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The Surprisingly Broad Scope Definition of Workplace Accidents in France

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The legal definition of "workplace accidents" under French law does not normally make global headlines. However, as many of you will have read, a recent decision of the Paris Court of Appeal (CA Paris, May 27, 2019, n°16/08787) did just that.

The facts in this case were more salacious than most. The employee died of a heart attack after having sex with a woman during a business trip. The headlines were caused by incredulity that the Court determined that the death was an "*accident du travail*" – a workplace accident.

In this blog, we seek to separate the sensational from the legal principles. The real lesson from this case is a reminder of the extent to which an employer is liable for what happens to its employees under French law when an employee is on a business trip.

As to legal background, the starting point is the broad legal definition of an accident du travail as "*any physical injury or psychological damage resulting from an event occurring on a certain date and by or in connection with work*" (C. Sec. Soc. Art. L. 411-1). Moreover, there is a legal presumption that any accident during working time and at the workplace is an accident du travail. Applying this to a business trip, the caselaw has held that an accident occurring during a trip, whether in connection with "*professional acts*" (e.g. at a client meeting) and "*everyday acts*" (e.g. having a meal during a trip even if alone), is presumed to be an accident du travail. This presumption is only rebuttable if an employer can prove that in the course of the business trip, the employee had interrupted that trip for a personal reason (Cass. Civ. October 12, 2017 n° 16-22.481). In the absence of such proof, the employee is considered to be under the employer's authority and any accident is deemed to be an accident de travail.

In this case, notwithstanding the sensational facts, the key issue was whether the employer could prove that the employee's activities constituted an interruption of the trip for personal reasons.

In this regard, the Courts have adopted an extremely broad definition “everyday acts”, limiting the scope for an employer to show acts that take place during a business trip are for personal reasons. This is illustrated by a 2017 decision, holding that an employee injured at 3am, while dancing in a nightclub, during a business trip in China, was the victim of an accident du travail: the dancing was part of an “everyday act” and therefore not an interruption of the trip for personal reasons (Cass. Civ. 2, October 12, 2017, n°16-22.481).

As such, although somewhat counter-intuitive, the decision in this case is not out of keeping with existing decisions that adopt a very broad definition of “everyday acts”. In large part, this may be due to an overriding policy for give employees as much protection as possible while they are on business trips motivated by the fact that where death is an accident du travail, a victim’s dependents are entitled to benefits, often paid for by the employer, of up to 80 per cent of salary until normal retirement age as well as a share of pension. The adverse consequences to an employee’s family caused by a finding that there has not be an accident du travail could well be extremely severe.

Nonetheless, this is a case that stretches the definition of “everyday act” and there are indications that the case will be appealed. We will keep you posted on any appeal.

As to practical steps to mitigate the risks caused by the broad definition of an accident de travail, we would recommend that when an employee goes on business trips, the time they required to work and the time they have to engage in personal activities are clearly defined. While such a definition will not be determinative, where an accident take place at a time where the employee is defined as being engaged in personal activities, it may be a factor in favour of a finding that the accident was not an accident de travail.

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