

## NEWSLETTER



### PROTECTION AGAINST MOBBING IN THE WORKPLACE

With the law of March 29th, 2023, the Labour Code has just been given a chapter to combat mobbing in the workplace. It is defined as any conduct which, by its **repetition** or **systematic** nature, undermines the **dignity** or **psychological or physical integrity** of a person.

#### BROAD SCOPE OF APPLICATION

Employers, employees\*, customers and suppliers must refrain from any form of mobbing, even **outside the usual workplace and working hours**. This means that business trips, professional trainings, and work-related or related communications of any means fall within the scope of the application.

#### EMPLOYER'S OBLIGATIONS

The employer must determine the measures to be taken to protect employees against mobbing, after informing and consulting the staff delegation (if not available, the entire workforce). These measures must be appropriate to the nature of the business and the size of the company.

The **five mandatory measures** cover the employees' information, awareness (training, investigation, sanctions ...), and care for the victims.

#### APPROACH

As soon as a case of mobbing is brought to the employer's attention, he must take measures to immediately stop the inappropriate behavior and carry out an in-

ternal assessment of the effectiveness of existing preventive measures and the possible need to introduce new ones.

#### INTERVENTION BY THE "INSPECTION DU TRAVAIL ET DES MINES" (ITM)

The employee or the staff delegation may refer in this matter to the ITM if the mobbing persists despite the measures taken by the employer, or if the employer fails to take any measures.

The ITM will have 45 days to investigate, establish the existence of mobbing and send to the employer a full report with recommendations to put an end to the acts of mobbing. If the injunctions are not complied with, the employer might receive an administrative **fine** between **€25 and €25,000**. This fine may be doubled in the event of a repeat offence.

#### PROTECTING VICTIMS AGAINST RETALIATION

Victims of mobbing and witnesses may not be subjected to reprisals. Any disciplinary action taken against them will be **automatically null and void**.

Victims of retaliation may apply to the Labour Court to have the dismissal declared null and void, and may have their employment with the company reinstated.

They may also terminate their employment contract with immediate effect for serious reasons and sue the employer for damages, since the employer's misconduct caused the immediate termination.

#### PENALTIES

Fines between **€251 and €2,500** for employers, employees, customers and suppliers for failing to comply with the provisions of the law. In the event of a repeat offence within 2 years, these penalties may be doubled.

#### ROLE OF THE STAFF DELEGATION

It may suggest to the employer any preventive measures deemed necessary. It can also assist and advise victims of mobbing.

\* Trainees, apprentices, pupils and students employed during the school holidays are also considered to be employees.

## LAW OF JUNE 28TH, 2023 ON THE RIGHT TO DISCONNECT

A new concept appears in the Luxembourg Labour Code: **the right to disconnect**.

This right allows employees who use digital tools for professional purposes to disconnect outside their working hours.

### CONTENT OF THE SCHEME

The special regime must be defined in such a way as to ensure respect for the right to disconnect. To this end, it must include the following elements:

- **Practical arrangements** and technical measures for disconnecting from digital tools;
- **Awareness-raising** and **training** measures;
- **Compensation** scheme in the event of exceptions to the right to disconnect.

These arrangements must be adapted to the situation of the company or sector. Without staff delegation, the system must be defined at a company level.

### EMPLOYER'S OBLIGATIONS VERSUS STAFF DELEGATION

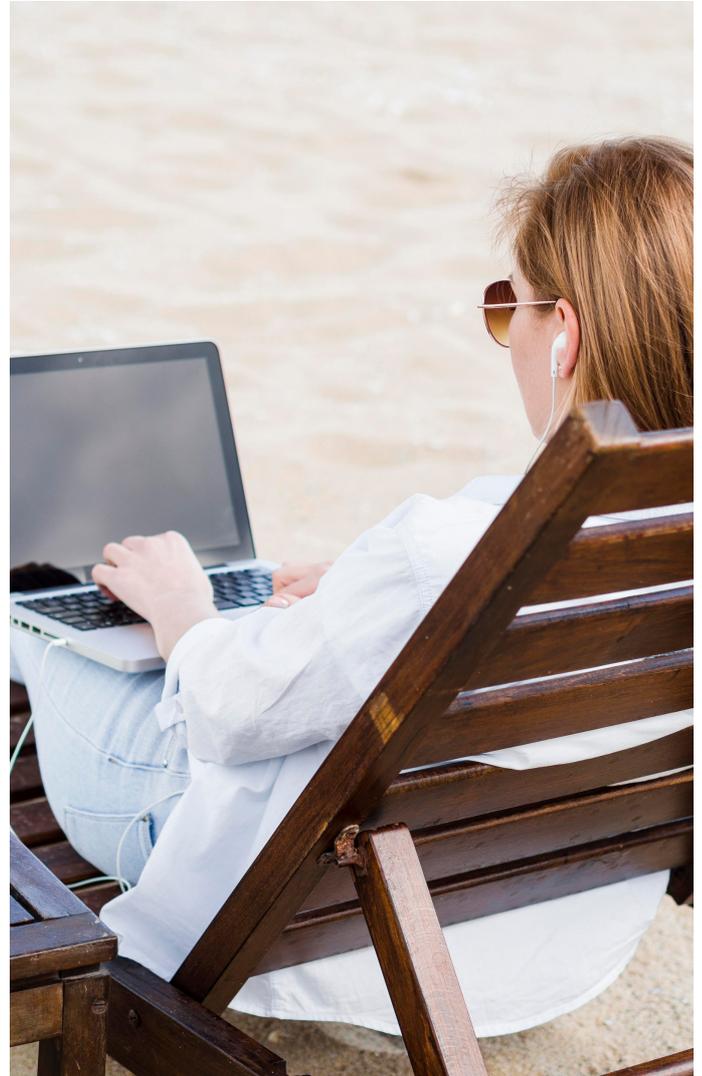
Company < 150 employees: the employer must **inform and consult** the staff delegation before introducing or modifying the specific arrangements for the right to disconnect.

Company > 150 employees: the scheme must be introduced or modified by **mutual agreement** between the employer and the staff delegation.

The right to disconnect is now included in the list of subjects for collective and subordinate agreements.

### ENTRY INTO FORCE

The penalties will come into force from **July 1st, 2026** onwards. This period is intended to allow employers to bring themselves into compliance, and in particular to conduct the necessary collective agreement.



### ADMINISTRATIVE PENALTIES

Employers who fail to comply with the provisions of this law may face to a fine between **€251** and **€25,000**.

The *Inspection du Travail et des Mines* (ITM) will set the amount of the fine, taking into consideration the following factors:

- The **circumstances** of the breach,
- The **seriousness** of the breach,
- The **behaviour** of the offender once the offence has been noticed.

## SOCIAL ELECTIONS 2024: SNEAK PEEK

The next social elections will take place on **March 12th, 2024** for companies with fifteen or more employees. These elections are held every 5 years in Luxembourg.

This vote will enable employees to elect the members of the staff delegation in their companies. One of the tasks of this delegation, amongst others is to defend the interests of the employees, particularly in relation to working conditions.

We'll come back with more details in a future newsletter.



## CROSS-BORDER WORK: NEW 34-DAY THRESHOLD

From **January 1st, 2024**, German cross-border workers will be able to work in their country of residence for up to **34 days/year** (including home office work), without having to worry about tax implications. Until now, this threshold was 19 days.

The agreement was signed on July 6th, 2023.

If the new threshold is exceeded, the German cross-border workers will be taxed in his/her country of residence for the total number of days worked in Germany. For the employer, there are no additional reporting obligations.

We would also like to remind you that this agreement does not concern the registration to the Luxembourg social security in the context of the new framework agreement on home office (see our newsletter 09/23).

## NEW TAX SCALE 2024

The Grand Ducal regulation of July 26th, 2023 provides tax reductions and updates the tax scale on income, salary, pensions and non-periodic remunerations. The **new scale** will apply from **January 1st, 2024**.

At the same time, the "crédit d'impôt conjoncture" (**CIC**) will end in **December 2023**.

In short, the taxable income brackets will be increased by **6.37%** - corresponding to **2.5 indexes**. As a result, for the same taxable income or salary, the due tax will be less.

*Example for a single person in class 1*

Taxable monthly income	Monthly tax old scale	Monthly tax new scale
€3,000.00	344,70	313,70
€5,000.00	1.124,20	1.065,10

## SELF-EMPLOYED: MUTUALITÉ DES EMPLOYEURS & DECLARATION OF WORK INCAPACITIES

If you are self-employed, we would like to remind you of the **mechanism for continued payment of the salary in case of illness** (not covered by the CNS).

You can voluntarily join the Mutualité des Employeurs to be reimbursed up to 80% of your contribution base in the case of illness.

This registration is based on a monthly contribution to be paid on the basis of your contribution base. However, you may also be reimbursed up to 100%, e.g. for a family-related leave.

To be reimbursed, it is important to submit a medical certificate to the CNS. However, there is a procedure for declaring sickness leaves for self-employed in case of illness lasting less than three days.

In fact, when the length of the sick leave doesn't exceed two days and a medical certificate is not required, the self-employed informs the CNS by e-mail\*, **specifying the dates of work incapacity AND his/her (self-employed) status**. In this way, "uncertified" illnesses of less than 3 days can generally be reimbursed.

*For further information:*

<https://mde.public.lu/fr/affiliation-financement/affiliation-independants.html>

\*[saisieCIT.cns@secu.lu](mailto:saisieCIT.cns@secu.lu)

## FATF'S EVALUATION REPORT

Good news for the image of Luxembourg's financial centre. The international anti-money laundering task force FATF (GAFI in French) took a closer look at Luxembourg's efforts in the fight against money laundering and terrorist financing.

In its published report of September 2023, it recognised the quality of the national precautions taken against money laundering and terrorist financing. A much more positive conclusion than in the past.

Many FATF recommendations and regulations had been implemented in the meantime:

- Development of a good **understanding of the risks** of money laundering and terrorist financing;
- **Effectiveness** of the implementation of the Luxembourg system (supervision by the CSSF for the financial sector);
- Effective **transparency** efforts for the Register of Beneficial Owners ("RBE Register") to provide accuracy and availability of Beneficial Owners since the establishment of the RBE in 2019 to counter the abuse of concealment of legal persons and entities and their owners.

Further efforts should follow to fully comply with the FATF's regulations and recommendations, as **reservations** were expressed in particular regarding **notaries, bailiffs** and **real estate agents**.



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