

iGlobal Law Annual Alert 2023 : Germany

Legal Change	Effective Date	Action required
<p>Electronic certificate of incapacity for work</p> <p>Employees who are ill and therefore unable to work are currently obliged to submit, on the 4th day of their incapacity for work at the latest, a certificate of incapacity for work (<i>Arbeitsunfähigkeitsbescheinigung</i>) to the employer.</p> <p>Effective as of next year, employees in general no longer have to submit such a certificate as evidence for their incapacity for work. Instead, the general process will be as follows:</p> <ol style="list-style-type: none"> 1. After the employee has seen the doctor, the doctor electronically transmits to the employee's health insurance provider certain key data, including the patient's name, beginning and end of the patient's sick leave, date of the patient's visit, the information as to whether a first or a subsequent certificate of incapacity for work has been issued and whether there has been an occupational accident (hereinafter the "Data"). 2. After the visit, the employee merely informs the employer of the date of the visit. 3. The employer may confirm the relevant Data with the employee's health insurance provider. Following a corresponding request, the Data can be electronically retrieved (most payroll providers in Germany will offer an interface for making the relevant requests and for retrieving the relevant data). 	<p>January 1st 2023</p>	<p>Clients to note.</p>
<p>Whistleblower Protection Act</p> <p>The German parliament has recently debated a governmental bill ("Bill") by which the relevant EU Whistleblower Directive shall be transposed into national law. The Bill has not yet been adopted. We do however expect the new law to be enacted in the course of 2023.</p> <p>According to the Bill, (i) companies with regularly 50 or more employees and (ii) companies that operate in the finance sector (regardless of the number of employees) are obliged to establish channels and procedures for internal reporting and follow-up. Also whistleblowers shall be protected against retaliation, including termination of employment. In case of a violation of the new regulations, fines of up to EUR 100,000 may be imposed.</p>	<p>Unknown</p>	<p>Client to note.</p> <p>Client should make plans for internal reporting channels so that they will be compliant when the new law enters into force.</p>

<p>Recording of working time</p> <p>According to an important decision of the German Federal Labour Court of September 13th 2022 (file no. 1 ABR 22/21), which has been fully published on December 5th 2022 only, employers in Germany must generally ensure for each employee, excluding executive employees however, that the actual individual working time is recorded.</p> <p>Employers shall introduce a system/process for recording working time and ensure that this process is actually followed by employees.</p> <p>Employers have some discretion in designing the relevant process. The system for recording working time must however allow for the employee's working time to be recorded "objectively and reliably". Therefore, only systems that make it possible to document the beginning and end of the daily working time, break times as well as overtime and thus record the whole duration of working time are acceptable.</p>	<p>Immediately</p>	<p>Clients to note.</p> <p>We expect that the government will issue another bill in 2023 to further specify the requirements for employers in this connection. In the meantime, employers should not hesitate to implement systems and processes that allow them to reliably record their employees' actual working time.</p>
<p>Electronic work certificate</p> <p>After termination of employment, employers in Germany are generally obliged to provide a work certificate (<i>Arbeitsbescheinigung</i>) on the details of employment, including, <i>inter alia</i>, the length of service, the employee's most recent gross remuneration and the reason for termination. The certificate is required by the employee in order to apply for unemployment benefits.</p> <p>Effective as of next year, employers must submit the certificate to the competent Unemployment Office <i>electronically</i>.</p>	<p>January 1st 2023</p>	<p>Clients to note.</p>
<p>Electronic wage tax certificates</p> <p>Effective as of next year, electronic wage tax certificates may only be transmitted to the tax authorities if they state the eleven-digit tax identification number (tax ID) of the relevant employee. The so-called eTIN (stands for "electronic Taxpayer Identification Number") which has been used for electronic wage tax certificates so far will expire at the end of this year.</p>	<p>January 1st 2023</p>	<p>Clients to confirm with their payroll that the relevant tax ID information is available for all employees.</p>
<p>Inflation compensation bonus</p> <p>In view of recent inflation throughout the Eurozone, including in Germany, employers in Germany can pay their employees a tax-free bonus of up to EUR 3,000. Also, no social security contributions have to be paid for</p>	<p>October 26th 2022 through to December 31st 2024</p>	<p>Clients to note.</p>

this bonus. The bonus may be paid as a one-off lumpsum or in several instalments.		
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