

International HR Best Practices Tip of the Month

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This Month's Challenge

Multinational employer's need to be aware that many countries require the promulgation of company "Work Rules" spelling out various employment policies and practices. In some countries, these Work Rules must be filed with, and sometimes approved by, governmental officials.

Best Practice Tip of the Month

Check out the local requirements in every country where you maintain employees. In this area, one size definitely does not fit all.

Establishment of Local "Work Rules": A Challenge for Multinationals

While many multinationals undertake the often expensive and arduous task of implementing a global Code of Conduct, any multinational doing business in more than a few international jurisdictions will quickly realize that something more is usually needed to meet HR compliance requirements. This "something more" takes many forms under different names, but may be loosely grouped under the rubric of "Work Rules."

"Work Rules" spell out the often-mundane rules, policies and procedures that govern each workplace. In many countries, the adoption and dissemination of Work Rules is mandatory. Some countries have extremely detailed provisions governing the content of the Work Rules, while others are quite vague. In many countries, but not all, the Work Rules deal with basic routines, such as when the workday begins and ends, payroll procedures, vacation scheduling, disciplinary procedures, and the like. In the United States, these subjects are typically covered by a combination of employee handbooks, HR manuals, formal policies and informal practices. Abroad, however, an additional layer of compliance may be necessary, as the company may need to have the Work Rules reviewed or even approved by a local governmental official.

Work Rules are perhaps most prevalent in Europe. While some EU member states have no such obligation, others have quite detailed Work Rule provisions. For instance, in Italy, an employer must adopt a *Valutazione dei rischi*, or Risk Evaluation, which concerns health and security issues. Failure to adopt such rules can result in a fine of as much as €15,000 or 8 months in prison. Additionally, employers should consider adopting a *Codice Disciplinar*, or Disciplinary Code. While the Disciplinary Code is not required by law *per se*, it is effectively impossible to lawfully discipline or dismiss an employee without having one. The Disciplinary Code sets forth, among other things, the possible sanctions for violating the company's rules and policies. Often employers will sign on to national collective agreements, "*Contratto Collettivo Nazionale*," which already specify what the Disciplinary Code will say.

Similarly, in France, an employer must adopt internal rules of procedure ("*Règlement Intérieur*") if it hires more than 20 employees over a 6 month period. Like the Italian Work Rules, the French internal rules address health and safety issues, but they go farther and detail the applicable rules concerning discipline and penalties for violating company policy as well as the firm's regulations regarding "psychological" and sexual harassment. Unlike Italy, the French Work Rules must be submitted to the local Employment Tribunal; failure to do so can result in fines to both the company and the registered representative.

Some countries' Work Rules require quite detailed provisions. Poland's work rules ("*Regulamin Pracy*"), for instance, require the company to lay down rules not only governing disciplinary procedures, but hours, overtime, pay days, and work that is prohibited by minors. Failure to implement Work Rules in Poland can result in a fine ranging from €285 for a first violation up to €8500.

On the other hand, many EU countries do not have Work Rule requirements at all, such as Denmark, Germany, the Netherlands, Spain, and the United Kingdom.

Work Rule requirements are not just limited to Europe. Many Asian countries have Work Rule obligations which rival or exceed the requirements found in Europe. For instance, in Thailand, any employer with more than ten employees must enact Work Rules covering such topics as hours of work, leave provisions, overtime pay and holiday pay, as well as disciplinary procedures. These Work Rules must be filed with the local labor protection office. In Japan, employers with more than ten employees must enact the *Syugyou Kisoku*, which must explain, among other things: work hours, wages, retirement benefits and calculations, job safety and training, as well as any system of reprimand within the company. Failure to fulfill this requirement will expose the company to a civil penalty. China's new Labor Contract Law, which came into force this year, also imposes Work Rule requirements (*lao dong gui zhang zhi du*). In China, the Work Rules must be submitted to the employees for review and comment before they can be implemented.

If there is one common thread among the Work Rule obligations throughout the world, it is that no two are alike. Any company seeking to ensure that it is in compliance with local labor law would be well advised to take an inventory of what local Work Rule obligations exist given the number of employees employed in each jurisdiction, whether the rules need to be approved or reviewed by governmental authorities, and how they should be disseminated among employees.

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- **Howard Z. Robbins**
Partner
- **Anthony J. Oncidi**
Partner