

C/M/S/ Cameron McKenna

Telework in Poland

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Our Employment team

At CMS Cameron McKenna's Warsaw office we operate a stand-alone employment team that provides a wide range of businesses with commercial advice on employment issues. People issues are often highly confidential and need careful management, flexibility and creativity when it comes to legal advice. That's why many businesses have turned to us to seek support and guidance in order to make the right business decisions.

Our team are experienced in a number of industry sectors (such as financial services, lifesciences, consumer products or energy & utilities) and combine their knowledge of client industry with commercial and practical approach to actions that needs to be taken.

The range of employment issues we advise on includes:

- drafting internal regulations and by-laws to ensure best practice
- advice on collective labour agreements
- advice on works councils issues
- advice on trade unions issues
- advice on group redundancies
- advice on employment issues related to start-up operations, mergers and acquisitions and group restructuring
- advice to businesses starting operations in Poland with regards to structuring their employment force, employment policies and internal by-laws
- drafting employment agreements and management contracts
- handling employment disputes
- advice on difficult terminations, including management positions
- advice on employee benefits and incentive programmes
- advice on anti-discriminatory and anti-mobbing practices.

An integral part of our strategy is to cover a very wide range of jurisdictions across Europe. Our decision to offer a one-stop shop approach to our clients, applied to both legal practices and geography, was taken in consequence. Through our CMS network, we are in 25 countries including CMS Cameron McKenna's offices in Bulgaria, Czech Republic, Hungary, Poland, Romania, Russia, Slovakia, UK and Ukraine.

“This department houses well-versed lawyers with an extensive and solid practice,” noted peers. Clients added that the team is “quick in replying, and provides useful, to-the-point advice rather than long theoretical answers”.

Chambers Europe 2007, Poland Employment

Contact



Katarzyna Dulewicz
Partner

T + 48 22 520 5519

E katarzyna.dulewicz@cms-cmck.com

CMS Cameron McKenna
Warsaw Financial Centre
ul. Emilii Plater 53
00-113 Warsaw

www.law-now.com

Telework - new possibilities

An amendment of the Labour Code has established legal grounds for telework, a form of employment that has already existed for some time. Telework allows employees to work from outside their employers' offices (e.g. from their homes). The fundamental advantages of telework for employers are limiting the costs of operating workplaces, adjusting personnel to companies' needs and increasing work effectiveness. Do you know what legal rules govern this new form of employment?

What requirements do I have to meet in order to use teleworkers?

Concluding an agreement with trade unions specifying the terms for using telework is a formal requirement. If no trade unions operate in your company, these requirements should be specified in the relevant by-laws, after consultations with the employees' representatives. A given employee may be covered by the telework system both when concluding a relevant employment agreement (then the agreement would set out the terms of performing that work), as well as in the course of a given employment relation. As a rule, there are no restrictions in using this form of employment in respect of particular positions.

Can I force an existing employee to work on a telework basis?

You cannot unilaterally make an existing employee perform work in this way. It is inadmissible to introduce telework on the basis of a termination of employment conditions or on the basis of the provisions of the Labour Code that allow an employer to entrust an employee another type of work on a temporary basis. The terms of performing the work may be changed into telework in the course of employment only on the basis of the parties' agreement (at the employee's or your own initiative).

Will I have any additional obligations when employing teleworkers?

Yes. When employing a teleworker you will have to provide the equipment necessary to perform the work, insure it, and cover the costs related to its installation, service, operation and maintenance, in addition to providing the teleworker with technical support and necessary equipment operation training, unless agreed otherwise with the employee in the relevant agreement. In a separate agreement you may additionally specify the scope of insurance and the terms of the employee using his/her own equipment. You will have to specify the rules for protecting any data submitted to the teleworker and instruct and train him/her, as necessary in that respect.

Can I supervise the performance of the work by the teleworker?

Yes, you have the right to supervise the teleworker's performance of the work. If, however, the work is performed at home, you may supervise him/her only on his/her consent. No supervisory activity may violate the privacy of the teleworker and his/her family or hinder them from using their household premises. Among other things, you may supervise the observance of occupational health and safety regulations.

Do I have to observe occupational health and safety regulations in relation to the teleworker?

Yes. In respect of the teleworker you are obliged to perform the obligations specified in the Labour Code as regards ensuring safe and healthy work conditions to the extent resulting from the type and terms of the work performed. However, in relation to a teleworker performing work at home, the scope of these obligations is limited. For example, you will not be obliged to care for the safe and healthy condition of the premises from which a teleworker works.

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CMS Cameron McKenna
Warsaw Financial Centre
ul. Emilii Plater 53
00-113 Warsaw

T +48 22 520 5555

F +48 22 520 5556

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