



WHITEPAPER

HOW TO MANAGE OR ACQUIRE EMPLOYEES IN EUROPE FROM US



ABSTRACT

This whitepaper shortly lists the employment considerations when US companies manage or acquire employees in Europe. Furthermore, it contains subjects like hiring and firing staff, workforce restructuring, business closure and mass layoff, business sale, transfer and outsourcing and privacy and data protection.

HIRING/FIRING STAFF

The most common mistakes US employers make in Europe are in the hiring/firing of staff, workforce restructuring (downsizing), business closures, sale or transfer of a business, and employee privacy (data protection).

There is no concept of "at will" employment in Europe. Employment is primarily structured through formal, written contracts (often mandatory in Europe) that set forth provisions regarding pay and working conditions. Also, because employment is not at will, absent "just cause" (either spelled out in the contract or defined through labor court decisions), Europe has minimum standards for notice prior to termination. In some European countries, termination without a legally valid reason may be void or could result in large damage awards for unfair discharge.

WORKFORCE RESTRUCTURING

When making changes to pay or working conditions, Europe imposes limitations not common in the US. In Europe employers must give information to, and consult with, labor unions and works councils, and in some countries must first obtain their permission before making any changes. Furthermore, because employment is pursuant to contract, unilateral changes are not permitted, so an employer must obtain the employees' agreement (particularly if there is no labor union or works council) to changes in pay or working conditions.

BUSINESS CLOSURE/MASS LAYOFF

In Europe, there is normally a minimum period of prior notice and, in some European countries, a minimum severance that must be provided prior to business closure or mass layoff. In some European countries, it is necessary to consult with a labor union or works council as soon as closure/layoff is under active consideration by the employer. Furthermore, some countries will not allow a closure/layoff until the labor union or works council agrees to it.

BUSINESS SALE/TRANSFER/OUTSOURCING

In Europe, not only is prior consultation with labor unions or works councils mandatory, but the workforce cannot be dismissed by reason of the sale or transfer. Instead, the workforce is



transferred to the new owner, along with their contracts and accrued rights. These same requirements apply to most outsourcing deals.

PRIVACY/DATA PROTECTION

In Europe, many European countries severely limit an employer's ability to conduct workplace monitoring or testing (e.g., drug testing, monitoring of emails, etc., are severely limited), with the transfer of employees outside of the European Union subject to stringent restrictions. In addition, employees normally have the right to check data.



SOURCE

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