

# International Employment Update

February 10, 2015

International Employment

---

## **France: Potential removal of severe sanctions for failure to consult with works councils**

---

A proposed change to French legislation could remove the threat of imprisonment for directors and senior employees who are found to have breached obligations to consult with works councils and other employee representatives. In France, works councils (which are mandatory in companies with 50 or more employees) must be informed and consulted before a company takes certain decisions impacting the workforce.

Failure to comply with mandatory consultation obligations under the current French legislation can result in employee representative claims before the civil courts, including - in the case of a business sale - summary injunction proceedings requesting the suspension of a potential sale until consultation process is completed. Additionally, the employee representatives may bring a claim for hindrance, which is a criminal offence. A company that is found to have breached its consultation obligations could be fined up to €18,750. Individual directors and other senior employees can also be held liable for a fine of up to €3,750 or even one year's imprisonment. Upcoming reforms aim to reduce this penalty to a monetary fine.

Despite significant opposition from the trade unions, the reforms are expected to be considered by the French Parliament in early 2015.

## **USA: US Department of Labor implements new rule prohibiting government contractors and subcontractors from discriminating against LGBT workers**

---

On December 9, 2014, the Department of Labor ("DOL") published a new rule prohibiting discrimination on the grounds of sexual orientation and gender identity in the federal contracting workforce. This rule marks the first federal action ensuring LGBT workplace equality that implicates the private sector.

Prior to the implementation of this rule, regulations prohibited federal contractors and subcontractors from discriminating on the basis of race, colour, religion, sex, and national origin, and required them to take affirmative steps to prevent discrimination on those grounds. The list of protected grounds will now be amended to include both sexual orientation and gender identity. The new language will apply to contracts entered into by federal agencies and prime contractors or modified on or after April 8, 2015.

## China: Business visas required for short-term work in China

---

New regulations came into effect on January 1, 2015, requiring foreign workers to obtain a work visa (known as a “Z” visa) and a work permit in order to work in China for periods of less than 90 days. A broad range of activities are caught by the new regulations:

- (1) scientific or technical research or management;
- (2) sporting activities at a Chinese sports institution (including being a coach or an athlete);
- (3) film-making (including the making of commercials and documentaries);
- (4) fashion shows (including car shows and advertising events);
- (5) commercial shows; and
- (6) any other activities identified by the Chinese labor authority.

The new rules are intended to remove the previous uncertainty regarding the applicable types of visas for short-term workers.

Exceptions to the Z visa requirements include circumstances where a foreign company sends an expatriate worker to work at its Chinese subsidiary, branch or representative office for less than 90 days. In such circumstances, foreign workers can still enter China with an M visa.

If you have any questions concerning the material discussed in this update, please contact the following members of our team:

### United Kingdom

|                         |                  |  |
|-------------------------|------------------|--|
| Christopher Walter      | +44 20 7067 2061 | <a href="mailto:cwalter@cov.com">cwalter@cov.com</a>             |
| Christopher Bracebridge | +44 20 7067 2063 | <a href="mailto:cbracebridge@cov.com">cbracebridge@cov.com</a>   |
| Hannah Bradshaw         | +44 20 7067 2019 | <a href="mailto:hbradshaw@cov.com">hbradshaw@cov.com</a>         |
| Antonio Michaelides     | +44 20 7067 2027 | <a href="mailto:amichaelides@cov.com">amichaelides@cov.com</a>   |
| Helena Milner-Smith     | +44 20 7067 2070 | <a href="mailto:hmilner-smith@cov.com">hmilner-smith@cov.com</a> |

### United States

|                 |                 |  |
|-----------------|-----------------|--|
| Jeffrey Huvelle | +1 202 662 5526 | <a href="mailto:jhuvelle@cov.com">jhuvelle@cov.com</a> |
| Lindsay Burke   | +1 202 662 5859 | <a href="mailto:lburke@cov.com">lburke@cov.com</a>     |

### People’s Republic of China

|         |                  |  |
|---------|------------------|--|
| Ning Lu | +86 10 5910 0502 | <a href="mailto:nlu@cov.com">nlu@cov.com</a> |
|---------|------------------|--|

This information is not intended as legal advice. Readers should seek specific legal advice before acting with regard to the subjects mentioned herein.

Covington & Burling LLP, an international law firm, provides corporate, litigation and regulatory expertise to enable clients to achieve their goals. This communication is intended to bring relevant developments to our clients and other interested colleagues. Please send an email to [unsubscribe@cov.com](mailto:unsubscribe@cov.com) if you do not wish to receive future emails or electronic alerts.