Watching UEFA Euro 2012: A Guide for Employers

Labour and Employment Law Issues

Prepared by the Employment Law Alliance

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The euphoria surrounding UEFA EURO 2012, with the opening match scheduled to kick off in Warsaw, Poland on 8 June 2012, has gripped countries all over Europe and many around the world. As exciting as the games will be, work must still go on as usual. Clear communication should be made to all staff about their conduct and the employer's expectations, especially between the key dates of 8 June and 1 July. Despite all the hype surrounding UEFA EURO 2012, employers in all jurisdictions are encouraged to take time out to think about the ways in which this international sporting event will affect their employees and, in turn, their businesses.

This publication intends to serve as a quick-help guide for employers regarding the most likely labour and employment law questions that may arise during the UEFA EURO 2012. Further, the information can pertain to essentially any major event – sporting or otherwise – that grips the attention of a large part of the population during traditional working hours.

KEY QUESTIONS FOR EMPLOYERS

ABSENTEEISM

- How can the company react to unjustified or short-term absences or to a false medical certificate submitted by an employee?

WORK TIME ORGANISATION

- Are there ways of organising work time so that the employees can follow matches?
- If the company adapts working time, what risks are incurred with respect to discrimination against women, other nationals, and those unmoved by football?

COMPANY I.T. TOOLS

- May a company filter internet use or emails? On what conditions, if any?

INTOXICATION

- Can a company administer breathalysers in the workplace?
- What action, if any, can be taken against employees who report to work under the influence of alcohol?

OFF-DUTY CONDUCT / FOOTBALL HOOLIGANISM

- How does a company deal with off-duty misconduct, such as football hooliganism?

GAMBLING / OFFICE POOLS

- Is it lawful for a company's employees to conduct office pools at the work place in which money is contributed for the chance to win the entire pot?
- If office pools or gambling is prohibited, what steps should an employer take to prevent office pools from being conducted at the work place?

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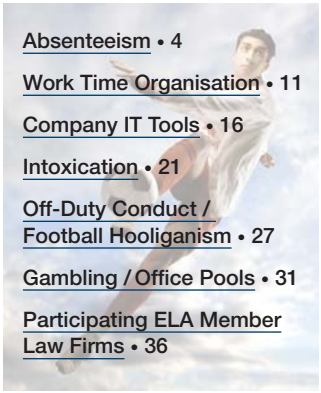
Q: How can the company react to unjustified or short-term absences or to a false medical certificate submitted by an employee?



CHINA

For both an unjustified and short-term absence, the response depends on company rules. Both could be treated as unpaid leave, personal leave, use of annual leave, or deduction in pay. Regardless, the rules should be issued in accordance with statutory consultation procedures. If submitting a false medical certificate is set forth in company rules as grounds for employee discipline, then the employee could be given a warning as part of progressive discipline. It is unlikely that an employee could be terminated for submitting a single false medical certificate. The period of absence covered by the false medical certificate could be deemed an unjustified absence.

CZECH REPUBLIC

Whether an absence is considered unjustified depends on the employer's perspective. If there are trade unions at the employer's company, the absence shall be discussed with them. However, the employer has the final word in determining whether an employee's absence is unjustified. Possible sanctions include reducing the number of days of vacation, non-payment of the salary/wage compensation for the day of duly unjustified absence, and in the most severe cases terminating the employment.

An employee must always ask his/her employer in advance for time-off if he/she is aware of an impediment to work. The law states the conditions under which an employee is entitled to time off and whether the employer shall pay the employee during this time, i.e., if the short-term absence shall be construed, for example, as a half-day holiday. Sometimes the employee may be required to show evidence of the reason for the absence, such as providing a medical certificate when sick or a confirmation that he/she participated in (for example) the funeral of a close relative.

An employee on sick leave is required to provide his/her employer with a medical certificate. Some employers require this only if the sick leave is longer than three days (in the Czech Republic, employees do not receive any compensation for the first three days of sick leave). In case of any doubt, the employer can check or ask the state social security administration to check whether the employee is complying with the treatment prescribed by the doctors and in fact is staying at home. The employee may be sanctioned by partial (or even total) reduction of compensation to be paid during sick leave. Effective in 2012, under certain conditions, an employee's employment may be terminated if he/she does not respect the regime in the medical certificate. Falsifying a medical certificate is also considered a criminal offence.

DENMARK

Whether an unjustified absence from work is sufficiently serious to warrant a (summary) dismissal depends on the severity and extent of the absence. If the unjustified absence is not sufficiently severe, or if such absence has been tolerated by the employer in the past, the employer must start by giving the employee a formal warning. If the employee then continues to be absent without justification, most often, the employer will be entitled to terminate the employment with immediate effect.

As a general rule, an employee has to obtain the employer's permission or have a justified reason (e.g., illness) to be absent from work. In case of illness, depending on the circumstances, the employer may ask the employee to obtain a medical certificate from his/her own doctor as documentary proof of the illness.

Submitting a false medical certificate constitutes a serious violation of the employee's obligations towards the employer. Unless similar violations have been accepted in the past, as a main rule, the employer will be justified in summarily dismissing the employee.

ENGLAND AND WALES

Unauthorised absences without good reason or sickness absences that are not genuine should be considered misconduct issues under the employer's disciplinary procedure. During the European Championship, from a practical point of view, employers may wish to communicate specific rules and procedures to ensure that employees are aware that absences are being closely monitored during this period.

It is difficult for employers to address short-term absences, as proving that an employee was not really ill can sometimes be tricky. The best strategy is to discourage short-term sickness absence in the first place. A combination of ensuring that an employee must personally telephone his/her line manager to report the sickness absence and implementing return-to-work interviews often will reduce the number of absences. A more proactive solution might be to allow some flexibility about working hours, where this is practical, so that an employee who gets to work late can make up the time at the end of the day. Repeated short-term sickness absences, with no underlying cause, can be treated as misconduct for which employers can take appropriate disciplinary action.

If an employee knowingly gives false information or makes false statements about his/her sickness, it may be treated as misconduct and may result in the employer taking disciplinary action up to and including dismissal.

FINLAND

An unjustified absence may entitle the employer to take disciplinary action against an employee, which could include a warning, dismissal, or, in the most serious cases, cancellation of employment. If an employee is absent from work for more than seven days without a valid reason, the employer is entitled to consider the employment contract cancelled as of the beginning of the absence.

A short-term absence also may entitle an employer to take disciplinary action against an employee. However, short-term absences often are not deemed serious enough for an official warning; instead, the employer generally would warn an employee informally that he/she has breached his/her duties. Depending on the company's policies, an informal warning may lead to a formal warning as the next step if the breach reoccurs.

If an employer has a reason to suspect the credibility of a medical certificate given by an employee, and the medical certificate has not been provided by the occupational health care, the employer may oblige the employee to get a new medical certificate from the company's occupational health care provider. The employer also may refrain from paying the employee's salary during the sick leave if the medical certificate is false.

FRANCE

Under French Labour Law, any absence must be either justified by the employee (e.g., by submitting a medical certificate) or authorised by the employer, whether it's a long- or short-term absence.

Faced with an unjustified or unauthorised absence, the employer's reaction depends on the seriousness of the employee's absence from work. Thus, determining the absence as misconduct depends on: the emergency of the situation for the employee; background of the employee and the existence of previous similar conduct; or prejudice caused to the employer and to the running of the company. If the unjustified or unauthorised absence has been committed under such circumstances, the employer may take disciplinary action and could decide to dismiss the employee. It also can lead to a deduction from the employee's salary.

In addressing a fraudulent medical certificate submitted by an employee, the employer may qualify it as misconduct regardless of the circumstances.

GERMANY

German employment law considers an unjustified absence as a serious breach of the employment contract. The employer may react by giving a warning or even terminating the employment contract. Short-term absences also are considered a breach of the employment contract. When it happens the first time, a warning is the adequate reaction. Warnings should be issued in writing and kept in the personal file of the respective employee.

Submitting a false medical certificate is not only a serious breach of the employment contract (which allows the employer to terminate the employment relationship), but is also a criminal offense.

GREECE

An unjustified absence may be regarded as a form of misconduct and may lead to disciplinary actions (e.g., oral or written warning, suspension, etc.) or even to termination of the employment agreement, depending on the specific facts of the case. Moreover, the employee is not entitled to receive his/her wages during the period of the unjustified absence.

Even a short-term unjustified absence from work may be considered a breach of contract and could lead to disciplinary actions. However, the employer likely will consider the exact facts of the case and the actual reason for the employee's absence (e.g., illness, pregnancy, or other unexpected event, etc.) before imposing any disciplinary sanction.

The use of a false medical certificate by an employee to justify his/her absence from work may be considered misconduct, as well as a criminal offence. The employer may impose disciplinary sanctions on the employee or even proceed with terminating his/her employment agreement.

IRELAND

In practice, most unjustified and short-term absences are of a minor nature and unlikely to result in disciplinary sanctions. The employer should make clear to its employees that such absences will not be tolerated and that normal disciplinary procedures will apply. Employees' contracts of employment should state the conditions on which absences are justified (i.e., annual leave, medically certified illness, compassionate leave, maternity leave, etc.). If any employee is absent for reasons that do not fall into these categories, the employer could treat the matter as a disciplinary issue in accordance with its disciplinary procedure.

Providing a false medical certificate can amount to serious misconduct and warrant disciplinary sanctions, including dismissal, especially if the certificate is purported to cover a long period of absence. Any disciplinary sanction, however, must be proportionate to the conduct; thus, dismissal would be appropriate only in the most serious cases. An employee must be given an opportunity to respond to allegations that the medical certificate is false and to give his/her side of the story in line with the principles of natural justice.

ITALY

In principle, any unjustified absence can trigger a disciplinary procedure against an employee. Such a procedure starts with written notification to the employee of the disciplinary charges. The worker generally has five days from receiving the notification to explain his/her conduct, although collective agreements may provide for different terms. After examining the employee's justification, the employer may issue a sanction, which can range from verbal or written reproach to fines or suspension from work or even dismissal. The seriousness of the disciplinary sanction normally depends on the length, as well as the causes, of the unjustified absence.

Except for sick leave and other unpredictable circumstances, short-term absences generally must be agreed upon with the employer. Thus, any short-term absence not authorised by the employer is to be considered unjustified and will trigger the same consequences from a disciplinary standpoint.

According to case law precedents, submitting a forged medical certificate is considered a serious misconduct that may lead to an employee's dismissal. Any such sanction must be preceded by the above disciplinary procedure. Regardless, the employer is entitled to require that a doctor of the national health system (i.e., an independent body) make a control visit to the address at which the sick employee is supposed to be recovering to check his/her medical conditions.

NETHERLANDS

The employer's permission is required before an employee may take leave. An unjustified absence can be sanctioned by skipping a salary payment. Depending on the relevant circumstances, it also could lead to an urgent cause for dismissal with immediate effect. Prior to imposing disciplinary measures, however (including dismissal with immediate effect), the employer must have a disciplinary policy in place or at least have made clear the sanctions that may occur when an employee disobeys the company rules (e.g., official warning, no pay, dismissal, etc.).

If an employee is a "first offender" or the absence is incidental, a dismissal with immediate effect is generally considered an inappropriate measure. Therefore a less far-reaching measure would stand to reason, such as deducting salary with respect to the absent hours.

Upon an employer's (or company doctor's) request, an employee must be able to provide a medical statement upon returning to work, after claiming that he/she was absent through illness. Depending on all relevant circumstances of the matter, providing false (medical) information may lead to an urgent cause for dismissal with immediate effect.

NORTHERN IRELAND

A company can commence disciplinary action for unauthorised and short-term absences in accordance with the terms and conditions outlined in the company's employee handbook. With respect to falsification of a medical certificate, such behaviour could warrant summary dismissal if considered to be sufficiently serious.

POLAND

An unjustified absence from work for three or more consecutive days may lead to disciplinary sanctions or even immediate termination of the employment contract due to the fault of the employee. For short-term absences, employers in Poland are obliged to grant up to four days of leave in each calendar year at the request of the employee, within the period specified by the employee. However, the employee must apply for the leave at the latest on the day on which he or she begins the leave.

If an employer suspects that a medical certificate is forged, it may request additional explanation or clarification directly from the medical specialist who signed the certificate. Submitting a fraudulent medical certificate may constitute grounds for criminal liability and termination of the employment contract without notice.

PORTUGAL

An unjustified absence determines the loss of retribution and the respective seniority. It also may lead to disciplinary action and penalties that may go from a mere or registered reprimand to a penalty payment, loss of holidays, suspension with loss of retribution and seniority, or even dismissal. The absence of an entire or half-period of work immediately preceeding or subsequent to a day or half-day off shall be considered a serious misconduct for the purposes of disciplinary action. An upcoming change of law may soon extend the unjustified absence regimen to those immediately preceding or following the week-end, as well as bank holidays.

Employees' absences for shorter periods of time than the normal period of work are added together until they amount to a full normal period of work. Additionally, an employer may refuse employee services whenever the latter reports to work behind schedule according to the following: a 60-minute delay at the beginning of the normal period of work allows the employer to refuse the entire day of work; a 30-minute delay at the beginning of the normal period of work or after a meal break allows the employer to refuse the fraction of the day of work at issue.

An employer may require verification of an employee's temporary disability. Furthermore, the use of a false medical certificate may lead to disciplinary action and constitutes a fair ground for dismissal.

RUSSIA

Absence from work without a reasonable excuse for an entire working day will be classified as voluntary withdrawal from work and may result in termination of the employment relationship. The offence has to be discovered by the employer not later than six months from when it was committed, it must be confirmed in writing, and the documents must be executed in accordance with the law and in due time after the event.

A short-term absence may be considered a disciplinary offense due to non-performance or improper performance by an employee of his/her duties. An employer has the right to impose disciplinary sanctions by way of reprimanding the employee. Repeated absences may be deemed a gross violation of employment duties and serve as grounds for termination of the employment relationship subject to the proper execution of the relevant documentation.

An employer is entitled to not pay sickness benefits if the employee has submitted a fake medical certificate, provided that the employer discovers this before paying the sickness benefit. The forgery should be documented; otherwise, failure to pay the sickness benefit may be deemed illegal. If the forgery is revealed by the relevant state authority while checking the correctness of social insurance payments, the state authority will contact the law enforcement authorities.

SLOVENIA

A worker's unjustified absence from work may result in a serious breach of his or her obligations under the employment relationship. If an employee is absent unjustifiably from work for shorter periods of time, the employer may give written formal notice to the employee or impose disciplinary sanctions as defined in the employer's internal rules. A worker who repeats the violations and is repeatedly absent unjustifiably from work for shorter periods of time may be subject to the regular termination of the employment contract for reasons of culpability. In addition, an employer may extraordinarily terminate the employment contract if an employee does not come to work at least five days in a row, and he or she does not want to give the employer the reasons for his or her absence, even though he or she should and ought to have done so.

Presenting a fraudulent medical certificate to an employer constitutes a serious violation of obligations under the employment relationship. Further, it is a criminal offense for which the employer may extraordinarily terminate the employment contract for reasons of culpability and with immediate effect.

SPAIN

Unjustified absence from work is a breach of the employment contract. The employer may take disciplinary action by giving a warning to the employee and sanctioning with suspension of work and salary. However, one or two days of absence is not deemed serious enough to justify a termination for cause (without severance), particularly where the employee has a long seniority and no record of prior infringements. Alternatively, the employer may attempt a business grounds termination, which entitles the employee to a severance below the standard termination severance. Such termination is subject to there being a given ratio of individual absenteeism above the relevant thresholds in the work center. Regardless, an employer may always have recourse to termination without cause (which does not require any justification or prior notice) merely by giving written notice and paying the employee the standard severance (33 days' salary per year of service, capped at 24 months).

Short-term absences are also considered a breach of the employment contract. For first-time offenses, a warning is an adequate reaction. Warnings should be issued in writing and kept in the employee's personal file in order to build a possible case. It should be noted that time limits for the employer to take action are very short in Spain, so a quick reaction is advisable.

Obtaining a fraudulent medical certificate is regarded as a serious misconduct and can be penalized with termination of the employment relationship. According to Spanish law, it also could be considered a criminal offence.

SWEDEN

Unapproved, unjustified absenteeism is a serious form of misconduct that may lead to ordinary or summary dismissal if the employee is absent from work for an extended period of time without acceptable reasons. Any absence from work, whether short-term or for longer periods, must be approved by the employer in advance. If not, just cause to terminate the employment may be at hand. The determination should include consideration of the probable future behaviour of the employee and whether the employee might emend.

Unapproved short-term absences are a breach of the employment contract and should be addressed as such. However, an employee can normally be absent from work due to sickness for a period up to seven days without providing a medical certificate to the employer; thus, it may be difficult for an employer to take any actions against an employee's short-term absence.

Falsifying a medical certificate is considered fraud and is criminal. It also constitutes misconduct and may lead to notice of termination or summary dismissal, as well as a breach of the loyalty obligation towards the employer.

SWITZERLAND

Swiss employment law considers unjustified absences a serious breach of the employment contract. An appropriate reaction would be to give a (written) warning. In case of further unjustified absences after a warning has been given, the employer may be entitled to terminate the employment with immediate effect.

Except for sick leave or other unpredictable circumstances, short-term absences are also considered a breach of the employment contract. Here again, the employer may react by giving the employee a warning, again in writing for evidence purposes.

If an employee produces a false certificate with clear intent to mislead the employer, a dismissal with immediate effect may be justified. If the employer doubts the seriousness of the medical certificate, it is entitled to ask for another medical opinion at its own expense to verify the employee's inability to work.

UKRAINE

Any absence must be justified by the employee by submitting, for example, a medical certificate. Otherwise, the absence may be considered a form of misconduct that may result in disciplinary action (e.g., reprimand or dismissal (Art. 147 of the Labor Code of Ukraine)). Disciplinary actions may be imposed for up to six months from the date of misconduct. Dismissal is possible for systematic derelictions.

Any unjustified short-term absence also may be a reason for terminating the employment contract. Of course, in each case all circumstances shall be taken into account. In accordance with the Labor Code of Ukraine (Art. 40 of the Labor Code of Ukraine), "short-term absence" means an absence at the workplace for more than three hours during the work day without any valid reasons. The employer must agree to any absence, even if it is short-term.

A medical certificate is an official confirmation of an employee's absence. Upon presentation to the employer, the employee cannot be dismissed. Giving a false medical certificate may qualify as a serious form of misconduct and may result in disciplinary action. Moreover, the Ukranian legislature provides that those establishments and/or persons who provide a false certificate also will face possible consequences or sanctions.

UNITED ARAB EMIRATES

An employee who is absent without a valid reason for seven consecutive days or 21 non-consecutive days can be summarily dismissed without notice (or payment in lieu of notice). In such circumstances, the employee also forfeits his/her statutory entitlement to receive an end-of-service gratuity payment upon termination of employment.

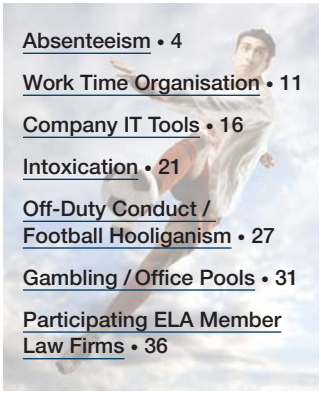
An employee who is absent from work without permission or reasonable excuse is not entitled to be paid his/her salary for the day of absence. In addition, employers may impose additional fines in accordance with the rates specified in the Federal Labour Law (No.8 of 1980, as amended), which vary depending on how many times the employee repeats the offence. Employers may also impose fines on employees who report to work late, the amount of which varies depending on the length of delay and how often the employee repeats the offence.

An employee who submits a forged medical certificate can be dismissed summarily without notice, and forfeits his/her entitlement to the end-of-service gratuity. An employee who pretends to be ill can be fined in accordance with the rates specified in the Federal Labour Law, which vary depending on how many times the employee repeats the offence.

WORK TIME ORGANISATION

Q: Are there ways of organising work time so that the employees can follow matches?

If the company adapts working time, what risks are incurred with respect to discrimination against women, other nationals, and those unmoved by football?



CHINA

Changing work hours may require the consent of the employees. Employees on the "flexible working hours system" feasibly could have their work hours reasonably changed on a daily basis. However, if work hours are changed so that the employees effectively work prior to the normal starting time, or after the usual ending time, the employer may be obligated to pay overtime. Otherwise, there is no risk of discrimination.

CZECH REPUBLIC

Yes; the way work time is organised depends on the employment contract and generally on the employer, who decides on the distribution of employees' working hours and breaks. Employees who wish to follow matches (e.g., on TV) should always seek the agreement of their employer. Without such an agreement, participating in any activity that does not fall within an employee's work tasks (such as watching matches on TV) is considered a breach of his/her duties.

Discrimination in the labour law relationship is forbidden under Czech law. Employers should always respect the principle of equal treatment of all employees, including working conditions and the like. If the working time is adapted for only a selected group of employees because of football matches, such an approach might be considered discrimination against the rest of the employees (those disinterested by the football). A person who feels discriminated against may request (in general) that the discriminatory activities are stopped and the consequences of the discrimination removed; he/she can also request compensation for harm incurred. However, discrimination cases are very rare in the Czech legal practice, and it is not very probable that adapting working time for football matches would lead to a discrimination case.

DENMARK

Yes; it is possible to organise work time so that employees can follow matches, provided that the employer and the employees make an agreement in this respect. However, some collective agreements include requirements on the organisation of work time, which must be followed to the extent that the employer is subject to such an agreement.

Although it is unlawful to directly or indirectly discriminate against employees on the basis, for example, of gender, race, religion, nationality or social background, it is unlikely that adapting working time to football matches will be found to constitute discrimination against any group of employees.

ENGLAND AND WALES

Yes; employers could adopt a policy to explain their approach to employees watching the tournament. They could, for example, say that requests will be granted either on a "first come, first served" basis or on a rota basis. Alternatively, employers could screen key matches and allow employees to watch them during their break at work. Where flexible working practices exist, employees may be able to work around the matches that they want to watch and make up the lost time. Where employees are allowed to watch football matches

during work time and on the premises, the policy should set forth how the employer will arrange this and the conduct that it expects from its employees (for example, that alcohol may not be consumed and that bad language and behaviour will not be tolerated).

If an employer adapts working time to allow employees to watch European Championship matches, it also should consider requests for time off to watch other major sporting events that might be enjoyed by those employees unmoved by football (for example, the Wimbledon tennis tournament or the Olympics). However, discrimination law in England and Wales only provides for protection in relation to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation. Accordingly, an employee would find it difficult to establish discrimination on the basis of being "unmoved by football."

FINLAND

An employer, at its discretion, may decide to organise working time so that employees can follow the football matches. As long as the employer does not breach its obligation for equal treatment of all employees, no risks exist with regard to discrimination. Thus, if an employer gives those interested in football paid/unpaid free time for watching football, an equal amount of paid/unpaid free time should be given to those unmoved by football.

FRANCE

Under French law, it might be possible to organise work-time in order for the employees to follow matches, depending on the way working hours are regulated within the company. For collective working hours, it would be difficult for an employer to adopt alternative working hours, as it would need to modify the existing working hours agreement. For individual working hours, an employee might ask to adopt a flexible working time system through a specific agreement between him/herself and the employer. Executive-level employees' working time generally is determined on the basis of a set number of days worked per year regardless of how many hours they work during each day; thus, they are not subject to specific working hours and could freely organise their working time to follow matches.

Any potential risks regarding discrimination are low as long as all the employees are equally allowed to schedule their working hours, whether or not it is to watch football games.

GERMANY

Yes; if a Works Council (Betriebsrat) is established, the management can agree with the Works Council on a schedule whereby employees can watch the games. For example, the cafeteria with wide screen TVs can be a place reserved for such "viewing events." Football is a non-discriminatory sport in Germany and therefore there are no risks incurred with respect to discrimination.

GREECE

The working hours for employees are determined by law and individual employment agreements. However, the work time may be organised temporarily in a way that allows employees to follow matches as long as there is a specific agreement between the employer and the employees. The employer is obliged by law to notify the labour inspection authority regarding the change in the working schedule of the employees.

It may be considered preferential treatment to allow employees to alter their working hours to watch the games if other employees, who are moved by other activities, will not have the same privileges in scheduling their working hours in order to follow the activities in which they are interested.

IRELAND

Yes; employers may agree to different working time arrangements with employees for the purpose of facilitating their watching the football matches. Employers also could offer paid or unpaid time off. The terms of any change in working hours should be clearly communicated to employees in advance and should be an option available to everyone. Employees also could decide to take some annual leave to watch the matches, although the timing of such leave must have the agreement of the employer. Any potential risks regarding discrimination are low as long as the employer treats all employees equally and includes them in any changes to work hours and other such actions.

ITALY

In general, employers cannot unilaterally modify work time unless otherwise agreed in the employment agreement (or grounded on organisational/production reasons). On the contrary, work time can be subject to modifications with an individual employee's consent. When adjusting working hours to enable employees to follow matches, the employer should take into account statutory dispositions concerning the minimum periods of daily and weekly rest, corresponding to 11 consecutive hours per 24-hour period and to 24 plus 11 consecutive hours per each seven-day period respectively.

Since any change in the work time is agreed between the parties, employees may claim that the employer has granted an adaptation of the work time only to some but not to others who had requested it for different/similar events. Theoretically, this may raise discrimination issues (e.g., in connection with nationality or gender). However, this is a very remote risk also taking into account that the UEFA European Championship occurs only once every four years and has a global impact.

NETHERLANDS

Yes; the employer and employee are free to do so, all within the margins of the law. The Works Council, if any, may need to be consulted.

If the company adapts working time, there are no risks with respect to discrimination against those unmoved by football, as this is not a matter of direct or indirect discrimination. Nevertheless, according to the equal treatment legislation, an employee may not be discriminated against as regards the terms and conditions of employment.

NORTHERN IRELAND

Yes; this is a matter for individual employers, but legally there would be nothing to prevent this type of organisation. Although there could be organisational difficulties if the employer operates shift patterns, that, too, should be manageable. Employees could of take annual leave during this period as long as that is allowed by their contract and the employer.

Any risks with respect to discrimination include administrative difficulty with organising working hours/shift patterns for employees who do not wish to watch football, and some potential for 'bullying' of those whose refusal to watch acting as a bar to the employer allowing (for example) changed shift times. However, the risk must be considered relatively low. The potential claimant would need to be able to show that he or she has been treated less favourably on a statutory ground, and this is unlikely.

POLAND

It may be possible for an employer to adjust employees' working time to enable attendance at the matches, depending, in particular, on the content of the company's internal regulations and the employment contract. It is, however, always required that, within the accounting period, an employee's working time may not exceed the statutory limits where the standard working time is based on a five-day work week not exceeding – on average – 40 hours per week and eight hours per day. Additionally, the rest periods need to be observed in each case, as the employee is entitled to uninterrupted rest amounting to at least 11 hours in each 24-hour period and at least 35 hours (in particular scenarios, 24 hours) in every week.

Under Polish law all employees have to be treated equally with respect to the terms and conditions of employment. The employer could be deemed to have violated the non-discrimination rules with regard to adopting different working time for various employees for reasons of e.g., gender, age, or nationality unless it is able to justify that such a decision was based on objective and reasonable considerations.

PORTUGAL

Employers may reorganise work time by temporarily changing the work schedule during the European Championship. However, this requires a process of consultation that may not be worthwhile, bearing in mind that it will be in effect for only one month. Furthermore, an employer and employee may agree that the employee will compensate his/her absence with work time spent following the matches, without it being considered overtime.

In case of changing the working time for all employees, the potential risks regarding discrimination most certainly would be addressed during the consultation period prior to the scheduled change.

RUSSIA

Russian legislation does not provide for such possibilities. An employee may follow matches only during paid or unpaid vacation or days off agreed in advance with the employer.

SLOVENIA

The organisation of work processes and the possibility of following football matches depend on the employer's business policies and the way working hours are arranged. An employee whose working time is fixed has to obtain the prior consent of the employer for any absence from work within the prescribed working hours; otherwise, his/her actions constitute an unjustified absence from work, which is a violation of the obligations under the employment relationship.

If the nature of the work allows, the employer may adapt working hours in case of football matches in accordance with its business policy, but it is not required to do so. Generally, in the Republic of Slovenia we do not follow football matches during working hours.

SPAIN

Employees are not entitled to demand a change in working time, although an individual agreement between an employee and employer is allowed and is acceptable. For collective changes in working time affecting a number of employees exceeding the thresholds, consultation with employee representatives would be required to negotiate the appropriate arrangement. In terms of discrimination, there are no risks because watching football is not a protected right.

SWEDEN

There are no laws in Sweden preventing employers from rescheduling working hours for their employees as long as the rescheduling does not exceed the regulations of the Working Hours Act or divert from any applicable collective bargaining agreement. All parties must agree before the work time is adjusted unless the specific employment agreement allows the employee to change his/her working hours without the consent of the employer (flexible working hours).

The work time cannot be reorganised unilaterally by the employer in the event that an employee unmoved by football objects to adapting his/her working hours so that other employees at the workplace can have the opportunity to follow matches. Employment conditions may be changed only under certain circumstances – and changing the term and conditions of employment is quite a technical procedure.

Prohibited grounds for discrimination in Sweden include gender, transgender identity or expression, ethnicity, religion or other beliefs, disability, sexual orientation or age. Both direct and indirect discrimination is prohibited. Since watching football is not a prohibited ground for discrimination, there are no related risks.

SWITZERLAND

There are ways of organising work time so that employees can follow matches, but doing so is entirely at the employer's discretion. Further, we do not identify any associated risk in providing for such an adjustment. However, any changes in the work environment to allow employees to follow the matches during the work day could create a precedent in case of other events favored by other employees.

UKRAINE

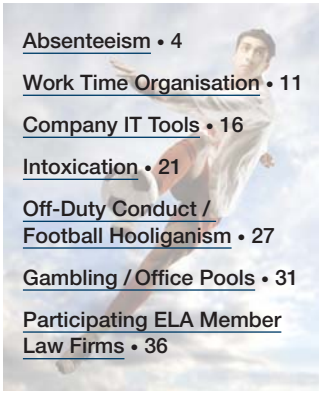
In accordance with the Labour Code of Ukraine, as a general rule, the working hours in Ukraine are eight hours per day, five or six days per week, with a maximum of 40 working hours per week. A shortened working day may be established for special employees' categories. The work time of a company is regulated by its internal regulations. Any changes shall be made with the consent of the labour union.

Furthermore, in accordance with Constitution of Ukraine, the Labour Code of Ukraine, and other acts of legislation, employers are legally prohibited from any discriminatory treatment with respect to working hours by reason of nationality, gender, race, sex, disability, family status, etc. All conditions of work, including working hours, shall be equitable for all employees (moved and unmoved by football).

UNITED ARAB EMIRATES

Employers are free to organise work time so that employees can follow the matches. As such, there are no grounds to bring an action for discrimination on this basis under the Federal Labour Law. However, if an employee's contract sets out specific working hours then the employee's consent is required before the hours can be changed. No employee should work more than five consecutive hours without breaks for rest, meals, and prayer amounting in aggregate to not less than one hour. Friday is a statutory weekly rest day and no employee (other than daily paid workers) should be made to work on two successive Fridays. In addition the Federal Labour Law imposes certain restrictions on the employment of women at night, which may have an impact on an employer adapting work time to allow employees to follow matches.

Q: May a company filter internet use or emails? On what conditions, if any?



CHINA

PRC law does not prohibit employers from filtering or monitoring employee emails or internet use. In fact, PRC law can be read to require employers to monitor such use. To that end, no employee should have any expectation of privacy when using employer-provided equipment.

CZECH REPUBLIC

Yes; Czech legislation states that employees should make full use of the working hours and means of production for performing their assigned work. Employees may use the employer's means of production (including IT equipment) for personal purposes only if permitted by the employer. The employees, however, must be informed (in advance) that the employer controls/monitors both internet use and private use of emails. On the other hand, there are limits as to what the employer can monitor since it cannot read employees' private mail.

DENMARK

Yes; employers may block access to certain internet sites. In addition, as part of the company policy/staff handbook, they also may set out restrictions on employees' use of the internet and email system.

If an employer wants to be able to check an employee's use or misuse of the internet or email system, it is important that it has clearly informed its employees that the registrations of internet and email use will be reviewed or examined in case of suspicion of misuse. However, under no circumstances whatsoever may an employer read an employee's private emails.

ENGLAND AND WALES

Yes; England and Wales law allows employers the right to filter internet use and emails. The terms of the restriction may be incorporated into the employment contract or outlined in an IT monitoring policy, which, in addition to informing the employee of the monitoring, should set forth standards of best practice and cross-refer to other relevant policies (for example, the disciplinary policy).

Disciplinary action can be taken against employees who abuse their internet privileges in breach of an employer's policy, provided that any monitoring takes place in accordance with the data protection, human rights, and telecommunications legislation. An employer must provide specific details to the employee about the employer's monitoring activities; the monitoring must be proportionate; and employers should be aware that employees have the right to request access to monitoring records under data protection legislation.

FINLAND

An employer may block certain online content in order to enforce rules on appropriate network use. It also may filter email, but only for network security purposes. However, such purposes generally are construed broadly to include, e.g., spam filtering. Employees' internet use cannot be monitored on an individual level. Any filtering of email must be done using automated analysis tools; it cannot be based on a human reviewing the messages.

FRANCE

Under French Labour Law, access to the internet by employees for personal purposes during working time and/or from their work-provided computers is permitted as long as the internet use is reasonable and not excessive.

This general rule, which is in line with the French principle of freedom of speech both within and outside the company, can be limited by the employer. The limitations must be justified by the necessity to safeguard the security of the company's network or forbid any content that would be contrary to morals and public order, or by the employer's desire to avoid any abuse from employees. Limitations can include, for example, prohibited access to specific websites or reducing the amount of time that employees are allowed to use the Internet for personal purposes.

Before monitoring employees' use of the internet, the employer has to inform and consult the Works Council, if any, declare the implementation of said system to the French Data Protection Agency (CNIL), and inform employees about it.

GERMANY

Yes, if internet use and emails are not for private use. If a company allows private use of the internet, email filtering and monitoring are restricted by law. The best practice is to prohibit any private use of the internet and email at work. In this case, the employer is generally free to monitor and filter emails because they are then considered as being solely business-related correspondence.

GREECE

In principle, employers cannot monitor employees' working activities with electronic devices and therefore cannot take disciplinary action against them based on their use of the internet or company email accounts. However, collecting and processing data related to the employees' communications, including by email, is allowed when it is absolutely necessary for organising and overseeing the performance of a specific task(s) by the employees or its turnover, and in controlling expenses.

Any personal data that is collected must be limited to those absolutely necessary and relevant for achieving these purposes. The employee's consent is required and will have to be accompanied by specific action taken by the employer (e.g., modifying the terms of use of information technology equipment and communications; developing a corporate email/internet company policy; allowing employee representatives (if any) to participate in both policy implementation; and investigating any violations) to ensure that the employee's privacy and communications are protected.

IRELAND

Yes; employees in Ireland have a constitutional right to privacy, although that right is not absolute and it must be balanced with an employer's legitimate business interests. To avoid any misunderstandings, an employer should clearly explain its internet and email usage policy to employees in order to reduce their expectations of privacy with respect to both. Further, it is important that an employer's practice matches its policy in terms of the consequences for misusing email or the internet. The employer will be in a better position to defend a claim for breach of privacy if it can show that the filtering was necessary and reasonable, and that employees were aware that such filtering was taking place.

ITALY

In principle, employers cannot monitor employees' working activities with electronic devices (such as software) and therefore cannot take disciplinary action against them based on their use of the internet or company email accounts. However, when the electronic devices have been installed for organisational, technical, or production-related reasons and, the employer has reached an agreement with the company's Works Councils on the relevant use (or, alternatively, has obtained the authorisation of the competent labour authority), it can occasionally check on the working activities and take appropriate disciplinary action when warranted. As a precaution for security reasons, notwithstanding the above, employers are entitled to block access to certain internet sites or use a software program to filter spam emails. Employers are advised to develop and make widely available a specific policy on employee use of both the internet during working time and company email accounts so that employees are aware of what constitutes a breach of disciplinary rules.

NETHERLANDS

Yes; control, however, is duly limited by privacy legislation. It is essential that employees are aware of their company's internet policy, which should be in place and should outline the controlling measures, as well as the situations for which they may be imposed. The employer must consider the employees' privacy at all times. Only business-related matters fall within the scope of an employer's authority – and that authority exists only when it has been made explicitly clear to all employees.

NORTHERN IRELAND

Yes; companies need to balance the competing interests of their legitimate business and good name with the privacy rights of their employees. A company would always have the right to filter internet sites and emails that include lewd, offensive, discriminatory, or inflammatory material irrespective of any alleged right of an employee/worker. Regardless, an employer should state clearly that it reserves the right to monitor its interest against employee email use.

POLAND

Yes; a company may filter internet use and office emails in the workplace. It should not, however, filter the personal emails of its employees, even if they are sent during working hours.

As this issue is not specifically regulated under the Polish law, it is recommended that a company inform its employees of such monitoring and develop clear rules and expectations in the company's internal policies or working regulations. Thereafter, any online disobedience should result in disciplinary actions or dismissal. Importantly, while a company may impose any reasonable restrictions on the use of the internet and email at work, the supervision should be adequate both in terms of its purpose and means.

PORTUGAL

Employers may filter internet use and emails by establishing rules of usage, notably by limiting the times of use or prohibiting access to pre-determined web sites. The best practice is to include such limitations in the company's policies, which are subject to prior consultation of the worker's council, followed by deposit sent to the Labour Authority, and to the regulatory authority overseeing personal data protection compliance.

RUSSIA

Employers are entitled to both filter and limit internet use and corporate emails. If possible, preventive measures should take precedence over detection. In other words, the employer's interests will be better protected by using technical means to carry out preventive measures (e.g., restricting access, blocking certain types of sites, or using an automatic alert) than spending more resources on searching for unauthorised internet use.

The conditions for filtering internet use and auditing corporate emails are provided by the rules of the internal labor regulations (a local act that, as the main rule, shall be issued and approved by each employer according to mandatory requirements provided by the labor laws). The regulations prescribe a ban on the use of the internet and corporate email and the right of the employer to read employees' corporate emails. Every employee must be familiar with these rules, confirmed in writing and signed by the employee. Further, it is reasonable for the same rules to obligate employees to warn the parties they correspond with of the possibility that email messages may be audited.

SLOVENIA

Restricting access to internet use and emails is not specifically regulated in the Slovenian legislation. To ensure the smooth running of the workplace, some employers restrict access to specific websites that they have determined generally cause disturbances. Generally speaking, employers may specify in their internal regulations the conditions of access and extent of work-time use of the internet and email. In this case they should respect the communication privacy of employees and the workplace environment. Covert surveillance of internet use and email is not allowed; however, employers can monitor internet use by their employees if the employees are explicitly warned in advance.

SPAIN

Yes; a company can filter internet use and emails for a limited period of time. Monitoring internet access or emails is enforceable provided that the company has a documented written policy specifically covering this, and employees are aware of the monitoring and control systems. If the filtering does not include monitoring of internet use or emails, and it is only for a limited period of time, then it should not raise issues regarding privacy or changes to working terms, and thus, there is no need to provide written notice or consultation.

SWEDEN

Yes; a company may filter internet use and emails for the purpose of monitoring and controlling whether employees are adhering to the internal rules and policies at the workplace. However, an employer must first inform employees about the purpose of its actions, and that measures have been taken to control and filter internet use. The employer should also inform employee's how and the extent to which they are allowed to use the company's IT systems.

SWITZERLAND

Any monitoring measures of emails and the internet shall be objectively justified by an overriding legitimate interest (e.g., for organisational, technical, or production-related reasons) on the part of the employer, although the means of filtering needs to be reasonable. Regardless, the employees must be notified in advance. Normally, employers would provide in their written policies that they have the right to restrict and monitor the use of company equipment so that employees are well aware of what kind of conduct constitutes a breach of the company's rules.

UKRAINE

Yes; a company may filter internet and email use. There is nothing in Ukrainian law that precludes an employer from undertaking such actions. It may be a policy of the company for proper use of corporate services. But first, the employer must inform all employees about such measures of control, and that filters of the internet and email have been put into place. It also is possible to block social internet sites for use by employees while at work (e.g., on government service). The manner of filtering generally needs to be reasonable and any restrictions imposed by the employer may be incorporated into the employee's employment contract.

It is important to note that any monitoring of private messages is prohibited. Filtering may be applied only to a company's server and/or computers, inasmuch as improper use of company servers may affect the quality of work.

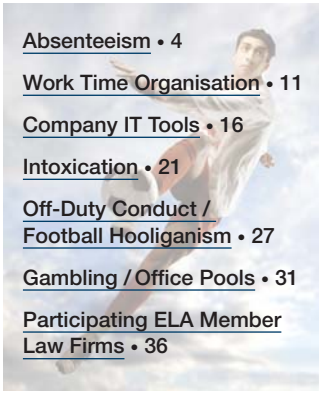
UNITED ARAB EMIRATES

An employer can filter internet use by blocking, for example, access to certain networking sites. Emails should be monitored only if the employee has given his or her consent. Otherwise, there are no conditions in the UAE regarding internet filtering and email monitoring. To ensure some employer control, however, most employers would include in their internal policies the right to restrict and/or monitor such use.

INTOXICATION

Q: Can a company administer breathalysers in the workplace?

What action, if any, can be taken against employees who report to work under the influence of alcohol?



CHINA

Yes; PRC national laws and regulations do not prohibit employers from administering alcohol testing, although doing so is relatively uncommon. Requiring an employee to take an alcohol (or drug) test would likely require inclusion in the company's rules or employee handbook.

Any discipline for an employee who reports to work under the influence of alcohol should be set forth in the company's rules, which may include a required alcohol test. Employees who refuse to take or fail an alcohol test could be subject to disciplinary action up to and including immediate termination of employment. Searches for alcohol may be conducted in certain circumstances.

CZECH REPUBLIC

Yes; employees shall not use or be under the influence of alcohol while at work (with some exceptions for specific professions). Upon request by an authorised senior employee, appointed in writing by the employer, an employee is obliged to undergo an examination to determine if he/she is under the influence of alcohol or some other addictive substances. As such, an employee may be obliged to take a breathalyser test. If the employee is found to be under the influence of alcohol, he/she may be forbidden to continue working, depending on the conditions and the employee's position. If the employee insists that he/she has not used alcohol, he/she may be asked to undergo further medical tests. Using alcohol or being under the influence while at work also may be deemed a serious breach of an employee's obligation and form a reason for terminating his/her employment.

DENMARK

Yes; if an employer suspects that an employee is under the influence of alcohol it may request a control of the employee in question by using a breathalyser. However, the employer cannot force the employee to take part in the control.

If an employer wishes to implement general rules on tests by breathalysers in the workplace, the control must be reasonably justified, have a sensible purpose, be proportional, and conducted in a manner that is not offensive to the employee. In addition, in some occupational areas the employer must inform employees about the control, and the reason for it, at least six weeks prior to implementing the general rules.

Reporting to work under the influence of alcohol generally is not acceptable behaviour. As a main rule, drunkenness will constitute a material breach of the employment relationship by the employee. If the position of the employee in question is such that drunkenness obviously cannot be tolerated, the employer generally will be able to summarily dismiss the employee.

ENGLAND AND WALES

Alcohol testing is controversial and raises issues of privacy and human rights. The extent to which employers can require employees to undertake random alcohol testing depends on the nature of the business and the reason for the testing. Under Data Protection legislation employers would be required to undertake an impact assessment to justify any policy of alcohol testing. For example, the random testing of pilots might be justifiable but the testing of office workers is unlikely to be. If an employee is suspected of working under the influence of alcohol, the employer may discipline the employee subject to conducting an investigation and following a fair procedure.

FINLAND

Currently, lacking express legislation on the matter, an employee shall take a breathalyser test in the workplace only if he/she consents to it. However, the employer may oblige the employee to undergo an occupational health care check, e.g., for the purpose of finding out whether he/she is capable of carrying out assigned tasks. The occupational health care personnel may then, at its discretion, decide to subject the employee to a breathalyser test.

An employer may forbid an employee from performing his/her duties, particularly if the employee's intoxication constitutes an occupational health and safety risk. Depending on the circumstances, the employer may also take disciplinary action (e.g., warning, dismissal, or cancellation of employment) against the employee and/or require the employee to seek treatment for his/her alcohol abuse. Taking such treatment is often deemed an alternative for terminating the employment.

FRANCE

According to the French Labour Code, alcohol is totally forbidden in the workplace (except for wine, beer, cider, and pear brandy). Therefore, the employer has to prevent against any breach of this rule by employees by forbidding them from smuggling and drinking alcohol in the workplace.

An employer is not allowed to subject an employee to a breathalyser test unless taking such action is specifically provided for in the company's internal rules (*"réglement intérieur"*). Furthermore, a breathalyser test can be administered only under the following conditions: the employee must be able to contest the results of the test; and, based on the employee's specific tasks and position, being under the influence of alcohol would be dangerous both for him/herself and for other people.

With these conditions, if the breathalyser test reveals that the employee is under the influence of alcohol, or if the employee refuses to take the breathalyser test, the employer may take disciplinary measures against him/her including disciplinary dismissal.

GERMANY

Generally, yes, but only on a voluntarily basis. Reporting to work under the influence of alcohol is a breach of the employment contract in almost every company – even if no express regulation on alcohol at the workplace exists. The employer can react with a warning or, in serious cases, by terminating the employment contract.

GREECE

Employers in Greece cannot force an employee to take a breath analysis. They may only provide for specific regulations regarding the use of alcohol in the work place and the consequences of such use. If an employee is under the influence of alcohol during working hours, the employer may initiate disciplinary proceedings against him/her and/or even terminate the employment agreement, depending on the facts of each case.

IRELAND

Yes, subject to some restrictions. First, an employer should have a clear policy regarding alcohol testing. Second, while there is no specific legislation governing the testing of employees for alcohol, health and safety legislation obliges employers to provide a safe place of work; as such, it is most common to conduct breathalyser tests where there is a specific safety concern, for example, in the transport and construction industries. Employers need to ensure that any invasive alcohol testing is justified by a legitimate business objective, and is proportionate and effective to achieving that objective in the least intrusive way. Data Protection legislation will also apply since breathalyser testing results in the processing of sensitive personal data. As such, it is necessary to secure the employee's explicit consent to processing the data obtained from the text.

Reporting to work under the influence of alcohol is considered a serious disciplinary matter warranting disciplinary action by the employer. This could include a warning, suspension from duty, or even dismissal in very serious cases. As with any disciplinary procedure, the employee would have to be afforded the right to respond to the allegation in line with fair procedures. Even in very serious cases where dismissal followed, the employee should be given the right to appeal the dismissal. An employer would have to be able to show that a decision to dismiss was proportionate in the circumstances, which would be difficult in most cases.

ITALY

No; a company cannot administer breathalysers in the workplace. However, an employer can take disciplinary actions against employees who report to work under the influence of alcohol. Some collective agreements outline in detail what kind of disciplinary sanction can be applied to an employee who reports to work drunk.

NETHERLANDS

Unless explicitly provided for in an (individual/collective) employment agreement, employees cannot be submitted to a random breath test.

If an employee reports to work under the influence of alcohol, he/she is subject to suspension on grounds of violating the principles of good stewardship as an employee. The suspension is subject to the same rules and requirements as suspensions for other workplace-related violations. Before an employer can suspend an employee, however, it must take certain steps, including investigating the employee's behavior, showing that the grounds for suspension are in fact substantial, and hearing the employee's view on the matter.

If an employer has an anti-alcohol policy in place such that employees know the consequences of using alcohol during working hours (i.e., in the personnel handbook), the employer can dismiss the employee with immediate effect. An employee can also be dismissed if he/she is intoxicated or uses alcohol during working hours and has been warned in writing of the consequences, or there is confirmation of any discussion on this topic whereby an official warning has been given.

NORTHERN IRELAND

In theory, yes; however, the employer needs to be able to demonstrate that this course of action is commensurate with the type of work performed by the employee. The default position is that, unless there is a contractual agreement, the employer cannot require an employee to take an alcohol test. Regardless, an employer has a statutory duty to ensure the health, safety, and welfare of its employees and to assess any health and safety risks. Thus, an employer that knows an employee is under the influence of alcohol or drugs, and allows the employee to continue working, could be prosecuted. Any decision to give a breathalyser test will need to balance the employee's right to privacy and the need for the employer to protect those who are

in its care. Where the employer's workplace is more hazardous, the use of breathalysers can be more easily justified.

The employer's duty to protect other employees' safety within the workplace will allow the employer to send the intoxicated employee home. This can be without pay, and disciplinary action can follow.

POLAND

An employer may perform a breathalyser test on an employee who it suspects is intoxicated only if the employee expressly requests the test. Otherwise, the employer will need to call the respective authorities, e.g., Police or Municipal Police, who are authorised to conduct the examination in question.

The employer or a person authorised by the employer has a duty to not allow an employee to work if there is reasonable cause to suspect that he/she is under the influence of alcohol or to have consumed alcohol during working hours. Depending on the circumstances, such behaviour as a general rule qualifies as a grave violation of an employee's basic duties and, therefore, constitutes grounds for termination of the employment contract without notice.

PORTUGAL

Breath analysis in the workplace is not permitted unless there is a reasonable purpose for it with respect to the safety of other employees, services users, or the community as a whole. Thus, administering a breath analysis shall be restricted to certain professional categories (e.g., security agents, energy technicians, or drivers) that provide services that entail special risks either for the employees themselves or for third parties. Breath analyses can be supervised only by the doctor in charge of the occupational health or by the services responsible for the occupational health and safety of the company. If an employee is considered unfit for work by the occupational doctor, due to the influence of alcohol, the employer shall prevent him/her from rendering the service. In addition, the employer may take disciplinary action against the employee based on his/her disregard of the company's occupational health and safety rules.

RUSSIA

No; however, if an employer suspects that an employee is intoxicated, it shall forbid the employee from performing his/her duties. The fact that the employee is in a state of intoxication can be evidenced by a medical certificate or by an employee committee established by the employer for such purposes. The determination must be based on identifiable attributes (smell of alcohol on breath, lack of coordination (the employee is unsteady on his/her feet or falls over), etc.). A document stating the determination must be drawn up and signed by all members of the committee. In addition, it is reasonable to have the document signed by two witnesses (including their name and title). For purposes of further enforcement and possible disputes, a medical examination and a medical certificate will have more value than an employee committee document drawn up without the involvement of doctors. However, a medical examination of an employee may be carried out only with the consent of the employee.

SLOVENIA

Slovenian legislation expressly prohibits employees from performing work at the workplace while under the influence of alcohol. Since employers must ensure the safety and health of their workers in performing their work, they are required by law to prohibit employees from working while intoxicated. The duty of using breathalysers, however, is not provided by the Slovenian legislation. Instead, the method of verifying the intoxication of an employee and, therefore, whether to use a breathalyser, is determined by the employer according to its internal regulations.

SPAIN

An employer can administer breathalysers in the workplace on a voluntary basis if it has informed its employees in advance about the purpose and content of the test. Breath tests are mandatory if they are justified for occupational risk prevention purposes, e.g., hazardous business or a position that poses a risk to one's health or safety. An employer also may require an employee to take a breathalyser test if failing to check his/her condition could put others in the workplace at risk.

An employee may be terminated without severance if he/she reports to work under the influence of alcohol or drugs, especially if his/her condition has a relevant negative effect on his/her job performance. Alternatively, he/she could be terminated with severance to avoid possible litigation and risks, given that such dismissal is a quick and straightforward procedure. When presented with such a situation, it is worth considering the employee's seniority and salary so as to assess the best termination procedure.

SWEDEN

Breathalysers may be permitted under certain collective bargaining agreements. An employer can also regulate the control of intoxication and use of breathalysers in its internal alcohol policies. However, such measures must be in accordance with the rules of the Privacy Protection Law (1998:204) and employers should consult about the measures with the relevant trade unions. While employers have a responsibility to maintain a safe and functional working environment and to have policies and routines in place for when employees display alcohol and drug abuse, it is only in very specific circumstances that an employee may be given notice of termination or summary dismissal as a result of intoxication or drug use.

SWITZERLAND

Employers are entitled to administer alcohol or drug use tests only in industries where it is imperative to observe security requirements, even as a preventive measure, where using these products puts the safety of the worker, co-workers, or other persons at risk.

An employer can take disciplinary action against an employee who reports to work under the influence of alcohol. If the employee's conduct could put workplace safety at high risk or if the conduct has a substantive negative effect on the employee's work performance, the employer may be entitled to terminate the employment contract with immediate effect. A dismissal with immediate effect can also be justified even for an employee who commits a less serious offense if, despite previous written warnings, has repeatedly been found working under the influence of alcohol.

UKRAINE

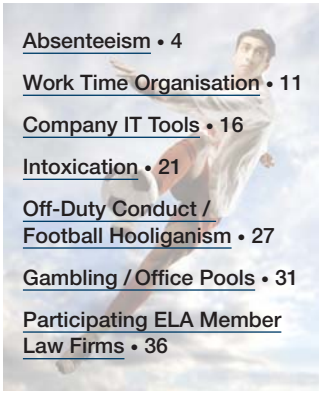
Public drunkenness is forbidden in Ukraine according to the national legislation. It means that, not only in the workplace but in any other public place, such behaviour may be a subject to administrative action (e.g., dismissal under Art. 40 of the Labour Code of Ukraine). Intoxication means being in a state of obvious drunkenness or under the influence of drugs. While there is no legal prohibition on administering breathalysers in the workplace, any such tests may be taken only if an employee consents thereto. Such practice, however, is not widespread in Ukraine labour relations.

In accordance with the Labour Code of Ukraine, an employee who comes to the workplace in a state of obvious drunkenness or is under the influence of drugs during working hours is considered to be guilty of misconduct, which can lead to disciplinary action (i.e., suspension from the work) including dismissal.

UNITED ARAB EMIRATES

The use of breathalysers is not regulated under the Federal Labour Law; however, it is unlikely that administering such a test would be considered acceptable by the authorities without the employee's consent or without a reasonable health and safety reason (e.g., the employee operates dangerous machinery). An employee who reports to work under the influence of alcohol or drugs can be summarily dismissed without notice (or payment in lieu of notice). In such instances, the employee also forfeits his or her statutory entitlement to receive an end-of-service gratuity payment upon termination of employment.

Q: How does a company deal with off-duty misconduct, such as football hooliganism?



CHINA

It depends on the terms of the employment contract or company handbook. If employees engage in off-duty misconduct that damages the company's image, the employer can take disciplinary action. Further, if the off-duty misconduct is of such a nature as to make it impossible for the employee to be physically present at the workplace (such as detention and arrest), he/she may be summarily dismissed. As a practical matter, employees are not commonly disciplined for off-duty misconduct, and termination likely would not be permitted.

CZECH REPUBLIC

With exceptions for certain professions (such as policemen, who are obliged to comply, for example, with ethical codes), employees are not responsible to their employer for their off-work activities. An employee's obligation to behave in a certain way, however, can be included in the employee's employment contract. As such, an employee could be sanctioned. Hooliganism of football fans can be considered a crime (of "disorderly conduct") – and conviction of a crime (including disorderly conduct) may lead to termination of employment.

DENMARK

It depends on the position of the employee. The higher the position, the higher are the requirements and expectations of the employee's off-duty conduct and vice versa. Most employers will be unable to impose disciplinary actions on average employees for their off-duty misconduct unless the misconduct is of a very grave nature. The fact that a given misconduct is criminal is not in itself sufficient to warrant disciplinary actions.

ENGLAND AND WALES

Off-duty misconduct can be dealt with in the same way as misconduct at work if that off-duty misconduct may bring the employer into disrepute or affect the employee's ability to do his/her job.

FINLAND

For certain job positions, an employee's loyalty obligation toward his/her employer may also extend to the employee's free time. Thus, an employer may be entitled to take disciplinary action (typically a warning or dismissal) against an employee if the employee's off-duty actions may, for example, harm the employer's reputation.

FRANCE

Under French law an employer cannot exercise disciplinary power to regulate the life of an employee outside of the employment relationship. Therefore, employees cannot be punished through a disciplinary procedure in the workplace because of misconduct outside the workplace (e.g., football hooliganism).

There are, nevertheless, exceptions to this general rule if the misconduct has any link to the company (e.g., it was committed with company-provided or -owned equipment, the misconduct took place in the

workplace, etc.), or if it is connected to the employee's position and functions (e.g., a breach of a loyalty duty, use of the employee's knowledge, etc.).

Employers should be aware that French jurisdictions usually are not willing to approve a dismissal for an employee's off-duty misconduct. Faced with the prospect, judges are very strict and only few of the cases are ever validated.

GERMANY

The general rule is that an employer cannot justify any disciplinary action (e.g., warning, termination of employment contract, etc.) taken against an employee for off-duty misconduct. There are, however, exemptions from this rule, such as for serious crimes committed while off duty that damage the reputation of the company.

GREECE

Hooliganism consisting of various criminal acts such as assault and battery is punishable by Greek law. However, an employee's activity during off-duty hours cannot be considered as misconduct by the employer unless such activity affects the company's image in a negative manner. Moreover, a company wishing to make absolutely clear that off-duty misconduct will not be tolerated may include relevant provisions within its Internal Working Regulation, informing employees of the consequences and the penalties imposed in the event they are found to have engaged in acts of hooliganism.

IRELAND

An employee generally cannot be disciplined for conduct outside of the workplace or that occurs outside of working hours and in the employee's own private time unless that conduct has a direct effect on his/her employment. If an employee is found guilty of criminal misconduct outside of working hours, the company may be able to treat the conduct as a disciplinary matter. However, the company should clearly state in its employee handbook or in individual employment contracts the level of conduct it expects from employees, and that criminal acts committed outside of the workplace may trigger the company's disciplinary procedure. The test with respect to criminal conduct is whether the conduct renders the employee "unsuitable for his or her employment or is unacceptable to other employees."

ITALY

Generally, off-duty misconduct is considered irrelevant to the relationship between an employee and employer. Thus, an employee's actions outside the workplace should not affect the necessary trust between the two parties and – accordingly – are not grounds for disciplinary action. There are, however, a few exceptions. Most notably, an employee's off-duty conduct that causes an employer to question the employee's suitability for his/her assigned job or duties (especially when the worker's tasks entail enhanced confidentiality, reliance, or confidence) may lead to disciplinary sanctions, including dismissal for cause.

NETHERLANDS

Off-duty misconduct is not governed by (employment) law. However, case law determines that, if the alleged misconduct smears the employer's good name, the employer may be justified in dismissing the employee if: (1) there is a connection between the employee's behavior or misconduct and his/her employment; and (2) the alleged misconduct has a proven negative impact on the employee's performance or the atmosphere among colleagues, or there is a certain degree of damage to the employer's reputation.

NORTHERN IRELAND

If a company becomes aware of misconduct by an employee outside of work that could bring the company into disrepute, the company may be entitled to take disciplinary action against the employee. Further, if the employee is prosecuted for any public order offences, the employer could in fact terminate the employee's employment contract.

POLAND

Generally, a company may not hold its employees accountable for conduct undertaken while not at work. However, in some instances, an employee's off-work behaviour forms the grounds for disciplinary action or even dismissal. In particular, the act of football hooliganism can result in termination of the employment contract with notice due to, for example, loss of trust in the employee. Off-duty misconduct also may justify an immediate termination of the employment contract if it qualifies as an offence, either obvious or established by a court judgment that renders further employment impossible, or leads to a loss by the employee, through his/her fault, of a license required to perform work in the occupied job position. If the employee is on detention awaiting trial, the employment contract expires after the employee is absent from work for three months unless terminated earlier without notice through the fault of the employee.

PORTUGAL

Off-duty misconduct generally is irrelevant for disciplinary purposes, although there are instances when it may be subject to disciplinary procedure, with penalties ranging from a mere or registered reprimand to a penalty payment, loss of holidays, suspension with loss of retribution and seniority, or even dismissal. For this to occur the misconduct must have a direct and negative impact on the employee's performance at work or is likely to put at risk the image and/or reputation of the employer.

RUSSIA

Misconduct by an employee outside the workplace does not relate to employment relationships within the workplace, and instead falls under the competence of law enforcement authorities.

SLOVENIA

Misconduct or offenses committed by an employee that are not related to work cannot be punished by an employer unless the activity causes financial damage to the employer or harms the employer's business reputation. Regardless, the employer must prove the elements necessary to establish the worker's liability.

SPAIN

In general terms, off-duty misconduct cannot justify disciplinary action. What an employee does after work hours is of no concern to his/her employer. However, depending on the seriousness of the behavior and whether there is a link between the employee's conduct away from work and the employer's business, disciplinary action may be taken if the conduct is likely to harm the company's reputation or otherwise negatively impact the business. Regardless, an employer may terminate an employee without cause with severance at any time.

SWEDEN

Generally, off-duty conduct unrelated to work is not considered a breach of the employment agreement. However, in some instances, off-duty misconduct can be considered an objective ground for terminating the employment if it will seriously harm the relationship between the employer and employee.

SWITZERLAND

Generally, off-duty misconduct does not justify any disciplinary actions. However, if the off-duty conduct of an employee affects his/her ability to perform his/her job or harms the company's reputation, the employer can take disciplinary sanctions, including dismissal with immediate effect.

UKRAINE

As a general rule, an employer has no legal basis to take disciplinary action against an employee for misconduct while off duty or outside the workplace. For some positions, however, any off-duty misconduct is unacceptable, especially if the behaviour endangers other employees or the company itself. Further, an employer may take disciplinary action against an employee when its reputation is damaged as a result of the employee's immoral or illegal conduct. It is important to keep in mind that acts of hooliganism may involve criminal elements that are prohibited by the Criminal Code of Ukraine.

UNITED ARAB EMIRATES

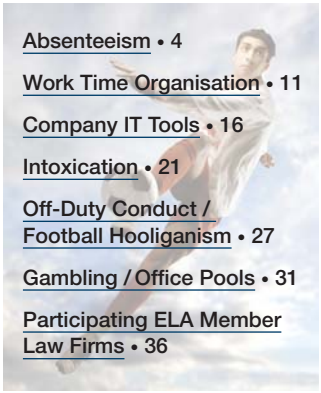
No disciplinary penalty can be imposed on an employee for any act he/she commits away from the workplace unless the act is connected with his/her work, the employer, or the employee's manager. However, an employer can temporarily suspend an employee without pay if the employee is accused of committing a deliberate offence involving assault on a person or property (which would clearly include acts of hooliganism), or for crimes relating to honour and honesty. The period of suspension runs from the date on which the incident is reported to the UAE authorities until a decision on the case is issued. If the authorities decide not to prosecute the incident, or if the employee is acquitted of any wrongdoing, he/she must be reinstated to his/her job. If an employee is sentenced for an offence involving honour, honesty, or public morals, he/she can be summarily dismissed from employment without notice, and forfeits any entitlement to receive the end-of-service gratuity.

It is also worth noting that the UAE has a zero tolerance policy toward public misconduct and drunkenness in a public space. Further, the use of profanity can be a criminal offence under the UAE Penal Code, as can conduct against public morals.

GAMBLING / OFFICE POOLS

Q: Is it lawful for a company's employees to conduct office pools at the work place in which money is contributed for the chance to win the entire pot?

If office pools or gambling is prohibited, what steps should an employer take to prevent office pools from being conducted at the work place?



CHINA

No; gambling (including office pools) is prohibited in China. Participating in gambling may result in fines or criminal liability. Betting for small amounts of money or property may be regarded as "entertainment" and therefore tolerated. Restrictions and enforcement depend on local practice.

Company rules should provide that gambling is prohibited and set forth the discipline for violations. Employees should also be informed that company computer systems may not be used to organise or engage in either pools or gambling. If there is gambling within the work place, the employer is advised to immediately file a report with the police.

CZECH REPUBLIC

Employees should perform only such activities as fall within their work duties during working time. Organisation of or participation in office pools (regardless of whether they are prohibited by public law) during work time can be considered a breach of an employee's work duties. Such activity also may be prohibited by the company's internal rules. Czech legislation concerning gaming and betting (public law) should apply to bets that have features of systematic, repeated activities performed on a regular continuous basis (of course, there are exceptions). Such activities require permission issued by state authority. Operation of gaming and betting when all participants do not have equal conditions, including an equal chance to win, is prohibited (and may also be considered a criminal offence). Occasional and casual bets (i.e., on the UEFA championships) among people would not fall within the concept of operation of gaming and betting and therefore would not be illegal. However, such bets (and wins) cannot be legally claimed (enforced). If an employer wishes to prohibit office pools at work by internal regulation, it should inform the employees explicitly (e.g., by notice) of the specific activities that should not be performed within the workplace premises

DENMARK

Yes; it is lawful for employees to conduct office pools at the work place under the condition that the pool includes only a small group of employees, the purpose of the game is entertainment, it does not have a commercial aim, and it only involves small amounts of money. However, an individual company policy may prohibit office pools and/or other gambling activities.

If an employer suspects that employees are gambling at the office in an unlawful manner, it should remind them that such activity is not allowed and will not be tolerated at the office. If a company's policy prohibits office pools, the employer should specify the consequences for employees who do not adhere to the policy, e.g., a written warning or (summary) dismissal.

ENGLAND AND WALES

Yes; a "work lottery"/office pool is permitted under the gambling legislation. However, there are strict conditions on what constitutes a "work lottery"/office pool, and employers must fall within the exceptions to ensure they do not breach the legislation. Importantly, any "work lottery"/office pool must not be run for profit and all proceeds must be paid out as prizes, less reasonable administrative expenses. In order to be classified as a "work lottery"/office pool, the promoter must work on the premises, tickets can be sold only to other employees at that particular work site, and the "work lottery"/office pool can be advertised only at that particular work site. Employers should make it clear in their workplace policies and disciplinary procedures that gambling at work is not acceptable, and will be treated as a disciplinary matter.

FINLAND

In principle, office pools are illegal, taking into account that, pursuant to Finnish legislation, such pools may be arranged only by certain legal entities with the authorities' permission. However, office pools are a common occurrence. An employer may prohibit office pools and gambling in the company's code of conduct or similar policy and indicate that an employee who breaches the applicable policy may be subject to disciplinary action (e.g., warning, dismissal, or cancellation of employment).

FRANCE

Gambling is not prohibited under French law as long as an employee does not serve as a bookmaker. The only rule provided by the French Civil Law is that there is no right to bring a claim before a Tribunal or a Court in order to implement a gambling result. Thus, an office pool typically would be regulated by the employment contract common rules, which state that the employee is under the employer's authority during working hours and has to be totally devoted to work. An employer may discipline an employee who conducts office pools during work hours on the grounds of a breach of his/her contractual obligations.

GERMANY

Yes, as long as such gambling and office pools are not professionally organised. They should remain a fun game among colleagues and not become a chance to make money. An employer that wishes to prohibit office pools or gambling should announce this to all employees (e.g., in the employee handbook, internal rules, on the company intranet, etc.). The announcement should state that violations will be considered a breach of the employment contract.

GREECE

Gambling on social occasions is illegal when such activity is not operated under the umbrella of a certified business. According to Greek law, someone who wishes to operate and facilitate any form of gambling must first acquire a license from the Greek Government. To that end, the operation of and participation in all forms of legal gambling is controlled by the government through its relevant authorities. Since office pools are a form of social occasions gambling, they also are illegal and punishable by Greek law. An employer found facilitating or harboring, and any employees participating in, such activities may face heavy fines and imprisonment.

Employers may take whatever measures are necessary to guarantee the normal and efficient everyday operation of their workplace as long as they do not conflict with the relevant national legislation. Given that office pools and any form of unlicensed gambling are illegal and punishable by Greek law, an employer may have absolute liberty in securing the well being of the company by including, for example, a provision in the company's code of conduct that outlines the consequences of participating in such illegal activities. These can range from terminating the employment contract to informing the police of the illegal activity.

IRELAND

Irish law regulates three forms of gambling: lotteries, gaming, and betting. It is unlikely that an office pool in which company employees each contribute the same amount of money in return for the chance to win the entire pot will contravene the law governing these forms of gambling. Under Gaming and Lotteries legislation, there is a specific exception for private lotteries (i.e., games of chance) for persons working on the same premises, provided that the lottery is not advertised off the premises. Furthermore, an office pool in which the entire 'pot' is won will not be caught by the prohibition of "unlawful gaming" under that legislation, provided that all participants pay the same amount to enter the pool and pay not more than one such charge per day. More generally, in terms of culture, conducting office pools is an activity tolerated by many employers in Ireland.

ITALY

Gambling activities may be carried out only by authorised entities. Organising them without authorisation is punishable with criminal sanctions. Employers are required to warn their employees that conducting office pools is prohibited and that those who organise gambling activity, despite being warned, can be subject to disciplinary procedures.

NETHERLANDS

Yes; the Betting and Gaming Act does not govern these situations because such games of chance are not open to the public. And, although office pools and gambling are not prohibited by law, employers may include provisions governing these situations in their personnel handbook.

NORTHERN IRELAND

This type of office pool is likely to be viewed as a private lottery, which is lawful, as long as the total prize fund does not exceed £1,000 and there are no advertisements in respect of the lottery. And, while it may be lawful per se, an employer may restrict this type of lottery as it sees fit. If that is in fact the case, the employer should prepare a notice well in advance of the commencement of the tournament confirming the reasons why and what sanctions it will take for a breach of its position.

POLAND

Conducting office pools amounts to gambling games under Polish law. To be considered lawful, organising such games shall be preceded by fulfilling the formalized prerequisites, including *inter alia* obtaining a permit issued by the Ministry of Finance. Football pools may be lawfully organised solely by limited liability or joint-stock companies in the designated points or on the internet – in accordance with the scope of the obtained permit. Therefore, conducting informal office pools by employees at the workplace is unlawful and may constitute a fiscal penal offence.

To prevent office pools from being conducted at the workplace, an employer should make it clear to all employees that such pools are prohibited and ensure that workers are aware of the consequences of organising and participating in gambling games. Additionally, the employer may enlist the participation of supervisors to ensure that no football pools in fact are created.

PORTUGAL

According to the law, gambling and office pools may be carried out only by specific licensed entities. The organisation of pools by non-licensed agents and participating in a pool are considered an administrative offence punishable with an administrative fine. Thus, employers may prohibit office pools at the workplace, and employees who conduct or participate in an office pool may be subject to disciplinary action.

RUSSIA

No; an employer's internal labour regulations can specify that office pools are prohibited at the work place and should provide disciplinary measures that shall be taken against the violators of labor discipline.

SLOVENIA

For organising gambling, which also includes sports betting, it is necessary to obtain a license or concession of the Republic of Slovenia.

Receiving or transmitting payments, advertising, or performing other services related to gambling by persons who do not have a concession is prohibited and constitutes an offense. The detection and prevention is the responsibility of state law enforcement agencies, not the employer.

An employer may sanction the organisation of gambling at the work place either as a disciplinary violation or a violation of work obligations if such a provision is included in the employer's internal rules or the employment contract. To avoid betting at the work place, the employer should inform employees of the applicable law and warn them about possible sanctions for violations. The employer's duty of informing authorities of illegal betting is not specified in the Slovenian legislation.

SPAIN

Office pools are not prohibited by law unless otherwise provided in the employment contract or as a company policy. Employers that prohibit gambling or office pools should make their employees aware of the policy through the appropriate communication means, and provide that disciplinary action may result for violations of the policy, up to and including termination of employment.

SWEDEN

Office pools and other types of gambling are illegal. A natural or legal person is not allowed to arrange gambling in Sweden. Permission is required and generally is granted only to non-profit organisations. However, it is not unlawful for employees to pool their money together to gamble collectively in a licensed lottery.

Employers should clearly state in their policy documents that illegal activities, such as gambling, are not allowed, and participating in any such activity at the workplace may constitute just cause for termination of employment.

SWITZERLAND

Gambling is not prohibited at the workplace as long as employees do not act as a professionally organised institution. Nevertheless, conducting office pools should not negatively influence employees' work. Employers that decide to prohibit office pools/gambling must inform their employees of the rule or policy. The prohibition should stipulate that any violation would be considered a breach of the employment contract and could be subject to disciplinary procedures.

UKRAINE

Gambling in Ukraine is unlawful not only at the work place. Employers must inform employees that such behavior is prohibited by legislation, and they may be called to account for such activity in accordance with the Administrative and Criminal Codes of Ukraine.

Office pools and gambling are forms of misconduct during the employees' on-duty work time. Moreover, subject to the internal regulations of a company, an employer should remind all employees by written announcement that any gambling is prohibited and that they may be subject to disciplinary action, including dismissal. In addition, gambling without a license (Art. 9 of Law of Ukraine "On licensing of some types of economical activities") may lead to the invalidity of any agreements signed between the parties (Art. 227 of the Civil Code of Ukraine).

UNITED ARAB EMIRATES

Gambling is prohibited in the UAE. Employers should make employees aware that participating in office pools is a disciplinary offence that could lead to termination of employment and/or result in criminal prosecution by the UAE authorities.

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