

# International HR Best Practices Tip of the Month

**October 2007**

## **This Month's Challenge**

There is a growing perception, in the United States and Europe, that rank-and-file workers are paid too little and top executives are paid too much.

## **Best Practice Tip of the Month**

Companies with French operations will need to comply with new overtime and executive compensation regulations, designed to encourage longer hours and higher pay for workers, and more moderate severance packages for executives.

## **New French President Pushes Through Labor Law Reforms**

For years, American workers, who are among the world's leaders in hours worked, have looked with a mixture of derision and envy at the work restrictions imposed by European labor laws, especially the notorious (or famous) French 35-hour workweek. Just in time for Halloween, the new French regime has given employers and employees a treat (and perhaps a trick) in new overtime regulations.

Fulfilling campaign promises, new French President Nicolas Sarkozy has pushed through several new laws to reform the French economy and loosen some of the more restrictive provisions of the French legal code. Having run for office on the principle that employees should "work more to earn more," the new law, which took effect on October 1, adds two significant enhancements to work performed after 35 hours in a week:

- For employees, the wages received for the overtime hours will not be subject to income tax; and
- For employers, the wages paid for the overtime hours will not be subject to the usual employer-paid social security taxes.

It is, of course, too early to tell whether these tax incentives will give the French economy a much-needed boost, or simply increase the public debt without making a material dent in the country's chronically high unemployment rate. Already, commentators have noted that the law's complexity may result in large tax bills for employers and employees who fail to follow all the steps necessary to qualify for its benefits, as well as a huge burden to police compliance and ensure that unscrupulous employers and employees don't misclassify ordinary wages as overtime to evade taxes.

In the same legislation, President Sarkozy also sought to fulfill his campaign promise to outlaw the large, American-style “golden parachute” severance payments that had been given to some departing senior executives even though their companies were not performing well and were laying off thousands of rank and file workers. Although the new law attempts to tie executive compensation to company performance, it may not actually reach that far, as payments received in exchange for noncompete agreements and certain pension enhancements are not subject to the restrictions. The law does, however, require companies to disclose their “golden parachute” payments, which may serve to moderate some of the severance packages.

France’s novel approaches to the perception that worker compensation is too low and executive compensation is too high — issues that have been raised throughout Europe and the United States — will be watched closely from both sides of the Atlantic.

### **Proskauer Leads International Law Conference in Peru**

The International Law & Practice Section of the New York State Bar Association held its annual fall meeting at the end of September, and Proskauer was a key sponsor and played a prominent role in the organization and presentation of the meeting. This year’s meeting was held in Lima and Cuzco, Peru, and drew more than 250 lawyers from twenty-four countries, including virtually every country in North, Central and South America, seven countries in Europe and Asia, eight U.S. states and the District of Columbia.

Proskauer labor partner Aaron Schindel was the Chair of this year’s meeting, which featured twenty-eight CLE presentations on a full range of international legal topics, ranging from international trade and commercial agreements, to international arbitration, international tax, and, of course, international labor, employment and immigration. Corporate partner Carlos Martinez, who splits his time between New York and Proskauer’s recently-opened São Paulo office, was a member of the Steering Committee that planned and organized the meeting, and Proskauer corporate partner Antonio Piccirillo, also from the São Paulo office, was a speaker on a panel discussion on emerging trends in the capital markets arena. Proskauer litigation partner Steve Krane also had a featured role; as one of the four past and present presidents of the New York State Bar Association in attendance at the meeting, he participated in a panel of the presidents (joined by the Vice Dean of the Lima Bar Association) to discuss the role of the organized legal community in international affairs.

The event serves to highlight Proskauer’s large and growing international presence. Just two weeks before the commencement of the Peru meeting, we announced the opening of a new London office, the second international office opened in three months.