

ACQUIRING AND MANAGING EUROPEAN EMPLOYEES FROM THE U.S.



KEYWORDS

- Recruitment in Europe
- Business Growth in Europe
- European Employment Regulations
- HR Outsourcing
- Data Protection

This whitepaper shortly lists the employment considerations when US companies manage or acquire employees in Europe. Furthermore, it contains relevant subjects such as hiring and dismissing staff, transfer of business, outsourcing and data protection.

RECRUITING/DISMISSING EMPLOYEES

The most common mistakes U.S. employers make in Europe is the recruitment or dismissal of employees, workforce downsizing, business closure and privacy protection. "At will" employment is not practiced in Europe. Employment is primarily structured through formal, written contracts that set forth provisions regarding pay and working conditions. Europe has minimum standards for notice prior to termination, as opposed to the U.S. "just cause" standard. In some European countries, termination without a legally valid reason may be void or could result in large damage awards for unfair discharge.

WORKFORCE RESTRUCTURE

When making changes to pay or working conditions, Europe imposes limitations not common in the U.S.. In Europe, employers must give information to, and consult with, labor unions and works councils. In some countries, government permission must be granted before making any changes. Furthermore, as employment is pursuant to contract, unilateral changes are not permitted; this means that an employer must obtain the employees' agreement (particularly if there is no labor union or works council), to execute changes in pay or working conditions.

BUSINESS CLOSURES/MASS LAYOFFS

Standard European practice requires a minimum period of prior notice and, in some countries, a minimum severance payment prior to business closure or mass layoffs. It is common practice for some countries to consult with a labor union or works council as soon as closure/layoffs are under active consideration by the employer. Furthermore, some countries will forbid closures or layoffs until the labor union or works council agrees to it.

BUSINESS SALE/TRANSFER/OUTSOURCING

Not only is prior consultation with labor unions or works councils mandatory, but the workforce cannot be dismissed by reason of the sale or transfer. Instead, the workforce is transferred to the new owner, along with their contracts and accrued rights. These same requirements apply to most outsourcing deals.

PRIVACY/DATA PROTECTION

Many European countries severely limit an employer's ability to conduct workplace monitoring or testing (drug testing, monitoring of emails among others are severely limited), with the transfer of employees outside of the European Unionsubject to stringent restrictions. In addition, employees normally have the right to check data.

SOURCE

Association of Corporate Counsel (ACC), <http://www.acc.com/> QuickCounsel Author: Douglas H. Duerr

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