FOCUS ON

El Khomri's bill : adoption by the Parliament

The Government has engaged its responsibility on this project by application of the article 49-3 of the French Constitution. Henceforth, the bill would be adopted after one vote of both Chambers.

The main measures are:
- Clarification of the economic grounds justifying a dismissal and the perimeter to appreciate these grounds;
- More flexibility regarding working time;
- A right to "disconnect" for all of employees;
- Preponderance of the collective bargaining agreement at the company level.

The Senate will study the bill as from June, 2016.

Labor Tribunal – new Decree of May 20th, 2016

The Decree aims at reducing the length of the juridical procedures before the Labor Tribunal and it promoting settlement agreement.

More specifically, the plaintiff has the obligation to communicate his arguments and all pieces of evidence when he takes action before the Labor Tribunal. This provision enters into force on August 1st, 2016. The defendant will be invited to communicate his relevant pieces of evidence to the plaintiff and to the Labor Tribunal when receiving the convocation before the Tribunal.

The conciliation and orientation office will decide which judges' formation will examine the case : a restricted formation composed of 2 members of the Labor Tribunal, a standard formation composed of 4 members, or a formation composed of 4 members chaired by a professional judge.

MORE ABOUT THE FRENCH EMPLOYMENT LAW

Dismissal for economic grounds

The Supreme Court reaffirmed its recent position according to which, if the employer has to justify the economic situation of the business sector of the Group before the judge, it has not the obligation to mention it in the dismissal letter.

Kind reminder: the El Khomri's bill specifies that only the companies of the Group established in France must be taken into consideration for the appreciation of the economic difficulties.

Cass. Soc. 3 mai 2016, n°15-11.046 et n°14-29.700

In-group mobility clause

The Supreme Court specifies that the mobility clause based on which the employee accepts in advance any future transfer into another company of the Group is void.

Cass. Soc. 19 mai 2016, n°14-26.577

Cancelation of the staff representatives' elections

In case of cancelation of the staff representatives' elections by a Court, the mandates of the union delegates and the union representatives at the WC are maintained until next elections are organized.

Cass. Soc. 11 mai 2016, n°15-60.171 et n°15-60.172