

### \\ Covid-19: Ministry clarification on vaccination by occupational health services

Since February 25, 2021, the occupational health physician is allowed to vaccinate voluntary employees aged 50 to 64 with comorbidities **at no additional cost to the employer. Employers are encouraged to share this information to all their employees.**

In a Q&A, the Labor department states that **employees must inform their employer of their absence for medical reasons without having to specify the reason. Vaccination takes place during working hours and does not require time off work if the employee goes through the occupational health service.**

The employer is not informed by the occupational physician of the vaccinated employees, in accordance with medical confidentiality.

### \\ New directive from the General Directorate of Labor on the international posting of employees in France facilitating the control of the application of the regulation by the labor inspectorate

*Instruction DGT/RT1/2021 du 19 janvier 2021*

**The new directive clarifies the applicable law on international posting such as the obligations and responsibilities of companies seconding employees and of their contractors.**

Precisely, it mentions that as from the 13th month of international posting, employees benefit from additional rights in addition to the minimum rights applicable during the first 12 months (additional leave rights, provisions relating to telework, etc.).

In this respect, it states that the employer will be able to continue to apply only the provisions of the minimum basis from the 12th to the 18th month (6 months maximum) if he obtains **an extension by completing a prior declaration of international posting of the employees concerned**. He shall use the "SIPSI" tele-service and indicate in his request the desired duration of the exemption and the reason for it, in relation to the work performed. **This request will have to be made until the day before the beginning of the 13th month.**

### \\ New provisions of the Labor Code relating to the elimination of pay gaps between women and men in the company

*Decree n°2021-265 of March 10, 2021*

The employer is now required to publish on the company's website, where one exists, or failing that, to inform employees by any means, in addition to the level of results, of **the results obtained for each indicator for professional equality between women and men.**

As a transitional measure, for the reference period ending on December 31, 2020 at the latest:

- The level of results will have **to be visible and legible on the website no later than May 1, 2021** ;
- The results **will have to be visible and legible on the website no later than June 1, 2021.**

### \\ Case law new

- **In the event of a management error by the employer causing a threat to the competitiveness of the company and leading to a reorganization plan, the related redundancies are without real and serious cause**

*Cass.soc., November 4, 2020, n°18-23.029*

On the other hand, **errors committed in the evaluation of the risk inherent in any business decision do not constitute a fault and will not result into the reclassification of the grounds for dismissal as grounds without real and serious cause.**

The "Cour de cassation" has not provided any information on the method for distinguishing fault from error, but the circumstances of the case tend to indicate that fault will rarely be acknowledged.