

Ius Laboris Webinar

Nordic HR Seminar

24/11/2021

9:00 – 11:30 CET



Seminar Programme

9:00 **Welcome and presentation of speakers**

9:05 **Post COVID-19**

- What is the new normal in each of the countries?
- Remote work arrangements
- COVID-19 certificates and collecting vaccination data

10:00 **Break**

10:10 **Implementation of the whistleblowing directive – where are we now?**

10:40 **Brief overview of other hot HR legal topics**

- **Norway:** Activity and information requirements regarding internal measures to promote equality and prevent discrimination
- **Denmark:** Earmarked leave in connection with childbirth and adoption
- **Sweden:** Proposed new legislation – “a reformed employment law” and “Family week” proposal
- **Finland:** New regulation on non-competes and new Cooperation Consultation Act

11:30 **End of webinar**

SPEAKERS



Suvi Knaapila, Partner
Dittmar & Indrenius (Finland)



Jenny Hellberg, Partner
Elmzell Advokatbyrå (Sweden)



Claude A. Lenth, Partner
Advokatfirmaet Hjort (Norway)



Rikke Falk Dambo, Partner
Norrbom Vinding (Denmark)

Post COVID-19



Implementation of the whistleblowing directive – where are we now?



Whistleblowing Directive

- Background:
 - Study carried out by the EU Commission showed only 1 in 10 EU member states had sufficient regulations regarding whistleblower protection
 - Aims to harmonise whistleblower protection across the EU
- Adopted by the EU Parliament and EU Council in 2019 – implementation deadline in member states is 17 December 2021
- Employers with 50 or more workers must establish internal reporting channels; however, possible for member states to delay the obligation for employers with 50-249 workers up to 2 years
- Material scope: breaches of EU law
- Internal reporting channels must allow for confirmation of receipt (within 7 days), diligent follow-up on reports and provision of feedback (within 3 months from receipt of report)
- Whistleblowers must have reasonable grounds to believe the reported information was correct at the time of reporting and that the information fell within the scope of the Directive
- Whistleblowers are protected against any form of retaliation

Implementation of the Whistleblowing Directive - **Denmark**

- Implementing legislation passed in the Danish Parliament on 24 June 2021
- The material scope of the Danish whistleblowing act is wider than that of the Directive
 - Not only breaches of EU law but also “other serious violations of [Danish law] or other serious matters”
- Possible to operate a centralised group scheme (at least for now)
- Left open to organisations whether they will allow anonymous reports
- Protection: if retaliated against, whistleblowers can claim reinstatement or compensation

Implementation of the Whistleblowing Directive - **Norway**

- Norway has already implemented strict whistleblowing legislation compared to many European countries.
- Still not decided by the Norwegian government if and how the whistleblowing directive will be implemented in Norway.
- Most likely the whistleblowing directive will be implemented.
- Some important differences compared with existing Norwegian legislation:
 - Only employees and hired employees are protected against retaliation today.
 - Only an obligation to implement written routines for handling whistleblowing cases today.
 - No mandatory deadlines for the employer to process a whistleblowing case today.
 - No obligation to establish internal reporting channels today.

Implementation of the Whistleblowing Directive - **Finland**

- The Finnish legislation implementing the Directive will likely enter to force in February 2022, at the earliest
- No specific penalty for not setting up the internal reporting channel
- Notifications should concern 'breaches' within the specific legislative fields set by the Directive and local legislation on the same subject matter provided that the the breach in question is sanctioned or otherwise severely damages public interest
- The employer decides whether to accept anonymous notifications
- The new legislation implementing the Directive will be applied in addition to the existing 'field specific' whistleblowing legislation
- Group level notification channels will be allowed

Implementation of the Whistleblowing Directive - Sweden

- Implementation of the Directive as from 17 December 2021 (replacing the current law from 2017) and employers shall be have introduced whistleblowing channels by
 - 17 July 2022 if + 250 employees and
 - 17 December 2023 if 50 – 249 employees
- The law applies in a work-related context where there is a public interest to report a misconduct (Sw: *missförhållande*)
- Potential challenges for employers may be which kind of reported “breaches/misconducts” that fall under the whistleblowing channels required by law and other “breaches”, e.g. HR-related matters
- Anonymous notifications will be allowed and means to safeguard anonymity and provide feedback must be in place
- The law does not permit group-level whistleblowing channels for employers with + 250 employees

Other hot HR legal topics



Hot HR legal topics - Norway

Activity and information requirements regarding internal measures to promote equality and prevent discrimination

- New legislation into force in 2021, applies to all companies with 50 or more employees
- Obligation to implement and document internal measures within recruitment, work and pay conditions, promotion and career and measures to combine professional life with family life
 - Mapping, risk analysis and decide measures and actions relevant for the purpose.
- Obligation to publish a written account on yearly basis which is publicly accessible.
 - Part 1: Internal gender balance, share of men and women in part-time and temporary positions and average number of weeks of parental leave for men and women. From 2022 also publish results from internal mapping of wages on the basis of gender and involuntary part-time work.
 - Part 2: Describe the internal work to promote equality and remove obstacles of discrimination.

Hot HR legal topics - **Denmark**

- **Earmarked leave in connection with childbirth and adoption**
 - Implementation of the EU Work-Life Balance Directive
 - 24 weeks' leave after birth for mother and father/co-mother, respectively
 - 11 weeks are earmarked for mother and father/co-mother, respectively
 - 13 weeks can be assigned to the other parent or a social parent
 - What about entitlement to salary during leave?
 - Can we maintain the current policies in this regard?
 - Currently no bill has been introduced but is expected in December

Hot HR legal topics - Sweden

- **Proposed new legislation – “a reformed employment law”**
 - Planned to enter into force in June 2022 and applied as from 1 October 2022
 - General fixed term employments become “special fixed term” and only possible for 12 months instead of 24 months today (and priority right to reemployment already after 9 months (12 months today))
 - An employer may exempt 3 employees from the “last-in-first-out principle” in a redundancy situation
 - New rules if a dispute arises, e.g. not possible to claim reinstatement
 - Among other things...
- **“Family week” proposal -**
 - Right to take a “family week” = absent from work – 6 days (3 if sole custody) with allowance from the social security system
 - Take care of children in the age of 4-16 during school holidays, study days or equivalent
 - Planned to enter into force 22 April 2022 but may not happen....

Hot HR legal topics - Finland

- **New regulation governing post-termination non-competes (1-22 / 1-23)**
 - General statutory restrictions on the use of non-competes remain the same
 - **NEW:** Mandatory compensation for the post-termination non-compete period
 - 40% of the employee's salary if the non-compete period does not exceed six months
 - 60% of the employee's salary if the non-compete period exceeds six months
 - **NEW:** The employer's unilateral right to terminate the non-competition agreement/clause
 - Notice period 1/3 of the non-compete period or minimum two months
 - Unilateral termination not possible after the employee has given a notice of termination
- **New Cooperation Consultation Act (1-22?)**
 - The cooperation consultation obligations related to redundancies, lay-offs, reduction of working hours and material changes affecting the personnel remain mostly the same
 - **NEW:** Obligation to have continuous dialogue with the personnel
 - The legislation sets general framework and themes for the dialogue
 - Quarterly meetings with the personnel representatives or as agreed
 - **NEW:** Obligation to set up a work community development plan

Thank you!



Suvi Knaapila, Partner
Dittmar & Indrenius (Finland)

suvi.knaapila@dittmar.fi
telephone: +358 9 6817 0114
mobile: +358 40 559 5664



Jenny Hellberg, Partner
Elmszell Advokatbyrå (Sweden)

jenny.hellberg@elmszell.se
telephone: +46 8534 80365
mobile: +46 70 994 7678



Claude A. Lenth, Partner
Advokatfirmaet Hjort (Norway)

cal@hjort.no
telephone: +47 22 47 18 00
mobile: +47 91 68 89 78

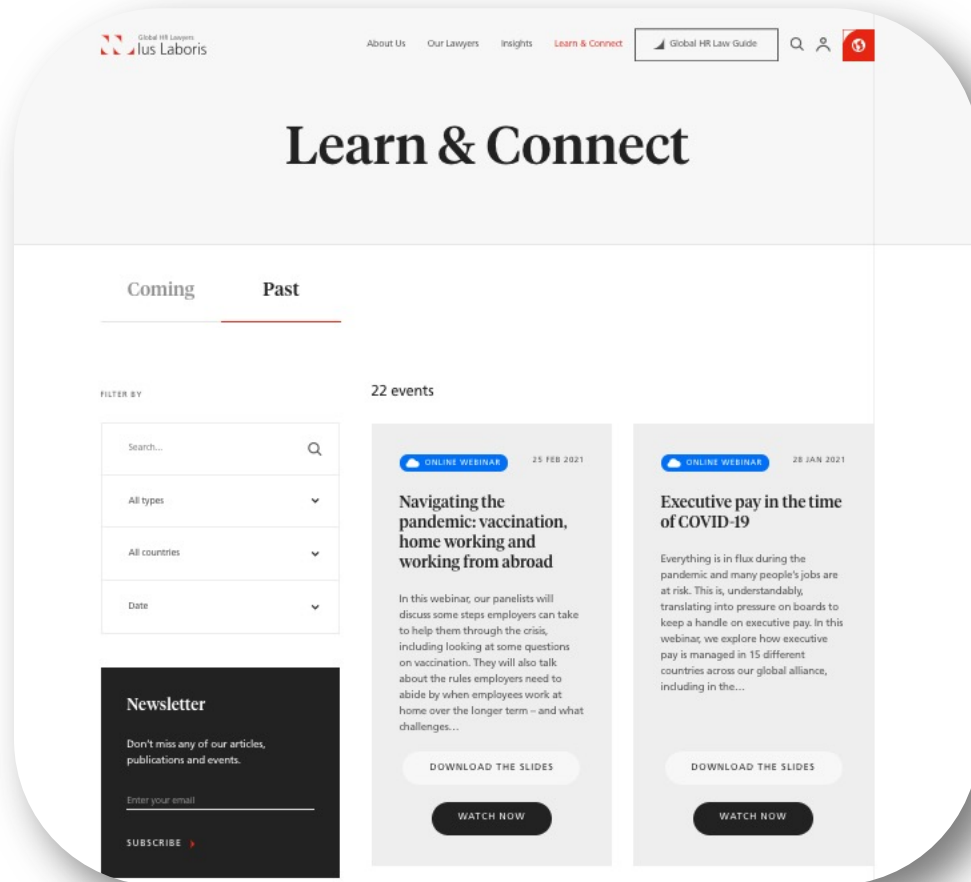


Rikke Falk Dambo, Partner
Norrbom Vinding (Denmark)

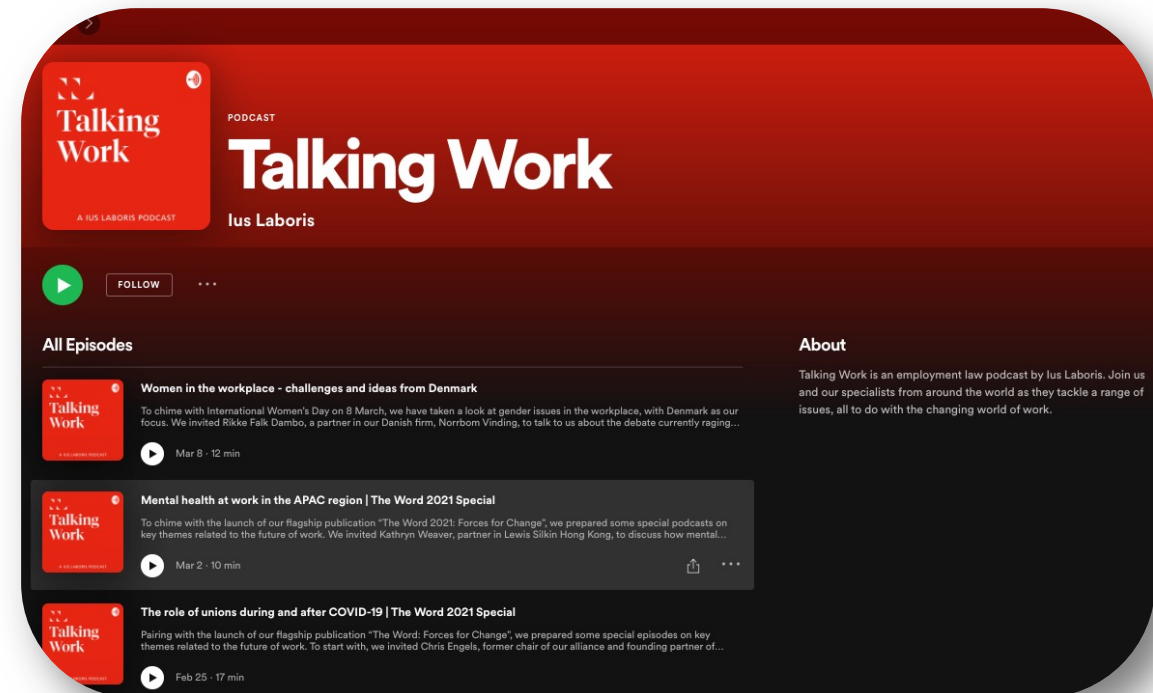
rfd@norrbomvinding.com
telephone: +45 35 25 39 42
mobile: +45 61 22 37 24

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