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## What shall we cover?

- Directive on transparent and predictable working conditions
- Directive on work-life balance for parents and carers
- Flexible working arrangement policy
- Regulation on European Labour Authority



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# Directive on transparent and predictable working conditions in the European Union



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## What is the purpose of this Directive?

The purpose of this directive is to improve working conditions by promoting more transparent and predictable employment while ensuring labour market adaptability.



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## What does this Directive provide?

This Directive lays down minimum rights that apply to every worker in the Union who has an employment contract or employment relationship as defined by the law, collective agreements or practice in force in each Member State with consideration to the case-law of the Court of Justice



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## Who does it apply to?

Member states may decide not to apply the obligations in this Directive to workers who have an employment relationship in which their predetermined and actual **working time is equal to or less than an average of three hours per week in a reference period of four consecutive weeks**. Time worked with all employers forming or belonging to the same enterprise, group or entity shall count towards that three hour average.



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## What are your obligations?

The employer shall provide each worker with the information required pursuant to this Directive in writing. The information shall be provided and transmitted on paper or, provided that the information is accessible to the worker, that can be stored and printed, and that the employer retains proof of transmission or receipt, in electronic form.

*In light of the increasing use of digital communication tools, information that is to be provided in writing under this directive can be provided by electronic means.*



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## We do this already right?

Member States shall ensure that employers are required to inform workers of the essential aspects of the employment relationship.

Remember: Information to Employees Regulations (452.83)



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## What information do we need to provide? Same or different as we have done so far?

- a) The identities of the parties to the employment relationship;
- b) The place of work: where there is no fixed or main place of work, the principle that the worker is employed at various places or is free to determine his or her place of work, and the registered place of business or, where appropriate, the domicile of the employer.
- c) either:
  - i) The title, grade, nature or category of work for which the worker is employed or
  - ii) A brief specification or description of the work;



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## Cont...

- d) The date of commencement of the employment relationship;
- e) In the case of a fixed term employment relationship, the end date or the expected duration thereof;
- f) In the case of temporary agency workers, the identity of the user undertakings, when and as soon as known;
- g) The duration and conditions of the probationary period, if any;
- h) The training entitlement provided by the employer, if any;



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## Cont...

- i) The amount of paid leave to which the worker is entitled **or, where this cannot be indicated when the information is given, the procedures for allocating and determining such leave;**
- j) The procedure to be observed by the employer and the worker, including the formal requirements and the notice periods, where their employment relationship is terminated **or, where the length of the notice periods cannot be indicated when the information is given, the method for determining such notice periods;**



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## Cont...

- k) The remuneration, including the initial basic amount, **any other component elements**, if applicable, indicated separately, and the frequency and method of payment of the remuneration to which the worker is entitled;
- l) **If the work pattern is entirely or mostly predictable, the length of the worker's standard working day or week and any arrangements for overtime and its remuneration and, where applicable, any arrangements for the shift changes;** (this is more detailed)



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## Cont...

- m) If the work pattern is entirely or mostly unpredictable, the employer shall inform the worker of
- i) The principle that the work schedule is variable, the number of guaranteed paid hours and the remuneration for work performed in addition to those guaranteed hours;
  - ii) The reference hours and days within which the worker may be required to work;
  - iii) The minimum notice period to which the worker is entitled before the start of a work assignment and, where applicable, the deadline for cancellation referred to in Article 10(3); (compensation if cancellation)



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## Cont...

- n) Any collective agreements governing the worker's conditions of work or in case of collective agreements concluded outside the business by special joint bodies or institutions, the name of such bodies or institutions within which the agreements were concluded;
- o) Where it is the responsibility of the employer, the identity of the social security institutions receiving the social contributions attached to the employment relationship and any protection relating to social provided by the employer.

*(current regs – the conditions under which fines may be imposed by the employer)*



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The information referred to in paragraph (g) to (l) and (o) may, where appropriate, be given in the form of a reference to the laws, regulations and administrative or statutory provisions or collective agreements governing those points.



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## When does the info need to be provided?

(a), (b),(c), (d),(e),(g),(k),(l) and (m) - shall be provided individually to the worker in the form of one or more documents during starting on **the first working day ending no later than the seventh calendar day.**

The other information referred - shall be provided individually to the worker in the form of a document **within one month of the first working day.**

*Current regs – within 8 working days from date of contract and no written contract, letter of engagement or signed statement within 8 workng days from commencement*



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## Modification of the employment relationship

- Any changes to information or additional information shall be provided in the form of a document by the employer to the worker at earliest opportunity and at the latest on the day on which it takes effect.



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## When worker required to work outside habitual country

Where a worker is required to work in a Member State or third country other than the Member State in which he or she habitually works, the employer shall provide the documents in slide 16 before the worker's departure and the documents shall include at least the following additional information:



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## Additional Information:

- a) The country or countries in which the work abroad is to be performed and its anticipated duration;
- b) The currency to be used for the payment of remuneration;
- c) Where applicable, the benefits in cash or kind relating to the work assignments;
- d) Information as to whether repatriation is provided for, and if so, the conditions governing the worker's repatriation.

Further info when workers are posted.



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## Applicability

Unless Member States provide otherwise slides 17 and 18 shall not apply if the duration of each work period outside the Member State in which the worker habitually works is four consecutive weeks or less.



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## Probationary period

Member States shall ensure that, where an employment relationship is subject to a probationary period as defined in national law or practice, that period shall not exceed six months.



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## Some clarity on fixed term contracts!

In the case of fixed- term employment relationships, Member States shall ensure that the length of such a probationary period is proportionate to the expected duration of the contract and the nature of the work. In the case of the renewal of a contract for the same function and tasks, the employment relationship shall not be subject to a new probationary period.



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## Longer probation

- Member States may on an exceptional basis provide for longer probation period where justified: by nature of employment or in the interest of the worker
- Where worker has been absent from work during the probation period MS may provide that the probationary period can be extended correspondingly, in relation to the duration of the absence.



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## Further clarity on outside work

Member States shall ensure that an employer neither prohibits a worker from taking up employment with other employers, outside the work schedule established with that employer, nor subjects a worker to adverse treatment for doing so.



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## Restrictions may apply

Member States may lay down conditions for the use of incompatibility restrictions by employers, on the basis of objective grounds, such as health and safety, the protection of business confidentiality, the integrity of the public service or the avoidance of conflicts of interests.



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## Unpredictable work patterns

Members States shall ensure that where a worker's work pattern is entirely or mostly unpredictable the worker shall not be required to work by the employer unless both of the following conditions are fulfilled:

- a) The work takes place within predetermined reference hours and days as referred to in point (m)(ii) of Article 4(2) (slide 13); and
- b) The worker is informed by his or her employer of a work assignment within a reasonable notice period established in accordance with national law, collective agreements or practice as referred to in point (m)(iii) of Article 4(2) (slide 13).

Where one or both of the requirements laid down above is not fulfilled, a worker shall have the right to refuse a work assignment without adverse consequences.



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## Right to compensation

Where Member States allow an employer cancel a work assignment without compensation, Member States shall take the measures necessary, in accordance with national law, collective agreements or practice, to ensure that the worker is entitled to compensation if the employer cancels, after a specified reasonable deadline, the work assignment previously agreed with the worker.



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## Clarity on training!

Member States shall ensure that where an employer is required by Union or national law or by collective agreements to provide training to worker to carry out the work for which he or she is employed, **such training shall be provided to the worker free of cost, shall count as working time and, where possible, shall take place during working hours.**



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## Presumptions in favour of the employee

Member States shall ensure that, where a worker has not received in due time all or part of the documents referred to in slide 16 and slide 17 or both the following shall apply:

- a) The worker shall benefit from favourable presumptions defined by the Member State, which employers shall have the possibility to rebut;
- b) The worker shall have the possibility to submit a complaint to a competent authority or body and to receive adequate redress in a timely and effective manner;



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## Right to redress

Member States shall ensure that workers, including those whose employment relationship has ended, have access to effective and impartial dispute resolution and a right to redress in the case of infringements of their rights arising from this Directive.



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## Protection against adverse treatment

Member States shall introduce the measures necessary to protect workers, including those who are workers' representatives, from any adverse treatment by the employer and from any adverse consequences resulting from a complaint lodged with the employer or resulting from any proceedings initiated with the aim of enforcing compliance with the rights provided for in this Directive.



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## Protection from dismissal and burden of proof

Member States shall take the necessary measures to prohibit the dismissal or its equivalent and all preparations for dismissal of workers, on the grounds that they have exercised the rights provided for in this Directive.

Workers who consider that they have been dismissed, or have been subject to measures with equivalent effect, on the grounds that they have exercised the rights provided for in this Directive, may request the employer to provide duly substantiated ground for the dismissal or the equivalent measures. The employer shall provide those grounds in writing.



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## Burden of proof

Member States shall take necessary measures to ensure that, when workers establish, before a court or other competent authority or body, facts from which it may be presumed that there has been such a dismissal or equivalent measures, it shall be for the employer to prove that the dismissal was based on grounds other than those referred to earlier.

Member States shall not be prevented from introducing rules of evidence which are more favourable to workers.



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## Directive on work-life balance for parents and carers.



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## What is the aim of this Directive?

This Directive lays down minimum requirements designed to achieve equality between men and women regard to labour market opportunities and treatment at work, by facilitating the reconciliation of work and family life for workers who are parents, or carers.



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## What does this Directive provide?

To that end, this Directive provides for individual rights related to the following:

- a) Paternity leave, parental leave and carers' leave
- b) Flexible working arrangements for workers who are parents, or carers.



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## Applicability

This Directive applies to all workers, men and women, who have an employment contract or employment relationship as defined by the law, collective agreements or practice in force in each Member State, taking into account the case-law of the Court of Justice.



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## Definitions

For the purpose of this Directive, the following definitions apply:

‘paternity leave’ means leave from work for fathers or, where and in so far as recognized by national law, for equivalent second parents, on the occasion of the birth of a child for the purposes of providing care;

‘parental leave’ means leave from work for parents on the grounds of the birth or adoption of a child to take care of that child;



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## Definitions

'carers leave' means leave from work for workers in order to provide personal care or support to a relative, or to a person who lives in the same household as the worker, and who is in need of significant care and or support for a serious medical reason, as defined by each Member state;

'carer' means a worker providing personal care or support to a relative, or to a person who lives in the same household as the worker, and who is in need of significant care or support for a serious medical reason, as defined by each Member State;



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## Definitions

'relative' means a worker's son, daughter, mother, father, spouse or, where such partnerships are recognised by national law, partner in civil partnership;

'flexible working arrangements' means the possibility for workers to adjust their working patterns, including through the use of remote working arrangement, flexible working schedules, or reduced working hours.



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## Paternity leave

Member States shall take the necessary measures to ensure that fathers or, where and in so after as recognized by national law, equivalent second parents, have the right to paternity leave of 10 working days that is to be taken on the occasion of the birth of the worker's child. Member States may determine whether to allow paternity leave to be taken partly before or only after the birth of the child and whether to allow such leave to be taken in flexible ways.



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## Paternity leave

The right to paternity leave shall not be made subject to a period of work qualification or to a length of service qualification or to a length of service qualification.

The right to paternity leave shall be granted irrespective of the worker's marital or family status, as defined by national law.



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## Parental leave

Member States shall take the necessary measures to ensure that each worker has an individual right to parental leave of four months that is to be taken before the child reaches a specified age, up to the age of eight, to be specified by each Member State or by collective agreement. That age shall be determined with a view to ensuring that each parent is able to exercise their right to parental leave effectively and

Member States shall ensure that two months of parental leave cannot be transferred.



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## Parental leave

Member States shall establish a reasonable period of notice that is to be given by workers to employers where they exercise their right to parental leave. In doing so, Member States shall take into account the needs of both the employers and the workers.

Member States shall ensure that the worker's request for parental leave specifies the intended beginning and end of the period of leave.



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## Parental leave

Member States may make the right to parental leave subject to a period of work qualification or to a length of service qualification, which shall not exceed one year (***already the case in current regs***). In the case of successive fixed-term contracts within the meaning of with the same employer, the sum of those contracts shall be taken into account for the purpose of calculating the qualifying period (***also look at current regs (Reg 3)***).



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## Postponement of Parental leave

Member States may establish the circumstances in which an employer, following consultation in accordance with national law, collective agreements or practice, is allowed to postpone the granting of parental leave for a reasonable period of time on the grounds that the taking of parental leave at the time requested would seriously disrupt the good functioning of the employer. Employers shall provide reasons for such a postponement of parental leave in writing.

***(Already in current regs – Reg 7)***



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## Parental leave

Member States shall take the necessary measures to ensure that workers have the right to request that they take parental leave in flexible ways. Member States may specify the modalities of application thereof. The employer shall consider and respond to such requests, taking into account the needs of both the employer and the worker. The employer shall provide reasons for any refusal to accede to such a request in writing within a reasonable period after the request.



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## More detailed and clear

Member States shall take the necessary measures to ensure that when considering requests for full-time parental leave, employers shall, prior to any postponement offer, to the extent possible, flexible ways of taking parental leave.



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## Not in current regulations

Member States shall assess the need for the conditions of access to and the detailed arrangements for the application of parental leave to be adapted to the needs of adoptive parents, parents with a disability and parents with children with a disability or a long-term illness.



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## Carer's leave

Member States shall take the necessary measures to ensure that each worker has the right to carers' leave of five working days per year

Member States may allocate carers' leave on the basis of a reference period other than a year, per person in need of care or support, or per case.



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## Urgent Family leave

Member States shall take the necessary measures to ensure that each worker has the right to time off from work on grounds of force majeure for urgent family reasons in the case of illness or accident making the immediate attendance of the worker indispensable.

*We already have the Urgent Family Leave Regs in place*



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## Payment or allowance

For the 10 days paternal leave

For the 2 months parental leave

Such payment or allowance shall guarantee an income at least equivalent to that which the worker concerned would receive in the event of a break in the worker's activities on grounds connected with the worker's state of health, subject to any ceiling laid down in national law.

Member States may make the right to a payment or an allowance subject to periods of previous employment, which shall not exceed six months immediately prior to the expected date of the birth of the child.



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## Payment

With regard to parental leave such payment or allowance shall be defined by the Member State or the social partners and shall be set in such a way as to facilitate the take-up of parental leave by both parents.



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## Flexible working

Member States shall take the necessary measures to ensure that workers with children up to a specified age, which shall be at least eight years, and carers, have the right to request flexible working arrangements for caring purposes. The duration of such flexible working arrangements may be subject to a reasonable limitation.

Current Regulations – Reg 9 (but does not cover carers)

This is new:

**Employers shall provide reasons for any refusal of such a request or for any postponement of such arrangements.**



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## More detail/clarification

When flexible working arrangements are limited in duration, the worker shall have the right to return to the original working pattern at the end of the agreed period. The worker shall also have the right to request to return to the original working pattern before the end of the agreed period where justified on the basis of a change of circumstances. The employer shall consider and respond to a request for an early return to the original working pattern, taking into account the needs of both the employer and the worker.



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## More detail and clarification

Member States may make the right to request flexible working arrangements subject to a period of work qualification or to a length of service qualification, which shall not exceed six months. In the case of successive fixed-term contracts with the same employer, the sum of those contracts shall be taken into account for the purpose of calculating the qualifying period.



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## No less favourable treatment

Member States shall take the necessary measures to prohibit less favourable treatment of workers on the ground that they have applied for, or have taken, paternity leave, parental leave and carers leave or time off from work for urgent family leave, or that they have exercised the rights for flexible work arrangements.



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## Prohibition of dismissal

Member States shall take the necessary measures to prohibit the dismissal and all preparations for the dismissal of workers, on the grounds that they have applied for, or have taken, paternity leave, parental leave and carers leave or time off from work for urgent family leave, or that they have exercised the rights for flexible work arrangements.

*Already in current regs*



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## Stricter rules

Workers who consider that they have been dismissed on the grounds that they have applied for, or have taken, paternity leave, parental leave and carers leave or time off from work for urgent family leave, or that they have exercised the rights for flexible work arrangements may request the employer to provide duly substantiated reasons for their dismissal. With respect to the dismissal of a worker who has applied for, or has taken, parental, paternity and carers leave, the employer shall provide reasons for the dismissal in writing.



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## Burden of proof

Member States shall take the measures necessary to ensure that where workers who consider that they have been dismissed on the grounds that they have applied for, or have taken, paternity, parental and carers leave establish, before a court or other competent authority, facts capable of giving rise to a presumption that they have been dismissed on such grounds, it shall be for the employer to prove that the dismissal was based on other grounds.

Member States are not prevented from introducing rules of evidence which are more favourable to workers.



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## Penalties

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive, or the relevant provisions already in force concerning the rights which are within the scope of this Directive, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.



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## Flexible Work Arrangement Policy

- About this policy
- Eligibility
- What is a flexible working request
- Making a flexible working request
- Meeting
- Decision
- Appeal



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# European Labour Authority

## The European Labour Authority



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## Background

- President Juncker first announced the idea of a European Labour Authority in September 2017.
- The Commission presented its proposal for establishing a Labour Authority in March 2018
- February 2019 the European Parliament and the Council reached a provisional agreement.
- On 13th June the Council formally adopted the Regulation establishing the ELA.



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## Role of the ELA

- Facilitate access for individuals and employers to information on their rights and obligations as well as to relevant services.
- Support cooperation between EU countries in the cross-border enforcement of relevant Union law, including facilitating joint inspections.
- Mediate and facilitate a solution in cases of cross-border disputes between national authorities or labour market disruptions.



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## Functioning

The ELA :

- provides national authorities with operational and technical support to exchange information, develop day-to-day cooperation routines, carry out inspections and, if necessary, settle disputes.
- Ensures synergies with existing EU agencies by relying on their expertise in terms of skills forecasting, health and safety at work, the management of company restructuring and tackling undeclared work.
- Integrates a number of existing committees and networks, thereby simplifying cooperation amongst EU countries and eliminating fragmentation.



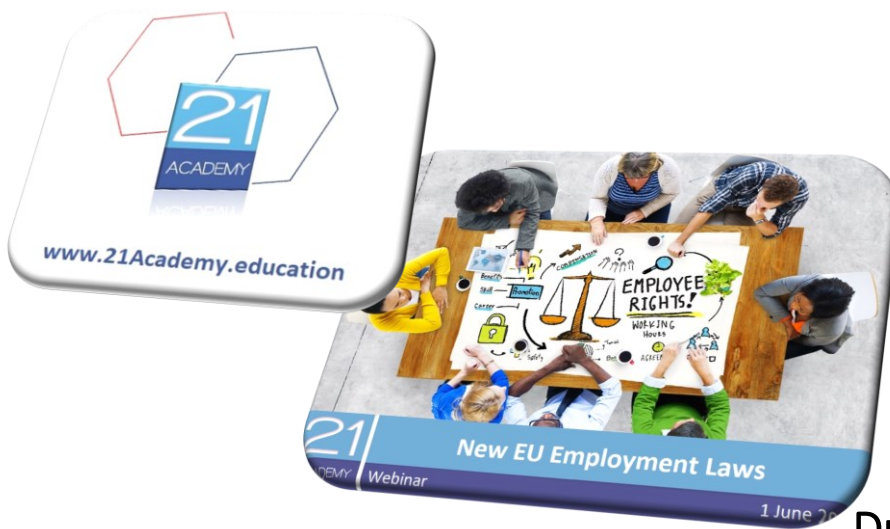
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