



New law on transparent and predictable working conditions: what's new and how to ensure compliance?

Midi de l'entreprise

Webinar

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New law on transparent and predictable working conditions: what's new and how to ensure compliance?

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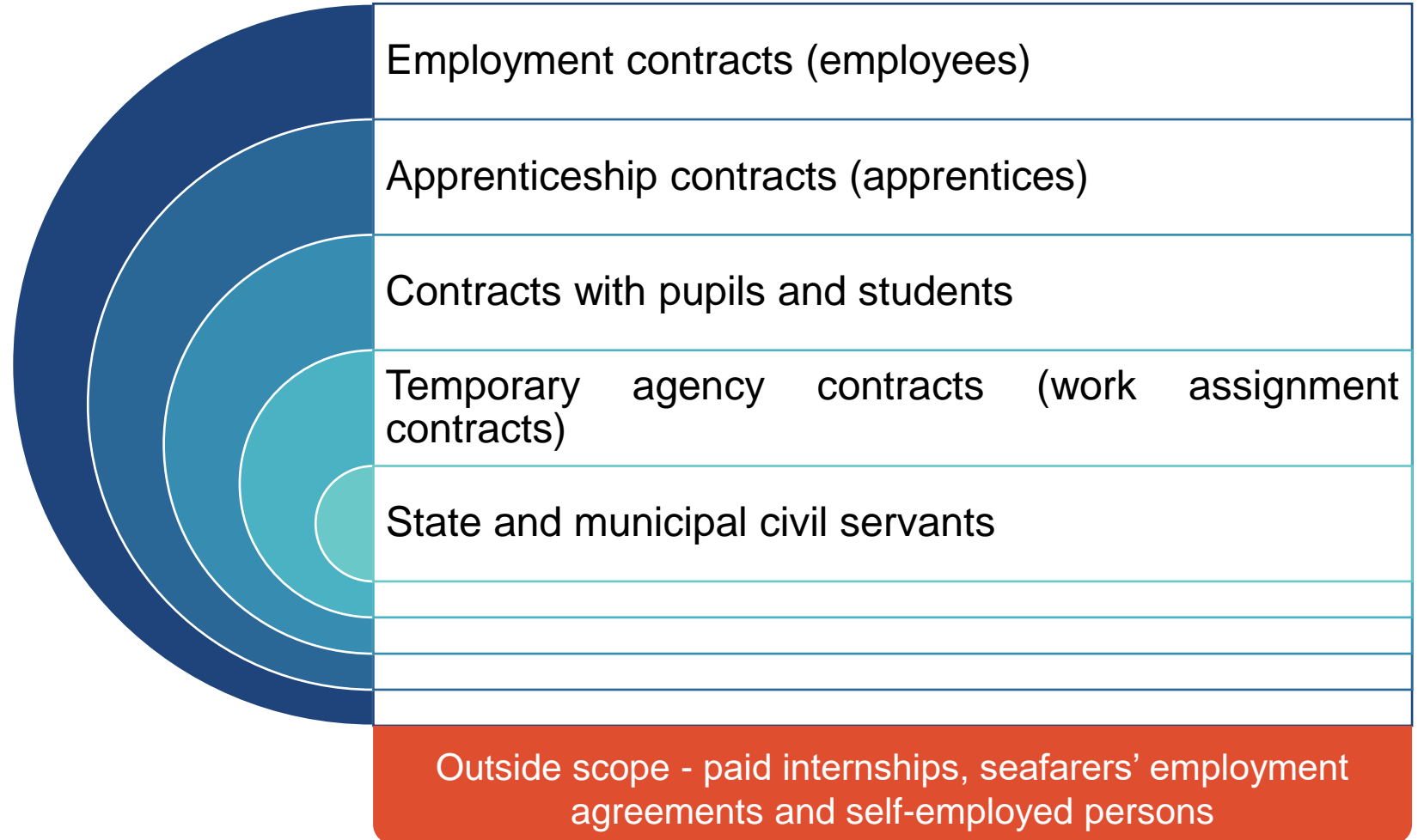
Agenda

1. Introduction: overview of the sources
2. What is the scope?
3. What new clauses are required?
4. What information should be provided and within what timeframe?
5. What is the impact on existing contracts?
6. Focus on trial period
7. Focus on exclusivity clauses
8. Right to move from one form of employment to another
9. Other updates
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11. Conclusion

Introduction: overview of the sources



What is the scope?



What new clauses are required?



Place of work

- if there is no fixed or primary place of work, the principle according to which the employee will work at several locations and, more specifically, in another country, or will be free to determine their place of work

Overtime

- the arrangements for overtime and its remuneration*

Remuneration

- additional benefits that may be agreed between the parties must be “indicated separately” from the basic salary, so as to make a clear distinction between what falls under basic salary and what falls under additional benefits*

End of the contract

- the process to follow, including formal conditions and the notice periods to be respected*

Trial period

- the duration and conditions of the trial period*

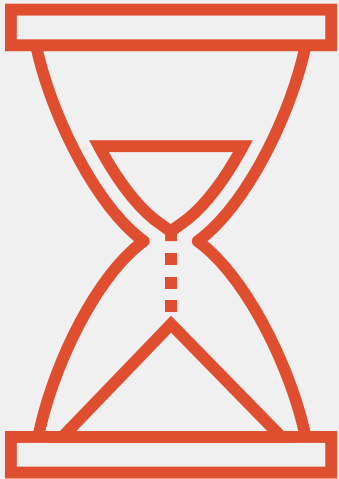
Training

- the right to training granted by the employer (if necessary)*

Social security

- name of the competent social security institution(s)*

What information should be provided and within what timeframe?



Within seven days

(basic information)

- Names of the parties
- Employment start date
- Place of work
- Nature of the work (and description of functions/tasks)
- Duration of working day or week and working hours (and, where relevant, the arrangements for shift changes)
- Overtime
- Remuneration
- Trial period

Within one month

- Paid leave
- Termination process
- Collective bargaining agreements
- Social security institutions
- Right to training



Drafting contracts: paper or electronic?
How to send contractual documents?

What is the impact on existing contracts?



New hires

Employment contract that complies with the law

Failing that, **ex-post information**

Deadline of **seven calendar days** or **one calendar month** to provide missing information, depending on the type of information to be provided

Existing contracts

The employee may request a written version that complies with the new legal provisions

Employers have **two months** to provide this document



Conflict with existing provisions?

Focus on trial period



Avoid a long period of uncertainty



When to agree on the trial period (TP)?
Before the start date? Or in the seven days afterwards?

CDI
(permanent
contract)

Minimum: **2 weeks**

Maximum: **3/6 months**,
depending on the level
of education

Exception in Directive (EU) 2019/1152

A TP may be longer when
this is justified by the **nature
of the job** or when it is in the
interest of the worker

What does Luxembourg law say?

12 months if the gross
monthly salary is \geq EUR
5,062.14 (index 944.43)

Compliance?

CDD (fixed-
term
contract)

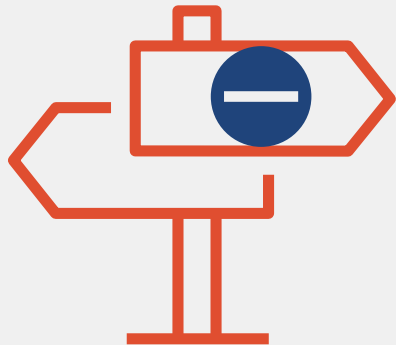
TP **in proportion** with
the duration of the CDD

Minimum: **2 weeks**

Maximum: **$\frac{1}{4}$ of the
duration of the CDD**

(i.e. 6 months for a CDD of
24 months)

Focus on exclusivity clauses



What are exclusivity clauses?

- Contractual provisions that prohibit a worker from taking on a parallel professional activity
- They allow the employer to protect its economic interests and know-how by avoiding any disloyal competition

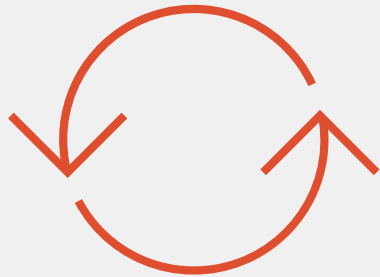
Prohibited on principle

- Any clause that prohibits an employee from carrying out another employment relationship with one or several employers, outside their normal work hours agreed in the employment contract, will be considered null and void

Broad exceptions

- Holding a parallel job that is incompatible with the following objectives:
 - Occupational health and safety
 - Protecting business confidentiality
 - Preventing conflicts of interest

Right to move from one form of employment to another



Converting a permanent/fixed term contract?

Right to request that a fixed term contract be converted to a permanent contract or vice versa

- After trial period +
- Six months of employment +
- Once every 12 months

Employer obligation

- Modify the contract or
- Provide specific reasons for refusal within **one month**

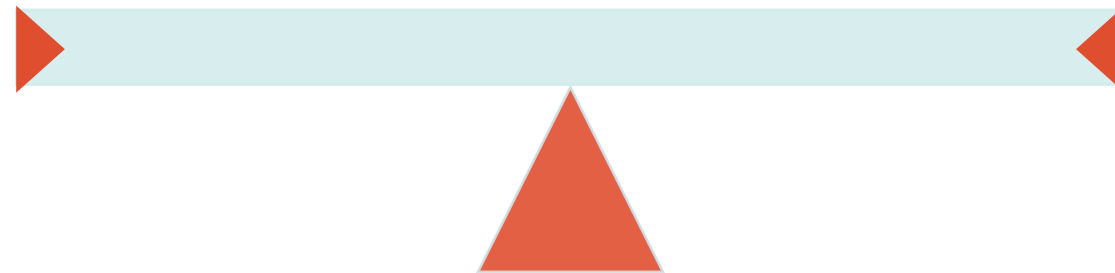
Converting full-time/part-time?

Right to request that employment be converted from part-time to full-time and vice versa

- After trial period +
- Six months of employment +
- Once every 12 months

Employer obligation

- Modify the contract or
- Provide specific reasons for refusal within **one month**



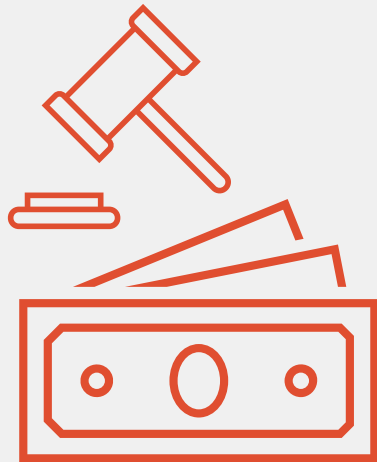
Other updates



1. Country in which the work abroad is carried out
2. Length of time working abroad
3. Currency in which the salary is paid
4. Remuneration
5. Benefits in cash and in kind in relation to the “temporary relocation” (if necessary)
6. Allowances specific to posting and any arrangements for reimbursing expenditure on travel, board and lodging
7. Conditions governing repatriation (if appropriate)
8. Link to the official national website of the host Member State

- Any provision that is contrary to the prohibitions on retaliation will be considered null and void
- Civil actions for damages

Risks in cases of non-compliance



Non-compliance

(art. L. 121-4 Labour Code)

- Content of the contract
- Form of the contract
- Information to provide
- Temporary relocation
- Modification of the contract
- Right to training

Non-compliance

(art. L. 122-2 and L. 122-10bis al. 2 Labour Code)

- Mandatory clauses in a CDD
- Obligations in the event of a request to convert from a CDD to a CDI and vice versa

Non-compliance

(art. L. 123-3bis al. 2 Labour Code)

- Obligations in the event of a request to convert from full-time to part-time and vice versa



EUR 251 to EUR 5,000 per employee

Repeat offence within 2 years = up to EUR 10,000
(doubled for legal entities)

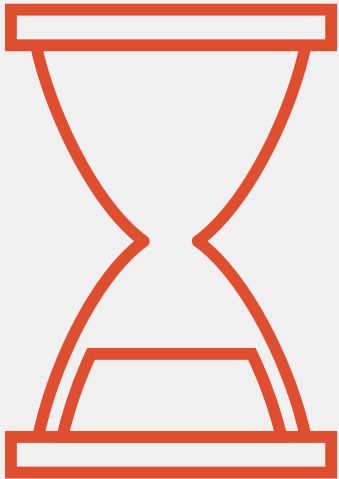
Legal actions to obtain information

Accelerated remedies before the courts in the event of an unsuccessful formal request



Part-time: an employee is assumed to be employed on a full-time basis if there is no written statement specifying the number and schedule of hours to be worked

Conclusion



**Draft
employment
contracts
carefully**



**Pay attention to
other clauses
that are
mandatory
(e.g. data protection)
and useful
(e.g. intellectual
property)**



Stay agile



How can we help you?

Your contacts/speakers



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