

New law on the right to disconnect: Balancing work and personal life

A new law on the right to disconnect (the “**Law**”) was approved on 13 June 2023. This legislation introduces a provision into the labour code that emphasizes the importance of employees' right to disconnect outside of working hours. Currently, we are awaiting for the second constitutional vote to be dispensed with.

❖ Scope and Purpose of the Law

The Law recognizes the importance of personal time and aims to establish clear boundaries between work and personal life. Its primary objective is to protect employees from the constant pressure to remain connected and available beyond their contractual obligations. By allowing employees to disconnect, the Law strives to foster a healthier work environment and enhance overall well-being.

❖ Key Provisions

1. The Law creates a new obligation for the employers to define a specific scheme that ensures respect for the right to disconnect outside working hours when employees use digital tools for professional purposes.

The mechanisms implemented to ensure respect for the right to disconnect should be tailored to address the specificities of each company concerned or of the sector of activity.

For instance, companies may choose to develop a charter and/or conduct information sessions to raise awareness among employees regarding the importance of disconnecting. They can also provide guidance on the appropriate use of digital tools and emails.

Similarly, companies may decide to restrict access to servers during specific daily and weekly time periods or request that employees leave digital tools on the company premises when they finish work. However, it is at the discretion of the company to determine measures aimed at enforcing the right to disconnect for employees using digital tools for professional purposes.

2. This scheme may be defined through a collective agreement or a subordinate agreement. Alternatively, it should be defined at the company level. In such case, the introduction and modification of this specific scheme will require information and consultation of the staff delegation, if any. In companies with at least 150 employees, the agreement of the staff delegation will be required. In the absence of a staff delegation, the employer should inform employees of the mechanisms put in place.
3. The Law includes "the modalities of the scheme ensuring respect for the right to disconnect outside of working hours" in the list of subjects that must be addressed in collective negotiations. Thus, in companies that are covered by a collective agreement or a subordinate agreement, the trade unions which are parties to the negotiations will be directly involved in the establishment of such a scheme.
4. Employers failing to implement a right-to-disconnect scheme may be liable to an administrative fine ranging from EUR 251 and EUR 25,000, imposed by the Director of the Labour Inspectorate (*ITM*).

This penalty will only be applicable three years after the date of the law's publication in the Official Journal (*Journal Officiel*). Nonetheless, the obligation to implement a system that respects the right to disconnect will exist as soon as the Law comes into force. Failure to comply with the right to disconnect may result in legal action, even in the absence of administrative penalties.

❖ Implementation and compliance

The Law establishes the principle that employees have a right to disconnect, as part of measure to protect safety and health at work. However, each company or sector has significant flexibility to adapt this principle to suit its specific operational requirements.

Employers may notably consider implementing the following measures:

1. Drafting/updating of internal policy: Companies should draft or update their internal policies to align with the provisions of the Law. This involves incorporating clear guidelines on working hours, communication expectations, and respecting employees' right to disconnect.
2. Employee training: Employers may organize awareness-raising and training sessions to inform employees about their rights to disconnect and the benefits of maintaining a healthy separation between work and personal life. This training can also provide practical advice on time management and establishing clear boundaries between the professional and personal spheres.
3. Monitoring and evaluation: Regularly assessing the implementation and effectiveness of the right to disconnect policies is recommended. Employers should monitor adherence to the guidelines and seek feedback from employees to ensure continuous improvement.

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Our team is available to provide any information and assistance you may require regarding this matter.