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# EMPLOYMENT LAW

An overview of our practice



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## OUR EXPERTISE

Luxembourg is internationally renowned for its competitive position from an economic, tax and social point of view, both for companies and employees, offering a high level of social protection and benefits, while allowing to a certain extent the flexibility necessary to innovate and develop business.

In today's increasingly competitive environment, to attract and retain talent, the understanding of, and compliance with employment law regulations at a local and international level has become one of the essential components of a successful Human Resources strategy.

MNKS is one of the few leading Luxembourg law firms with a fully dedicated team advising equally on all national and international legal issues associated with human resources management.

We provide our clients with on-going assistance, from timely answers to simple daily questions, to solving and managing the most complicated issues and with the ambition of creating a long term relationship with our clients rather than being a simple one-shot service provider.

We combine our technical expertise with a pragmatic approach, which allows matching the legal requirements with the challenges companies are constantly facing.

We have a thorough understanding of the business issues at stake in the various sectors in which our clients are acting, notably in the banking & insurance sector and in the IT & services sector. We are also assisting many Luxembourg-based operational companies of international groups.

As members of various professional associations, we are in close contact with HR managers and are well positioned to understand and anticipate their needs.

MNKS can become your partner to assist you in implementing the most effective human resources strategy for your company.

Our position as leaders in this respect is recognized locally and internationally and our Employment practice is recommended by The Legal 500 and Practical Law Company.



# MAIN AREAS OF FOCUS

## Day-to-day Employment Law

*"Can I change the working hours of my employees ?"*

*"Do I have to apply an index-linked salary increase if I already granted salary increases to my employees recently ?"*

*"Does the introduction of the new Labour Code have an impact on existing employment contracts ?"*

These are just some examples of the numerous questions that a Human Resources Manager has to answer every day. We are here to provide you with clear and swift answers to all these daily legal issues.

In addition to providing these timely answers, our practice in this field includes:

- drafting and reviewing employment and consultancy agreements, staff handbooks and restrictive covenants
- assisting our clients in disciplinary procedures, dismissals and negotiation of settlements
- advising them on any pertinent question i.e. in respect of:
  - recruitment
  - modification of contract
  - working time
  - employee disability
  - works councils
  - collective labour agreement
  - Luxembourg social security
  - health and safety at work.

In order to ensure the compliance of your HR documentation and policies with Luxembourg employment laws, we carry out legal due diligence, the scope of which is determined according to your particular needs.

We have also developed a daily information and consultancy service under the form of a global client services contract ("*contrat d'abonnement*"), which allows you to avail of our legal services as the need arises and obtain swift and straightforward answers to various day-to-day questions.



# MAIN AREAS OF FOCUS

## International Mobility

*"Is a work permit application necessary to hire a Czech employee?"*

*"Can an employee seconded to the United Kingdom remain covered by the Luxembourg social security scheme?"*

*"Are there any formalities to be complied with in order for employees of a Belgian company to perform services within the Luxembourg territory?"*

Due to the particular position of Luxembourg, expatriations, secondments and other cross-border employment situations (e.g. salary splits) are common issues, which companies must deal with.

The effective management of the international mobility of employees implies anticipation and dealing with a host of interconnected individual concerns and legal issues in relation with employment, social security, tax and immigration.

We master all legal aspects relating to multinational employment situations. We advise and draft any type of contractual documentation according to Luxembourg, European and international applicable laws and best practices.

We rely on our international network to ensure compliance with local regulations.

We can also assist you on international social security issues and any immigration formalities.



# MAIN AREAS OF FOCUS

## Employee Benefits and Pension

*"What are the legal conditions and formalities in order to amend the company's pension scheme ?"*

*"How can a stock option plan be set up for the employees ?"*

*"How is it possible to avoid that the payment of a bonus becomes a vested right on the part of the employees ?"*

Rewarding employees and executives for their commitment and contribution to the company's growth and success is becoming an essential component of a competitive salary package to attract and retain talent.

Part of a successful private equity transaction also relies on the implementation of efficient incentives for the management to encourage their involvement in the company's development.

In addition, providing for pension benefits, which shall supplement the State pension scheme, meets the concerns of today's employees.

Our team advises on and sets up all forms of compensation delivered to employees, executives or consultants, all specifically tailored to meet the client's requirements and taking into account tax optimization and regulatory constraints.

Our expertise includes notably:

- share option plans and phantom stock plans
- other incentive schemes
- holiday saving accounts
- pension funds
- occupational complementary pension schemes.

Where appropriate, we draw on the expertise of consultants and experts from related fields, such as internally from our Corporate Finance team, but also externally from actuaries and insurance experts.



# MAIN AREAS OF FOCUS

## Corporate Reorganizations

*"What are the employment law aspects in relation with an outsourcing project ?"*

*"Under which conditions is it required to negotiate a social plan ?"*

*"Which information on a restructuring has to be communicated to the staff representatives and within which time frame ?"*

In order to remain competitive in the market or to respond to evolving business strategies, companies may have to reorganize their structure, whether through a merger, outsourcing or downsizing.

The successful completion of such reorganizations mainly depends on the correct anticipation and management of personnel issues.

As employment lawyers, we are fully involved in the preparation and the implementation of the restructuring projects, in order to ensure that all legal issues related to the employees' situation are properly dealt with.

In this context, we assist companies at the various steps of a merger or an outsourcing arrangement, from analyzing at the start whether the transaction at hand qualifies as a transfer of undertaking to advising on post-transfer issues such as the harmonization of the salary packages, while at the same time assisting clients in the consultation process with the staff representatives.

In mergers & acquisitions transactions, we carry out due diligences in order to provide our clients with a risk assessment on employment and social security law aspects.

As far as collective redundancies are concerned, our services notably include assisting the client in negotiations with the trade unions and drafting the social plan and related documentation.

In many circumstances, restructuring projects imply the combined expertise of various legal disciplines. We are used to working closely with the Corporate Structuring, Mergers & Acquisitions, Private Equity and Technologies groups in order to provide a full and dedicated service.



# MAIN AREAS OF FOCUS

## Dispute Resolution & Litigation

We work with our clients extensively on preventive compliance issues, so that they avoid as many employment-related pitfalls as possible, thereby minimizing claims.

If a dispute becomes inevitable, we focus on seeking the best possible resolution through negotiation, mediation or litigation.

We regularly represent our clients in front of the Luxembourg Courts in litigation cases related notably to:

- unfair dismissal procedures
- employment discrimination and non-competition
- employee poaching issues

We also assist and represent our clients in collective labour disputes.



# MAIN AREAS OF FOCUS

## HR Trainings

It is becoming more and more important for HR managers, CEO's or even team leaders to maintain a general knowledge and understanding of some employment law issues, which they may face on a regular basis.

In addition to regularly collaborating as a lecturer with training institutes and speaking at conferences and seminars, we aim to keep you ahead of the game through interactive trainings.

Whether you wish to raise your managers' awareness of the employment law issues involved when managing their teams, to train your new foreign HR director on Luxembourg employment legislation or to ensure that you keep up to date in this evolving field, we can design the training program, in French or English, which will best suit your needs.

Some examples of training programs:

- Overview of Luxembourg employment law (2 days)
- Termination of the employment contract (1/2 day)
- The legal aspects of recruitment and hiring (1/2 day).

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