



International labour law - quick reference guide

Click on the country links below for general labour law information in those jurisdictions relating to the following topics. Go 'HOME' to return to this page.

- Is it a legal requirement that employees must receive an employment contract?
- What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?
- What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?
- If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?
- Do employees have the right to be members of a trade union?
- Is there any legal requirement for an employer to contribute to a pension for employees?
- What are standard maternity rights?; What are parental leave rights (including paternity leave, if available)?
- When are employees eligible for redundancy payments?
- Can existing employees be dismissed if you buy a business with employees?
- Any other general legislation to note?

[Argentina](#)
[Australia \(New South Wales\)](#)
[Belgium](#)
[Brazil](#)
[China](#)
[Croatia](#)
[Cyprus](#)
[Czech Republic](#)
[Denmark](#)
[Estonia](#)
[Finland](#)
[France](#)
[Germany](#)
[Greece](#)
[Hungary](#)
[Italy](#)
[South Korea](#)

[Mexico](#)
[Netherlands](#)
[Poland](#)
[Portugal](#)
[Romania](#)
[Russia](#)
[Slovak Republic](#)
[Slovenia](#)
[Spain](#)
[Sweden](#)
[Switzerland](#)
[Turkey](#)
[UK \(England\)](#)
[USA \(California\)](#)
[USA \(New York\)](#)

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Labour Law - Argentina

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>No. It is not a legal requirement to sign a written agreement. Even though it is not prohibited to sign an agreement, the conditions of such agreement must be more favourable for the worker than the ones provided in the Labour Contract Law (Act 20,744).</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>It may be considered that the dismissal of the employee has been fair when the employee has breached his/her duties. Such breach must be serious. The Labour Contract Law does not specify any specific dismissal cause. If the dismissed employee considers that the dismissal has been unfair, the employer must prove in Court the breach and the seriousness of such breach.</p> <p>In case of dismissal based on a fair cause, there is no obligation to pay any compensation to the employee.</p> <p>The Labour Contract Law provides some other cases in which the dismissal does not imply the obligation of paying a compensation:</p> <ul style="list-style-type: none"> a) The dismissal decided by the employer during the evaluation period (first three months); b) If the employee incurs in job abandonment; <p>Termination due to retirement of the employee.</p>
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<p>The employer must prove the reasonableness of the dismissal:</p> <ul style="list-style-type: none"> a) That the breach of the employee was voluntary and of a seriousness that justifies the measure; b) Such seriousness must be evaluated objectively. The reason of the dismissal must be reasonable for any person; c) The employer must take the decision of terminating the agreement at the moment in which the event happens or in a term no longer than 48 hours. <p>Likewise, the employee must prove that in previous opportunities and for the same cause, the worker had been sanctioned with warnings or suspensions.</p>
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>The employee dismissed with no cause has right to:</p> <ul style="list-style-type: none"> a) The payment of the month or days worked, the annual complementary salary and the non used vacations; b) Severance (one monthly salary for every worked year or fraction higher than 3 months); c) Previous notice substitution indemnification, when the employer omits such previous notice or is granted in an insufficient way; d) The indemnification for integration of the dismissal month, if the worker is dismissed on a date which does not coincide with the last day of the month; <p>Proportional annual complementary salary over vacations, previous notice and integration.</p>
<p>Do employees have the right to be members of a trade union?</p>	<p>Yes. The workers have the right to be members of a trade union and have the right to stop being a member of such trade union at any time.</p>
<p>Is there any legal requirement for an employer to contribute to a pension for employees?</p>	<p>Yes. The employer must withhold from the salary of the employee a percentage and, also, to pay another percentage for the retirement. The retirement system is administrated by the National Government.</p>
<p>What are standard maternity rights?; What are parental leave rights (including paternity leave)?</p>	<p>Maternity rights:</p> <ul style="list-style-type: none"> a) Maternity leave during 90 days; b) Lactation daily break for a period no longer than one year; c) Women with a seniority of more than one year may opt for not working (with no salary) for a period between three and six months. d) Compensation for the time of services, in case the women renounces to the employment during the maternity leave. e) Special indemnification (equivalent to one year of salaries): If the employer dismisses the woman between the seven months previous or after the childbirth. This is in addition to the legal indemnifications.

	Parental rights: Special leave for child's birth: two consecutive days.
When are employees eligible for redundancy payments?	It is not contemplated as a dismissal cause. It is only provided as a minor indemnification in case of dismissals for technological or serious economic matters.
What are the statutory redundancy payment limits?	In this case, the severance payment is equal to 50% of the one established for the dismissal with no cause.
Can existing employees be dismissed if you buy a business with employees?	Yes, in this case all the legal indemnifications are paid.
Any other general legislation to note?	Labour Contract Law (Act 20,744); Workday Act; Anti-discrimination Act; National Employment Act (which tries to regulate the registration deficiencies and the social contribution evasion); Labour Risk Law, for the cases of labour accidents.

[HOME](#)

Labour Law – Australia (NSW)

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>No, although written contracts of employment for professional or skilled employees is common.</p> <p>It is a requirement that all new employees receive a copy of the Fair Work Information Statement.</p> <p>The terms and conditions of employment of all employees in Australia (apart from employees of certain state public sector organisations) are set out in the <i>Fair Work Act 2009</i>. These standard terms and conditions are referred to as the National Employment Standards and govern matters such as leave, maximum hours of work, certain “family friendly” entitlements, notice of termination and redundancy pay.</p> <p>In addition to the National Employment Standards, employees in certain industries or occupations will have their terms and conditions of employment governed by the relevant “Modern Award”. Modern awards cover matters such as minimum rates of pay, ordinary hours of work, overtime, penalties, loadings and can supplement the entitlements found in the National Employment Standards, for example, by providing for longer periods of annual leave. The Modern Awards are set by Fair Work Australia who is required by law to review and revise Modern Awards every four years. The minimum base rates of pay are reviewed by Fair Work Australia yearly.</p> <p>Finally, employers may enter into statutory collective agreements with their employees called Enterprise Agreements. The terms and conditions in those Enterprise Agreements must leave the employees “better off overall” than they would be under the relevant Modern Award.</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>Australia has had a statutory unfair dismissal regime for some years, although the regime has recently undergone some significant changes. The purpose of the unfair dismissal regime remains the same, namely to protect employees from dismissal which is harsh, unjust or unfair and to provide them with remedy of reinstatement or (limited) compensation. Significantly, employees who earn an excess of A\$108,300 are excluded from the unfair dismissal regime unless for some reason they are covered by a Modern Award.</p> <p>Factors which constitute a fair dismissal include serious misconduct, genuine redundancy and any other termination which, in the circumstances, is fair, just and reasonable.</p> <p>Employees in the first 12 months of employment in a small business can be dismissed without the ability to bring a claim, and in the larger businesses, the qualifying period is 6 months.</p> <p>In all cases other than summary termination for serious misconduct, notice must be provided.</p>
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<p>To be fair in substance, the dismissal is generally for misconduct or for significant performance deficiencies which the employee is unable to remedy, despite him being given all reasonable opportunity to do so.</p> <p>To be procedurally fair, the offending conduct or behaviour must be brought to the employee’s attention, the employee must be given an opportunity to fully respond and the employee’s response must be considered by the employer. If less serious action is available to the employer that must be considered as well. Where performance is an issue, the employer will need to establish the performance deficiencies and that opportunities to improve failed.</p> <p>In cases where the employee has been warned about their conduct or performance, those warnings should be in writing, should explicitly state the misconduct or performance deficiency and inform the employee that dismissal may result.</p> <p>Generally, each employee should have a written statement of their duties which is updated regularly, performance should be regularly reviewed and written reports should be kept of any issues regarding their behaviour in the workplace etc.</p>
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>The unfair dismissal regime in the <i>Fair Work Act</i> provides that reinstatement is the primary remedy. An order for the payment of compensation must not be made unless Fair Work Australia is satisfied that reinstatement of the person is inappropriate and that an order for payment of compensation is appropriate in all the circumstances of the case. Compensation is capped annually at six months’ remuneration.</p>

	Fair Work Australia may also order that the employee be paid back pay for remuneration lost during the period between the dismissal and the making of the order for reinstatement.
Do employees have the right to be members of a trade union?	Yes. There are provisions in the <i>Fair Work Act</i> which protect employees from any "adverse actions" taken by employers because of their union affiliation.
Is there any legal requirement for an employer to contribute to a pension for employees?	Yes. Since 1992, a superannuation guarantee scheme has been in place in Australia. The amount of the employer's compulsory contribution is currently 9% of the employee's remuneration.
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	<p>The National Employment Standards and the <i>Fair Work Act</i> provide employees with an entitlement to 12 months' unpaid parental leave. Where both employees are employed, they may each take up to 12 months so long as it is in a single block and is taken by the parents in a continuous sequence. Alternatively, after taking 12 months' parental leave, one parent may request a further 12 months unpaid parental leave. The entitlement is available to parents who are married, are in de facto relationships, same sex couples and adoptive parents.</p> <p>A Government paid scheme providing limited parental benefits will be introduced in 2011.</p> <p>A male employee who is a parent is entitled to parental leave so long as he has "responsibility for the care of the child". As described in section 7, each employed parent may take 12 months' unpaid parental leave in a single continuous block. Only three weeks of the parents' parental leave may be taken concurrently.</p>
When are employees eligible for redundancy payments?	<p>A termination due to redundancy occurs when an employer no longer requires the employee's role to be performed by anyone, and there are no other suitable roles available for the employee.</p> <p>The National Employment Standards provides for redundancy payments to be made to employees with more than one year's service.</p>
What are the statutory redundancy payment limits?	The amount of redundancy pay ranges from four weeks pay calculated on the ordinary rate of pay (for one year's service) to 16 weeks (for nine years). Employees may also receive concessional taxation treatment on redundancy payments as well as beneficial calculation of long service leave entitlements.
Can existing employees be dismissed if you buy a business with employees?	As a matter of contract law, employees cannot be transferred from one employer to another without their consent. That means that if the old employer sells its business to the new employer, its existing employment contracts will necessarily come to an end. It is then up to the new employer whether it offers fresh employment contracts to some or all of the existing workers. Where a business is sold, the contract of sale may itself impose certain obligations in this regard. If the new employer employs the employee within three months after the termination of employment with the old employer in circumstances where the employee will perform the same or substantially the same work for the new employer and the new employer has taken ownership of the beneficial use of some or all of the assets used in connection with the transferring work, certain rights and obligations that the employee had with the old employer may transfer to the new employer.
Any other general legislation to note?	The principal Act regulating workplace relations in Australia is the <i>Fair Work Act</i> . Those employed in the state public sector will be governed by the relevant state legislation. In addition, there is a range of federal and state anti-discrimination legislation. Long-service leave is the subject of state legislation as is occupational health and safety (although moves are afoot to enact unitary occupational health and safety laws).

[HOME](#)

Labour Law - Belgium

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>There is no legal requirement to receive a written employment contract when it concerns a contract with full-time work for an indefinite period. In this case, a verbal agreement is sufficient and the mandatory provisions of the Belgian law are applicable.</p> <p>For all other employment contracts, a written employment contract is required. In the absence of a written contract, the employee is deemed to have been hired for an indefinite period.</p> <p>The contract must include start of employment, description of work, place of execution, work schedule, remuneration, trial period, working conditions and must be executed prior to the start of the employment for validity reasons.</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>Employees can be dismissed in three cases:</p> <ol style="list-style-type: none"> 1. In the case of contract concluded for a definite period with a fixed term, the contract is terminated at the expiry of the agreed term, without notice letter or indemnity. 2. In the case of contract concluded for an indefinite period, the contract is terminated either by giving a notice which has to be performed by the employee or by payment of an indemnity-in lieu-of notice. 3. An employee can also be dismissed for serious cause, immediately and without notice or indemnity. A serious cause is defined as "any fault that makes any collaboration between employer and employee immediately and definitively impossible".
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<p>A distinction must be made between blue-collar employees hired for an indefinite period and all other employees.</p> <p>The dismissal of a blue-collar worker hired for an indefinite period is considered as abusive when it is done for reasons unrelated to the capacity or conduct of the worker or when it is not based on the necessity of operation of the company. The unfair dismissal of a blue-collar worker is sanctioned by the payment of a lump-sum indemnity amounting to 6 months of remuneration.</p> <p>The dismissal of all other employees can be subject to the doctrine of abuse of right (<i>'abus de droit'</i>) or abusive dismissal. An <i>'abus de droit'</i> can be deducted from the following elements: - malice, - improper reasons, - absence of reason, - circumstances of the dismissal, misuse of the social or economic purpose of the dismissal. The burden of proof is incumbent on the person alleging the <i>'abus de droit'</i> (fault, damage and causal link).</p>
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>Contrary to the unfair dismissal of blue-collar workers, the sanction of the <i>abus de droit</i>, is an indemnity determined <i>ex aequo et bono</i> by the judge. The amount of the damages can be lower or higher than six months of remuneration.</p>
<p>Do employees have the right to be members of a trade union?</p>	<p>Each employee is free to join or not to join a trade union. Moreover union delegations have to be established at the request of trade unions in each enterprise with at least 50 employees. Trade union member are legally protected against dismissal.</p>
<p>Is there any legal requirement for an employer to contribute to a pension for employees?</p>	<p>There is no legal requirement for an employer to contribute to a pension for employees. The legal pension contribution is made through the social security payments. However, the employer can contribute on a voluntary basis, i.e. through group insurance policy or extra legal pension fund.</p>
<p>What are standard maternity rights?; What are parental leave rights (including paternity leave)?</p>	<p>Various legal provisions aim to protect pregnant workers: prohibition to execute certain tasks, right to a parental pre- and post natal leave and legal protection against dismissal.</p> <p>Every pregnant woman is entitled to pre and post-natal leave. The duration of pre-natal leave is 6 weeks (and 8 weeks when multiple birth). Moreover from the 7th day before the expected date of childbirth, the employee must cease all activity and the employer may not, under any circumstances keep the employee at work. The post-natal leave is 9 weeks (11 weeks when multiple birth).</p>

	<p>The maternity leave described above can be converted into paternity leave in the following two cases: maternal death or hospitalization of the mother. In addition, the father has the right to paternity leave of 10 days. The leave must be taken within 4 months after childbirth.</p>
<p>When are employees eligible for redundancy payments?</p>	<p>When the employer decides to break the employment contract immediately and without performance of the notice, an indemnity-in lieu-of notice has to be paid by the employer. Such indemnity is a lump sum and is calculated according to the duration of the notice period and the current gross remuneration (including all the benefits paid to the employee).</p> <p>The duration of the notice period depends on the seniority of the employee and the annual remuneration.</p> <p>When the total gross salary (and benefits) does not exceed EUR 28.580 per year, the notice period must be at least three months, if the employee has less than five years service. The notice is increased by three months for each additional five-year period of service</p> <p>When the total gross salary (and benefits) is between EUR 28.580 and EUR 57.162 per year, there is a general requirement to fix by mutual agreement the notice period, which may not be less than the minimal legal notice, i.e. the three months for each five working years.</p> <p>When the total gross salary (and benefits) exceeds EUR 57.162, the parties are allowed to agree on the duration of the notice at the signature of the employment agreement.</p> <p>If no agreement can be reached between the employer and the employee regarding the notice period after the termination of the employment contract, the labour court will determine on a case-by-case basis what is the "reasonable" notice period.</p> <p>In practice, the employer often calculates the notice period on the basis of statistical formulas developed by legal commentators, out of which the most commonly used formula is the "Claeys-formula". This formula is however not binding upon the judge.</p> <p><i>Claeys-formula 2008</i></p> <p><u>$0,87 \times \text{Length of service} + (0,06 \times \text{Age}) + (0,037 \times \text{Remuneration}/1000 \times \text{index } 2007/\text{index month of dismissal}) - 1,45$</u></p> <p>A rule of thumb for the application of the Claeys formula is one month notice per year of service.</p>
<p>What are the statutory redundancy payment limits?</p>	<p>Strictly speaking, there is no statutory redundancy payment limits given that payment depends on the notice period, which in turn depends on the remuneration and the seniority.</p>
<p>Can existing employees be dismissed if you buy a business with employees?</p>	<p>In case of assignment or transfer of business, all the employment contracts continue to have effect for employees and employer and therefore, employees can not be dismissed. However, the employer has still the right to dismiss for good reasons (serious cause), economic technical or organisation reasons for a change in the workforce.</p>
<p>Any other general legislation to note?</p>	<p>Collective labour agreements and European Directives National legislation on holidays, working time, security and health precaution at work, privacy, etc.</p>

[HOME](#)

Labour Law - Brazil

Is it a legal requirement that employees must receive an employment contract?	A formal agreement is not necessarily required, an oral employment contract is fully valid. In any event, however, it is essential that the employment contract be recorded in the Work and Social Security Card – CTPS of the employee.
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	If the employee is dismissed for good cause, he/she will be entitled only to the compensation corresponding to the days already worked during the month ("outstanding salary"), accrued vacation and the additional one-third bonus in respect of the accrued vacation. The law establishes what can be considered a good cause, such as dishonesty; improper conduct or lack of self-restraint; sloth in the execution of his/her duties, violation of trade secrets, any act of indiscipline or insubordination; etc.
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	A good practice from the employer in order to minimise these risks is to pay the right compensation to the employee ("outstanding salary"). It is also required that the employer notifies the employee of the dismissal in a minimum of eight days if the payment is done weekly; or thirty days in case the employee receives his/her salary every two weeks or monthly.
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	The employee shall have the following rights: a) outstanding salary for the days worked during the month; b) 30 days' prior notice; c) proportionate 13th salary (calculated based on the salary earned during the last month of employment); d) vacation or double vacation, if any; e) one-third bonus in respect of vacation; and f) release of the FGTS deposits, with a fine of 40% of the total amounts deposited in the employee's FGTS account, during the employment contract.
Do employees have the right to be members of a trade union?	The Brazilian Federal Constitution in its article 8 (eight) establishes that everyone is free to gather in a professional association or a trade union.
Is there any legal requirement for an employer to contribute to a pension for employees?	According to the Federal Constitution, the FGTS system became automatic and compulsory for all employees. Under the FGTS system, every month the employer deposits the equivalent of 8% of each employee's compensation for the previous month in a blocked bank account in the name of the employee. Every employee must be officially enrolled at the Social Security System. Social security in Brazil is sponsored by monthly contributions from employees, employers and the State. After a certain period of enrollment and contributions, the employee is entitled to receive social security benefits.
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	The law grants to expectant mothers, employment stability from the moment pregnancy is notified until 4 months after the birth. The employee has also the right to remunerated with a maternity leave of 120 days to be granted to the period closest to the childbirth, which can be extended to 180 days in exchange of certain tax benefits to the employer. The law also provides a five-day paid paternity leave.
When are employees eligible for redundancy payments?	The employees have the right to earn a double salary whenever the employer does not provide the vacation in time. The employee also has the right for redundancy payment when working extra hours. The employee also has the right to an extra payment by the end of the year that correspond to the amount of his/her salary (13 th salary).
What are the statutory redundancy payment limits?	The payment can not be made in a period longer than a month, and the employer is incapable of reducing the employee's salary.
Can existing employees be dismissed if you buy a business with employees?	Yes, but an indemnification must be paid.

[HOME](#)

Labour Law – China

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>The employment contract will be recognized as Fixed Term Contract, Open-ended Contract, and Contract to be Terminated upon Completion of Certain Work. A written employment contract shall be concluded when establishing an employment relationship concerning above contracts. In general, a written contract must be signed within 1 month after employees start work. Oral contracts are ONLY permitted in case of part-time workers</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>A fair dismissal can be relied upon by the employer if the employee, a) fails to meet the requirements for employment during the probation period; b) materially breaches the employer's rules and regulations; c) causes substantial losses to the employer due to his serious dereliction of duty or engagement in graft for personal gain.</p>
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<p>If an employer is to terminate an employment contract unilaterally, it shall first inform the trade union of the reasons. There is advisable to have a comprehensive settlement agreement between the parties stipulates compensation to prevent the employee raises any other claim after that. With regard to the employee who may have access to the company chop and business license and other confidential information of the company, make sure those documents are well kept before his dismissal.</p>
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>Financial compensation shall be paid based upon the number of years the employee has worked for the employer at the rate of 1 month's wages for each full year. Any period not less than 6 months but less than one year shall be counted as 1 year. The financial compensation payable to a worker for any period of less than 6 months shall be 1/2 of his monthly wage. If the monthly wage of a worker is three times greater than the average monthly wage in the previous year for employees as announced by the People's government at the municipal level directly under the central government or at the city-with-district level where the employer is located, the rate for financial compensation paid to him shall be 3 times the average monthly wage of employees and shall be for not more than 12 years of work.</p>
<p>Do employees have the right to be members of a trade union?</p>	<p>Yes, an employee is free to join a trade union or not to join as he chooses. The membership dues would be 0.5% of his income.</p>
<p>Is there any legal requirement for an employer to contribute to a pension for employees?</p>	<p>The employer is obliged to pay the social insurance premium for the employee in accordance with the law.</p>
<p>What are standard maternity rights?; What are parental leave rights (including paternity leave)?</p>	<p>According to the Labour Law, a pregnant woman is entitled to 90 days maternity leave and local labour regulations in many cities provide additional 30 days leave for pregnant woman over 24 years old who gives her first birth. The woman's salary shall be fully paid during her maternity leave by social insurance and he employer. The employer shall not terminate pregnant woman unless she fails to meet recruitment requirements within probation period, bring severe loss to the employer due to her dereliction or seeking personal benefits, or materially violate internal bylaws, establish employment relationship with other employers within labour terms or has criminal liability pursued.</p> <p>There is no national laws providing parental leave yet though local labour regulations in some cities do set forth paternity leave ranging from 3 days to 7 days for father when his spouse is over 24 years old.</p>
<p>When are employees eligible for redundancy payments?</p>	<p>If the employer encounters serious operation difficulty, restructure or major change in economic environment, it could make "economic retrenchment" and pay redundancy payment to the retrenched employees. The employer shall go through strict process to make retrenchment under such circumstance, including holding the staff conference, consulting the unions and reporting to local labour authorities.</p>
<p>What are the statutory redundancy payment limits?</p>	<p>The redundancy payment shall be calculated on the basis of the service length of the employee, basically one month salary for one year service. The monthly salary shall be capped by three times local average salary and the service years shall also be capped by 12 years if the salary is already capped.</p>

Can existing employees be dismissed if you buy a business with employees?	No. Art.33 and Art.34 of the Labor Contract Law expressly provide that the change of the enterprise name, the legal representative, the shareholder shall not prejudice the performance of the labor contract and that the transferee of the business is obliged to perform the contract after the merge or division.
Any other general legislation to note?	Working hour system, paid vacation regulation, labour arbitration, pay roll system, etc.

[HOME](#)

Labour Law - Croatia

Is it a legal requirement that employees must receive an employment contract?	According to Art. 16 of Croatian Labour law the employment contract must be made in the written form.
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	According to Art. 125 of Croatian Labour law there is no obligation to pay compensation if the employment is terminated because the employee violates the obligations of the employment contract.
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	The most important thing is to have a professionally prepared and detailed employment contract which will precisely indicate what is an unfair dismissal.
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	There is no compensation for the unfair dismissal. The employee could be reinstated in his position but he is not entitled to any kind of compensation for the unfair dismissal.
Do employees have the right to be members of a trade union?	Yes. An employee is free to join a trade union or not to join as he chooses.
Is there any legal requirement for an employer to contribute to a pension for employees?	Yes. Every employer is obligated to pay the employees' health and pension fund.
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	Every pregnant woman is entitled to "ordinary maternity leave" of 45 days before the expected day of birth up to 1 year of child's life. One parent of a child who was adopted and who is younger than 12 years, is entitled to paternity leave of 270 days from the day of adoption.
When are employees eligible for redundancy payments?	According to Art. 125 of Croatian Labour law, after 2 years employment by the same employer
What are the statutory redundancy payment limits?	The payment cannot be less than 1/3 of average monthly salary in last 3 months, for every working year at this employer
Can existing employees be dismissed if you buy a business with employees?	No. There is an automatic transfer of the contract of employment.

[HOME](#)

Labour Law - Cyprus

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>Contracts of employment can be concluded orally between the employer and the employee. There are no legal requirements for contracts to be evidenced in writing either by contract documents or by statements of terms and conditions. However, it is good practice to have an agreement prepared and signed stating the main particulars of one's employment that contains information, for example, about job and duties, holidays with pay, earnings and allowances. For employees at management level, individual agreements are in practice expressed in writing.</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>Section 5 of the Termination of Employment Law 1967 stipulates that an employee is not entitled to compensation for termination of employment payable by the employer if: (a) the employee fails to carry out his or her work in a reasonably efficient manner (b) the employee has become redundant (c) the termination of employment is due to <i>force majeure</i> (d) an employee's fixed-term contract has expired (e) the employee has reached the normal age of retirement and (f) the employee's conduct is such as to render him or her liable to dismissal without notice (e.g. cases of gross industrial misconduct, a criminal offence, immoral behaviour, serious or repeated contravention or disregard or other rules in relation to employment).</p>
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<p>The employer must show that he has acted 'reasonably' in relation to the dismissal of the employee (for example, in relation to the conduct of the employee written warnings should be made) The burden of proof lies upon the employer to show that the employee was dismissed for one of the reasons that constitute fair dismissal.</p>
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>An employee who is dismissed unfairly by an employer, with whom he has been continuously employed for not less than 26 weeks, has a right to compensation payable by the employer. For the calculation of the compensation, the Industrial Disputes Court takes into consideration, among others, the earnings of the employee, the period of employment, the loss of career prospects, the age of the employee and the conditions under which he was dismissed. The amount of compensation up to the wages of one year are payable by the employer and any additional amount from the Redundancy Fund. However, such compensation shall not be less than that which the employee would have received had he been declared redundant by his employer and in any event, shall not exceed two years' wages.</p>
<p>Do employees have the right to be members of a trade union?</p>	<p>Yes, as it will be unfair to dismiss any employee either because he is or is not a member of a trade union. Section 6 of the Termination of Employment Law states that an employer may never terminate an employee from employment simply because he/she is a member of a trade union.</p>
<p>Is there any legal requirement for an employer to contribute to a pension for employees?</p>	<p>An employer is obliged to offer employees access to a 'stakeholder' pension scheme but does not have to contribute unless this is provided for in the contract of employment. The employer must contribute to social security schemes with employee.</p>
<p>What are standard maternity rights?; What are parental leave rights (including paternity leave)?</p>	<p>Every pregnant woman is entitled to 'ordinary maternity leave' up to 18 continuous weeks. Nine of the weeks must be taken within the period beginning on the second week before the week of expected childbirth. In addition to maternity leave, for nine months after childbirth a female employee is entitled each day to interrupt her employment for one hour or start work one hour later or finish work one hour earlier for the purposes of breastfeeding or for the increased needs of child raising. In accordance with the law such time must be considered and paid as normal working time.</p> <p>Paternity rights: Employees, men or women, who have completed a continuous period of at least six months employment with the same employer are entitled to take unpaid parental leave of a duration of up to thirteen weeks in total, by reason of the birth or adoption of a child, in order for the parent to take care of and participate in the raising of the child. Where a parent has more than one child, the parent's right to parental leave is independent for each child, provided that at least one year of employment with the same employer has elapsed since the expiration of parental leave previously taken in respect of another child.</p>
<p>When are employees eligible for redundancy payments?</p>	<p>Any employee who has been employed by the same employer for at least two years, who has not yet attained the age of 65 years and who is declared redundant within the terms of the statutory definition, is entitled to a redundancy payment out of the Government's Redundancy Fund. This fund is exclusively</p>

	financed by employers' contributions in respect of each employee.
What are the statutory redundancy payment limits?	The redundancy payments are calculated according to years of employment as follows: (a) two weeks' wages for each year of service up to four years (b) two and half weeks' wages for each year of service from five to ten years (c) three weeks' wages for each year of service from 11 to 15 years (d) three and a half weeks' wages for each year of service from 16 to 20 years and (e) four weeks' wages for each year for service beyond 20 years.
Can existing employees be dismissed if you buy a business with employees?	According to this there must be a relevant transfer of business and this itself shall not constitute grounds for the dismissal of employees. Such dismissal is unfair unless the employer can show economic, technical or organisational reasons which required changes in the level of employment.
Any other general legislation to note?	For instance: equal pay, part-time employees, minimum wage is guaranteed, sex discrimination, race discrimination, disability discrimination, health and safety, working time regulation and time off to care for dependents.

[HOME](#)

Labour Law – Czech Republic

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>There is automatic right to receive a written contract of employment, because a verbal agreement is not sufficient. The employer shall conclude employment contracts in writing. The employment contract must include: type of work, place or places of work, date on which the employee will perform the work.</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>There are three possible ways, how to dismiss the employee without the need to pay compensation: 1) if, according to a medical certificate issued by the occupational health care establishment the employee has lost, long term, his capability to perform his current work due to his state of health; 2) if the employee does not meet the prerequisites prescribed by statutory provisions for performance of the agreed work or if, through no fault on the employer's part, he does not meet the requirements for proper performance of such work; 3) if there are reasons on the employee's part due to which employer could immediately terminate the employment relationship, or if the employee has seriously breached some duty arising from statutory provisions and relating to the work performed by him.</p>
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<p>Employer must show that he has acted 'reasonably' - this varies according to the reason for the dismissal e.g. in the case of capability and qualification, was a training offered?; Were warnings provided to improve standards? If the reason was 'conduct' - for gross misconduct employees may be dismissed without warning.</p>
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>Employee is entitled to receive severance pay in the amount of at least three times his average earnings or at least twelve times his average earnings</p> <p>Also see below and 'redundancy' rights</p>
<p>Do employees have the right to be members of a trade union?</p>	<p>Yes, an employee is free to join a trade union or not to join as he chooses. Consequently it is unfair to dismiss any employee either because he is or because he is not a member of a trade union.</p>
<p>Is there any legal requirement for an employer to contribute to a pension for employees?</p>	<p>There is no legal requirement for an employer contribution to a pension for employees, but it can be provided by the employer as a benefit for employees. The employer has to contribute to social security schemes with the employee.</p>
<p>What are standard maternity rights?; What are parental leave rights (including paternity leave)?</p>	<p>A pregnant woman employee, a woman employee who is breastfeeding and a woman employee - mother until the end of the ninth month after childbirth may not be employed to carry out those types of work for which they are not fit under the relevant medical certificate. A woman employee is entitled to 28 weeks of maternity leave (if she gave birth to two or more children at the same time, she is entitled to 37 weeks of maternity leave). This maternity leave shall start at the beginning of the sixth week before the expected childbirth, but no earlier than the beginning of the eighth week before the expected child's birth.</p> <p>Employer may not give notice to this woman employee if she is pregnant or is on maternity leave or while a woman or man employee is on a parental leave.</p> <p>Parental leave: Employer shall grant a female or male employee parental leave if so requested. Parental leave is granted to the mother of a child upon termination of her maternity leave and to the father of a child from the day when the child is born and it is granted within the scope as requested, but no longer than until the day when the child reaches the age of three years.</p>
<p>When are employees eligible for redundancy payments?</p>	<p>Employee is entitled to receive severance pay in the amount of at least three times his average earnings, if the notice is given by his employer for one of these reasons:</p> <ul style="list-style-type: none"> a) if the employer's undertaking, or its part, is closed down; b) if the employer's undertaking, or its part, relocates; c) if the employee becomes redundant because of the decision of the employer. <p>Employee is entitled to receive severance pay in the amount of at least twelve times his average earnings, if according to a medical certificate issued by the occupational health care establishment, the employee is not allowed to perform his current work due to industrial injury, etc.</p>

What are the statutory redundancy payment limits?	(See response to above point)
Can existing employees be dismissed if you buy a business with employees?	Generally 'no', in accordance with transfer of the Commercial Code. There must be a relevant 'transfer', which means there is an automatic transfer of the contracts of employment. If an employee is dismissed for a reason connected with the transfer then this is automatically 'unfair', unless the employer can show economic, technical or organisational reasons for a change in the workforce.
Any other general legislation to note?	For example: equal pay, part-time workers, sex discrimination, race discrimination, disability discrimination, health and safety, working time regulations and time off to care for dependents.

[HOME](#)

Labour Law - Denmark

Is it a legal requirement that employees must receive an employment contract?	Yes, employees must receive an employment contract and they must receive it on the first day of their employment, at the latest.
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	The most important factors which constitute a fair dismissal are:- that the employer's business is ailing - need to reduce costs- that the employee has acted with gross negligence (burden of proof is on the employer).
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	Early discussions with the employee and his/her union representative (where relevant) and to prove the necessity of reducing staff - see (2) above.
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	Usually up to 3 months wages.
Do employees have the right to be members of a trade union?	Yes
Is there any legal requirement for an employer to contribute to a pension for employees?	Yes, it is a legal requirement that an employer contributes to the state pension for employees.
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	Dismissal by reason of pregnancy could result in a compensation award of up to one year's salary. Leave: 4 weeks, at full pay, prior to the birth, afterwards -14 weeks; father also entitled to 2 weeks. Thereafter, each parent is entitled to up to 46 weeks parental leave - wages are subject to negotiation. Once the period expires, the parents are entitled to an allowance from the State. Obligation for the employer to reinstate the employee in her previous position. Dismissal by reason of pregnancy could result in a compensation award of up to one year's salary. Leave: 4 weeks, at full pay, prior to the birth, afterwards -14 weeks; father also entitled to 2 weeks. Thereafter, each parent is entitled to up to 46 weeks parental leave - wages are subject to negotiation. Once the period expires, the parents are entitled to an allowance from the State. Obligation for the employer to reinstate the employee in her previous position.
When are employees eligible for redundancy payments?	Employees are eligible for redundancy payments after 12 years employment.
What are the statutory redundancy payment limits?	12 years - one months salary 15 years - two months salary 18 years - three months salary
Can existing employees be dismissed if you buy a business with employees?	No, according to the Danish Act on transfer of undertakings, all the transferor's rights, duties, powers and liabilities in relation to employment agreements (or by collective agreements) are transferred to the transferee.
Any other general legislation to note?	Companies should be aware of collective labour agreements - conclude every two years in addition to prohibition against discrimination on various grounds.

[HOME](#)

Labour Law - Estonia

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>The formal requirement to conclude a written contract is not applied if the duration of the validity of the employment contract does not exceed two weeks. Apart from the previous, the employment contract has to be in written form and must include all the necessary aspects concerning the work and parties (names of parties, description and place of work, working time, payment terms etc) and in case the data has not been communicated to the employee before commencement of work, the employee may demand it at any time.</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>Parties may terminate a fixed-term employment contract or an employment contract entered into for an unspecified period by agreement. An employer may not cancel an employment contract ordinarily. An employer and an employee may cancel fixed-term employment contracts and employment contracts entered into for an unspecified term within a probationary period of four months of the date of commencement of employment by the employee.</p> <p>An employer may extraordinarily terminate an employment contract with good reason dependent on an employee as a result of which, upon respecting mutual interests, the continuance of the employment relationship cannot be expected. An employer may terminate an employment contract due to a breach of an employee's duties or decrease of their capacity for work, if the employer gave a warning before the cancellation. Prior warning is not a prerequisite for cancellation if, pursuant to the principle of good faith, the employee cannot expect it from the employer due to particular severity of the breach of duties or for another reason.</p>
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<p>According to the basis of dismissal, the employer should show that he has acted "reasonably" and according to the employees best interests. For instance, before terminating the contract due to breach of an employee's duties or decrease of their capacity for work, has the employer given a written warning or has he offered alternative work, etc.</p>
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>If a court or labour dispute committee establishes that cancellation of an employment contract is void due to the absence of a legal basis or the non-conformity with law or nullified due to a conflict with the principle of good faith, it shall be deemed that the employment contract has not been terminated upon cancellation, and an employer shall pay an employee compensation to the extent of three months' average wages of the employee. The court or labour dispute committee may change the amount of the compensation, considering the circumstances of cancellation and the interests of both parties.</p>
<p>Do employees have the right to be members of a trade union?</p>	<p>Yes, employees have the right to be members of a trade union. Just as well, the employee has the right not to join a trade union as he chooses. No employee can be dismissed either because he is or is not a member of a trade union.</p>
<p>Is there any legal requirement for an employer to contribute to a pension for employees?</p>	<p>The employer is only required to contribute to social security schemes in relations with employees.</p>
<p>What are standard maternity rights?; What are parental leave rights (including paternity leave)?</p>	<p>Women have the right to pregnancy and maternity leave of 140 calendar days. If a woman starts using pregnancy and maternity leave less than 30 days before the estimated birth date given by a doctor or midwife, the pregnancy and maternity leave is shortened by the respective period. Compensation can be obtained for pregnancy and maternity leave in accordance with the Health Insurance Act.</p> <p>Fathers have the right to receive up to ten working days of paternity leave during the two months before the estimated birth date given by a doctor or midwife and during the two months after the birth of the child.</p> <p>A mother or father is entitled to parental leave until their child reaches the age of three years. One person is entitled to parental leave at a time. Parental leave can be used in one part or in several parts at any time. It is presumed that employees notify employers of taking or interrupting parental leave 14 calendar days in advance, unless the parties have agreed otherwise. If a parent has been deprived of parental rights or if a child lives in a social welfare institution the parent is not entitled to parental leave. Employees are entitled to compensation for the period of parental leave in accordance with the Parental Benefits Act and to a child care allowance in accordance with the State Family Benefits Act.</p>

<p>When are employees eligible for redundancy payments?</p>	<p>Upon cancelling an employment contract due to a lay-off, an employer shall pay an employee compensation to the extent of one month's average wages of the employee. Upon the cancellation of an employment contract due to a lay-off, an employee has the right to receive an insurance benefit under the conditions and pursuant to the procedure provided for in the Unemployment Insurance Act. If before 1 January 2015 an employer cancels an employment contract due to a lay-off with an employee whose employment relationship has by the time of entry into force of the Employment Contracts Act lasted for at least 20 years, the Estonian Unemployment Insurance Fund shall pay the employee, in addition to the previously named compensation of one month's average wages, a layoff insurance indemnity to the extent of three months' average wages of the employee under the conditions and pursuant to the procedure provided for in the Unemployment Insurance Act. The insured person whose last employment relationship was cancelled due to a lay-off shall be entitled to an unemployment insurance indemnity 90 calendar days after the termination of the employment relationship.</p>
<p>What are the statutory redundancy payment limits?</p>	<p><i>(See response to above answer)</i></p>
<p>Can existing employees be dismissed if you buy a business with employees?</p>	<p>Employment contracts transfer to the acquirer of an enterprise un-amended if the enterprise continues the same or similar economic activities. Transferors and acquirers of enterprises are prohibited to cancel employment contracts due to the transfer of enterprises.</p>
<p>Any other general legislation to note?</p>	<p>For example the following: health and safety, working conditions, equal pay, discrimination, disability issues, working time and holiday regulations, etc.</p>

[HOME](#)

Labour Law - Finland

Is it a legal requirement that employees must receive an employment contract?	No, but the employer is obliged to provide the terms of employment in written form.
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	Personal factors such as serious breaches of obligations; and economic factors such as a significant or permanent decrease in work potential due to economic, production or re-organisational reasons.
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	Negotiation and discussion. Dismissal for personal reasons requires the use of various warnings.
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	Up to 24 months salary.
Do employees have the right to be members of a trade union?	Yes, there is a constitutional right
Is there any legal requirement for an employer to contribute to a pension for employees?	Yes
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	105 days with leave from work and compensation of salary from public funds. The father has a right to 18 days leave when the child is born. There are other parental rights to stay at home with children under 3 years of age.
When are employees eligible for redundancy payments?	After notice, which varies from 14 days to 6 months, depending on the length of service.
What are the statutory redundancy payment limits?	There are no regulations.
Can existing employees be dismissed if you buy a business with employees?	No. The reasons for any dismissal must be based on the requirements as stated above.
Any other general legislation to note?	Anti-discrimination legislation (all forms); safety at work; collective trade union agreements; working time regulations; data protection and annual leave regulations.

[HOME](#)

Labour Law - France

Is it a legal requirement that employees must receive an employment contract?	No statutory requirement, however employment contracts may be required based on certain labour agreements and for other specified cases, e.g. fixed term contracts; apprentice contracts.
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	If the dismissal is for a substantial and serious reason and for personal or economic factors (e.g. redundancy). Subjective reasons are not valid for a fair dismissal.
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	Good documentation describing the dismissal procedure and awareness based on advice, of what has previously constituted a fair dismissal following interpretation in the French courts. In parallel of the dismissal, a new type of termination of a labour contract is possible and quite often elected : « <i>rupture conventionnelle homologuée</i> » (c. mutual agreement).
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	Up to one month's gross salary for non-compliance with the dismissal procedure and/or compensation (e.g. 6 months gross salary, if more than 2 years employment and the company employs more than 10 employees). Possible reimbursement of employment contributions to the unemployment agency (up to 6 months).
Do employees have the right to be members of a trade union?	Yes (members obtain better protection against dismissals).
Is there any legal requirement for an employer to contribute to a pension for employees?	Yes, in certain situations, but the share of contribution is relatively minimal.
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	Protection against dismissal; Six weeks maternity leave before birth, 10 weeks after birth (period can be extended, after third child). Parental rights: 3 days birth leave for fathers; 11 days leave for fatherhood ; 3 years educational parental leave for one of the parents (labour agreements may provide longer periods).
When are employees eligible for redundancy payments?	When dismissed for that reason.
What are the statutory redundancy payment limits?	20% of the salary per year of employment (+ 15% per year above 10 years).
Can existing employees be dismissed if you buy a business with employees?	No, not in accordance with EU law.
Any other general legislation to note?	Discrimination and other EU regulations; and harassment legislation.

[HOME](#)

Labour Law - Germany

Is it a legal requirement that employees must receive an employment contract?	A contract is not necessary, but the main terms of employment should be provided in writing including the names of the parties, the type of work to be performed, remuneration, working hours/vacation time, notice periods and any references to a collective bargaining agreement. It must be provided to the employee one month after the start date.
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	Justifiable reasons: personal; performance and operational or economic reasons. Instant dismissal possible for gross misconduct. (Protection is for employees who have worked for more than 6 months in companies of more than 10 full time employees).
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	Different procedures for the situations above. Generally important to provide warnings and have complete documentation and consult with the works council (where appropriate). Often litigation commenced regarding the effectiveness of the termination, with the intent of receiving severance pay, although severance pay compensation is unusual - usually reinstatement.
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	If the dismissal is unjustified, the termination is void and the relationship continues. However, in practice employer and employee often agree that the termination was valid and the employee receives a negotiated severance payment. If a labour court rules that the dismissal has not been justified, it will reinstate the employee. If this is generally disagreeable, the court may award compensation. Compensation depends on the circumstances of each case (e.g. length of service, age, marital status, etc.) but not more than 18 months salary. The average calculation is ½ the gross monthly salary for each year of service.
Do employees have the right to be members of a trade union?	Yes
Is there any legal requirement for an employer to contribute to a pension for employees?	Yes, under public pension insurance schemes (part of the state controlled social security system) - ½ paid by the employee; the other ½ by the employer. May be additional employer contribution within collective bargaining agreement.
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	General rights not to work if this would endanger the foetus and not to be dismissed by reason of redundancy. Paid maternity leave commences 6 weeks prior to the anticipated birth and 8 weeks after. Both mother and father are entitled to parental leave during the first three years of the child's life - payment from public funding until 14 months from minimum 300 Euro per month to a maximum of 1.800 Euro per month.
When are employees eligible for redundancy payments?	By law, the termination of employment generally does not lead to a statutory redundancy payment. The law says that either termination is lawful and the employment ended, or it is void and the employment continues (<i>see rows 2 and 4 above</i>). Works councils 'social plans' normally provide for financial compensation in case of redundancies - also required in insolvency situations.
What are the statutory redundancy payment limits?	No statutory limits for the 'social plan'. In insolvency situations - limited to 2½ gross monthly salary of the employee, in total up to 1/3 of the insolvent company's capital.
Can existing employees be dismissed if you buy a business with employees?	No, not because of the transfer, but termination is possible if within the justifiable reasons stated above (2 nd row).
Any other general legislation to note?	Regulations based on collective bargaining agreements; discrimination, working hours; fixed term contracts must be for a valid reason; disability discrimination; health and safety; social security laws; data protection; appointment of a qualified company doctor (for the benefit of employees).

[HOME](#)

Labour Law - Greece

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>Presidential Decree No 156/1994, whose purpose is to transpose Directive 91/553/EC into the Greek Legislation, requires that a written employment agreement or otherwise a written instrument including the basic provisions of the employment relationship be in place.</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>Employment contract may be terminated without the need to pay dismissal compensation in the following cases:</p> <p>a) in the event that a criminal complaint was filed against the Employee for committing a punishable action while being on duty or in the event that the Employee was officially charged of committing an offence treated at least as a misdemeanor;</p> <p>b) in the event that the dismissal was due to the inappropriate behavior of the Employee, who was seeking to force Employer to proceed to his/her dismissal;</p> <p>c) due to reasons of force majeure;</p> <p>d) after the expiry of the fixed term of an employment contract.</p>
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<p>A written notice of dismissal must be served on the Employee. The dismissal compensation provided for in the law must be duly offered and paid to the Employee. Employer must be able to show that Employer did not act in bad faith. Where dismissal is due to general economic and operational requirements, Employer must be able to satisfy that Employer acted reasonably when selecting who would be dismissed taking into consideration objective criteria, such as the age, the performance, the family status etc.</p>
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>If the Employee deems the dismissal invalid, the Employee is entitled to file a lawsuit against the Employer for the recognition of the nullity of the dismissal. In addition, Employee may pursue reinstatement and compensation for the loss of wages incurred as of the time of dismissal and under certain circumstances compensation for moral damages as well. Alternatively, Employee may accept the validity of the dismissal and seek payment of the dismissal compensation only, which varies from 1 up to 24 wages depending on the length of the service and the prior notice (if any) given.</p>
<p>Do employees have the right to be members of a trade union?</p>	<p>Employees have the right – according to the Greek Constitution and the relevant legislation - to become members to the corresponding trade union.</p>
<p>Is there any legal requirement for an employer to contribute to a pension for employees?</p>	<p>Employer is obligated to contribute to the competent Social Security Funds. Employer is not obligated to contribute to any other pension schemes unless this is provided for in the employment contract.</p>
<p>What are standard maternity rights?; What are parental leave rights (including paternity leave)?</p>	<p>The mother Employee is eligible to a maternity leave of up to seventeen weeks; 8 weeks are granted before the expected date of the birth and 9 weeks after the birth. For 30 months after the child's birth, nursing mothers may arrive at work one hour later, leave one hour earlier or take a one-hour break from work.</p> <p>Parents with children up to 3.5 year old are entitled to parental leave without pay. This leave can last up to 3.5 months for each parent (or 6 months for a single parent) and is being granted on the basis of seniority criteria.</p>
<p>When are employees eligible for redundancy payments?</p>	<p>There are no specific statutory criteria for dismissals due specifically to redundancy. Employees dismissed as redundant are entitled to the dismissal compensation that employees are generally entitled to in case of a dismissal, provided only that the Employee had been in continuous employment for at least two months.</p>
<p>What are the statutory redundancy payment limits?</p>	<p>There are no specific statutory redundancy payment limits. Employees dismissed as redundant are entitled to the dismissal compensation that Employees are generally entitled to in case of a dismissal, which ranges from 1 wage up to 24 wages depending on the length of the service. The compensation as above may be reduced to the half, if an appropriate prior written notice of dismissal is served on the Employee.</p>

Can existing employees be dismissed if you buy a business with employees?	In case of a transfer of a business employment relationships are automatically transferred to the acquirer of the business. In such an event, the new owner (acquirer) may proceed to dismissals not for reasons connected to the transfer, but only for other justifiable reasons, e.g. for general economic, technical or operational reasons referring to the stage after the transfer.
Any other general legislation to note?	Data Protection Law, Collective Labor Law, Immigration law, Social Security Laws and other laws relating to the employment relationship.

[HOME](#)

Labour Law - Hungary

Is it a legal requirement that employees must receive an employment contract?	Parties shall conclude the employment agreement in writing. In case of no written agreement, the employee is entitled to claim the employment agreement invalid but only within 30 days after starting its duties.
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	The reason of the dismissal should be related to the abilities of the employee, its behaviour connected to the labour relation as well as the operation of the employer.
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	Termination with mutual consent of the parties.
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	Employer is obliged to provide work for employee if employee wishes to continue the employment relation. (Certain exceptions might release employers). Minimum two, maximum twelve months average salary as compensation, furthermore the employment relation is deemed to be valid until the final court decision, so as employees are entitled for their net salary until the final court decision, to be reduced with the amounts of other salaries received from other sources.
Do employees have the right to be members of a trade union?	Yes.
Is there any legal requirement for an employer to contribute to a pension for employees?	Employer is obliged to pay pension contribution in the amount of (from January 2011 on) 10% of employee's gross monthly salary.
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	During the pregnancy period and the maternity/paternity leave, employee is not entitled to terminate the working agreement. Employer is obliged to provide work for the employee after the maternity/parental leave with the same (original) conditions, which includes also an eventual salary increase. Employer is obliged to provide such a work for the pregnant employee which is suitable for her status. (It might include the possibility of a different work-field.)The regulation of the maternity/paternity leave's maximum length is under modification (but currently it is 24 weeks long).
When are employees eligible for redundancy payments?	In case of ordinary termination or cessation of employee without legal succession, after 3 years of continuous working relation with employer, employee is entitled for redundancy payment.
What are the statutory redundancy payment limits?	There is no such a limit. It depends on the monthly average gross salary of the employee. Employer is obligated to - in case of at least: <ul style="list-style-type: none"> > three years - 1 month's; > five years - 2 months'; > ten years - 3 months'; > fifteen years - 4 months'; > twenty years - 5 months'; > twenty five years - 5 months' average salary as redundancy payment.
Can existing employees be dismissed if you buy a business with employees?	If it can be proven that the operation of the employee changed substantially then yes. Otherwise, the purchase itself is not a valid reason.
Any other general legislation to note?	Parties shall conclude the employment agreement in writing. In case of no written agreement, the employee is entitled to claim the employment agreement invalid but only within 30 days after starting its duties.

[HOME](#)

Labour Law - Italy

Is it a legal requirement that employees must receive an employment contract?	No, a contract can be oral or in writing. However, any special terms or restrictions that are not normal (and fixed term contracts), must be in writing. (e.g. contract in restraint of competition)
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	A substantial reason or breach of terms that prevents the continuance of the contract. The reason has to be related to personal facts, which breaches the trust of the employment relationship, always considering the criterion of the promptness.
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	Notice must be provided - employee has 5 days to ask for a reason- employer must reply in 7 days or the notice is void. The employee can justify himself in 5 days.
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	If a dismissal is judged as unlawful an employer (of more than 15 employees) must reinstate an employee within three days. Alternatively the employee can choose compensation equal to 15 month's wages. If the employer has less than 16 employees, reinstatement or compensation of between 2.5 to 6 month's wages is possible.
Do employees have the right to be members of a trade union?	Yes and the employee cannot be discriminated on the basis of political reasons or because he is member of a trade union
Is there any legal requirement for an employer to contribute to a pension for employees?	Yes, to the national pension system
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	A pregnant employee cannot be dismissed in the year after the birth of the child. Maternity leave: from two months before the expected birth to three months after the birth - 80% of salary paid by the employer. Parental leave: Until the child is one year old, the mother has the right to two daily rest periods of one hour each - fully paid. Until the child is eight year old, the parents can take up to 10 months leave, each of them not more than six months, but if the father takes at least three months, 11 months leave is possible. Until the child is three, eligible to 30% salary, up to six months maximum.
When are employees eligible for redundancy payments?	When employment is terminated as a result of crisis, reorganisation, conversion or reconstruction of a business with more than 15 employees.
What are the statutory redundancy payment limits?	on the extent of 80% of the monthly salary, but not exceeding € 983,54 per month.
Can existing employees be dismissed if you buy a business with employees?	No, not within EU law. The existing employees go on with the transferee and they maintain their rights (art. 2112 c.c.).
Any other general legislation to note?	The 'Employees' Statute' (1970), regulations rights of the employees e.g. trade union activity, right of reinstatement if unlawfully dismissed. Other legislation concerns sexual discrimination, employment procedures in relation to strikes and redundancy funds.

[HOME](#)

Labour Law – Korea (South)

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>An employment contract may be made orally, but an employee is entitled to a written employment contract clearly stating particulars under the Labor Standard Act ("LSA"), such as, wages, work place & hours, description of work, dismissal, leave, etc.</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>Employee may be dismissed based on Justifiable Causes (lack of qualifications, misconducts, etc.). However, even in case where an employer dismisses his/her employee for justifiable cause, the employer must notify the employee concerned of dismissal at least 30 days in advance. Otherwise, the employer should pay the employee 30 days or more of ordinary wages if it wishes to immediately terminate the employment contract.</p>
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<ul style="list-style-type: none"> • An employer must have a justifiable cause. • 30 day prior notice of termination, or payment of 30 day ordinary wage. • Written notice stating dismissal date and cause has to be given to the employee. • Lay-off should be done in accordance with the special procedures stipulated by LSA.
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>Damages include wages which an employee would have received if he has worked and compensation for his mental distress and other related damage. If the dismissed employee works for other employer or does his own business since dismissal, such income may be deducted from the damages up to the amount which exceeds his unemployment allowance.</p>
<p>Do employees have the right to be members of a trade union?</p>	<p>Yes, an employee is free to join a trade union or not to join as he chooses. Consequently it is unfair to dismiss or discriminate any employee either because he is or because he is not a member of a trade union.</p>
<p>Is there any legal requirement for an employer to contribute to a pension for employees?</p>	<p>If an employer or workplace employs 1 or more employees, the National Pension Act automatically applies, and it is mandatory. The contribution of Workplace Based Insurance is equally shared (50% each) between an employer and employee. An employer is required to take care of the procedures necessary for application and payment for the contribution and is responsible to report personal information of a new employee and changed information, such as, changed wage, dismissal, etc., of an employee already employed.</p>
<p>What are standard maternity rights?; What are parental leave rights (including paternity leave)?</p>	<p>Every pregnant woman is entitled to 'ordinary maternity leave' of up to 90 days of which 45 days or more days have to be assigned to the period after birth. However, the first 60 day leave must be paid leave, and up to 1,350,000Won will be paid. Parental leave: A spouse of a pregnant woman is entitled to 3 days' leave at time of child birth. An employee is entitled to child-rearing leave for her/his child, born or adopted, of 6 years old or younger. Child-rearing leave will be allowed up to 1 year per employee as to the child in concern, and currently 500,000Won per month will be paid for child-rearing leave period.</p>
<p>When are employees eligible for redundancy payments?</p>	<p>A collective agreement or internal working rules of a workplace will provide the matters necessary for lay off and related matters.</p>
<p>What are the statutory redundancy payment limits?</p>	<p>No statutory redundancy payment limits are provided.</p>
<p>Can existing employees be dismissed if you buy a business with employees?</p>	<p>In principle, a deal on business transfer includes an agreement on transfer of existing employment contracts. But if the parties agree otherwise or agree to exclude existing employment contracts, the parties are required to provide reasonable grounds for such exclusion. So, existing employee may be dismissed upon presenting reasonable grounds.</p>
<p>Any other general legislation to note?</p>	<p>The Guarantee of Wage Based Credit Act, The Guaranteed of Severance Payment for Employees Act, The Act on the Promotion of Equal Employment and Compatibleness between Job and Family, The Unemployment Insurance Act, The Industrial Accidents Insurance Act (Worker's Compensation Act), etc.</p>

[HOME](#)

Labour Law - Mexico

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>The existence of the contract and of the labor relationship is presumed between the person providing personal services and the person or entity for whom such services are rendered. The lack of a contract does not deprive the employee from the rights derived from the labor provisions and from the services rendered. The lack of such contract is imputable to the employer.</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>The employer may terminate the labor relationship at any time for justified cause without incurring in responsibility. The Federal Labor Law lists in article 47, 15 the events in which a dismissal for cause may be considered without the employer incurring in responsibility, for instance: that the employee commits during his/her employment dishonest or violent actions, due to the employee's unjustified and prolonged absence, that he/she discloses manufacturing secrets, etc. In order for the termination to be considered as a dismissal for cause the law requires that the employer personally notifies the employee in writing of such situation.</p>
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<p>The employer shall make sure that the employee has received the written notification through which he/she is informed of the termination of the employment, indicating the date and causes for such termination. The aforementioned notice is of utmost importance in order for the termination to be considered as a dismissal for cause. The employer shall make sure to send the notice and that the employee becomes aware of the same, if the employee refuses to receive such notice the employer shall send it to the relevant Conciliation and Arbitration Board requesting that the employee be notified at his/her address.</p>
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>Dismissed employees may request to the relevant Conciliation and Arbitration Board to be replaced in their prior position or three month compensation in the amount of their previous salary. If the employee can prove a dismissal without cause in the trial he/she will be entitled to the legal action that he/she had filed and to the relevant salaries from the date of the termination until the date when judgment is enforced as requested.</p>
<p>Do employees have the right to be members of a trade union?</p>	<p>Yes, Employers and Employees have the right to create or be part of any union without the need of prior authorization. Employees and employers cannot be forced to join a union. Any provision establishing a penalty or any consequence in this regard shall be considered null and void by law.</p>
<p>Is there any legal requirement for an employer to contribute to a pension for employees?</p>	<p>In collective bargaining agreements the obligation of the employer to contribute with a percentage of the employee's salary may be stipulated, in order to constitute a retirement or disability fund that is not derived from an occupational hazard. The relevant amounts shall be given by the employer to the Mexican Institute of Social Security [<i>IMSS, Instituto Mexicano del Seguro Social</i>] or to a banking institution established in the collective bargaining agreement, in case that the IMSS would not accept it. The [banking] institution shall cover the pensions with the approval of the relevant Conciliation and Arbitration Board.</p>
<p>What are standard maternity rights?; What are parental leave rights (including paternity leave)?</p>	<p>Pregnant employees are entitled to a maternity leave six weeks prior to delivery and six weeks after delivery. During pregnancy women cannot be forced to carry out work involving physical effort or any other similar activity that could imply any risks to their pregnancy. During the nursing period employees shall have two additional half an hour breaks to feed their children in an adequate and hygienic place designated by the company. The pre-delivery and post-delivery periods shall be considered when calculating employees' seniority. The Federal Law does not provide for paternity leave rights.</p>
<p>When are employees eligible for redundancy payments?</p>	<p>Any employee dismissed without cause under the terms provided by the law, shall be entitled to receive compensation. When the termination is with justified cause the employee shall lose this right. If the employee would commit an offence against the employee under the terms provided by the law, the employee shall have the right to be indemnified according to his/her seniority in terms of article 50 of the Federal Labor Law, in addition to the relevant compensation.</p>
<p>What are the statutory redundancy payment limits?</p>	<p>The Federal Labor Law does not specifically provide for a redundancy payment limit, however, the general rules for severance payment shall be observed as established in the aforementioned law.</p>
<p>Can existing employees be dismissed if you buy a business with employees?</p>	<p>No. The Mexican labor law protects the employees of any newly acquired company; there is a statutory presumption that establishes a new labor relationship between the employees and the new employer. The above on</p>

	condition that the owner does not change the type of commercial activity of the company, otherwise, the owner shall continue without the original employees, who shall be dismissed under the dismissal rules provided by the law.
Any other general legislation to note?	<ul style="list-style-type: none"> o Constitutional Rules in Labor Matter (Normas Constitucionales en Materia Laboral) o Federal Labor Law (Ley Federal del Trabajo) o Safety, Health and Work Environment Regulations (Reglamento de Seguridad, Higiene y Medio Ambiente de Trabajo) o Workers' Advocacy Agency (Reglamento de la Procuraduría Federal de la Defensa del Trabajo) o General Regulations for the Inspection and Application of Penalties for Violation of the Labor Law (Reglamento General para la Inspección y Aplicación de Sanciones por Violaciones a la Legislación Laboral) o Minimum Wages 2010 o Social Security Law (Ley del Seguro Social).

[HOME](#)

Labour Law - Netherlands

Is it a legal requirement that employees must receive an employment contract?	No, but a statement of terms should be provided. However, it is advisable to have a signed employment contract, before the employment commences.
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	A contract can be terminated immediately for gross misconduct (e.g. theft, deceit, failure to carry out reasonable requests), without compensation if approved by the UWV WERKbedrijf - government agency. However, even with UWV WERKbedrijf approval an employee can apply to the court for compensation. There are four reasons to terminate an employment contract: by mutual consent; gross misconduct; decision of the UWV WERKbedrijf; by the court.
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	If terminated by the court there is a fixed formula for compensation. The starting point is the payment of the gross monthly salary according to the years of service although the formula can be weighted according to the conduct of the employer or employee.
Do employees have the right to be members of a trade union?	Yes
Is there any legal requirement for an employer to contribute to a pension for employees?	No, legally - but practically, yes (and frequently within collective labour agreements).
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	A pregnant woman does not need to work from 6 weeks before the expected birth until 10 weeks after the birth. The employee receives 70% of her salary, paid by social security funds. Parental rights: A maximum of 6 months for parents employed for more than 1 year for children up to the age of 8 - there are no holiday allowances.
When are employees eligible for redundancy payments?	All employees are eligible for unemployment benefit at 70% of the last earned salary - in case of mass redundancy usually a 'social plan' provides for redundancy payment, as agreed with the unions.
What are the statutory redundancy payment limits?	There are no statutory limits.
Can existing employees be dismissed if you buy a business with employees?	No, not within EU legislation, except if a share only transaction is foreseen. However, a redundancy situation exists if the termination is for business, economic or organisational reasons.
Any other general legislation to note?	The range of EU equal treatment rules concerning discrimination, harassment, working time regulations and data protection, etc. See above - any claim for damages, if successful, would be based on the degree of the breach of contract or statement of terms.

[HOME](#)

Labour Law - Poland

Is it a legal requirement that employees must receive an employment contract?	Under the Polish Labour Code (PLC) a contract of employment is preferable. An employment contract shall be made in writing. If the written form is not observed when the employment contract is made, the employer shall provide – not later than on the date on which an employee commences work – the employee with written confirmation of the type of contract and its terms. There is a fine (from 1000 zl equivalent of USD 370 to 30.000 zl equivalent of USD 11.000 USD) for failure to provide a written statement.
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	By agreement (in writing); by notice (e.g. agreed notice period)- consultation with appropriate trade union, and identifying the reason for termination. The PLC introduces many restrictions or prohibitions in relation to the termination of employment contracts (e.g. due to personal and family reasons, during holidays, maternity leave,).Contracts can be terminated for substantial reasons (e.g. gross misconduct, criminal offences) but there must also be consultation (as above) and a statement of the reason (to be provided within one month). Employees have the right to appeal.
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	Advice regarding notice periods, reason for the dismissal and consultation with unions (as stated above)
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	If terminated by notice the employee may be reinstated and compensated for loss of salary (from 2 weeks up to 3 months). Even if the contract is terminated with immediate effect, the employee may claim reinstatement (and lost salary) or compensation (equal to his notice period), although the employer may also counter claim for compensation.
Do employees have the right to be members of a trade union?	Yes, if the trade union is court registered.
Is there any legal requirement for an employer to contribute to a pension for employees?	Employer contributions as part of the social security system.
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	Rights against unfair dismissal, and social welfare rights e.g. avoidance of night work; business trips; right of transfer of position (and compensation if lower pay entitlement); right to medical visits; paid maternity leave (see below); extended work breaks after the birth. Maternity: up to 20 weeks depending on the number of children; up to 14 weeks for adoptions - unused female maternity leave can be granted to her husband, from 2010 one week for father until the child reaches 12 months of age Childcare leave: both male and female employees are equally entitled to 3 years unpaid leave, after six months employment, up to age 4 of the child. This can be extended in special circumstances, e.g. health of the child. Additional 2 days per year child leave for parents with children under the age of 14.
When are employees eligible for redundancy payments?	If the employment contract is terminated for economic or organisational reasons; in companies with more than 20 employees; the company dismissed: - 10 employees, when the employer employs less than 100 employees, - 10% employees, when the employer employs at least 100 employees, but less than 300 employees, - 30 employees, when the employer employs at least 300 employees or more within 3 months.
What are the statutory redundancy payment limits?	1, 2 or 3 months remuneration depending on the length of service. Cannot exceed 15 times the minimum wage (in 2010 the minimum wage is 1317 zl per month equivalent of USD 490)
Can existing employees be dismissed if you buy a business with employees?	No, all the rights of the employees remain unaffected. An employer must provide 1 months notice of such a transfer - the employees cannot object but they can terminate their employment agreements.

Any other general legislation to note?	Disability discrimination; equal treatment of men and women; working time regulations; harassment at work regulations; data protection; payment of overtime hours; company social funds (in companies employing over 50 staff); wages and work regulations (in companies employing over 20 staff).
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[HOME](#)

Labour Law - Portugal

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>It is always necessary to have a written contract (work contract or rendering of services contract). There are several types of contracts and the one that is applicable depends on the kind of work developed and the intention of the employer. A work relationship without a written contract is not illegal, but in case of dismissal it is considered the most formal contractual relationship by the Portuguese Authorities, thus making the calculations of the compensations clearer.</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>There are two kinds of reasons for terminating the contract, the non litigious ones (e.g. retirement, end of the period stated on the contract, end of the reason for the celebration of the contract, mutual agreement) and the end of the labour relationship with litigation (with just grounds for dismissal all stated in the Portuguese Labour Code) nevertheless the employer must follow all the procedures set out under Portuguese Law.</p>
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<p>When the employee has a permanent work contract, the requirements for dismissal are more demanding. Situations like violation of the instructions of the employer; false declarations about the absence of work or misconduct in the activity developed are some of the reasons that can justify the beginning of the statutory procedure for dismissal.</p> <p>Although the employer must comply with the previous procedure – failure to do so means that the employer will be held liable, either in terms of compensation or reinstatement to the former position of employment:</p> <ul style="list-style-type: none"> - Start of a disciplinary procedure; - Response from the worker to the disciplinary procedure, where he as well as the employer can present witnesses; - If applicable the employer can apply a penalty that can go from an official warning to a dismissal (the payment of compensation is analysed on a case by case basis); <p>In case of the company closing the section where the worker is developing his activity or in the case of a group dismissal, different procedures must be followed.</p> <p>All the work contracts may have a clause where a minimum notice period is stated, where both parties can end the contract, by written communication to the other party, without the above mentioned procedure, the employer paying the employee a set compensation according to the Portuguese Labour Code.</p>
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>Between 15 and 45 (or until 60 days if the worker appeals to the court regarding the decision of dismissal and wins) days remuneration per year or fraction worked, the minimum being 3 months of remuneration, without mention of the maximum amount (depending on the number of years of work). A compensatory amount may be settled by the court in considering the damage that the employer caused directly or indirectly to the worker.</p>
<p>Do employees have the right to be members of a trade union?</p>	<p>Yes, an employee is free to join a trade union. Consequently it is illegal to dismiss any employee either because of his trade union connection or absence of it.</p>
<p>Is there any legal requirement for an employer to contribute to a pension for employees?</p>	<p>There is no obligation upon employers to contribute to employee's private pension schemes.</p> <p>Employers and employees only are obliged to make contributions to the general complimentary schemes of the State pension regime.</p> <p>Employers may voluntarily provide an additional pension regime.</p>
<p>What are standard maternity rights?; What are parental leave rights (including paternity leave)?</p>	<p>Maternity leave is 120 or 150 days. If the employed woman opts for 150 days, the additional days have to be taken after the birth and she will receive 80 % of her salary during this period. If she does not officially opt for 150 days, she will only be entitled to 120 days at full pay, 90 of which must be taken after the birth. Alternatively, the mother could choose a six-week leave period after the birth; the rest of the period could then be used up by the father, by joint decision.</p> <p>The pregnant employee is allowed time off work for pre-natal appointments, for as many times as necessary, including the preparation for birth (medical justifications must be delivered to the employer afterwards).</p>

	<p>During the pregnancy and for twelve months after the birth, women have the right not to work at night or work overtime. Activities or tasks that might harm the health of the pregnant woman or the foetus are also forbidden or should be restricted. Breast-feeding mothers have the right to a leave of absence of two periods of one hour each per day, without loss of pay.</p> <p>She will need to alert her employer ten days prior to the beginning of the leave of absence and needs to produce a doctor's note. Should they decide to bottle-feed, the mother or the father will be entitled to a leave of absence.</p> <p>After maternity leave they have a right to return to the same job unless it is not reasonably practicable for them to do so in which case they have the right to return to another job which is suitable and appropriate.</p> <p>All Foreign nationals are entitled to the same subsidies stated above as long as they meet all the standards mentioned above and have all the legal documentation needed to work in Portugal.</p> <p>For working fathers, mandatory paternity leave is set at ten working days; five of them must be taken <u>immediately</u> after the birth and the other five within 30 days after the birth.</p> <p>After the ten mandatory days of paternity leave are taken, ten optional days of leave are available, at 100 percent salary, though these ten days must be taken at the same time the mother is on maternity leave.</p> <p>Protection from dismissal. The employee may not be dismissed until the child is 12 months old.</p> <p>Paternity Leave- no statutory right to salary during leave. Both Maternity and Paternity Leave are paid by social security.</p>
When are employees eligible for redundancy payments?	After the experimental period and with three months of effective work, the employer is entitled to a redundancy payment calculated according to the time worked
What are the statutory redundancy payment limits?	The redundancy payment is due after three working months and the payment is proportional to the period (minimum), the maximum is calculated according to the time worked - between 15 and 45 (or until 60 days if the worker appeals to the court regarding the decision of dismissal and wins) days of remuneration per year or fraction worked.
Can existing employees be dismissed if you buy a business with employees?	Generally 'no'. There will be an automatic transfer of the contracts of employment. If an employee is dismissed for a reason connected with the transfer, this is automatically considered as an unfair dismissal unless the employer can show economic, technical or organisational reasons for a change in the workforce.
Any other general legislation to note?	Workers are protected by the Data Protection Act protecting personal data and the Human Rights Act implements the European Convention of Human Rights.

[HOME](#)

Labour Law - Romania

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>Yes. According to the Romanian Labour Code, an individual employment contract shall be concluded on the basis of the consent of the employer and the employee, in written form and into Romanian language. The obligation to conclude the individual employment contract incurs to the employer. Such an obligation for the employer shall be dealt with before the beginning of the employment relationships.</p> <p>The absence of a written contract is sanctioned with a fine applied to the employer. Moreover, the existence of an employment contract can be proved by the employee with any other type of evidence (i.e. witness).</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>The Romanian Labour Code provides the limitative cases which represent grounds for dismissal. The employer can decide, therefore, the dismissal (i) either for reasons related to the employee (termination for cause) (e.g. acts of gross misconduct or repeated acts of misconduct committed by the employee; professional unfitness; etc.); or (ii) for reasons not related to the employee (termination without cause) due to suppression of working places. At the termination of the employment contract for reasons not related to the employee, the employer shall grant the employee compensation in an amount of at least one monthly salary.</p>
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<p>The employer must prove that the dismissal decision was taken both by following the mandatory procedure and the formal and substantial requirements provided by the law. Thus, according to the reason for the dismissal, the employer should observe the following: (i) in case of dismissal for disciplinary reasons, the employer must perform the preliminary disciplinary investigation prior to the dismissal of the employee, in order to establish whether or not the employee committed the acts of misconduct and to issue the termination decision within the legal time bar and form required by the law; (ii) in case of dismissal for reasons not related to the employee (collective dismissal) the employer is obliged <i>inter alia</i> to initiate consultations with the trade unions/employers' representatives; (iii) the employer must comply with the notice periods for each case of dismissal; etc.</p>
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>There is no legal provision in connection with the financial compensation for unfair dismissal. Thus, the amount of the compensation is to be established by negotiating with the employee or by the court, whenever the employee asks for damages due to unfair dismissal.</p>
<p>Do employees have the right to be members of a trade union?</p>	<p>Yes. Employees have the right to set up or join a trade union. Such a right is granted by the Romanian Constitution and by the Romanian Labour Code. It will be, therefore, considered unfair dismissal any termination of the employment contract for reasons related to the affiliation of the employee to a trade union. It is prohibited any intervention of the public authorities which is likely to abridge the right to unionisation or hinder the legal exercise of a trade union. It is also prohibited any encroachment of the employers directly or through their representatives or members, on the establishment of the trade unions or exercise of their rights.</p>
<p>Is there any legal requirement for an employer to contribute to a pension for employees?</p>	<p>Yes. An employer is obliged to contribute to the social security system. It is mandatory for the employer to monthly calculate, retain from the employee's monthly salary and pay to the territorial pension authority this social contribution.</p>
<p>What are standard maternity rights?; What are parental leave rights (including paternity leave)?</p>	<p>The employee is entitled to 126 days of paid maternity leave (generally, 63 before the birth and 63 after). The arrangement of such a leave remains at the sole option of the employee but being obliged to consider a mandatory minimum of 42 days leave after birth. The employer cannot dismiss the employee during the maternity leave. The allowance for maternity is fully paid by the social security funds. The employee shall receive a maternity allowance of 85% of the monthly gross revenue. The employer shall be obliged to pay, for a period of 6 weeks, the rest of 15%.</p> <p>The parental leave provides paid time off work to take care for a child until the age of 2 years. Such a paid leave is granted to the employee after the birth or after the termination of the rights corresponding to the maternity leave, depending on the moment of introducing the demand by the employee. The employer cannot dismiss the employee within the parental leave. Employees that have received a taxable income for a period of at least 12 months are entitled to benefit from the parental leave and to receive a corresponding monthly allowance.</p>

	The allowance is generally either a determined amount or, at the sole option of the employee, a percentage out of the average income for the past 12 months, up to a certain limit. The income includes the base salary and all permanent bonuses granted to the employee in accordance with the provisions of the individual labour contract. The same rights are applicable for paternity leave.
When are employees eligible for redundancy payments?	<p>As a matter of principle, the applicable law does not provide criteria of eligibility for the granting of the severance payment for the employees. Therefore, all the employees have right to receive compensatory payments. In case of individual termination of the employment contract for reasons not related to the employee (termination for cause), the employer is obliged to grant the employee compensation in the amount of at least one monthly salary besides covering all outstanding payments due to the employee.</p> <p>In the event of collective dismissals (termination without cause), granting of compensation shall be done in accordance with the legal provisions and the applicable collective bargaining agreements, starting from at least one monthly salary. Notice should be made with regard Emergency Ordinance no. 98/1999 which is at time still in force and contains legal provisions derogating from those provided in the Romanian Labour Code and the Labour Bargaining Agreement at National Level with regards to the regime of severance payments (e.g. eligibility criteria, amount of compensation etc.). The law doctrine is not unitary as regards the applicability at time being of this enactment, since it was initially designed to protect the employers of the state owned companies in process of reorganization/privatization in the late 90's.</p>
What are the statutory redundancy payment limits?	In case of individual/collective dismissals, granting of compensation shall be performed in accordance with the legal provisions and the applicable collective bargaining agreements, starting from at least one monthly salary.
Can existing employees be dismissed if you buy a business with employees?	No. The Romanian law on the protection of employees' rights in the event of a transfer of an undertaking, business, or part of an undertaking or business transposes the Directive 2001/23/EC (directive on the acquired rights) on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses. In case of a legal transfer or merger the transferor's rights and obligations arising from individual employment contracts and/or collective bargaining agreements existing on the date of a transfer must be transferred to the transferee. The law duly provides that the employees shall enjoy the protection of their rights in case of transfer of the undertaking, establishment or parts thereof to other employer. The rights and obligations of the assignor, arising from an employment contract or relation existing at the date of the transfer, shall be entirely transferred to the assignee. The transfer of the undertaking, establishment or parts of it may not be a reason of individual/collective or dismissal for the assignor or the assignee.
Any other general legislation to note?	Collective Bargaining Agreement on National Level; Social security legislation and all laws implementing European Directives.

[HOME](#)

Labour Law - Russia

Is it a legal requirement that employees must receive an employment contract?	Yes. The Labor code requires that a labor contract is concluded in written form and two copies of a labor contract are made. Each of these copies must be signed by both sides. One copy of a labor agreement is given to employee, another one remains with the employer.
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	<p>Fair dismissal of the labour contract can be by mutual agreement; termination for just cause; termination by the employee; termination by the employer; refusal to carry on specific activities due to company restructuring; or force majeure.</p> <p>An employee must be paid compensation on canceling the contract in connection with:</p> <ul style="list-style-type: none"> • Liquidation of an employer • Staff reduction • the employee's non-conforming to the post held or the work being done due to poor health which hinders further fulfilling the work • ordering the employee to join the army or sending him to an alternative civil service • the employee's reinstatement in the job which he did before • the employee's refusal to be transferred due to the employer's moving to another locality <p>Other reasons to terminate employment don't require such payments.</p>
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	There is a general form of labour contract, but ensure that this is flexible to cover all possible situations.
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	Generally 2 or 3 average monthly salaries - it can be higher if there are collective agreements.
Do employees have the right to be members of a trade union?	Yes, but note that trade unions do not exist for 99% of small businesses.
Is there any legal requirement for an employer to contribute to a pension for employees?	Yes, as part of the social fund contributions of a company.
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	<p>General anti-discrimination policies and better working conditions.</p> <p>Plus:</p> <ul style="list-style-type: none"> - maternity leave of 70 to 84 days before and 70 to 110 days after the birth with social payments in the amount specified by law. - rearing leave up to when a child reaches the age of three years. <p>Paid maternity: ranges from 70 to 84 days before and 70 to 110 days after the birth. Parental leave rights in respect of a child up to 14 years old, mainly in relation to out of school time.</p>
When are employees eligible for redundancy payments?	Usually as stipulated by the labour contract and/or the Labour Code.
What are the statutory redundancy payment limits?	Generally 2-3 average monthly salaries.
Can existing employees be dismissed if you buy a business with employees?	Yes, but the Labour Code authorises compensation, but only for CEO, chief accountant and their deputies
Any other general legislation to note?	Disability discrimination penalties; working time regulations; harassment at work and data protection, among others.

[HOME](#)

Labour Law – Slovak Republic

Is it a legal requirement that employees must receive an employment contract?	No statutory requirement, however employment contracts may be required based on certain labour agreements and for other specified cases, e.g. fixed term contracts; apprentice contracts.
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	If the dismissal is for a substantial and serious reason and for personal or economic factors (e.g. redundancy). Subjective reasons are not valid for a fair dismissal.
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	Formally correct dismissal documentation, securing evidence which could be possibly needed in lawsuit (testimonies etc.), correct interpretation of legal dismissal grounds.
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	Compensation in amount of net salary from date of unfair dismissal until final judgment (court is entitled to cut compensation to 12 salaries if the amount would be higher than 12 salaries). Renewal of the employment relationship (i.e. the employer is obliged to allocate work to the employee and pay him salary).
Do employees have the right to be members of a trade union?	Yes (members obtain better protection against dismissals, have to be notified on most changes in working regime/vacations/proposed cuts and dismissals)
Is there any legal requirement for an employer to contribute to a pension for employees?	When labour relationship ends due to retirement of employee, the employer shall pay him "leave bonus" in amount of one month's net salary
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	Protection against dismissal ; 28 weeks maternity leave, some cases 37; upon request leave for up to 3 years of age, in case of severe chronic illness up to 6 years of age . Same parental leave for man like for the mother, but must personally take care of the child.
When are employees eligible for redundancy payments?	When dismissed for that reason.
What are the statutory redundancy payment limits?	2 net month's salaries, 3 in case of employment lasting more than 5 years.
Can existing employees be dismissed if you buy a business with employees?	No.
Any other general legislation to note?	Discrimination and other EU regulations. Slovak discrimination legislation. Work safety legislation. Labour inspection legislation. Subsidiary use of Civil code.

[HOME](#)

Labour Law - Slovenia

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>Slovenian law makes it mandatory to conclude an employment contract in writing and that the employee receives one copy of the employment contract. The employer is obligated to provide the employee with a written proposal of the employment contract at least three days prior to the envisaged signing of the contract.</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>The following circumstances constitute grounds for a fair dismissal on the side of employer without the need to pay compensation:</p> <ul style="list-style-type: none"> - fixed term contract expires; - serious breach of provisions of the employment contract by the employee, - criminal act committed by the employee, - illegality (the employee is disallowed to continue his profession) - the employee fails to complete successfully his probationary period (success of completion is evaluated by the employer) - the employee does not act in line with instructions of the doctor or medical commission whilst on sick leave, <p>There is also no obligation for payment of compensation in case the employee terminates the employment contract.</p>
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<p>Employer should have a solid proof (evidence) for the substantiated reason, which is the base for termination of the employment contract. Attention should be paid to the procedure of termination and especially time periods during which termination is allowed by the law. The employee should in majority of cases be granted the opportunity to give his position regarding the existence or non-existence of grounds for termination.</p>
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>If the employee is dismissed unfairly, the employer is obligated to re-pay the employee's lost pay since the employee has stopped working due to unfair dismissal; and to accept the employee back into employment unless the court decides otherwise. In this case employer is bound to pay a satisfaction of up to 18 monthly payments. Employer must also carry all costs of the court procedure.</p>
<p>Do employees have the right to be members of a trade union?</p>	<p>An employee is free to join a trade union or not to join as he chooses. Consequently it is unfair do dismiss any employee either because he is or because he is not a member of a trade union.</p>
<p>Is there any legal requirement for an employer to contribute to a pension for employees?</p>	<p>Pension and Invalidation Insurance act regulate that employer must pay contributions for state-organised pension and invalidity insurance. The amount depends of the wage of the worker.</p>
<p>What are standard maternity rights?; What are parental leave rights (including paternity leave)?</p>	<p>Every pregnant woman is entitled to ordinary maternity leave of 1 year. The ordinary maternity leave starts 28 days before the birth of a child. The employees should inform the employer 30 days before the start of the ordinary maternity leave. Fathers have right to the fathers' leave of 90 days. Parents have also right to a shortened work time until the child is three years old.</p>
<p>When are employees eligible for redundancy payments?</p>	<p>Employees have the right for redundancy payments when employer terminates the employment contract due to business reason or due to the reason of incapacity and when employees retire. If the employees extraordinarily terminate the employment contract they have the right for redundancy payment.</p>
<p>What are the statutory redundancy payment limits?</p>	<p>Redundancy payment is according to the law limited to 10 monthly wages. But a collective agreement can define a higher redundancy payment limit.</p>
<p>Can existing employees be dismissed if you buy a business with employees?</p>	<p>Generally no, in accordance with transfer of undertakings legislation. There must be a relevant transfer, which means there is an automatic transfer of the contracts of employment. If an employee is dismissed for a reason connected with the transfer then this is automatically unfair, unless the employer can show economic, technical or organisational reasons for a change in the organisation which requires dismissal of the workforce.</p>
<p>Any other general legislation to note?</p>	<p>Pension and Invalidation Insurance Act, Employment and Work of Aliens Act, Act on the Prevention of Illegal Work and Employment, Parental Protection and Family Benefits Act</p>

[HOME](#)

Labour Law - Spain

Is it a legal requirement that employees must receive an employment contract?	Yes, and the employer must register the employee with the appropriate social security office.
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	The company must prove to the court any serious breaches of contract or responsibility by the employee.
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	Generally this is regulated by the collective bargaining agreement between the company and its unionised employees. Also regulated by general labour laws with regard to notice and consultation. If appropriate consider paying the maximum legal redundancy payment, or record it in court, so as to avoid paying wages that would push the dismissal up if it was to be declared unfair.
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	45 days salary for every year worked up to a maximum of 42 months having as a reference to calculate it, the total salary per year.
Do employees have the right to be members of a trade union?	Yes, it is regulated by the Spanish Constitution as a fundamental right, not as an obligation.
Is there any legal requirement for an employer to contribute to a pension for employees?	The only obligation for the manager/employer is to pay the social security contributions.
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	16 weeks paid leave and reduced hours to take care of the children and leave with mandatory return. Fathers generally have 2 days paid leave and also reduced hours to take care of children.
When are employees eligible for redundancy payments?	When agreed by the court or within collective bargaining agreements. They are always fair, as far as one can demonstrate for the economic situation of the company. It is also fair when there are force majeure causes.
What are the statutory redundancy payment limits?	The redundancy payment consists on 20 days per worked year with a maximum of 12 worked years.
Can existing employees be dismissed if you buy a business with employees?	In general, no. The change in ownership does not affect the maintenance of employment. The new manager succeeds to all rights and obligations of the previous.
Any other general legislation to note?	Many labour bargaining agreements (<i>convenios</i>), which can improve the employee's rights. The company has to apply it, if not; it could be sanctioned by the Work and Social Security Inspection.

[HOME](#)

Labour Law - Sweden

Is it a legal requirement that employees must receive an employment contract?	No, but the employer must inform the employee in writing about the conditions of employment if so required.
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	For economic and operational reasons (e.g. redundancy) – ‘last in first out’ principle and offer of alternative work. Dismissal can be for personal reasons, but so usually a last resort. The employer has a duty to endeavour to find alternative solutions to keep the employee employed.
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	When five or more employees are to be dismissed, a premonitory notice of between 2-6 months before the actual notices of dismissal shall be made to the appropriate trade unions. Minimum notice periods for dismissals range from one to six months, depending on employment length. Negotiations with appropriate trade unions. Special court of law to settle work related disputes.
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	Damages of between 70,000 SEK and 150,000 SEK as general compensation. Further, if the employee chooses to leave the employment due to the dismissal, the employer may be liable to pay between 12 and 36 months pay, depending on seniority.
Do employees have the right to be members of a trade union?	Yes
Is there any legal requirement for an employer to contribute to a pension for employees?	No
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	The mother and father have a combined maternity leave right of 480 days after the birth of a child - 390 days at 80% of salary (paid by the state), the rest at 180 SEK per day. A minimum of 60 days are reserved for the father. A parent also has the right to be at home with a sick child with 80% salary.
When are employees eligible for redundancy payments?	Not applicable – they are not eligible.
What are the statutory redundancy payment limits?	Not applicable (see above)
Can existing employees be dismissed if you buy a business with employees?	No, but if the transaction creates a redundancy situation this could constitute grounds for a fair dismissal.
Any other general legislation to note?	Anti-discrimination regulations, working time regulations, compulsory minimum holidays act and harassment at work, etc.

[HOME](#)

Labour Law – Switzerland

Is it a legal requirement that employees must receive an employment contract?	No, except in special circumstances.
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	There are no specific reasons - notice periods should be followed. Range from 1 month (after 1st year) up to 3 months depending on length of employment. It is improper to provide notice to terminate during military service, illness and pregnancy. An employee may enquire about the reasons for his/her dismissal.
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	Only the grounds for dismissal may constitute an unfair dismissal; dismissal procedures are irrelevant. An unfair ground for dismissal may, for example, be based on the employees personality; breach of constitutional rights; failure to consult with an employees representative body, union or the employees as a whole in the case of mass dismissal.
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	The notice is null and void and employment continues although consequential damage may be awarded but cannot exceed 6 months salary. There is compensation if an employment relationship is terminated without notice.
Do employees have the right to be members of a trade union?	Yes, this is possible
Is there any legal requirement for an employer to contribute to a pension for employees?	Yes, but the rules are complex and the employee must have a minimum salary of CHF 20,520.
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	Protection against dismissal. Employee must give notice and then eligible for maternity leave up to 16 weeks after the child's birth. Wages vary per canton - usually based on length of service - paid by employer although many employers have insurance. There are no automatic rights for the father to take parental leave.
When are employees eligible for redundancy payments?	There are no statutory regulations to be observed - however they can be affected by collective labour agreements or individual contracts.
What are the statutory redundancy payment limits?	There are no statutory limits.
Can existing employees be dismissed if you buy a business with employees?	Yes, if statutory or contractual notice periods are met.
Any other general legislation to note?	Health and safety; preservation of morality (e.g. sexual harassment); anti-discrimination; companies with more than 50 employees must follow the workers participation rules; working time regulations (45 hours per week); data protection (varies from Canton to Canton); social insurances.

[HOME](#)

Labour Law – Turkey

Is it a legal requirement that employees must receive an employment contract?	No, it is not a legal requirement to provide a written contract. The only requirement is to file an application with the relevant social security authority.
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	The contract may be terminated without compensation in certain situations, e.g. illness/inability to work; lack of qualifications; lies/defamation; abuse of good faith; failure to fulfil obligation after warnings.
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	It is wise to demand a defence for each fault by the employee and keep records certifying the said faults signed by 2 witnesses.
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	The range depends on the employee's salary. In case of an unfair dismissal, the employee will be entitled to a severance pay which is 1 month salary multiplied by annual work time if the employee has been employed by the business for more than a year. In addition to that, the employee is also entitled to reinstatement of his job if the duration of his service is longer than 6 months and there is more than 30 employees in that workplace. If such request is accepted by the court, the employer has 2 options: either keeping the employee or paying an additional compensation equal to 8-9 months salary. The compensation arisen out of torts totally depends on the circumstances.
Do employees have the right to be members of a trade union?	Yes
Is there any legal requirement for an employer to contribute to a pension for employees?	Yes, proportionate to the salary of the employee.
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	Pregnant employees are eligible to a time off period of 4 months in total after 32 nd week of pregnancy. It is up to the employee to use entire period after the birth. Also the mother has 90 minutes everyday in total for breastfeeding up to 1 year. Male employees have 3 days off for a birth.
When are employees eligible for redundancy payments?	There are complicated rules due to several legal amendments. Generally an employee who is subject to the last amendment (enactment) needs to work at least 25 years, age of 50 and a service of 5375 days in total.
What are the statutory redundancy payment limits?	There is no limit for redundancy payments.
Can existing employees be dismissed if you buy a business with employees?	No. It would constitute an unfair dismissal and the employee will have the above mentioned rights.
Any other general legislation to note?	Labour law is an important aspect of Turkish law and the decisions of the Supreme Court have significant effect on disputes.

[HOME](#)

Labour Law – United Kingdom (England & Wales) *

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>No automatic right to receive a written contract of employment. A verbal agreement is sufficient. However, an employee is entitled to a written statement of employment particulars (under the Employment Rights Act 1996) - must be provided no later than two months after the beginning of the employment.</p> <p>Statement must refer to various matters, including pay, hours of work, notice period, grievance procedures etc. Any changes to an existing employment contract must be notified in writing within one month.</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>Employee must have been dismissed either by expiry of fixed term contract, mutual resignation or contract terminated by employer. An employee may also resign claiming breach of contract by the employer. Such employer breaches may give rise to compensation.</p> <p>Employer must show that dismissal is for one of five permitted reasons and that they acted reasonably: capability (e.g. lack of qualifications; inability to perform the job, including illness or injury); conduct of the employee; redundancy; illegality (e.g. driver disqualified from driving); some other substantial reason.</p>
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<p>Employer must show that he has acted 'reasonably' - this varies according to the reason for the dismissal e.g. in the case of capability and qualification, was training offered?; were warnings provided to improve standards? If the reason was 'conduct' - the ACAS (government agency) Code of Practice should be followed which requires oral/written warnings followed by a final written warning. (For gross misconduct employees may be dismissed without warning but procedures should still be followed).</p>
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>Two types of award by Employment Tribunal- basic award and compensatory award. Basic award ranges from 1½ to ½ weeks pay for each year's service (varying with the overall length of service) - maximum of 20 years service and £380 per week. Compensatory award can include immediate loss of net earnings, future loss of earnings, loss of pension rights - maximum: £66,200. (<i>Figures as at December 2009</i>). Reducing factors can be taken into account, (e.g. employees conduct; duty to mitigate loss).</p>
<p>Do employees have the right to be members of a trade union?</p>	<p>Yes, an employee is free to join a trade union or not to join as he chooses. Consequently it is unfair to dismiss any employee either because he is or because he is not a member of a trade union.</p>
<p>Is there any legal requirement for an employer to contribute to a pension for employees?</p>	<p>An employer is obliged to offer employees access to a 'stakeholder' pension scheme but does not have to contribute unless this is provided for in the contract of employment. Must contribute to social security schemes with employee.</p>
<p>What are standard maternity rights?; What are parental leave rights (including paternity leave)?</p>	<p>Employees have the statutory right to take 52 weeks maternity leave. The first 26 weeks of leave is call "ordinary maternity leave": the subsequent 26weeks is called "additional maternity leave". This is subject to a simple notice requirement. Women are entitled to claim Statutory Maternity Pay (SMP) or maternity allowance, paid from public funds. Both men and women are entitled to parental leave. Leave is subject to notification requirements.</p> <p>Available, provided that an employee has been in continuous employment for at least one year. Only applies to parents of children who were born or adopted (or who acquired formal parental responsibility) after 15 December 1999. For parents - child must be under 5; adopted - up to 18.</p> <p>The entitlement is to 13 weeks unpaid leave for each child (pro-rata for part time employees). An employee may also take paternity leave of up to 2 consecutive weeks which is subject to statutory paternity pay.</p>
<p>When are employees eligible for redundancy payments?</p>	<p>After 2 years, if an employee is dismissed by reason of redundancy. Statutory redundancy pay is calculated with reference to age and service.</p>
<p>What are the statutory redundancy payment limits?</p>	<p>1½ weeks pay for each year of employment if worked after 41st birthday.- 1 weeks pay for each year if aged 22 or over: 1 weeks pay for each year if worked between 22nd and 41st birthday: ½ weeks pay for each year worked up to 22nd birthday. Subject to a maximum of 20 years and £380 per week (as at December 2009).</p>

Can existing employees be dismissed if you buy a business with employees?	Generally 'no', in accordance with transfer of undertakings legislation. There must be a relevant 'transfer', which means there is an automatic transfer of the contracts of employment. If an employee is dismissed for a reason connected with the transfer then this is automatically 'unfair', unless the employer can show economic, technical or organisational reasons for a change in the workforce.
Any other general legislation to note?	For example: equal pay, part-time workers, sex discrimination, race discrimination, disability discrimination, health and safety, working time regulations and time off to care for dependents.

** Please note that labour law for Scotland and Northern Ireland may be subtly different and assumptions can not be made for those territories of the UK.*

[HOME](#)

Labour Law – USA (California)

Is it a legal requirement that employees must receive an employment contract?	No, however, certain employment situations can cause courts to imply contracts not to terminate employment other than for 'cause'
What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?	In the absence of a contract, employment may be terminated at any time for any reason, without any requirement to pay compensation. However, employers are at risk of liability for termination in certain cases, e.g. discrimination; in response to claims for compensation due to a work related injury or illness. Federal law requires at least 60 days notice of a 'mass lay off'.
What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?	Employers should have a written policy acknowledged by the employee that employment is at will and may be terminated - therefore there are no specific practices.
If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?	If there is an unlawful reason for termination, an ex-employee can obtain damages for back pay, and damages for future loss of earnings.
Do employees have the right to be members of a trade union?	Yes, and under Federal and Californian law employees may not be fired for belonging to a union. NB. California has a 'closed shop' law. Some other states prohibit 'closed shops'.
Is there any legal requirement for an employer to contribute to a pension for employees?	No, except for mandatory social security payments.
What are standard maternity rights?; What are parental leave rights (including paternity leave)?	Federal law: private employers of 50 or more employees - up to 12 weeks of unpaid leave - no distinction between male or female. California law: private employers of more than 5 employees - up to 12 weeks of unpaid leave, but this can be aggregated with other time off benefits so that up to 28 weeks leave is possible (in a 12 month period). From July 1 2004 workers will receive up to 6 weeks of paid leave per year for childcare or care of an ill dependent. This programme is 100% employee funded.
When are employees eligible for redundancy payments?	There are no legal requirements for redundancy payments, although many private employers have voluntary adopted plans.
What are the statutory redundancy payment limits?	<i>(See above)</i>
Can existing employees be dismissed if you buy a business with employees?	Yes, but there is distinction between asset and stock purchases, as in the latter case the employer is unchanged.
Any other general legislation to note?	Federal and California law in relation to discrimination, wages and hours; conditions of employment.

[HOME](#)

Labour Law – USA (New York)

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>No. A very small percentage of US employees receive employment contracts. The vast majority of US works are classified as "at will" employees meaning they are employed at their employers will and at their own will for an indefinite term. New York is an "at will" employment state</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>Because the vast majority of US employees are classified as "at will" employees, such employees can be dismissed at any time for any reason. US workers generally and New York workers specifically, have no legal recourse for a job dismissal. The only circumstance under which the US or New York State courts become involved in the employer-employee relationship (e.g. adjudicating claims related to an employees dismissal) is under circumstances were the employee asserts that an adverse employment action (e.g. termination, demotion, failure to promote, hostile work environment, sexual harassment etc.) was taken for a discriminatory purpose. US and New York law recognizes various protected classes of employees who have historically suffered discrimination in employment (e.g. woman, racial minorities, religious minorities, older workers etc.). Members of such protected classes have the right to contest adverse employment actions taken against them if they can establish that such adverse actions were taken against them for a discriminatory purpose.</p>
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<p>Best practice is to offer a terminated employee a sum of severance pay in return for the employee executing a full and unconditional release of all employment related claims against the employer.</p>
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>If an employer is judged to have acted against a protected employee for a discriminatory purpose, such employer can face significant financial penalties. Such penalties can range from the thousands of dollars into the several millions of dollars.</p>
<p>Do employees have the right to be members of a trade union?</p>	<p>Yes.</p>
<p>Is there any legal requirement for an employer to contribute to a pension for employees?</p>	<p>No. Pension plans are voluntarily established by employers. The nature and scope of such plans varies widely and not all US workers are covered by pension plans.</p>
<p>What are standard maternity rights?; What are parental leave rights (including paternity leave)?</p>	<p>Maternity leave is generally subject to the individual policy and procedures of employers. Under US federal law an employee must be granted at least 6 weeks unpaid leave following the birth of a child. Most employers grant at least 6 weeks paid maternity leave, but it is not legally mandated that such leave be paid leave. Paternity leave is a relatively new concept in the United States and is not legally mandated. Many larger US employers do voluntarily grant some type of paternity leave.</p>
<p>When are employees eligible for redundancy payments?</p>	<p>Never. Neither US federal law or New York State law mandates severance pay for employees from employers. All US workers are eligible for government sponsored unemployment pay if they are terminated for redundancy or any other reason that does not involve misconduct on the part of the employee.</p>
<p>What are the statutory redundancy payment limits?</p>	<p>US unemployment pay is generally limited to 18 weeks but in times of high unemployment is routinely extended for additional periods via spending bills passed by US Congress and approved by the President.</p>
<p>Can existing employees be dismissed if you buy a business with employees?</p>	<p>Yes.</p>
<p>Any other general legislation to note?</p>	<p>US employment law is multi-layered. US workers are generally protected against discrimination in employment under both US federal law and the laws of the individual US State and, in some cases, the US City (e.g. New York City) they reside in. Although US/ New York workers do not have as many federally or state mandated rights as workers within such jurisdictions as the European Union, US and New York State courts aggressively police conduct such as sexual harassment in the workplace. Foreign employers who are employing workers in the US are well served by making sure that all their employees receive training and</p>

	understand that certain behaviour and conduct that is tolerated or permissible in their home countries could give rise to actionable employment related claims in the United States.
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[HOME](#)