the workplace

In the Czech Republic, the social aspects of ESG concept are mainly governed by the Labor Code, which imposes a number of related statutory obligations on employers.

The employer shall create a safe and harmless working environment and working conditions through suitable organization of work and adoption of preventive risk measures, including providing employees with personal protective equipment or regular health and safety training. Any costs connected with ensuring occupational health and safety protection must be borne by the employer in full.

Even though it is the employer who is primarily obliged to ensure health and safety at the workplace, each employee is obliged to care for their own safety and health, as well as that of other persons immediately affected by their work. Employees are further obliged to wear personal protective equipment, participate in required training sessions, comply with instructions of the employer etc.

Employees may choose to elect a health and safety representative. If elected, the employer must discuss substantial measures related to occupational health and safety with this representative. Trade unions also have broad rights in the health and safety area, including performance of workplace inspections.

## Non-tolerance for discrimination and sexual harassment

Any discrimination in employment relationships, including harassment and sexual harassment, is prohibited. The employer is obliged to actively ensure satisfactory and safe conditions for work performance including prevention of discrimination through adoption of adequate measures.

If any form of discrimination does take place and the employer becomes aware of it, they must take adequate action.

## Equal pay

The principle of equal treatment of all employees stipulated in the Labour Code includes the principle of the same remuneration for the same work or work of the same value. However, public data shows that there is still a wide gender pay gap of approximately 20%.

## Minimum wages

Employers are obliged to pay employees at least the minimum wage for work performed, which is currently approximately EUR 650 per month or EUR 3.90 per hour. In addition, there are eight levels of guaranteed salary that employees must receive depending on the complexity of their work.

## Human rights due diligence

Currently, there is no statutory obligation of employers to carry out human rights' due diligence. However, as the European Commission adopted a proposal for a directive on corporate sustainability due diligence, the situation may change.

## Trends

The above topics form only a part of the ESG concept that must be followed by employers. Observance of their statutory obligations is subject to regular labor inspections. Nevertheless, their compliance actions are limited, and particular results are not publicly accessible.

However, under the EU legislation, as well as pressure from employees to receive information on ESG compliance, employers will need to adopt mechanisms and processes for ESG compliance monitoring and reporting, e.g., through appointment of employees with dedicated ESG compliance responsibilities, and publishing data on compliance with ESG principles.

# Denmark



**Julie Gerdes**

julie.gerdes@dk.ey.com



**Kamma Bøhl**

kamma.boehl@dk.ey.com

## Health and safety at the workplace

Health and safety at the workplace is governed by the Danish Working Environment Act as well as supplementary provisions issued by the Work Environment Authority. Employers must systematically plan, lead and monitor their organization to ensure compliance with the relevant health and safety regulations. Among other things, employers must ensure a satisfactory work environment for all their employees.

All health and safety representation in Denmark is conducted through joint employer/employee bodies.

When a company has 10 or more employees, there must be a Health & Safety organization (HSO). The HSO must reflect the subsidiarity principle, including having the required number of members and groups at all times in order to perform the tasks in question relating to health and safety as follows:

- ▶ Organizations with 10-34 employees require one level (Working Environment Act s6a)
  - ▶ Level 1: Appointed supervisor(s)
  - ▶ Level 1: Elected health and safety representative(s)
- ▶ Organizations with 35 or more employees require two levels (Working Environment Act s6b)
  - ▶ Level 1: Appointed supervisor(s)
  - ▶ Level 1: Elected health and safety representative(s)
  - ▶ Level 2: Appointed chairman

Where there are less than nine employees, the health and safety work must take place through ongoing direct dialogue between the employer, the employees and any supervisors (Working Environment Act s6).

## Non-tolerance for discrimination and sexual harassment

According to the Danish Act on Equal Treatment of Men and Women and Danish case law, employers have an extensive responsibility to prevent discrimination and sexual harassment and shall actively promote equal treatment at the workplace.

This includes an obligation to investigate and prevent discrimination and sexual harassment in the workplace. As soon as an employer has reason to believe that an employee may be harassed or has been harassed, the obligation to investigate is triggered. This means that the employer must:

- ▶ Investigate what has happened
- ▶ Implement measures to prevent the harassment from continuing and
- ▶ Ensure follow up measures are taken and that those measures have the desired effect

The employer must also have guidelines and procedures in place in order to counteract harassment, sexual harassment and retaliation. Policies must clearly state that harassment, sexual harassment and retaliation are not accepted within the organization.

However, if such harassment or retaliation does take place, the guidelines shall outline:

- ▶ To whom employees shall turn to in case they feel harassed
- ▶ What the employer shall do in cases where harassment, sexual harassment or retaliation may have occurred
- ▶ Who is responsible for investigating the allegations





# Denmark

## **Equal pay**

Under the Danish Act on Equal Pay, employers must perform an annual salary mapping.

The salary mapping must be documented in writing if the employer has 35 or more employees and have at least 10 men and women within the same working position.

The mapping shall list the salary for men and women who perform equivalent work and shall contain an overview of the results of the salary mapping.

## **Minimum wages**

There is no statutory minimum wage in Denmark. Instead, the parties in the labor market will determine minimum wages by way of collective bargaining agreements.

## **Human rights due diligence**

There is currently no Danish legislation with regard to human rights due diligence.

# Finland



**Maiju Kurvi**  
maiju.kurvi@fi.ey.com



**Kaisa Heinäsmäki**  
kaisa.heinasmaki@fi.ey.com

## Health and safety at the workplace

The Occupational Safety and Health Act imposes an obligation on the employer to ensure the safety and health of employees at the workplace.

As a part of this obligation, employers must conduct risk assessments to analyze and identify possible hazards and risk factors caused by the work and plan and adopt measures to diminish or eliminate the risks.

The work environment and work must be designed in a way that considers impact on the safety and health of the employees. Employers must provide the employees with appropriate training and guidance on safe working practices, in addition to personal protective equipment when necessary.

Furthermore, employers are under an obligation to organize occupational healthcare and insure employees against occupational accidents and diseases.

## Non-tolerance for discrimination and sexual harassment

Employers are responsible for promoting equality among employees. Discrimination, both direct and indirect, as well as an order or instruction to discriminate, are forbidden in hiring, during the employment relationship, and in terminating the employment relationship.

According to the Non-Discrimination Act and the Act on Equality between Women and Men, an employer may not place an employee in a different position on grounds of:

- ▶ Age
- ▶ Ethnic origin
- ▶ Nationality
- ▶ Family relationships
- ▶ Disability
- ▶ Sexual orientation
- ▶ Gender

or any other personal characteristics.

Employers must ensure that their employees are not subject to sexual or gender-based harassment in the workplace. Failure of an employer to take action to eliminate sexual or other gender-based harassment in the workplace is considered discrimination.

An employer breaching the prohibition on discrimination could be liable to pay compensation to the affected person and could face criminal penalties.

## Equal pay

The employer's responsibility to promote equal treatment includes promoting equal pay.

A pay survey, conducted as part of the gender equality plan to be prepared at least every two years, is used for ensuring that there are no unjustified pay differences between women and men who are working for the same employer and engaged in the same work or work of equal value. If there are no justifications for the pay differences, the employer must take appropriate measures to rectify the situation.

Gender-based discrimination regarding pay is prohibited. The prohibition of pay discrimination also forbids different treatment of employees on grounds of pregnancy, childbirth, parenthood, or family responsibilities.

In addition to the gender-based equal pay, employers also have a general obligation for equitable treatment in pay, which includes that employees performing the same or equivalent work are entitled to equal pay.

## Minimum wages

In Finland, minimum wages are not regulated under the law, as salaries are usually determined according to the terms of Collective Bargaining Agreements (CBAs).



# Finland

Most industries are covered by generally applicable CBAs, which define the minimum terms of employment to be applied in employment relationships. The generally applicable CBAs are binding on their respective sectors, including on employers which are unaffiliated (i.e., those employers that are not members of an employers' organization).

The CBAs include provisions on the determination of the salary type, job-specific and personal salary components, and any separate pay components related to working hours, together with annual wage increases.

If there is no applicable CBA to the employment relationship and if the employer and the employee have not agreed on a salary, the employee must be paid a usual and reasonable wage.

## **Human rights due diligence**

Currently, no human rights due diligence obligation exists under national law in Finland.

However, this is likely to change in the future as the government has included in its Government Program an entry on preparation of a report regarding a law on corporate social responsibility.

While the EU Directive on corporate sustainability due diligence is under preparation, the Finnish Ministry of Economic Affairs and Employment has recently published a memorandum investigating the possible content of such due diligence obligation in national legislation. The due diligence legislation could set out provisions on the measures required by companies to identify, prevent, mitigate, and remedy the adverse impact on human rights and the environment caused by the organization's operations and monitor the implemented measures. According to the memorandum, EU Member States are to consider whether national legislation should be enacted before the corresponding EU regulation comes into force.

It is best practice to start preparing for the new obligations, including planning of the organization's policies and procedures for compliance, in advance.



# France



**Anne-Elisabeth Combes**  
anne-elisabeth.combes@  
ey-avocats.com



**Marie-Pascale Plot**  
marie-pascale.plot@  
ey-avocats.com

## Health and safety at the workplace

In France, the employer is under a strict obligation to provide a working environment which is free of hazards to the employee's health and safety. Case law emphasizes the employer's obligation to ensure employees' protection against moral harassment or bullying. Health and safety is no longer limited to the employees' physical integrity but also psychological conditions.

A professional prevention account must be in place for each employee whose position entails a high level of arduousness. At this time, ten factors of strain risks have been identified:

- ▶ Activities in hyperbaric environments
- ▶ Extreme temperatures
- ▶ Night work
- ▶ Work in successive alternating shifts and repetitive work
- ▶ Manual handling of loads
- ▶ Painful postures
- ▶ Mechanical vibrations
- ▶ Dangerous chemical agents
- ▶ Extreme temperatures
- ▶ Noise

## Non-tolerance for discrimination and sexual harassment

Employers have an extensive responsibility to prevent discrimination and moral and sexual harassment at the workplace.

The French Labor Code provides that all employer decisions (hiring, remuneration, training, promotion, sanctions, transfer, dismissal, etc.) must be based on professional criteria and not on the following criteria, including:

- ▶ Origin
- ▶ Sex
- ▶ Age
- ▶ Political opinions
- ▶ Trade union activity
- ▶ The employee's health
- ▶ Sexual orientation or identity
- ▶ Family situation or pregnancy
- ▶ Genetic characters
- ▶ Particular vulnerability resulting from their economic situation
- ▶ Belonging or non-belonging, real or suspected, to an ethnic group, nation or race
- ▶ Holding of an elective mandate
- ▶ Religious beliefs
- ▶ Physical appearance
- ▶ Family name
- ▶ Place of residence or bank domiciliation, etc.

Employees must not be victims of recurring moral harassment by instituting working conditions likely to alter their rights or dignity, mental or physical health or to compromise their professional future. In addition, the workplace must be free from constant remarks or behaviors with sexual overtones which either infringe the employee's dignity because of their degrading or humiliating nature, or create an intimidating, hostile or offensive situation for the employee. The definition of sexual harassment in the Labor Code has recently been amended and extended to include comments and behavior with a sexist connotation, as well as comments and behavior committed by several persons, whether or not in a concerted manner, including one-off instances.



## Equal pay

Equal pay for men and women is required by French law, encapsulated by the phrase “à travail égal, salaire égal” or “equal work for equal pay”.

This obligation is accompanied by a financial penalty of up to 1% of the total payroll amount if not complied with (French Labor code, L2242-8).

Organizations with more than 50 employees must publish an annual index showing the gender pay discrepancy. Based on this index, organizations must implement concrete measures in order to ensure equal pay. The law stipulates that these measures must be in place within three years. In the event that the unjustified pay discrepancies remain, the organization may be subject to a financial penalty.

This obligation has already been implemented by organizations with more than 250 employees since 1 September 2019 and in organizations with more than 1,000 employees since 1 March 2019.

## Minimum wages

In principle, parties to an employment contract are free to determine the amount of remuneration by mutual agreement between the employer and the employee and include it in the employment contract.

Nevertheless, there is some limits to this principle: The parties to the contract must, in fact, respect a certain number of parameters, including:

- ▶ The Salaire Minimum de Croissance (SMIC): the French legal minimum wage, representing the minimum amount (lowest salary) per hour or per month that employers must legally pay their employees. The SMIC is revalued according to the inflation, measured by the 20% of households with the lowest incomes.
- ▶ Minimum wages resulting from collective bargaining agreements (CBAs), organizational practices or unilateral commitments of the employer (all employers must apply a CBA, based on their main activity, which provide for minimum wages by categories of employees negotiated at sector level by trade unions).
- ▶ The principle of non-discrimination.

## Human rights due diligence

The French law on the duty of vigilance for certain parent companies, adopted in 2017, requires the identification of all risks of human rights and environmental abuses, including when committed by their direct or indirect subsidiaries in France or in any other country.

The law applies to the largest companies (more than 5,000 employees in France or more than 10,000 employees globally). The relevant companies must notably draw up a vigilance plan, including reasonable due diligence measures to identify risks and prevent serious violations of human rights and fundamental freedoms, the health and safety of persons and the environment.

A number of enforcement proceedings are currently pending on the basis of this law.



# Germany



**Bärbel Kuhlmann**

baerbel.kuhlmann@de.ey.com



**Max Freimüller**

max.freimueller@de.ey.com

## **Health and safety at the workplace**

Under German law, the regulations of the legislation known as the Occupational Health and Safety Act (Arbeitsschutzgesetz) provide for specific requirements in order to ensure and improve the safety and health of employees. Such requirements range from regular briefings of employees on their obligations under the act to the requirement to design a workplace in an ergonomic manner.

Both employer and employee have a significant interest in safety and health at work. It is of particular interest of an employer to implement adequate measures in order to avoid disruptions to operational processes. Employers may delegate responsibilities to an individual occupational health and safety officer.

## **Non-tolerance for discrimination and sexual harassment**

The Federal General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz, or AGG) aims to prevent or eliminate discrimination on the grounds of race or ethnic origin, gender, religion or belief, disability, age, or sexual identity.

Sexual harassment also constitutes a prohibited discrimination within the meaning of the act. It is prohibited to discriminate against employees for any of the above-mentioned reasons.

It is therefore up to the employer to prevent any discrimination within the organization. Employers are well-advised to undertake preventive measures, such as mandatory training of their employees to raise awareness of what may constitute discriminatory behavior.

If, despite these measures, discriminatory behavior occurs, employers are obliged to take measures that are appropriate and proportionate to sanction such a behavior. Such sanction may range from a warning to a termination of the employment relationship in the individual case. If an employer fails to take adequate measures and thereby protect its employees, an employee who has been discriminated against may claim

damages and compensation; In addition, the employee has a right to withhold work performance without loss of pay.

## **Equal pay**

To ensure pay equality, the Federal Pay Transparency Act (Entgelttransparenzgesetz, or EntgTranspG) prohibits discrimination in pay. The act entitles employees to equal payment for equal work as well as work of equal value without discrimination on the grounds of gender.

The act also clearly stipulates what “equal work” and “equal value” mean: Female and male employees perform equal work if they perform identical or similar work at different workplaces or successively at the same workplace. Employees perform work of equal value if they are in a comparable situation based on a totality of factors.

According to recent case law, any payment below the median salary of the other gender indicates a violation of the equal pay principle and may lead to potential claims by employees against their employer. An employer can only successfully defend any such claim by providing adequate proof that reasons other than the employee’s gender have led to the lower salary.

## **Minimum wages**

The minimum wage is intended to ensure an appropriate minimum level of protection for employees. The Federal Minimum Wage Act (Mindestlohngesetz, or MiLoG) came into force in 2014 and supplemented the existing minimum wages in collective bargaining agreements (CBAs) applicable in certain sectors. Pursuant to the MiLoG, every employee has a right to payment of remuneration at least at the minimum wage (currently EUR 9.82 gross; due to increase to EUR 10.45 gross as of 1 July 2022). The minimum wage is regularly adjusted by a commission.



# Germany

It is not possible to undercut the minimum wage or to effectively agree exclusion periods in employment contracts that relate to the minimum wage. The minimum wage can neither expire nor be forfeited.

## **Human rights due diligence**

With the Supply Chain Sourcing Obligations Act (Lieferkettensorgfaltspflichtengesetz or LkSG) coming into force on 1 January 2023, Germany is taking quite a pioneering role. The LkSG introduces human rights-related due diligence obligations for companies that employ more than 3,000 people in Germany. In 2024, the threshold will be lowered to 1,000.

The law obliges companies to set up an appropriate and effective risk management system to ensure compliance with due diligence obligations and by implementing this system in all business processes.

Violations of due diligence obligations may be sanctioned, with fines dependent on the severity of the violation.

The “S” in ESG has already had significant influence on legislation in Germany and will continue to have a major impact in the future.

Social partners, such as works councils and unions, will focus on these aspects in any collective negotiations in future.

It is best practice for organizations to adapt to the new regulations and to be prepared on this topic for stakeholder scrutiny.



# Greece



**Maria Rigaki**

maria.rigaki@gr.ey.com



**Maria Gkatzou**

maria.gkatzou@gr.ey.com

## Health and safety at the workplace

Basic health and safety principles are outlined in the Health and Safety Code. The main principle is that the employer has the sole responsibility of establishing a safe and healthy work environment, while the Employee Health Technician and the Employee Health Physician (for companies with more than 50 employees) safeguard the application of the necessary health and safety standards.

The COVID-19 pandemic placed health and safety at the center of organizations' attention, since the wellbeing of each employee is the basic prerequisite for the evolution of a labor relationship. The Greek Ministry of Employment requests regular online reporting that basic anti-infection measures are being met, while remote working acted as the most obvious choice to secure the health of the majority of employees.

## Non-tolerance for discrimination and sexual harassment

Via Law 4808/2021, Greece has ratified the International Labor Organization Convention No. 190 on the Elimination of Violence and Harassment in the Workplace. The law defines "employee" widely, including employees, associates, apprentices, trainees, former employees and job seekers.

All organizations are subject to the regulations and provisions of the law. However, organizations employing more than 20 people are required to adopt:

- ▶ A policy to prevent and combat violence and harassment
- ▶ A policy to manage internal complaints

Employee representatives play an important role in the formation of a non-harassment environment, since the relevant policies should be introduced through Collective Bargaining Agreements or Labor Regulations.

## Equal pay

The Greek Constitution prohibits any act of unequal treatment, while the Greek legal environment is fully aligned with European labor law standards.

Law 1483/1984 and Law 4443/2016 create a broad protective labor environment where every employee should be paid in accordance with their employment and performance and not based on elements such as gender, sexual orientation, ethnicity etc.

## Minimum wages

The national minimum wage is formed through a ministerial decision which is issued following an extensive consultation of the Greek Ministry of Employment with social partners.

With the national minimum wage as a starting point, there are various types of collective labor agreements, such as the National Collective Labor Agreement, Sector Level Collective Labor Agreements and Occupational Collective Labor Agreements, which set out minimum payment and working conditions for different employment levels.

## Human rights due diligence

Human rights due diligence is a direct way of proactively managing potential and actual adverse consequences of human rights. Within the national framework, the Greek Ministry of Employment proactively monitors the European Commission Initiative on establishing a corporate sustainability and due diligence directive, which will set out a proposed EU standard for human rights and environmental due diligence.



# Hong Kong



**Rossana Chu**

rossana.chu@eylaw.com.hk



**Jacky Chan**

jacky-ch.chan@eylaw.com.hk

## Health and safety in the workplace

There are stringent health and safety obligations on employers under the Occupational Safety and Health Ordinance.

Under this ordinance, everyone has a role to play in creating a safe and healthy workplace.

Employers should contribute to safety and health in their workplaces by:

- ▶ Providing and maintaining plant and work systems that do not endanger safety or health
- ▶ Making arrangement for ensuring safety and health in connection with the use, handling, storage or transport of plant or substances
- ▶ Providing all necessary information, instruction, training, and supervision for ensuring safety and health
- ▶ Providing and maintaining safe access to and egress from the workplaces
- ▶ Providing and maintaining a safe and healthy work environment

Occupiers of premises should take responsibility for ensuring that:

- ▶ The means of access to and egress from the premises
- ▶ Any plant or substance kept at the premises are safe and without risks to health to any person working on the premises, even if they do not directly employ that person on the premises

Employees should also contribute to safety and health in the workplaces by:

- ▶ Looking out for the safety and health of persons at the workplace
- ▶ Using any equipment or following any system or work practices provided by their employers

## Non-tolerance for discrimination and sexual harassment

In the last few years, Hong Kong has implemented a series of strong measures, including cash handouts, employment subsidies and jobs creation, to reduce the economic impact of the COVID19 pandemic. However, government data shows that roughly one in five people, or 1.65m people, (i.e., 20.6 percent of Hong Kong's population) are still living in poverty. While Hong Kong is a hub for international finance and trade, it is a largely a homogenous society. More than 90 percent of Hong Kong's population are ethnically Chinese. The percentage of female population is 54.2 percent compared to 45.8 percent male population.

Hong Kong prohibits discrimination on the grounds of sex, pregnancy, breastfeeding, marital status, disability, family status and race with the following limited exceptions:

- ▶ It is permissible for a race to be specified in the context of recruitment where the job involves the provision of services to a particular racial group, and the provision of these services can most effectively be provided by a member of that racial group or require familiarity with the language, culture, and customs of, and a sensitivity to the needs of, that racial group.
- ▶ It is permissible for a gender to be specified where a job is to be performed outside Hong Kong and local laws or customs dictate that the particular job cannot be performed by the opposite gender.
- ▶ It is not discriminatory to not offer a job to a person with a disability where, because of such disability, the person is unable to carry out the inherent requirements of the role unless services or facilities are provided but the provision of such services or facilities would impose unjustifiable hardship on the employer.



# Hong Kong

In records available from 2020, around 7.1 percent of Hong Kong's population had disabilities of one or more of the following types:

- ▶ Restriction in body movement
- ▶ Visual impairment
- ▶ Auditory impairment
- ▶ Communication difficulty
- ▶ Mental illness/mood disorder
- ▶ Autism spectrum disorder
- ▶ Particular learning difficulties
- ▶ Attention deficit/hyperactivity disorder

Under Hong Kong's anti-discrimination laws, employees are protected against victimization, sexual harassment, and harassment on the ground of disability or race, and vilification. An employer may be vicariously liable for an employee's action that breaches any anti-discrimination law, unless the employer can show that they have taken reasonably practicable steps to prevent the employee from doing such acts. Moreover, protection under these laws extends to common workplaces where there is no employment relationship such as volunteers, consignment workers and interns. Racial and disability harassment of service providers by customers is also forbidden.

Victims who may have been discriminated under the above laws may lodge a complaint with Equal Opportunities Commission (EOC) and/or commence proceedings against the employer in court. The EOC, being a statutory body, has the power to investigate the complaint, issue a report on its findings, and encourage the parties to settle the complaint by way of conciliation. The EOC is also empowered to offer legal assistance to persons who have lodged complaints with it.

Employers in Hong Kong are strongly encouraged to provide education and training to their employees on the city's anti-discrimination laws, to ensure that the entire workforce will uphold appropriate workplace ethics and understand the adverse consequences of unlawful discriminatory behaviors.

Moreover, employers should clearly set out and apply policies which encourages equal opportunities and prevents any form of discrimination and harassment in the workplace and should react properly and efficiently to any non-compliant incidents.

## **Minimum Wages**

Hong Kong introduced a statutory minimum wage in 2011. The minimum wage was initially set at HK\$28 (US\$3.6) per hour and was gradually raised in 2019 to HK\$37.50 (US\$4.8) per hour. The minimum wage applies to all workers based in Hong Kong regardless of age, whether they are full-time, part-time, or casual employees. The law also includes special arrangements for disabled employees, including that they can opt to be paid less than the statutory minimum wage in accordance with an assessment of their productivity. However, minimum wage protection does not apply to live-in domestic workers or certain student interns and work experience students.

The raising of the minimum wage is a common appeal of labor organizations and unions, but employers have reservations on any substantial raise, especially after the economic downturn resulting from the COVID-19 pandemic. While stakeholders are striking a balance between fair remuneration to employees and maintenance of job numbers, the minimum wage is supposed to allow grass roots employees to maintain their basic quality of life.

## **Human Rights Due Diligence**

Hong Kong does not currently have any local legislation with regards to human rights due diligence.

# Indonesia

## Health and safety at the workplace

Under Indonesian law, the Minister of Manpower, or officials appointed by the Minister, are authorized to appoint work safety and health experts in workplaces (that meet certain criteria) and in companies that provide services in the field of occupational safety and health.

Employers need to regularly maintain health and safety at the workplace. Article 3 of Ministry of Manpower No. 5/2018 on Safety and Health at The Workplace (MoM No. 5/2018) stipulates that there are factors to make sure that health and safety at the workplace are fulfilled, including:

- ▶ Controlling physical and chemical factors to not exceed maximum limits
- ▶ Controlling biological, ergonomics and psychological factors to fulfill the standard
- ▶ Providing health and hygiene facilities in the workplace
- ▶ Providing health and safety staff who have competence and authority

In addition, employees have the right to a social security program, which consists of:

- ▶ Badan Penyelenggara Jaminan Sosial (BPJS) Kesehatan/ Health Social Security Agency: Health Insurance Program.
- ▶ BPJS Manpower: Work Accident Guarantee, Death Guarantee, Old Age Guarantee, Pension Program and Unemployment Insurance Program.

## Non-tolerance for discrimination and sexual harassment

Regarding discrimination, the Manpower Law stipulates that employees deserve equal treatment regardless of gender, ethnicity, race, skin color or political beliefs. Employers who employ disabled workers are under an obligation to provide protection to the workers in accordance with the type and severity of their disability.

Regarding sexual harassment, the Manpower Law stipulates that employees have the right to receive protection on morality and decency. The forms of sexual abuse, as stipulated under Article 4 of the Sexual Violence Law, are:

- ▶ Non-physical sexual abuse
- ▶ Physical sexual abuse
- ▶ Forcing contraception
- ▶ Forcing sterilization
- ▶ Forcing marriage
- ▶ Sexual abuse
- ▶ Sexual exploitation
- ▶ Sexual slavery
- ▶ Sexual abuse via electronic means

The perpetrator of sexual harassment can receive criminal punishment according to Indonesian Criminal Code and Sexual Violence Law. Corporations can also be charged with this crime.

## Equal pay

Indonesia has ratified International Labor Organization (ILO) Convention No. 100 from 1951 regarding Equal Remuneration for Men and Women Employees for Work of Equal Value through Law No. 80 of 1957 and ILO Convention No. 111 of 1958 regarding Discrimination in Respect of Employment and Occupation through Law No. 21 of 1999. In addition, Government Regulation No. 36 of 2021 on Remuneration strengthens the equal pay requirement by stating that every employee deserves equal treatment in the implementation of a wage system without discrimination and is entitled to the same wage for work that has equal value.



**Fahrul S. Yusuf**

fahrul.yusuf@id.ey.com



**David M. Simanjuntak**

david.m.simanjuntak@id.ey.com



# Indonesia

## Minimum wages

To meet the standard of decent living needs for workers physically, non-physically and socially, the Minister of Manpower together with the Provincial/Regency/City Wage Council gave consideration about the minimum wage, regulated under the Governor's Regulation in each province.

The implementation regulation of Law 13/2003, i.e., Government Regulation No. 36 of 2021 on Remuneration, stipulates that employers are prohibited from paying employees less than minimum wage. The minimum wage consists of a Provincial Minimum Wage (Upah Minimum Provinsi/UMP) and the City/Regency Minimum Wage (Upah Minimum Kota/UMK). Nevertheless, UMK must be higher than UMP. The amount of minimum wage is adjusted yearly based on the economic and labor situation. For example, DKI Jakarta UMP is IDR 4,641,854 (approximately USD 300). However, small and medium enterprises (SMEs) do not have to follow minimum wage if relying on traditional resources, not engaged in the hightech sector or not in a capital intensive business.

## Human rights due diligence

Based on Presidential Regulation No. 53/2021, Indonesia has a four year goal regarding human rights, i.e., from 2021 up to 2025. To strengthen business practices that respects human rights, the Human Rights Directorate- General of the Ministry of Law and Human Rights has launched a business and human rights risk assessment website-based application called Prisma (Business and Human Rights Risk Assessment). This application is for businesses in all sectors that would like to conduct a voluntary self-assessment to understand the potential risk and Human Rights violation that might happen due to current business activity. One of the ministries, namely the Ministry of Marine and Fishery, requires companies in the industry to apply a system which honors human rights (including a requirement to conduct human rights due diligence) in order to obtain a human rights certification.

## Conclusion

Indonesia does have laws applied to ensure protection of workers including in terms of workplace health and safety, equality, and discrimination. While human rights are protected under the Indonesian constitution, in practice, not all industries have applied strict human rights protection mechanisms.

# Ireland

## Health and safety at the workplace

The Safety, Health and Welfare at Work Act 2005 (2005 Act) places an onus on employers to ensure, so far as is reasonably practicable, the safety, health and welfare of their employees. The 2005 Act includes general duties for both employers and employees. For employers, the duties include:

- ▶ To manage and conduct work activities in such a way to ensure the employees' safety, health and welfare at work.
- ▶ To provide systems of work that are planned, organized, performed, maintained and revised as appropriate.
- ▶ To ensure the design, provision and maintenance of a safe, risk-free place of work, which extends to a home workspace.

Employers are also required to provide employees with job-specific training during time off from their work without loss of pay.

For employees, their duties include complying with statutory provisions, co-operating with their employer to ensure the same and to take reasonable care to protect their safety and of others who might be affected by their acts and omissions.

Employers are required to regularly carry out risk assessments of their premises and to feed the results into a safety statement, which specifies how the employer will manage these risks. It is recommended that a health and safety consultant is engaged to facilitate in the identification and management of hazards.

There is no right of action for employees under the 2005 Act. However, employees must not be penalized for performing any duty or exercising any right under the 2005 Act or for making any complaints relating to safety and health or for giving evidence in enforcement proceedings.

## Non-tolerance for discrimination and sexual harassment

Discrimination, harassment and sexual harassment are all prohibited under the Employment Equality Acts 1998-2015

(Equality Acts). The three terms have distinct statutory definitions. Discrimination and harassment relate to conduct on any of the following nine grounds:

- ▶ Age
- ▶ Civil status
- ▶ Disability
- ▶ Family status
- ▶ Gender
- ▶ Membership of the Traveller Community
- ▶ Race
- ▶ Religion
- ▶ Sexual orientation

Sexual harassment relates to unwanted conduct of a sexual nature.

The Code of Practice on Sexual Harassment and Harassment at Work was introduced in 2022. Its aim is to provide employers with an understanding of sexual harassment and harassment and to provide practical guidance on how to prevent it in the workplace. While the Code does not have legislative force, the evidence of conduct based on its provisions are admissible in evidence before the Workplace Relations Commission (Ireland's employment appeals tribunal).

## Equal pay

The Equality Acts expressly provide for a right to equal pay for equivalent work. All employees should have a term in their contract that states there is an entitlement to equal pay. Equivalent work is work which is the same, is similar or has equal value. A claim for equal pay may be taken on any of the nine protected grounds.



**Deirdre Malone**

deirdre.malone@ie.ey.com



**Laura Ryan**

laura.ryan1@ie.ey.com



# Ireland

## Minimum wages

There is a national minimum wage to which all employees (save for those under 20) are entitled. As of 1 January 2022, the national minimum wage is €10.50 per hour. For the purposes of calculating the national minimum wage, any of the following can be included: basic salary, shift premium, bonus, service charge, food (known as board) and accommodation (known as lodging). There are sector-specific rates of pay in some areas (e.g., construction) that are regulated by collective bargaining agreements.

## Human rights due diligence

There is no legislation requiring employers to undertake human rights due diligence. Between 2017-2020, a national plan was put in place by the government which aimed at encouraging and supporting effective human rights due diligence in private and public companies and NGOs. A [Practical Toolkit](#) has been developed to assist public and private entities in their human rights diligence.

There are ongoing initiatives and support in place from the relevant stakeholders to promote the carrying out of human rights due diligence by companies and to encourage and facilitate the sharing of best practices on human rights due diligence between companies. The government has recently stated it will contribute to a further national plan including in respect of Corporate Sustainability Due Diligence and consider whether there is need for a greater emphasis on mandatory due diligence.

This commitment is undoubtedly linked to the publication by the European Commission of a proposal for a directive on a Corporate Sustainability Due Diligence. The Commission's proposal sets out provisions which would require relevant companies to integrate due diligence into their corporate policies and put in place a specific due diligence policy in relation to human rights.

Currently, most employers in Ireland have policies on Equal Opportunities, Inclusion and Non-Discrimination, Dignity at Work, the Right to Disconnect and Whistleblowing, which help to ensure human rights are observed.



# Italy



**Stefania Radoccia**

stefania.radoccia@it.ey.com



**Maria Teresa Iannella**

maria-teresa.iannella@it.ey.com

## Health and safety at the workplace

ESG is increasing in its importance in the labor and employment setting and has an enormous impact on the modern-day workplace. Therefore, companies and employers shall understand the critical role that labor and employment law plays in identifying and addressing ESG risks and opportunities.

In Italy, regulations on health and safety at the workplace are aimed at ensuring the protection of the health, integrity and dignity of the workers in any work environment.

The Italian Constitution promotes actions to protect health and safety in the workplace and supports appropriate measures to ensure that citizens can safely exercise their right to work.

Legislative Decree No. 81/2008, better known as the Consolidated Occupational Health and Safety Act, identifies the Ministry of Labor and Social Policies as the main entity responsible for the protection and promotion of safety in the workplace as well as the prevention of critical incidents through regular discussion with labor organizations and social partners.

## Non-tolerance for discrimination and sexual harassment

The relevant law concerning discrimination and harassment that sets out the rights of men and women at the workplace is the Code of Equal Opportunities (Legislative Decree No. 198/2006). Recently, Italy ratified the International Labor Organization Convention No. 190/2019 on violence and harassment at the workplace. The Convention requires member states adopt, in consultation with employers' and trade union organizations, an inclusive and gender-sensitive approach to preventing and combating violence and harassment, with prevention, protection, and enforcement actions, as well as assistance, information, and training.

## Equal pay

In the Italian legal system, there is no principle of equal pay for equal work in the same company, so employees can receive different salaries even if they perform the same duties, as long as the basis for the pay difference is not discriminatory. In fact, there is a general non-discrimination principle under which any act or agreement is null and void if it directly or indirectly provides for different treatment on the basis of factors such as race, ethnicity, language or gender.

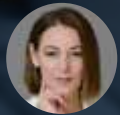
## Minimum wages

In general, a minimum wage level is not provided for by national law, but it is determined by collective bargaining agreements between the social parties. However, recently the law on equal pay (Law No. 162/2021) was approved, which provides for a series of interventions to reduce the gender pay gap, through the provision of bonuses for companies that remove discrimination and measures to promote the participation of women in the labor market.

## Human rights due diligence

In Italy, there is no requirement for employers to undertake human rights due diligence aimed at identifying and/or preventing potential conduct that could violate human rights. Legislative Decree No. 231/2001 incentivizes companies to strengthen their self-regulatory systems and processes to prevent crimes in the interest, or to the advantage, of a legal entity. In order to avoid incurring liability, companies must demonstrate that they have effectively adopted compliance programs called "models of organization, management and control" (231 Models) aimed at identifying, preventing and mitigating the risk of commission of crimes in relation to business activities, including those related to human rights.

# Latvia



**Liene Cakare**  
liene.cakare@lv.ey.com

## **Health and safety at the workplace**

The Labor Protection Law of the Republic of Latvia provides for specific requirements in order to guarantee and improve safety and health protection of employees and self-employed persons at work by determining obligations, rights, and mutual relations in labor protection between employers, employees and their representatives, self-employed persons, and also state authorities.

Under the Labor Protection Law, it is the obligation of employer to ensure the employee has safe and risk-free working conditions.

Employers must systematically plan, lead and monitor their business to ensure compliance with the relevant health and safety regulations. Among other things, employers must ensure a satisfactory work environment for all their employees.

While the employer is responsible for health and safety at the workplace, but employees shall also contribute to ensuring a healthy work environment. Non-compliance with regard to health and safety obligations gives an employer the right to give a written notice of termination of an employment contract.

## **Non-tolerance for discrimination and sexual harassment**

### **Discrimination**

The Labor Protection Law provides that everyone has an equal right to work, to fair, safe and healthy working conditions, as well as to fair remuneration. These rights shall be ensured without any direct or indirect discrimination – irrespective of a person's race, skin color, gender, age, disability, religious, political or other conviction, ethnic or social origin, property or marital status, sexual orientation or other circumstances. If a claim by an employee indicates conditions which may be the basis for their direct or indirect discrimination, the employer has the obligation to prove that the differential treatment is based on objective circumstances. For the violation of prohibition of

differential treatment in the field of employment relationship, a warning or a fine shall be imposed on the employer.

In practice, however, women still face fewer opportunities than men. For this reason, in August 2021, the Cabinet of Ministers made an order to endorse the Plan to Promote Equal Rights and Opportunities for Women and Men 2021-2023. The Plan sets out three areas to help achieve the overall objective:

- ▶ Equal rights and opportunities for women and men in the labor market and education
- ▶ Reduction of gender-based and domestic violence
- ▶ Strengthening gender focus in sectoral policies

### **Sexual Harassment**

The Labor Protection Law provides that the harassment of a person on the basis of their belonging to a specific gender is prohibited, including any action of a sexual nature if the purpose or result of such action is the violation of the person's dignity and the creation of an intimidating, hostile, humiliating, degrading or offensive environment.

An employee who is the victim of sexual harassment at work may claim compensation for the material and moral damage suffered. Employers are well-advised to undertake preventive measures, such as mandatory trainings of their employees also to raise awareness against any discriminatory behavior.

### **Equal pay**

An employer has the obligation to specify equal remuneration for men and women for the same kind of work or work of equal value. If an employer has violated equal remuneration, the employee has the right to request the remuneration that the employer normally pays for the same work or for work of equal value and may bring a court claim.





# Latvia

In practice, however, women are often still paid less than men for the same work. In this context, unequal pay must be countered by means of several instruments. For example, the employer is obliged to provide educational and support measures to reduce the gender pay gap in the company, and to provide information on everyone's right to equal pay for work of the same or equal value, including statistical information on the existing pay gap in a specific sector.

## Minimum wages

There is a national minimum wage being instituted, following a decision by the Cabinet of Ministers that all employees are entitled to it. As of 1 January 2021, the minimum monthly wage amount, within the scope of regular working time, is EUR 500.

Article 18(4) of the Labor Protection Law supplements a minimum wage determined by the State with the collective bargaining agreement that shall have the same legal consequences within the scope of employment relationship on all employers of the respective sector and apply to all employees employed by such employers. The minimum wage can neither expire nor be forfeited.

## Human rights due diligence

At present, there is only one specific regulation in Latvia establishing a mandatory human rights due diligence obligation for companies aimed at identifying and/or preventing potential conduct that could violate human rights: the Whistleblower Law.

This law provides the establishment of mandatory internal whistleblowing channels in all public institutions, regardless of the number of employees, and in companies of private legal persons employing more than 50 employees. Though the law defines the entities for which the establishment of an internal whistleblowing channel is mandatory, the legislature has not provided a penalty for the non-implementation of the whistleblowing channel, nor has it determined a supervisory authority that would verify the existence of the whistleblowing channels in the company. Consequently, creation of the internal whistleblowing channel is generally voluntary.

However, given the European Commission's recent adoption of a proposal for an EU directive on corporate sustainability and human rights due diligence, it is clear that this topic will become increasingly relevant. Therefore, it will be a great challenge for companies in Latvia to guarantee the proper implementation of this kind of processes regarding human rights.

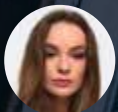


# Lithuania



**Rūta Žukaitė**

ruta.zukaite@lt.ey.com



**Kotryna Kraujelytė**

kotryna.kraujelyte@lt.ey.com

## Health and safety at the workplace

Although occupational safety is widely regulated by ordinary laws, according to the State Labour Inspectorate, restrictions due to quarantine in Lithuanian labor law have become a significant challenge to occupational safety. In some areas, remote working prevailed, resulting in a gap between employees and their immediate supervisors, reduced control, and consistency in occupational risk factors.

Employees have the right to refuse to work remotely, and the work process must be stopped if the employer does not take the necessary measures to eliminate the violations of the requirements for the safety and health of employees. If employment is suspended on these grounds, the employer pays the employees their average salary, thus protecting the employees' interests.

## Non-tolerance for discrimination and sexual harassment

The law establishes the prohibition of direct and indirect discrimination and the grounds for implementing the principle of equal opportunities. This means that discrimination and sexual harassment is prohibited in any relationship between an employer and an employee. The concept of discrimination is defined as direct and indirect discrimination, harassment, or directing discrimination on the grounds of sex, race, nationality, citizenship, language, origin, social status, religion, beliefs or opinions, age, sexual orientation, disability, ethnic origin, religion.

In Lithuania, companies with more than 50 employees are bound by a legal and moral responsibility to implement an equal opportunities policy. It is also important to note that discrimination and sexual harassment are considered sufficient grounds for termination without warning.

## Equal pay

Employers are required to design their pay system in such a way as to avoid any discrimination on the grounds of sex and other related grounds. The Labor Code stipulates that equal pay is payable for equal or equivalent work.

According to case law, an employer must assess the benefits generated by each post and pay a salary commensurate with those benefits. The importance of posts varies from workplace to workplace and is assessed according to objective criteria; Therefore the fairness of pay levels must be assessed on a case-by-case basis.

The requirement to ensure equal pay is related not only to the evaluation of the work performed by the employee, but also to other aspects, such as the development of qualifications on equal terms, gaining experience in specific fields, and having the same evaluation criteria.

## Minimum wages

The rising minimum wage in Lithuania (EUR 730 per month according to the data from 2022) is evidence of a trend where the authorities take greater account of the employees' legal position in employment. From 2017, an amendment to the Labor Code entered into force stipulating the minimum monthly salary can be paid only for unskilled work, which in court practice is work for which no special requirements for qualification skills or professional abilities are required.

## Human rights due diligence

Due diligence of human rights in Lithuania is carried out by the State Labour Inspectorate, under the Ministry of Social Security and Labor. It monitors the implementation of the Labor Code and submits a report with an assessment of the results achieved to the Government and the Parliament.

# Mexico



**Jacqueline Álvarez Velázquez**  
jacqueline.alvarez@mx.ey.com



**Carlos F. Ortiz Fierro**  
carlos.f.ortiz@mx.ey.com

## Health and safety at the workplace

In Mexico, labor regulations are formulated to ensure that employees have access to decent work, including having optimal health and safety conditions to prevent work risks.

In that regard, the Federal Labor Law establishes that in each workplace the mandatory health and safety commissions that are deemed necessary must be integrated, composed of an equal number of representatives of the employees and the employer. These commissions will investigate the causes of accidents and diseases, as well as propose measures to prevent them and monitor compliance.

In this sense, the labor legislation in Mexico establishes different obligations and procedures for employers, employees, and authorities, so that the workplace has optimal conditions that allow employees to carry out their activities.

## Non-tolerance for discrimination and sexual harassment

On 15 March 2022, Convention 190 of the International Labor Organization (ILO) entered into force in Mexico, as it was ratified by the Senate.

This Convention is the first international treaty to recognize the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment.

Likewise, derived from the 2019 reform of the Federal Labor Law, a new employer obligation was established to implement a protocol to prevent discrimination based on gender and attend cases of violence and sexual harassment, as well as to eradicate forced labor and child labor, in accordance with Section XXXI of Article 132.

## Equal pay

Article 4 of the Political Constitution of the United Mexican States establishes that women and men are equal before the law; Therefore, all employees, regardless of their gender, should receive equal payment for the same performed tasks.

Likewise, during the first quarter of 2021, the Senate of the Republic approved a series of reforms to various laws in order to guarantee equal remuneration between men and women and eradicate salary discrimination against female workers.

Based on these reforms, public, private and social institutions must now process a Certificate of Gender Equality and Non-Discrimination at Work to certify that they maintain gender equality and non-discrimination practices that promote the development of these topics among the workforce.

Moreover, salaries should be set based on objective criteria, which is established in the Constitution and international treaties or conventions on the matter, considering professional knowledge, skills and aptitudes for interpersonal relationships, as well as efforts performed by employees, and responsibilities of the position.

In addition, any compensation or practice that affects the economic perceptions of the employee, caused by gender, ethnic, age, cultural or any other discriminatory reason, is prohibited.



# Mexico

## **Minimum wages**

The Federal Labor Law, regulating Article 123 of the Constitution, defines in Article 90 that the minimum wage is the minimum amount that the worker must receive for the services provided during a working day.

Likewise, it indicates that this salary must be sufficient to satisfy the normal needs of a head of a family in the material, social and cultural order, and to provide the mandatory education for children.

The National Minimum Wage Commission is the body in charge of setting and updating general and professional minimum wages.

In accordance with Section VI of Article 123A of the Constitution, the general minimum wage will apply in certain geographical areas, and the professional minimum wage will apply in certain sectors with respect to economic activity, professions, trades, or special jobs.

## **Human rights due diligence**

There is currently no Mexican legislation with regard to human rights due diligence.



# Netherlands



**Huub van Osch**

huub.van.osch@hvglaw.nl

**Bieke Willemse**

bieke.willemtse@hvglaw.nl

## Health and safety at the workplace

A wide range of topics are covered by ESG. Whilst the governance aspects received most attention in the past, the environmental and social aspects have become equally important. Both trigger various aspects of Dutch labor and employment law. In principle, employers are responsible for a healthy and safe working environment.

By focusing on ESG in the workplace, employers are encouraged to deliver improvements in areas such as employee engagement, employee wellbeing, productivity and operational efficiency. After all, good mental and physical health is important for stimulating innovation and providing goods and services which depend on human capital.

Furthermore, as part of the sustainability effort, companies with more than 100 employees will be required to provide data on their employees' commuting and business travel as of next year.

## Non-tolerance for discrimination and sexual harassment

Ensuring a working environment free from discrimination and sexual harassment remains a high priority. The employer should provide guidance in this respect, preferably through a clear set of regulations in its company policy or code of conduct. The employer shall report all risks (if any) in the risk inventory and evaluation (RI&E). The latter is a report which describes requirements (if any) for a sufficiently safe working environment. Regulations to limit potential health threats in relation to discrimination and sexual harassment form part of this safe working environment. In addition, it is recommended to consider suitable measures, such as:

- ▶ Educating employees about discrimination and sexual harassment and the consequences thereof
- ▶ Appointing a confidential advisor and a complaints committee

- ▶ Carrying out further investigation where necessary, while guaranteeing anonymity

These obligations are in addition to the Whistleblower Act, with which employers must also comply.

## Equal pay

Offering unequal pay conflicts with various Dutch and European legislation that prohibits unequal treatment between men and women. In practice, however, women are often still paid less than men for the same work. For this reason, a legislative proposal on equal pay for women and men is pending. The aforementioned proposal is intended as an additional measure to be incorporated into the Dutch Equal Treatment Act. In this context, unequal pay must be countered by means of several instruments. For example, the employer is obliged to prove that the company offers equal pay for equal work. In case of an employer with more than 250 employees, a certification requirement will apply. An increased burden of proof applies to employers which are not in the possession of such required certificate. For employers with at least 50 employees, several obligations shall apply, such as the obligation to provide access to anonymized data on wages and the obligation to inform the works council once a year about differences in pay.

Finally, based on the legislative proposal an employee may file a complaint towards the employer in the event of unexplained differences in payment. In the event the employer has not dealt with the complaint within two months or has not dealt with it properly in the employee's opinion, the employee may file a complaint at the Dutch Institute for Human Rights (commissie gelijke behandeling).



# Netherlands

## Minimum wages

As mentioned, social aspects of ESG have become important. Paying fair wages is also part hereof. In the Netherlands, employers must pay their employees the statutory minimum wage. This applies to employees aged 21 and over. For employees aged between 15 to 20, the youth minimum wage applies. The Dutch legislature adjusts the amount of the minimum wages twice a year – on 1 January and 1 July – in line with changes in average collectively bargained wages in the Netherlands.

## Human rights due diligence

The European Commission wants employers to gain more insight into the risks of, and work on, abuses by their supply chain in the field of human rights, such as sustainability and good governance (international corporate social responsibility). To achieve these objectives, the European Commission recently published a proposal for a new directive on this topic. The Dutch legislature has announced that it is preparing legislation that will oblige Dutch companies to take responsibility for their supply chains. The law should include a duty to perform due diligence in the areas of human rights, labor rights or the environment. It is not clear yet what this new legislation will look like.



# New Zealand



**Tori Sullivan**

tori.sullivan@nz.ey.com



**Kieron Creagh**

kieron.creagh@nz.ey.com

## Health and safety at the workplace

Under the Health and Safety at Work Act 2015 (H&S Act) and related regulations, a “Person Conducting a Business or Undertaking” (PCBU) has the primary duty of care. Workers and other people (that could be put at risk) must be provided with a healthy and safe workplace.

A PCBU can demonstrate they are complying with the H&S Act by having documented governance procedures, training and employee-facing policies in place. These procedures and policies should be enforced and regularly reviewed.

Representative health and safety employee/employer bodies are not mandatory but workers can notify a PCBU that they wish to be elected as a health and safety representative. An election process is only mandatory if there are 20 or more workers in the workplace.

The functions of a health and safety representative include:

- ▶ Represent fellow workers in health and safety matters
- ▶ Investigate complaints
- ▶ Monitor health and safety measures
- ▶ Inquire into anything that appears to be a health and safety risk
- ▶ Make recommendations relating to health and safety in the workplace

## Non-tolerance for discrimination and sexual harassment

Discrimination and sexual harassment are both issues that amount to work health and safety risks, as well as being prohibited actions under the Human Rights Act 1993.

While there are no mandatory statutory directions, robust procedures should be in place to effectively manage the risk. The lack of effective procedures could form part of a claim against an employer which, if successful, may result in fines under the H&S Act.

## Equal pay

A female worker employed in the same role and with the same skills and experience as a male colleague is entitled to equal pay (and vice versa).

Further, a mechanism under the Equal Pay Act 1972 allows any female employee in a job that has been historically undervalued because it is dominated by females to compare jobs with males from different jobs that use substantially similar skills, responsibility, experience and effort exerted (and vice versa).

There is no statutory requirements for employers to collect and report on equal pay data, however, some employers report voluntarily.

The Equal Pay Act 1972 does not address ethnicity pay gaps.

## Minimum wages

The current minimum wage for an adult is NZ\$21.20 per hour (this usually increases on 1 April each year).

Employers must keep wage and time record of the hours an employee has worked and how much they have been paid per hour.

There is a non-mandatory movement by unions for employees to be paid at least a ‘living wage.’

## Human rights due diligence

There is no statutory requirement for employers to undertake human rights due diligence.

A consultation is being undertaken on proposed legislation which would require employers to identify and take action to address risks of modern slavery in their operations and supply chains.

# Norway



**Helga Aune**

helga.aune@no.ey.com



**Elisabeth Sætersdal-Walle**

elisabeth.saetersdal-walle@no.ey.com

## Health and safety at the workplace

When dealing with an organization's risk management, the "S" includes dealing with health and safety at the workplace, work environment, diversity and equal opportunities and human rights throughout the whole business operation. It's about how the organization's products and services contribute to sustainable development and minimize risk factors that affect society and the environment.

The main purposes behind the health, safety, and environment (HSE) focus in the workplace is to reduce the risk of accidents and focus on factors promoting a healthy working environment. Norway has several laws and regulations regarding HSE.

According to these laws, employers are obliged to ensure that the employees' physical and mental working environment is "fully satisfactory." This means an obligation to perform systematic HSE work, in cooperation with the employees and their representatives.

## Non-tolerance for discrimination and sexual harassment

The Norwegian Equality and Anti-Discrimination Act imposes all employers to promote equality and prevent actively discrimination in the organization, on all 15 discrimination grounds, including:

- ▶ Gender
- ▶ Ethnicity
- ▶ Disability
- ▶ Religion
- ▶ Sexual orientation

Employers must also strive to prevent harassment, sexual harassment, and gender-based violence. The activity must include all central HR processes, i.e., recruitment, pay and working conditions.

Organizations with more than 50 employees must also, by law, work through a four-step method, where they need to:

- ▶ Define the risks

- ▶ Undertake a risk analysis of the potential for discrimination or obstacles to equality
- ▶ Analyze the causes of such risks (if any are identified)
- ▶ Implement measures to combat discrimination and contribute to equality and diversity

## Minimum wages and equal pay

Norway has no general minimum rates of pay by law. Wages are subject to agreement between the employer and the employee. In certain sectors such as construction and cleaning, a minimum wage has been introduced via collective bargaining agreements. To prevent social dumping, the Norwegian Working Environment Act (WEA) confirms the principle of equal treatment regarding pay and working conditions also applies to the hiring of workers by temporary work agencies. By law, women and men have the right to equal pay, both for equal work and for work of equal value. This applies irrespective of whether the work relates to different branches or pay is governed by different collective bargaining agreements. To ensure transparency of the wage determination and detect any wage differences, employers with more than 50 employees must review pay conditions every other year.

## Human rights due diligence

The new Norwegian Transparency Act enters into force July 2022 and will impose a duty on all larger enterprises who offer goods and services, in Norway and abroad, and larger foreign enterprises that offer goods and services in Norway, to prove that they secure fundamental human rights and decent working conditions in their own business as well as in their supply chain. The enterprises are required to carry out Human Right Due Diligence that includes the duty to cease, prevent or mitigate negative impacts on fundamental human rights and decent working conditions.



# Peru



**José Ignacio Castro**

jose-ignacio.castro@pe.ey.com



**Karen Marquina**

karen.marquina@pe.ey.com

## Health and safety at the workplace

The progress in the vaccination campaign has encouraged the resumption of face-to-face activities in more than one economic sector. The return to in-person training has caused employers to implement a series of measures to avoid employees from becoming infected with COVID-19.

However, to date, neither vaccination nor prevention measures are sufficient to authorize the return of:

- ▶ Employees with a risk factor, if they occupy high or very high-risk positions and
- ▶ Pregnant women or employees who are nursing mothers

With this in mind, these groups must continue to work remotely or, in the event of incompatibility, enjoy a special leave with pay that could be compensable.

In addition, before implementing a hybrid model or promoting a full time return to the office, organizations must implement all the measures that guarantee the prevention of contagion against COVID-19 and these must be part of the Occupational Health and Safety Management System.

## Non-tolerance for discrimination and sexual harassment

In the search for a safe work environment, employers must carry out an evaluation every year to identify possible situations of sexual harassment. If applicable, the employer must take the necessary measures to avoid any conduct related to sexual harassment, and sanction any action that may be considered sexual harassment, to provide a safe and secure environment for all its employees and anyone in the workplace.

In addition, employers are required to train employees on the topic, investigate any complaint filed, and have an intervention

committee, made up of employees and the representative of the employer, which is responsible for determining whether sexual harassment has taken place. After the investigation, the HR team should take the necessary measures and sanctions.

Thus, the employer must recognize and treat sexual harassment at work as a psychosocial risk which must be included in the Health and Safety Management System.

## Equal pay

Despite the publication of Law No. 30709 and its regulations, as well as the control operations initiated by SUNAFIL (Labor Authority), the wage gap between men and women has increased, which means that women who perform work of the same value as men obtain a lower salary. Further, it is women who have fewer opportunities to rejoin the labor market under regular conditions, since in many instances they must exit the workforce to carry out domestic duties and raising families.

In this sense, employers must implement the necessary measures so that women have a salary corresponding to the value of their work.

## Minimum wages

After four years, the minimum wage has been increased by approximately 10 percent. This increase also affects the established minimum wage in other sectors e.g., mining and agriculture.

Although this measure may benefit a portion of employees, it is important to note that this increase affects labor costs (e.g., social contributions, household allowance), which could generate an adverse impact on small and medium-sized companies.

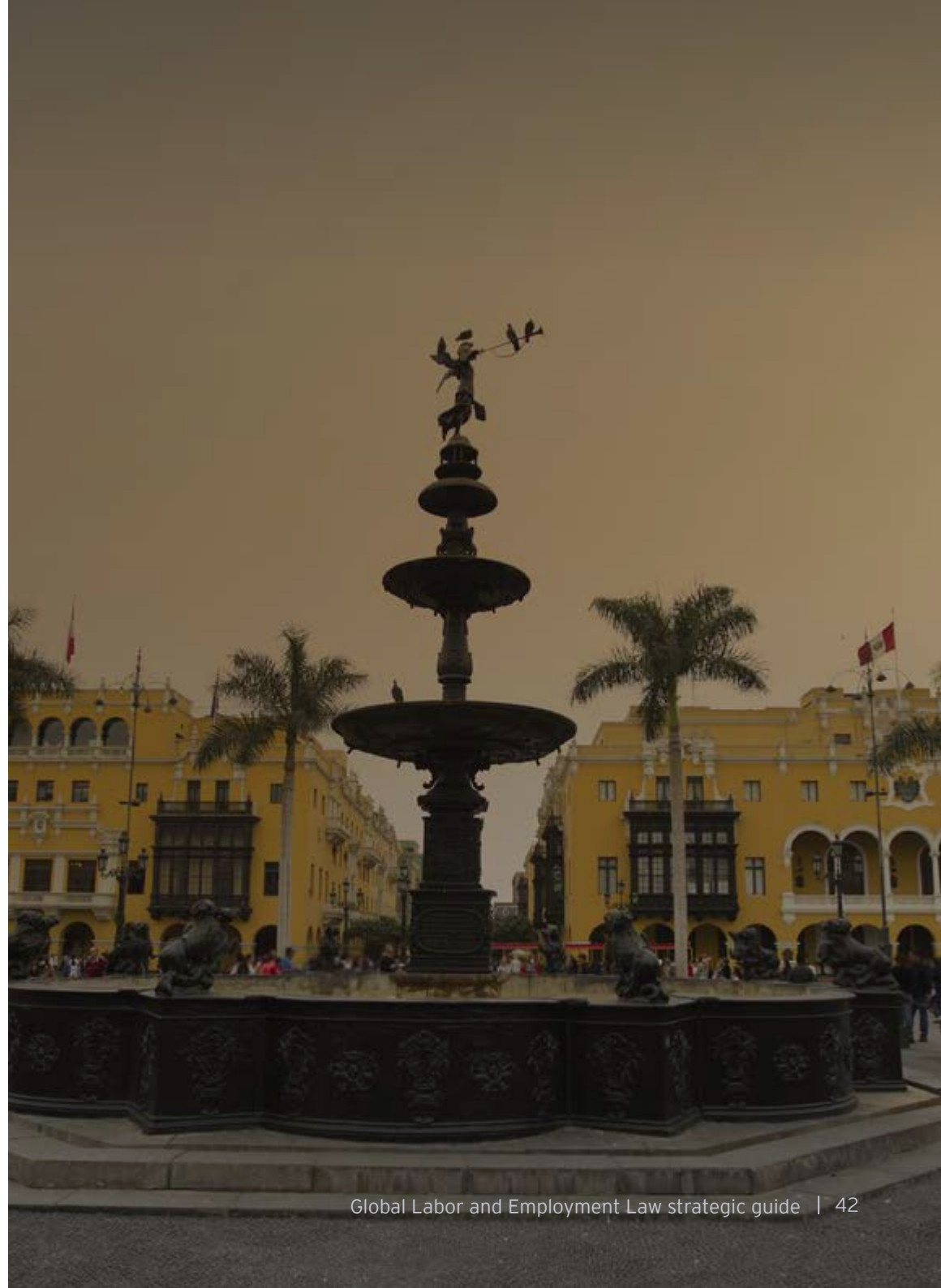


### **Human rights due diligence**

Peru has policies and programs for the elimination of forced labor and child labor in the country and, in addition, guidelines have been established for the strengthening of the Administrative Labor Authority in enforcement matters.

However, the objectives outlined by the implemented policies are undermined by the high rate of informality in the Peruvian labor market, which means that employees do not have minimum working conditions, social protection, access to a safe work environment. and, in general, employees cannot fully exercise their fundamental rights.

In this sense, the challenge for Peru is to implement measures that promote formal employment and, in addition, strengthen labor inspection.



# Poland



**Zuzanna Zakrzewska**  
zuzanna.zakrzewska@pl.ey.com



**Michał Włodarczyk**  
michal.wlodarczyk@pl.ey.com

## Health and safety at the workplace

According to Polish law, employers are obliged to provide employees with safe and healthy working conditions. Before starting work, the employer is responsible for training the employee for work and for checking whether the employee is physically capable of performing professional tasks. The employer is also obliged to inform employees of the risks to health and life occurring in the workplace and the protective and preventive measures taken to eliminate or reduce these risks.

Employers with more than 250 employees are obliged to establish an occupational health and safety committee. The task of the committee is to review working conditions, periodically evaluate the state of health and safety at work and cooperate with the employer in carrying out their duties around health and safety at work.

## Non-tolerance for discrimination and sexual harassment

The Polish Constitution stipulates that all men and women shall have equal rights in family, political, social, and economic life, regarding education, employment, and promotion.

Moreover, the Polish Labor Code prohibits “any discrimination” in the field of employment, either direct or indirect, in particular on the grounds of:

- ▶ Sex
- ▶ Age
- ▶ Disability
- ▶ Race
- ▶ Religion
- ▶ Nationality
- ▶ Political beliefs
- ▶ Trade union membership
- ▶ Ethnic origin

- ▶ Faith
- ▶ Sexual orientation
- ▶ Employment for a definite or indefinite term, whether on a full-time or part-time basis.

The Polish Labor Code provides that employees should be treated equally in terms of entering into and terminating employment, terms of employment, promotion, and access to training to improve professional qualifications.

## Equal pay

Polish law also guarantees equal pay for equal work or for work of equal value.

Currently, there are no general reporting obligations under Polish law in relation to diversity and equal pay between men and women. However, this may change as work is currently underway at the EU level, to strengthen the general principle of equal pay for men and women. According to the proposed regulation, organizations with 50 or more employees will be required to monitor and disclose (e.g., by publication on their website) information on the gender pay gap among employees. Where the gender pay gap is at least 2.5 percent in a category of workers, and not justified by objective and gender-neutral reasons, employers will be required to carry out a joint assessment of pay and institute a corrective action plan for gender equality, in cooperation with employee representatives.

## Minimum wages

The minimum wage is the lowest remuneration that an employer must pay its full time employees.

The national minimum remuneration is determined for each calendar year. The minimum remuneration in 2022 is 3,010 PLN per month gross (approximately EUR 657).



# Poland

## Human rights due diligence

The concept of Human Rights Due Diligence is gaining momentum in Europe. However, there are currently no relevant obligations under Polish law. This is likely to change in the future, as the European Commission published, on 23 February 2022, its much-awaited proposal for a Directive on Corporate Sustainability Due Diligence. The aim of this Directive is to foster sustainable and responsible corporate behavior. The draft new legislation establishes a corporate due diligence duty and imposes on companies certain obligations to identify and prevent the negative impacts on human rights and the environment caused by their own operations, those of their subsidiaries and their supply chains.

# Portugal



**Rodrigo Lourenço**  
rodrigo.lourenco@rrp.pt

## **Health and safety at the workplace**

Slowly, organizations and the legal framework are beginning to cope with the new demands for more transparency and focus on individuals that is sweeping across societies. Portuguese legislation and social climate are also evolving in these fields.

In terms of Health and Safety at the Workplace, no major changes have occurred or are expected, since Portugal, as an EU Member State, has adopted and follows the defined EU legislative framework in this regard. However, a new awareness and focus on mental health issues is becoming more relevant in HR practices as well as in courts, not only as a relevant element in deciding workplace harassment and unlawful termination cases, but as a relevant feature for assessing the organizational environment.

In addition, following the entry into force of the 11th Revision of the International Classification of Diseases (ICD-11) by the World Health Organization, where burnout syndrome is considered an occupational phenomenon, disputes based on Burnout Syndrome are expected to increase before the courts, which suggests companies should give more attention to this matter.

## **Non-tolerance for discrimination and sexual harassment**

Discrimination and sexual harassment at the workplace were already heavily sanctioned under Portuguese labor law, but growing awareness and social rejection of these practices have led to making them unavoidable topics for HR teams.

As of 2019, companies employing more than seven employees must have an anti-harassment code of conduct in place of which all employees must be aware. Training and awareness on these codes of conduct is also expected, even if not legally imposed.

Furthermore, the national implementation of the EU Whistleblower Directive is expected to lead to a greater sense of employee empowerment and 'speak-up practices' at the workplace, leading to the need to effectively establish safe and harassment-free working environments.

## **Equal pay**

As of 2018, the Equal Pay Act (Law no. 68/2018 of 21 August) has imposed duties on employers regarding equal pay for women and men. Employers are now required to have a transparent remuneration policy, and, if failing to demonstrate non-discrimination in claims filed by employees, shall be convicted of discrimination, as the burden of proof is now reversed. Employment authorities are also now able to require employers to produce a detailed assessment of remuneration differences that are detected from statistical information regarding the wages in the organization. If such assessment fails to justify differences on objective grounds, the employer may be convicted of an administrative offense for discrimination, leading to a fine.

## **Minimum wages**

The national minimum wage has grown from EUR 530 in 2016 to EUR 705 in 2022, representing a 31 percent increase in seven years, even if wages are still generally low.

## **Human rights due diligence**

Although this is not legally required, for reasons of compliance and also of internal and external reputation, many companies obtain human resources audits or certification under specific social accountability frameworks, making sure they are covering all aspects of the operational environment and getting ready for the ESG wave.

# Romania



**Anca Atanasiu**

anca.atanasiu@bdattorneys.ro



**Ana Flueran**

ana.flueran@bdattorneys.ro

## **Health and safety at the workplace**

In Romania, there are many workplace health and safety laws, as well as sector-specific legislation. This multitude of legal rules means that companies often face obstacles in the compliance process, which is sometimes cumbersome and very difficult.

For these reasons, to ensure compliance with legal requirements, most of the time, organizations in Romania retain the services of specialized occupational health and safety compliance providers.

## **Non-tolerance for discrimination and sexual harassment**

Romanian legislation on discrimination and sexual harassment in employment relationships is extremely detailed, and individuals benefit from a high level of protection in this regard. This protection is enforced via various sanctions and fines for those who violate the legal provisions risk. By law, the principle of equal treatment applies to all employees, and any direct or indirect discrimination against an employee is expressly forbidden.

Employers must not tolerate any kind of discrimination in the workplace and should provide express rules in this sense within their internal regulations or other policies and procedures and should encourage the reporting of all cases of discrimination, regardless of the identity of the offender.

Employers must also ensure enforcement measures designed to sanction any form of discrimination which occurs between employees at the workplace.

## **Equal pay**

The law protects employees by implementing the equal pay principle in Romania between women and men regarding all components and remuneration conditions. Regarding the remuneration components, the Labor Code defines “salary” to include the basic salary, allowances, bonuses, and other supplements.

Therefore, if the type of work and the job requirements are the same, and the working conditions are similar, then employers should not treat men and women differently when setting their pay.

## **Minimum wages**

Starting in 2022, the national statutory minimum wage is RON 2,550/month (approximately EUR 520).

For employees working in the construction sector, the statutory minimum wage is RON 3,000/month (approximately EUR 600). As of June 2022, the same minimum wage is also applicable for employees working in the agriculture and food industries.

Special provisions may also exist for some sectors and are established by the collective bargaining agreements registered at the sector or unit group level. For example, the CBA applicable in the banking sector provides that the minimum wage is RON 3,300/month (approx. 670 EUR). Only the employees of legal entities that are party to a CBA benefit from these provisions.

## **Human rights due diligence**

Currently, in Romania, there is no legislation governing human rights due diligence. However, as far as the protection of human rights in labor relations is concerned, Romania has made significant progress in recent years, increasing the level of protection provided to employees and legally sanctioning acts likely to infringe these rights.

In most cases, large employers are open to addressing and implementing actions regarding, human rights due diligence.

## **Conclusion**

While Romania has made significant steps in ensuring compliance and increasing the standards to better align with the EU in certain business sectors, there are still areas where improvements can be made, and the level of employee protection can be increased.

# Spain



**Raúl García**

raulluis.garciagonzalez@es.ey.com



**Miguel Prado**

miguel.prado.agudo@es.ey.com

## Health and safety at the workplace

In Spain, the obligations of companies regarding health and safety at work are numerous.

Recently, during the COVID-19 pandemic, several regulations were approved, including the implementation of restrictions on physical work to guarantee the health and safety of employees.

In this sense, with the aim of achieving a balance between the normal activity of the company and the work-life balance of employees, Law 10/2021 of 9 July on remote working was passed, meaning that this will be treated as regular when it accounts for at least 30 percent of the working time. Law 10/2021 establishes the employer's obligation to provide a written agreement, to assume the cost derived from working at home, as well as to plan preventive activity.

## Non-tolerance for discrimination and sexual harassment

Organic Law 3/2007 of 22 March 2007 establishes and develops the obligation to guarantee equal treatment between women and men in access to employment, in training and professional promotion, as well as in working conditions. This implies the absence of all direct and indirect discrimination at work.

Furthermore, the Law considers both sexual harassment and harassment on grounds of sex to be discriminatory.

Similarly, the obligation to have an equity plan for companies with more than 50 employees has helped to reinforce equality and zero tolerance of discrimination and sexual harassment in the workplace.

Thus, one of the mandatory sections that equality plans must include is the prevention of sexual and gender-based harassment.

## Equal pay

According to the Workers' Statute, companies are obliged to pay equal remuneration for work of equal value without any discrimination on grounds of sex.

To guarantee remuneration transparency, as of 14 January 2021, Royal Decree 902/2020 established the obligation for

all companies to keep a register showing the average values of salaries, as well as the salary and non-wage supplements of their staff, broken down by sex and professional groups or categories.

In addition, companies that are obliged to have an equity plan must include in this plan a remuneration audit to ensure the effective application of the principle of equality between women and men in terms of remuneration. Through this audit, companies must carry out an analysis of the remuneration situation in their company, with the aim of evaluating the different positions and detecting the factors that trigger the differences in remuneration.

## Minimum wages

In recent years, the minimum salary in Spain has been increased significantly to guarantee the right to obtain a sufficient remuneration for employees, in line with the provisions of the European Committee of Social Rights. Currently, the Law sets the minimum wage for 2022 at €1,000 gross per month in 14 payments, which represents an increase of 3.6 percent compared to the minimum wage in 2021.

## Human rights due diligence

There is currently no Spanish legislation regarding human rights due diligence.

In addition to the developments outlined above, other standards to strengthen the protection and promotion of human rights at work are still to be published.

There is a draft bill being considered, which aims to amend the General Law on the Rights of Persons with Disabilities and their Social Inclusion (Royal Legislative Decree 1/2013, of 29 November) to extend the legal status of person with a disability to certain pensioners. Thus, the specific objective of this reform is to recover the legal assimilation of permanent disability pensioners with people with a recognised degree of disability.

# Sweden



**Paula Hogéus**

paula.hogeus@law.se.ey.com



**Melika Rajae**

melika.rajaee@law.se.ey.com

## Health and safety at the workplace

In Sweden, work environment matters, such as health and safety at the workplace, are governed by the Work Environment Act as well as supplementary provisions issued by the Work Environment Authority. Employers must systematically plan, lead and monitor their business to ensure compliance with the relevant health and safety regulations. Among other things, employers must ensure a satisfactory work environment for all their employees. This obligation refers not only to the physical work environment but also comprises social and psychological aspects.

The employer is ultimately responsible for health and safety in the workplace, but employees must also contribute to ensuring a healthy work environment. Collectively, employees are represented by a safety representative; one safety representative shall be appointed at each workplace with more than five employees. At a workplace with more than 50 employees, a safety committee must be appointed.

## Non-tolerance for discrimination and sexual harassment

According to the Discrimination Act, employers have an extensive responsibility to prevent discrimination and sexual harassment and shall actively promote equal treatment at the workplace.

This includes an obligation to investigate and prevent discrimination and sexual harassment in the workplace. As soon as an employer has reason to believe that an employee may be harassed or has been harassed, the obligation to investigate is triggered. This means that the employer must:

- ▶ Investigate what has happened
- ▶ Implement measures to prevent the harassment from continuing and

- ▶ Monitor follow up measures taken to ensure they have had the desired effect

The employer must also have guidelines and procedures in place to counteract harassment, sexual harassment and retaliation. The guidelines shall clearly state that harassment, sexual harassment and retaliation is not acceptable in the organization. However, if such harassment or retaliation does take place, the guidelines shall outline:

- ▶ **Who** employees should consult if they feel harassed
- ▶ **What** the employer shall do in cases where harassment, sexual harassment or retaliation may have occurred, and
- ▶ **Who** is responsible for investigating such allegations.

If the employer employs 25 or more employees, written documentation on so-called 'active measures' must be prepared annually.

The active measures imply an obligation to investigate, analyze, remedy and follow-up the following five areas:

- ▶ Working conditions
- ▶ Salaries and other employment terms and conditions,
- ▶ Recruitment and promotions,
- ▶ Education and training and
- ▶ Combining parenthood with work.

For employers with fewer than 25 employees, no written documentation on active measures is required, but the employer must nevertheless actively promote equal treatment in the workplace.





# Sweden

## Equal pay

Under the Discrimination Act, employers must perform annual salary mapping. The mapping shall examine whether there are any systemic wage differences between men and women who perform equivalent work, since this is considered a form of discrimination.

The salary mapping must be documented in writing if the employer has more than ten employees and shall contain:

1. An overview of the results of the salary mapping
2. An overview of the required salary adjustments to correct any salary differences due to sex and
3. A cost calculation and time plan based on the goal that necessary salary adjustments shall be made within three (3) years.

## Minimum wages

There is no statutory minimum wage in Sweden. Instead, the parties on the labor market will generally determine minimum wages by way of collective bargaining agreements.

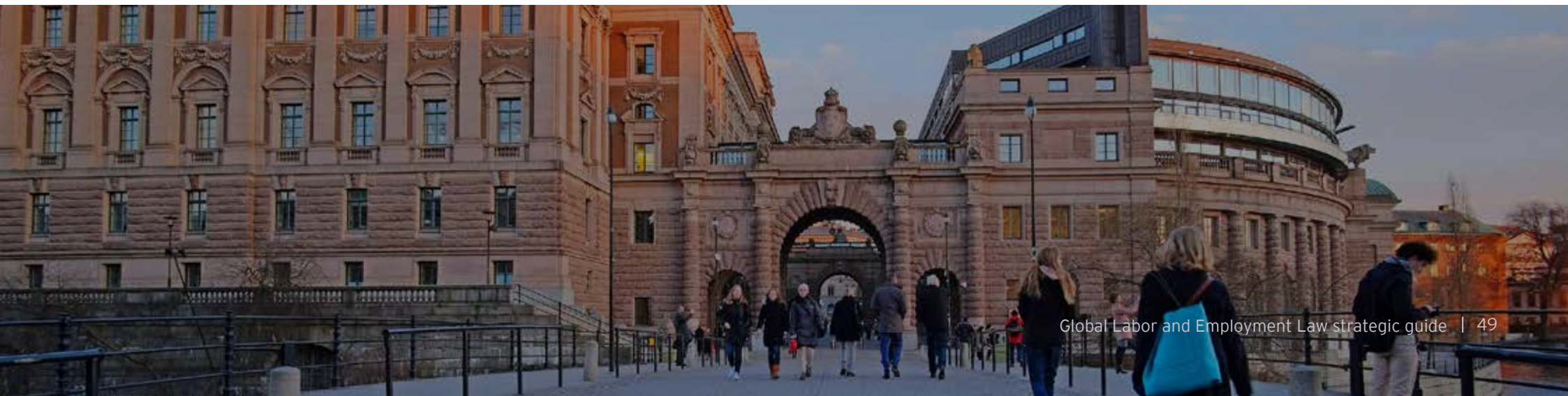
## Human rights due diligence

There is currently no Swedish legislation with regard to human rights due diligence (HRDD).

However, given the European Commission's recent adoption of a proposal for a European Union (EU) directive on corporate sustainability due diligence, this is a topic that will potentially become increasingly relevant.

There have also been calls from civil society and certain high-profile corporations for the government to implement local HRDD legislation; so far, however, no such action has been taken.

In any case, it is expected that organizations will remain proactive and manage their current human rights risks and impacts to prepare for EU-wide or local legislation on HRDD.



# Switzerland



**Marc Gugger**

marc.gugger@ch.ey.com



**Dzemilje Murina**

dzemilje.murina@ch.ey.com

## Introduction

Regarding social governance, Switzerland largely relies on tried and tested principles such as the employer's duty of care, stating that the employer is obliged to provide the employee with protection and care within the framework of the employment relationship and to protect the employee's legitimate interests in good faith.

## Health and safety at the workplace

The duty of care explicitly emphasizes the employer's duty to have due regard for the physical and mental health of the employee in the employment relationship.

In the sense of a duty to refrain, the employer must ensure the employee is not burdened with any work leading to their physical and mental health being harmed or endangered. Within its duty to act, the employer must ensure that the working conditions are not harmful. Furthermore, employers must point out dangers to the worker, instruct them and ensure suitable monitoring of compliance with health and safety precautions. In addition, specific provisions are made in the Labor Act and its ordinances regarding the noted duties (e.g., lighting, climate, protective equipment, protection of pregnant women and nursing mothers, awareness regarding psychosocial risks).

Finally, the Federal Accident Insurance Act and its ordinance impose further obligations on the employer regarding occupational accidents and diseases. In this context, the guidelines of the Federal Coordination Commission for Occupational Safety, which set out regulations for particularly hazardous work activities, must be observed.

## Non-tolerance for discrimination and sexual harassment

In Switzerland, there is no general equality or anti-discrimination act under civil law. However, the principle of equal treatment under employment law applies. It states that an arbitrary.

Unequal positioning of individual employees is not permissible. The requirements for "arbitrary unfair positioning" under the law and respective court practice are high. The unfair position must be in comparison to the majority of employees, and must be arbitrary in nature – done without valid reason. Furthermore, the unfair positioning must also represent a violation of personal rights.

Contractual agreements are excluded from this principle, subject to the prohibition of unlawful or immoral agreements; This means that an arbitrary unfair position can be contractually agreed upon without constituting discrimination.

In addition to this general principle, specialized acts of parliament must always be considered, including the Disability Discrimination Act (aiming to prevent, reduce, or eliminate discrimination against people with physical, mental, or psychological impairments), the Foreign Nationals and Integration as well as the Posted Workers Act (aiming to protect foreign nationals against discrimination and guaranteeing assignees equal conditions of employment and remuneration prescribed by federal laws and generally applicable collective bargaining agreements). Finally, the Gender Equality Act (GEA) prohibits discrimination based on gender. This prohibition applies to all aspects of the employment relationship, including remuneration. Unlike under the general principle of equal treatment, where contractual agreements take precedence, the GEA grants men and women a directly applicable right to equal pay for equal work. In this context, reference should be made to its revision, that came into force in 2020. It introduces an obligation for employers with at least 100 employees to conduct an internal equal pay analysis. Employees and shareholders must be informed of the results of this analysis.



Sexual harassment is also classified as a case of gender discrimination. According to this, any harassing behavior of a sexual nature that affects the dignity of women and men in the workplace is discriminatory. In cases of sexual harassment, the victim is entitled to compensation of up to six months' wages if the employer cannot prove that they have taken the necessary measures appropriate to prevent sexual harassment. This proof of exoneration is excluded in cases where the harasser is a member of the executive body.

### **Minimum wages**

There are no comprehensive statutory minimum wage requirements in Switzerland (subject to obligations derived from special acts or collective bargaining agreements).

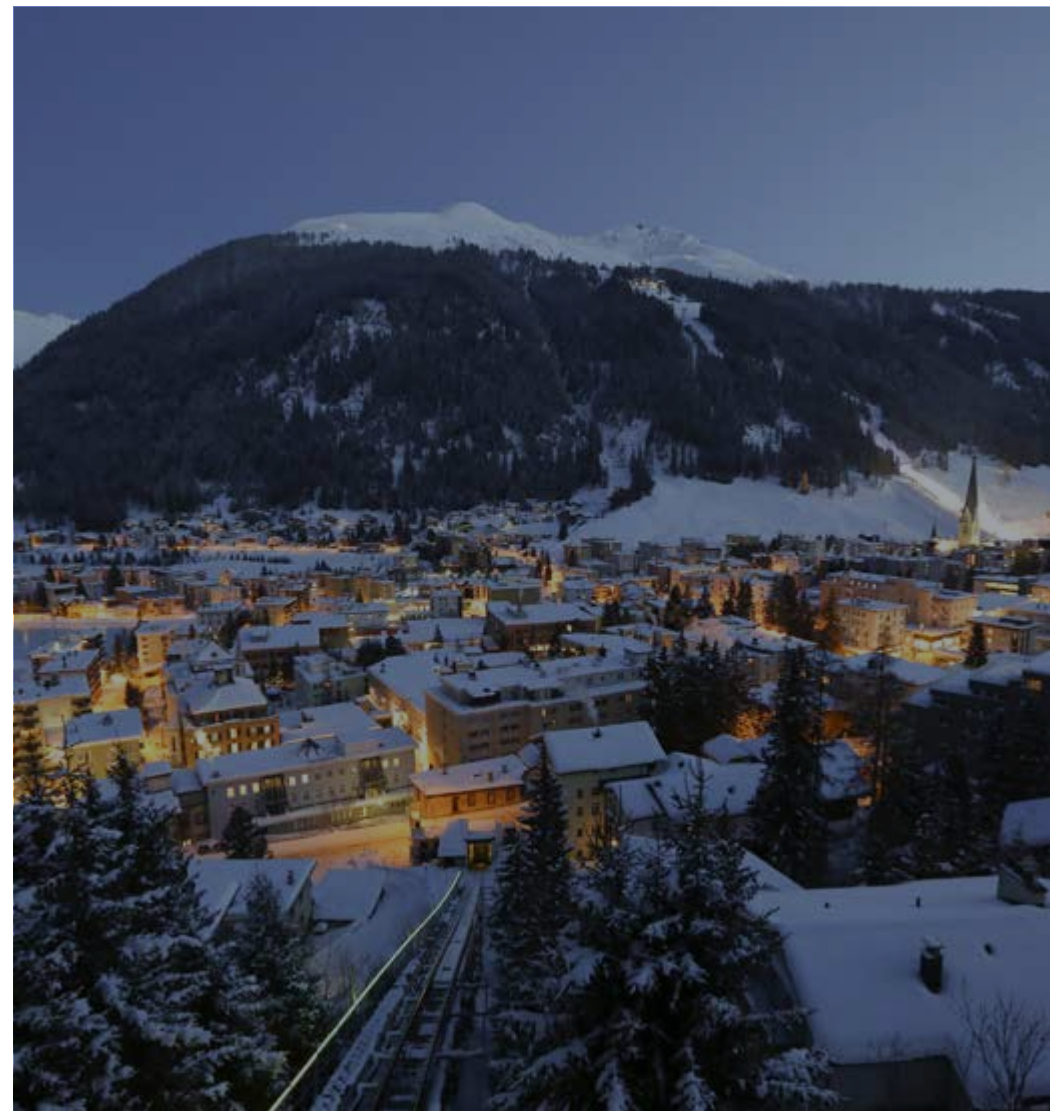
### **Human rights due diligence**

Switzerland has implemented new reporting, transparency, and due diligence obligations that will apply for the first time in the financial year 2023 (to be considered in 2024).

Large companies and those supervised by the Federal Financial Market Supervisory Authority (FINMA) will have to submit an annual report on non-financial matters (e.g., environmental, social and employee) that must be approved by the supreme management or administrative body and the body responsible for approving the annual financial statements.

In addition, companies with their registered office, head office or principal place of business in Switzerland that transfer conflict minerals and related contraband or that offer products or services for which there are reasonable grounds to suspect the involvement of child labor must comply with due diligence and annual reporting obligations in relation to their supply chain, subject to statutory exceptions (e.g., import and processing of very small quantities of conflict minerals or of recycled metals).

This requires the establishment and implementation of an adequate compliance organization. The compliance with these obligations must be audited by a licensed, external audit expert.



# United Kingdom



**Rob Riley**  
rriley@uk.ey.com



**Lola Idris**  
lidoris@uk.ey.com

## Health and safety at the workplace

Despite the lifting of restrictions in place due to the COVID-19 pandemic and the withdrawal of the Working Safely guidance in England, employers still have statutory and common law health and safety duties.

Under the Health and Safety at Work Act 1974, employers have a general duty to “ensure, so far as is reasonably practicable, the health, safety and welfare at work of all its employees”.

In addition to their statutory duties, all employers have a common law duty to take reasonable care for the safety of their employees and contractors. This includes both mental and physical health.

Employers will need to consider their obligations in the context of increased remote and hybrid working following the COVID-19 pandemic to decide what measures need to be put in place to ensure the health and safety of their employees.

All employers also have a legal obligation to carry out regular risk assessments of all the work activities carried out by their employees, including home workers and hybrid workers.

In addition, employers with five or more employees must have a written health and safety policy and bring the written policy to the attention of all its employees.

Employers can be subject to fines and criminal convictions for failure to comply with health and safety law, and there has been an increase in enforcement activity in recent times.

## Non-tolerance for discrimination and sexual harassment

We have also seen an increased focus on discrimination and harassment in the workplace in some part due to the increased awareness of these issues as a result of the “Me Too” and “Black Lives Matter” movements. UK employees have statutory protection against discrimination on a number of grounds (“protected characteristics”) under the Equality Act 2010 (EA), including age, disability, race, religion and sex.

Compensation for a successful discrimination claim can include:

- ▶ Financial losses (including loss of earning and benefits) and;
- ▶ Non-financial losses (including injury to feelings and personal injury).

To prevent discrimination, promote equality, improve diversity, and reduce the risk of disputes and potential claims arising in its workplace, employers should have effective equality and anti-harassment policies and procedures in place, which are reviewed regularly and brought to the attention of the workforce, and most importantly are implemented in all aspects of day-to-day working life.

Employees should be equipped (trained) to understand both their own and their employer’s rights, duties and obligations.

Employers must also be able to show that they take complaints of discrimination and harassment seriously, taking appropriate measures to address workplace issues.

## Equal pay

Equality across the workplace, but in particular equal pay, is another highly relevant issue for employers. The Act imposes a statutory obligation on employers to ensure that men and women receive equal pay for the same, broadly similar, or equal value work.

The exceptions are limited to where the reason for the difference is due to a material factor other than sex.

To ensure compliance with the law, employers should review their pay practices to identify and eliminate pay inequalities, ensure fair and transparent pay practices and demonstrate commitment to equality of pay.

Under the Gender Pay Gap Regulations, employers with at least 250 employees have an obligation to publish an annual report containing data on their gender pay gap for the purpose of

# United Kingdom

showing whether there are pay differences between male and female employees. This obligation helps raise awareness of the issue and there are increasingly important reputational aspects linked to compliance with, and publication of, an employer's gender pay gap information.

## Minimum wages

The National Minimum Wage (NMW) Act 1998 sets out the mandatory minimum hourly rate of pay that employers must legally pay to their workers.

The legal framework is highly technical and has resulted in several high-profile employers inadvertently falling foul of the rules and receiving hefty penalties as well as being publicly 'named and shamed'.

Employers should review current payroll practices to ensure that all workers receive at, or above, the minimum NMW levels.

## Human rights due diligence

There is also increased scrutiny on the supply chains of businesses. The Modern Slavery Act 2015 requires certain commercial organisations to publish an annual modern slavery statement setting out the steps they have taken to ensure that their business and supply chains are slavery free, or a statement that they have taken no steps to do this.

## Actions

There are several legal and practical issues employers should consider, including:

- ▶ Carry out health and safety risk assessments for both office and home-based staff in light of the ongoing impact of the pandemic, to reflect changing working practices
- ▶ Ensure robust policies are in place to tackle any cases of discrimination and safeguard whistle-blowers
- ▶ Review pay and payroll practices to ensure compliance with equal pay and NMW laws



# Uruguay

## Health and safety at the workplace

Health and safety at the workplace is governed by the Danish law. With the ratification of the International Labor Organization's Convention No. 161 on Occupational Health Services by Law N° 15,965, it became compulsory for companies to have an external occupational health and safety service, responsible for ensuring compliance and advising the employer and workers, which will review the situation – at least – every six months.

This is in addition to the mandatory insurance for work-related accidents and occupational diseases that every company with employees must have, which is still in force and applies to accidents “due to or in connection with work”, regardless of whether the work is performed remotely.

Finally, it should be noted that Law No. 19,196 makes the employer – or whoever exercises management on its behalf – criminally liable when the necessary means of protection and occupational safety are not adopted, seriously and effectively endangering the life, health or physical integrity of the worker.

## Non-tolerance for discrimination and sexual harassment

Although legislation does not specifically refer to discrimination, employees who face that situation can resort to similar means of protection as those who are harassed. They may turn to, for example, the Ministry of Labor and Social Security and/or to the justice system itself.

Regarding sexual harassment in the workplace, Law No. 18,561 has the purpose of preventing and punishing sexual harassment, as well as protecting the victims. The employer has a duty to prevent and ensure that there is no sexual harassment in the workplace by hierarchical personnel exercising managerial

power, as well as by co-workers or any other person linked to the workplace. In order to comply, the company must communicate to personnel, clients and vendors the existence of a consistent institutional policy against sexual harassment.

A victim may opt between filing an internal complaint or referring the matter to the General Labor Inspectorate.

If sexual harassment is proven, the victim may choose between claiming indemnity for moral damages or consider to be indirectly dismissed. This shall be considered abusive dismissal, entitling a special indemnity which results in a regular severance payment.

However, it is foreseen that the claimant (if they bring false allegations) or the accused are liable to criminal prosecution and their actions may qualify as egregious misconduct, permitting the company to dismiss them without any severance payment, if it is proven in court that they have engaged in deception or attempted to mislead others on the existence of the sexual harassment reported, in order to obtain for themselves or a third party an unfair advantage to the detriment of another.

## Equal pay

Our Law No. 16,045 of 1989 prohibits any discrimination that violates the principle of equal treatment and opportunities for both sexes in any sector or branch of labor activity. This includes, among others, the remuneration criteria.

Likewise, compensatory or positive discrimination aimed at promoting equal opportunities and treatment for both sexes in specific situations of inequality is not included in the prohibition.

To ensure enforceability, the exceptions shall be presented to the Labor tribunal system.



Lorena Giovine

lorena.giovine@uy.ey.com

# Uruguay

## Minimum wages

The National Minimum Wage was originally defined as the “floor below which no remuneration may be paid” by Decree No. 1534/969, and is annually updated by the Executive Branch. Currently, it is set at UYU\$ 19,364 since 1 January 2022, equivalent to approximately USD 478.

In addition, minimum wages are negotiated in the Wage Councils, which are negotiating bodies composed by representatives of workers, employers and the Executive Branch, which serve as a mechanism to set higher minimum wages and improving working conditions.

## Human rights due diligence

Currently, Uruguay has not implemented a strict human rights due diligence as a standard practice for all companies. This would only be applicable in activities and projects of major importance that have a sectoral or regional impact on the environment and daily lives of the affected region.

While Uruguay may be seen as yet to develop a comprehensive framework for protecting human rights, there have been great strides in labor and women’s rights in the last few years. With the continued interest from pressure groups, it is likely that human rights policies will also be enacted into law in the next few years.



## EY | Building a better working world

EY exists to build a better working world, helping to create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity.

Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via [ey.com/privacy](https://ey.com/privacy). EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit [ey.com](https://ey.com).

© 2022 EYGM Limited.  
All Rights Reserved.

EYG no. 006058-22Gbl

BMC Agency  
GA 22510666

ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, legal or other professional advice. Please refer to your advisors for specific advice.

**[ey.com](https://ey.com)**