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Annual report of the French Supreme Court (Cour de Cassation)

In November 2021, the Cour de Cassation published its annual report for the year 2020. It highlights the impact of the health crisis on its judicial activity and formulates some avenues for reform, including an evolution of the Labor Code on the issue of breastfeeding in the workplace.

The year 2020 is marked, due to the context, by a significant drop in the Court's activity, following the postponement of hearings before the courts of appeal during the health crisis. The number of appeals thus fell to 13,269, i.e., a reduction of 19% compared to 2019. The number of decisions of the employment division suffered a sharp decrease, going from 2,905 appeals judged in 2019 to 2,299 in 2020. The average processing time for appeals is 18 months for all civil, commercial and employment divisions combined. The employment division is above this average with a delay of 20.7 months.

Among the case law contributions mentioned in the report, in labour law we shall note the conversion into an employment contract of the relationship between Uber Technologies Inc and a driver,[1] the new definition of co-employment,[2] clarifications on the probationary system in terms of hours of work,[3] the balancing of the employee's right to privacy and the right to evidence, allowing the judge to conclude that evidence is admissible despite the unlawful nature of the personal data processing which it stems from,[4] the taking into account of the employer's misconduct at the origin of the threat to the company's competitiveness as being likely to deprive economic redundancies, resulting from a reorganisation, of a real and serious cause.[5]

The employment division also takes advantage of the report to urge the legislator to change the rules relating to premises dedicated to breastfeeding. The current obligation for an employer to install such premises only concerns employers with more than 100 employees, when it should concern all of them. Remuneration for breastfeeding time is also proposed, to conform with the decision of the European Committee of Social Rights which rules that French legislation is not in conformity on this point with Article 8§3 of the European Social Charter (revised).

Follow-up on employees by occupational health services

According to a study conducted by the Dares (a division of the Ministry of Labor which carries out research, studies and produces statistics), the follow-up on employees by occupational health services has been declining since 2015, even for the most exposed employees (physical constraints, health problems, etc.). Visits with an occupational health service are less frequent. In 2005, 70% of employees said they had had an occupational

health medical visit less than a year ago, compared to 51% in 2013 and 39% in 2019. In addition, the period between two visits is increasing. In 2019, 28% of employees in the private sector had not had a follow-up visit in two years or more, compared to only 13% in 2005. The proportion of employees who did not have a visit in more than five years or who never did, on the other hand, has not changed much, going from 4% in 2005 to 6% in 2019. All socio-professional categories are affected in a similar way. Exposed employees such as those whose health is not as good, are affected by the spacing out of visits. It is hopeful that the latest occupational health reform will remedy this.

Business protection and restrictive covenants

Non-compete clause

Does a settlement agreement drafted in general terms include in its subject matter disputes relating to the non-compete clause? Affirmative, according to the employment division of the Cour de Cassation.[6] In this case, an employee signed a settlement agreement two weeks after her dismissal. Four months later, she referred her case to the labour court submitting a request for payment in relation with the financial consideration for the non-compete clause appearing in her employment contract. The Court of Appeal grants her requests, noting that the settlement agreement does not include any mention of the non-compete clause and that the employer had not released the employee from it. The Cour de Cassation disapproves of this decision based on the terms used in the settlement agreement, which are decisive. In this case, the reciprocal concessions were made "on a transactional, lump sum and final basis", a formulation closing the doors to any future dispute. Indeed, according to the Court, it results from articles 2044 *et seq.* of the Civil Code, relating to settlement agreements, that the parties' reciprocal obligations in connection with a non-compete clause are included in the object of the settlement agreement by which the parties declare that they are satisfied with all their rights, putting an end to any dispute arising or to arise and waive any action relating to the performance or termination of the employment contract.

Discrimination protection

Discrimination based on religious beliefs

The employment division of the Cour de Cassation had the opportunity to provide clarifications as to the impact of the absence of a neutrality clause in internal regulations on the assessment of the ban on the wearing of the Islamic headscarf in the light of the rules relating to discrimination based on religious beliefs.[7] It makes several statements as reminders. Firstly, and in accordance with the requirements resulting from European Union law and the legislation in force,[8] restrictions on religious freedom must be justified by the nature of the task to be performed, meet an essential and decisive occupational requirement and be proportionate to the intended goal. On the notion of essential and decisive occupational requirement, the court relies on European case law to state as a reminder that it refers to a requirement objectively dictated by the nature or the conditions of exercise of the concerned occupational activity. On the other hand, it cannot cover subjective considerations, such as an employer's willingness to take into account a client's specific wishes. Then, under the terms of Article L. 1321-3 of the Labor Code, internal regulations may not contain provisions restricting the rights of persons and the individual and collective freedoms which would not be justified by the nature of the task to be performed nor proportionate to the intended goal. Finally, an employer, vested with the mission of ensuring respect within the working community of all the fundamental rights and freedoms of each employee, may

provide in the company's internal regulations or in a memorandum subject to the same provisions as the internal regulations, pursuant to Article L. 1321-5 of the Labor Code, a neutrality clause prohibiting the visible wearing of any political, philosophical or religious sign in the workplace, provided that this general and undifferentiated clause is applied only to employees in contact with clients. After these reminders, the employment division of the Cour de Cassation approves the Court of Appeal for having decided that the prohibition imposed on the employee from wearing an Islamic headscarf established the existence of discrimination directly based on her religious beliefs after having noted that no neutrality clause prohibiting the visible wearing of any political, philosophical or religious sign in the workplace was provided for in the internal regulations. The judges of the Cour de Cassation also approve of the Court of Appeal for having decided that the clients' alleged expectation about the physical appearance of saleswomen in a clothing retail business cannot constitute an essential and decisive occupational requirement, after having noted that the employer's justification was explicitly placed on the ground of the company's image with regard to the breach of its commercial policy, which would be, according to him, likely to be thwarted to the detriment of the company by one of its sellers wearing the Islamic headscarf. The Court of Appeal rightly concluded that the dismissal of the employee, pronounced on the grounds of her refusal to remove her Islamic headscarf when she was in contact with clients, was discriminatory and should be annulled.

Time barring period regarding discrimination

The action for damages resulting from discrimination is time-barred after five years from the disclosure of the discrimination pursuant to Article L. 1134-5 of the Labor Code. Before the law of 17 June 2008, this action was subject to the 30-year time barring period. According to Article 26 of the law, the provisions which reduce the time barring periods apply to periods from the day of the entry into force of the law, without the total duration being able to exceed the duration provided for by the previous law. A case gave the Cour de Cassation the opportunity to implement this link between the old time barring period and new time barring period.[9] In order to declare that the action relating to discrimination brought by the employee on 10 April 2012 was time-barred, the decision holds that the employee complains about union discrimination dating back to September 1977 and that it is not seriously questionable that the employee was aware of facts likely to qualify as union discrimination since in August 1981 she had reported on this discrimination and requested a change of position and that the labour inspector had relayed this complaint in a letter of 5 November 1981, so that the time barring period expired on 5 November 2011. For the employment division of the Cour de Cassation, by ruling in this way the Court of Appeal violated the applicable texts, while the employee reported union discrimination which began as soon as she obtained her first corporate office in 1977 and about which she complained in 1981, a period covered by the 30-year time barring period, she asserted that this discrimination had continued throughout her career in terms of professional development, both based on wage and personal levels, of which it resulted that the employee was basing herself on facts which had not ceased to produce their effects before the period not reached by the time bar.

Protection against dismissal

Dismissal related to an employee's state of health

An employee can only be dismissed if the disturbances related to their state of health make it necessary for the employer to replace them definitively by hiring another employee. This replacement, as is specified by the Cour de Cassation, must take place on a date close to

the dismissal or within a reasonable period of time.[10] The director of an association had been dismissed after 10 months of sick leave, due to the disorganisation resulting from her prolonged absence and the need to replace her definitively. The trial judges rejected the employee's request to have her dismissal annulled. The latter filed an appeal to the highest court considering that the dismissal was void because the employer did not provide proof of the disorganisation of the association, because he was aware of the employee's intention to return to her full-time job and because her replacement had only taken place six months after the dismissal. The employment division of the Cour de Cassation dismissed the appeal. It first states as a reminder that Article L. 1132-1 of the Labor Code prohibits the dismissal of an employee because of their state of health, but that it does not preclude a dismissal for reasons, not of the state of health, but of the objective situation of the company whose operation is disturbed by the employee's prolonged absence or repeated absences. It adds that the employee may only be dismissed, however, if the disturbances make it necessary to replace them definitively by hiring another employee, a recruitment which "must take place on a date close to the dismissal or within a reasonable period of time after it, a time limit that the trial judges shall assess at their sole discretion by taking into account the specificities of the company and the job concerned, along with the steps taken by the employer for recruitment". It follows that the recruitment may be prior to, concomitant with or subsequent to the dismissal.

Statutory employment protection rights (such as notice entitlements, whistleblowing, holiday, parental and maternity leave, etc.)

Occupational health

In the summer of 2021 an important law regarding occupational health was adopted to strengthen occupational health prevention transposing the national inter-professional agreement of 10 December 2020.[11] What should be remembered thereof? The strengthening of prevention within companies on the one hand, the breaking down of the barriers between public health and occupational health on the other hand.

Regarding prevention, the content of the single document on risk assessment at work (DUERP) has been reinforced. It must now list all the occupational risks to which workers are exposed and ensure the collective traceability of these exposures. Specifically, companies with at least 50 employees must draw up an annual programme for the prevention of occupational risks and the improvement of working conditions. This programme must be presented to the CSE as part of its consultation on social policy. Companies with fewer than 50 employees must on the other hand define risk prevention and employee protection actions and present them to the CSE. As part of social dialogue in the company, the CSE and its health, safety and working conditions commission, if they exist, shall be consulted on the DUER and provide updates. Furthermore, in order to ensure the collective traceability of exposures, the single document and its updates shall, from 1 July 2023 (for the companies with at least 150 employees) or 2024 (for the others), be subject to a dematerialised deposit on a dedicated and secure digital portal. Moreover, the law creates the prevention passport. All training received by a worker about health and safety must be included. This passport shall be integrated into the orientation, training and skills passport if the employee possesses one. Finally, the law strengthens the control of the conformity of work equipment and personal protective equipment, and increases the criminal sanction regime applicable to manufacturers and distributors in the event of offences against or

breaches of the rules relating to the design, manufacture and marketing of said equipment. Regarding occupational health services, they are renamed "prevention and occupational health services" (SPST). They particularly advise employers, workers and their representatives on the provisions and measures necessary to improve the quality of life at work, by taking into account, as the case may be, the impact of telework on health and the organisation of work. They also take part in actions to promote health in the workplace (vaccination campaigns, raising awareness of disability situations, etc.).

The SPST is based on a group of services covering all the missions provided for by law in terms of prevention of occupational risks, individual follow-up of workers and prevention of occupational disintegration. The law also reorganises the governance of occupational health. For example, city doctors may contribute to the medical follow-up of workers and a status of occupational health nurse is established. In this context, the occupational doctor now has access to the shared medical file (digital health record). They can update it with the worker's express consent. Refusal does not constitute a fault and cannot serve as the basis for an opinion of unfitness. However, the entire occupational health medical file is not integrated into the shared medical file. A section relating to occupational health only completes the latter. It shall be accessible to the patient's doctors and healthcare professionals. The law on the prevention of health at work creates a new medical examination, the mid-career examination, provided for at Article L. 4624-2-2 of the labour code. It shall be organised at a date to be defined by branch agreement or, failing that, during the calendar year of the employee's 45th birthday. The purpose of this examination is to establish a state of play of the adequacy between the workstation and the employee's state of health, to allow an assessment of the risk of professional disintegration and to raise the worker's awareness of the issues relating to ageing at work and of the prevention of occupational risks. Finally, a liaison appointment is created during the employee's absence for health reasons, as well as a post-professional follow-up in the event of exposure to hazards, in particular, exposure to hazardous chemicals. It should be noted, lastly, that the definition of moral harassment by the Labor Code[12] is harmonised with legislation regarding the criminal code[13] and that that of sexual harassment is changing to encompass situations of sexist harassment and those of collective sexual harassment.

Paternity leave and adoption leave

Since 1 July 2021, the duration and procedures for taking adoption and paternity leave have changed. The changes apply to children born or adopted on or after 1 July 2021. The paternity leave is set at 25 calendar days, or 32 in the case of multiple births. Although the non-compulsory part of the paternity leave (21 days or, in the case of multiple births, 28 days) may now be split, in the event that the leave is taken all at once, it begins immediately following the three-day childbirth leave. The adoption leave is set at 16 weeks (instead of 10) for the adoption of a child, 18 weeks (unchanged) when the adoption of a child brings the number of dependent children of the employee up to three, and 22 weeks (unchanged) in case of multiple adoptions. In case the leave is shared between two employee parents, these durations are increased by 25 days for the adoption of a child and 32 days for multiple adoptions.

Paid leave

Overturning its case law, the Cour de Cassation decides that an employee illegally dismissed, then reinstated following the cancellation of his dismissal by court decision, is entitled to paid leave for the period running from his dismissal to the date of his reinstatement.[14] This overturn is justified on the basis of the case law of the Court of Justice of the European

Union. The solution is explained by the dual purpose of the annual leave: to allow the worker to rest in relation to the performance of the tasks incumbent on him; and to have a period of relaxation and leisure. Rest presupposes prior work; consequently, annual leave entitlements should be determined based on the periods of actual work carried out according to the employment contract. However, it is also necessary to take into account the situations in which a worker found himself unable to work. For example, in the case of sick leave as has already been decided some time before[15] or, as in this case, in the event of the unjustified eviction of the employee between his dismissal and his reinstatement. The employment division of the Cour de Cassation, however, reserves the hypothesis in which the employee would have worked during the time of his eviction. He could not here make a claim, against the employer who illegally dismissed him, for the rights to annual leave corresponding to the period during which he had another job.

Worker consultation, trade union and industrial action

Consultative powers of the CSE

A company, and with it the group of employees, must necessarily adapt to the constraints related to the ecological transition, and this all the more so as the first cause of climate change is human activity, including its entrepreneurial expression. The conditions of social dialogue are therefore brought to evolve in order to better take into account environmental issues in the management of the company. Steps forward in this respect are recognised in the law to fight climate change and strengthen resilience to its effects. This law, known as climate and resilience, grants the Social and Economic Committee (CSE) environmental remit.[16] Indeed, as per its general powers, the CSE must now take into account the environmental consequences of the company's activity. Thus, under paragraph I of Article L. 2312-8 of the Labor Code, "the social and economic committee's mission is to ensure the employees' collective expression allowing their interests to be permanently taken into account in decisions relating to the management and the economic and financial development of the company, to the organisation of work, to professional training and to production techniques, *notably with regard to the environmental consequences of these decisions*". In addition, under paragraph III of the same text, "the committee shall be informed and consulted on the environmental consequences of the measures mentioned in paragraph II of this article".[17] There is real progress here. It is, however, unfortunate that taking into account the environmental consequences of the measures submitted to the CSE for consultation is only binding on a CSE constituted in a company of more than 50 employees, as environmental issues should concern all the activities, and consequently all the employers. It is also regrettable that this taking into account only concerns the CSE's general powers, as there is no justification for not also taking into consideration the ecological parameter when dealing with specific consultations.[18] For example, restructuring or concentration operations are not neutral from an environmental point of view (we can notably think of the employees' mobility that they imply, of the renewal of the establishment of premises which potentially results from them, of the changes in terms of using the digital system that they can impose…). Finally, it is regrettable that elected officials have not been granted new means allowing them to deal with this new remit, and thus enabling them to assess as pertinently as possible the environmental consequences of the measures submitted for their opinion. Neither the volume of delegation hours nor the content of the training obligations are increased. Finally, it should be noted that as an extension and in addition to this evolution of the CSE's remit, the BDES must now imperatively include the environmental consequences of the company's activity, according to Article L. 2312-21 of the revised Labor Code.[19]

Collective bargaining: annulment of a collective agreement

For the first time, the employment division of the Cour de Cassation ruled on the implementation of the provisions resulting from the Macron order of 22 September 2017 providing for the possibility for the judge to modulate the effects over time of his decision in case a clause of a collective agreement is annulled.[20] The case concerns a clause of the national collective agreement for phonographic publishing of 30 June 2008, relating to the purpose of the fee received by performers. The trade unions, as well as the organisation for the collective management of performers' copyrights, have requested its annulment insofar as the clause mistakes, in a single sum, entitled "base salary", the remuneration for the provision of work for that of an authorisation to use the recording of the artist's interpretation. The annulment is granted, and its effects over time adapted in application of Article L. 2262-15 of the Labor Code. Pursuant to this text, "in the event of annulment by the judge of all or part of a collective agreement, the latter may decide, if it appears to him that the retroactive effect of this annulment is likely to entail manifestly excessive consequences due to both the effects that this act has produced and the situations that may have arisen when it was in force and the general interest that may be attached to a temporary maintenance of its effects, that the annulment shall produce its effects only for the future or to adapt the effects of its decision over time, subject to any legal actions already initiated on the date of its decision on the same grounds".

The Cour de Cassation considers first of all that this measure is of immediate application, and that it consequently concerns any collective agreement, including any concluded prior to its entry into force. It then specifies the conditions of the adaptation over time of the effects of the nullity. In this respect, the employment division considers that a retroactive annulment of the remuneration system of the disputed exploitation of employees' rights would entail extremely harmful consequences, given the need to reconstitute everyone's rights, made more complex by the oldness of the situations concerned and by the extent of the data collection that would be entailed. It is this observation that led it to consider that the retroactive annulment of the collective agreement would produce manifestly excessive consequences. Moreover, the Court notes that maintaining the disputed clause for the past is not likely to deprive the employees of compensation since the minimum wage provided for by the cancelled collective agreement in fact covered both purposes of the remuneration, the service as well as the use of the rights in question. These considerations lead the Cour de Cassation to rule that the Court of Appeal established the existence of a general interest authorising it to postpone the effects of the annulment of the disputed clause of the collective agreement. The decisive element seems to reside in the fact that the sums received by the employees would be called into question if the nullity produced a retroactive effect. We can understand it. However, the solution seems to merge two elements of assessment which are not (merged) in the text. Indeed, while it results from Article L. 2262-15 of the Labor Code that the adaptation may occur when the retroactive effect of the annulment is such as to entail manifestly excessive consequences because of "both the effects that this act has produced (…) and the general interest that may be attached to a temporary maintenance of its effects", the employment division derives the harm to the general interest from the manifestly excessive consequences produced on one of the interested parties, in the case, the employees. Finally, the Cour de Cassation states as a reminder that only legal actions already initiated on the date of the decision shall escape adaptation, which is expressly provided for by the text, restating on this issue the requirements of the European judge.

Other recent developments in the field of employment and labour law

Fixed-term contract

We know how demanding the regulations relating to fixed-term contracts are. The employment

division of the Cour de Cassation is just as demanding. It demonstrated it again in a judgment relating to the replacement fixed-term contract (CDD).[21] The judges of the highest court state as a reminder that it results from the combination of Articles L. 1242-12 and L. 1245-1 of the Labor Code that is deemed to be of indefinite duration the fixed-term employment contract which does not include the precise definition of its reason and that this requirement of precision as to the definition of the reason necessarily implies that the name and qualification of the employee replaced appear in the contract when it is a replacement CDD. After making this reminder, the employment division of the Cour de Cassation approves the Court of Appeal which, after having decided that the category "commercial cabin crew" included several qualifications such as hostess and steward, purser, chief purser whose functions and remuneration were different, and after having noted that replacement fixed-term contracts only included the indication of the category of "commercial cabin crew", decided that the only indication of the category "commercial cabin crew" to which the replaced employee pertained did not allow the hired employee to know the qualification of the replaced employee, so that the fixed-term contracts entered into for this reason were irregular.

Proof of hours worked

In the event of a dispute relating to the existence or to the number of hours worked, it is up to the employee to present, in support of his claim, sufficiently precise information as to the unpaid hours he claims to have worked in order to allow the employer, who ensures the monitoring of the hours worked, to effectively address it by producing his own information. The judge shall form his opinion by taking into account all of this information with regard to the legal requirements resulting from Articles L. 3171-2 *et seq.* of the Labor Code.

After analysis of the documents produced by both parties, in the event that he admits the existence of extra hours, he shall assess at his sole discretion, without being bound to provide the details of his calculation, the importance of these and shall set the related wage claims. This is what the employment division of the Cour de Cassation[22] stated as a reminder to reproach a Court of Appeal, which had dismissed the employee's claims with respect to extra hours, for having violated Article L. 3171-4 of the Labor Code. Specifically, the Court of Appeal placed the burden of proof regarding the working hours on the employee alone, deciding that the counting statement provided by the employee was insufficiently precise in that it did not specify the possible taking of a meridian break, whereas it resulted from its observations, on the one hand, that the employee presented sufficiently precise elements to allow the employer to reply and, on the other hand, that the latter did not produce any element of control of the duration of the work. The employment division of the Cour de Cassation thus completes its work[23] of bringing itself in line with the requirements resulting from European case law.[24] Proof of working hours is shared between the employee and the employer, and then assessed by a judge.

First of all, the employee submits, in support of his claim, sufficiently precise elements as to the unpaid hours he claims to have worked. The burden of proof is not placed on the employee alone, who cannot be compelled, for instance, to indicate any potential meridian breaks that would have interrupted his working time. In this case, the counting statement provided by the employee indicated, day after day, the hours when the service started and when it ended, along with the professional appointments with an indication of the store visited, the number of daily working hours and the weekly total. Such counting is considered sufficiently precise; the regime of shared proof provided for by Article L. 3171-4 of the Labor Code therefore became applicable. Then, faced with the precise elements provided by the employee, the employer shall address them effectively by submitting his

own elements. The latter are in principle in his hands, since the employer has the obligation to set up an objective, reliable and accessible system allowing to measure the duration of the daily working time of each worker, with, however, a degree of discretion in the concrete implementation of this obligation to take into account the particularities specific to each sector of activity concerned and the specificities of certain companies. In all circumstances, the burden of proof for taking breaks lies with the employer. Finally, the trial judges must assess the elements submitted by each of the parties. When they admit the existence of extra hours, they assess at their sole discretion, without being bound to provide the details of their calculation, the importance of these and the related wage claims.

Social Security contributions and taxes

A new public service of the Department of Social Security and of the Urssaf has been created, the BOSS,[25] Social Security official bulletin. The BOSS gathers the regulations and comments of the administration in terms of Social Security contributions and taxes, in a single, free and enforceable documentary database. The objective is threefold: to ensure better access to the law and greater legal certainty for contributors; to guarantee better accessibility and intelligibility of the law; and to set up a unique tool to facilitate the circulation and updating of the doctrine in matters of Social Security contributions. The database is intended to gather all the legal provisions applicable to Social Security contributions and taxes and the related social doctrine. These are presented in six thematic areas: liability (Social Security basis and cap); severance payment; benefits in kind and professional expenses; reductions and exemptions, exceptional measures; and additional social protection. These contents are regularly updated. In the event of changes in regulations or case law, certain points of doctrine will no longer be enforceable as they are and the BOSS users shall be notified thereof.

* * *

Endnotes

1. Cass. soc., 4 March 2020, No. 19-13.316, P+B+R+I. (These letters establish a ranking of the decisions of the Cour de Cassation and indicate whether a decision is deemed important or not; the P+B+R+I mention being the highest ranking.)
2. Cass. soc., 25 Nov. 2020, No. 18-13.769, P+B+R+I. (Please see endnote 1 above regarding these letters.)
3. Cass. soc., 18 March 2020, No. 18-10.919, P+B+R+I. (Please see endnote 1 above regarding these letters.)
4. Cass. soc., 25 Nov. 2020, No. 17-19.523, P+B+R+I. (Please see endnote 1 above regarding these letters.)
5. Cass. soc., 4 Nov. 2020, No. 18-23.029, P+B+R+I. (Please see endnote 1 above regarding these letters.)
6. Cass. soc., 17 Feb. 2021, No. 19-20.635, P+I. (Please see endnote 1 above regarding these letters.) See already Cass. ass. plén., 4 July 1997, No. 93-43.375 and Cass. soc., 11 Jan. 2017, No. 15-20.040.
7. Cass. soc., 14 avr. 2021, No. 19-24.079.
8. Article L. 1121-1, L. 1132-1 et L. 1133-1 C. trav.
9. Cass. soc., 31 March 2021, No. 19-22.557.
10. Cass. soc., 24 March 2021, No. 19-13.188, P+I. (Please see footnote 1 above regarding these letters.)
11. Law No. 2021-1018 of 2 Aug. 2021.

12. Article L. 1153-1 of the Labor Code.
13. Article 222–33 of the Criminal Code.
14. Cass. soc., 1 Dec. 2021, No. 19-24.766, P+B+R. (Please see endnote 1 above regarding these letters.)
15. Cass. soc., 15 Sept. 2021, No. 20-16.010 and 22 Sept. 2021, No. 19-17.046.
16. Law No. 2021-1104 of 22 Aug. 2021, Article 40.
17. Article L. 2312-8, II, of the Labor Code relates to the consultation of the CSE on any question regarding the organisation, management and general running of a company.
18. Provided for by Article L. 2312-37 of the Labor Code.
19. Law No. 2021-1104 of 22 Aug. 2021, Article 41.
20. Cass. soc., 13 Jan. 2021, No. 19_13.977, P+R+I. (Please see endnote 1 above regarding these letters.)
21. Cass. soc., 20 Jan. 2021, No. 19-21.535, P+I. (Please see endnote 1 above regarding these letters.)
22. Cass. soc., 27 Jan. 2021, No. 17-31.046, P+B+R+I. (Please see endnote 1 above regarding these letters.)
23. See above Cass. soc., 18 March 2020, No. 18-10.919.
24. CJEU 14 May 2019, C 55/18.
25. Available at: https://boss.gouv.fr/portail/accueil.html.

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Admitted to the Bar in 1997, Lionel Paraire founded Galion Avocats in 2008. He worked for six years with Cabinet Jeantet Associés and then at Baker & McKenzie, followed by Mayer Brown, where he became Of Counsel.

He is a senior lecturer at the University of Montpellier I (DJCE and Certificate of Special Studies in Labour Law), where he teaches employment litigation.

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Holder of a Master's degree in Working Relationships Law and Practice (*Master 2 Droit et pratique des relations de travail*) (University of Montpellier) and of a Doctorate in Private and Criminal Law (*Doctorat en Droit privé et sciences criminelles*), Anaëlle is a lecturer at the University of Montpellier. As such, she teaches international and European labour law and working relationships in struggling companies.

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Anaëlle is the author of numerous publications on labour law. She also carries out various scientific and educational activities, both within the University of Montpellier and at a professional level.

Anaëlle joined Galion as a consultant in June 2017 to give the firm her scientific and doctrinal input.

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