FOCUS ON

El Khomri's bill : adoption by the Parliament

El Khomri's draft bill has been adopted on final reading by the French National Assembly on the July 21st 2016.

The main measures are :

- The clarification of the economic grounds justifying a dismissal
- The possibility to increase the maximum working time by collective bargaining agreement instead of the maximum defined by law
- The extension of conclusion of collective agreements to maintain the employment to the conclusion of same collective agreements to develop the employment
- The emergence of a right for all employees to disconnect from their professional digital equipments

Before its final publication, the bill will be examined by the French Constitutional Council. The bill is due to be published in August.

Union advocates in front of the Labor Tribunal : new Decree of July 20th 2016

This decree defines the conditions for the establishment, modification and revision of the lists on which Union advocates have to be registered in order to be able to carry out their assistance and representation mission in front of the Labor Tribunal.

The decree also specifies the conditions governing this function.

MORE ABOUT THE FRENCH EMPLOYMENT LAW

Termination of the employment contract by mutual consent ("rupture conventionnelle")

The French Supreme Court specifies that the provisions of the Labour Code applicable to the termination of the employment contract by mutual consent aren't applicable to a tri-partite agreement concluded between an employee and two successive employers, most often in the context of a transfer within a group.

Indeed, the agreement, under which, the initial employment contract with the first employer is terminated and a new contract is concluded with the new employer, must aim at organizing the continuation of the contract and not its termination.

Cass. Soc. 8 June 2016, n°15-17.555

"Co-employment"

The French Supreme Court maintains its restrictive jurisprudence in terms of "co-employment".

According to it, the fact that a parent company is involved in the subsidiary's job losses procedure and has taken decisions affecting its future is not sufficient to characterize the "co-employment".

Cass. Soc. 6 July 2016, n°14-27.266

Reinstatement

When the judicial decision reinstating an employee is cancelled, the employer isn't subject to the obligation to implement a new dismissal procedure.

This Supreme Court decision aims at facilitating the monitoring from the employer of these delicate situations and often endless.

Cass. Soc. 11 July 2016, n°14-29.094