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Insight Reports

EMPLOYERS OF RECORD

INPUT AND ANALYSIS
FROM 26 INDUSTRY FIRMS

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Introduction

"The way in which businesses engage and manage talent across borders has evolved significantly in recent years, driven by increasingly international workforces, remote working arrangements and the need for greater flexibility when entering new markets. Against this background, the use of Employers of Record (EoRs) has become a popular solution, particularly for businesses seeking to employ personnel in jurisdictions where they do not have an established legal entity. EoRs are now playing a significant role in facilitating access to global talent and supporting workforce expansion across multiple jurisdictions.

Despite its growing prevalence, the EoR concept is relatively new and continues to operate within an uncertain and evolving legal framework. In many jurisdictions, including across Europe, the EoR model is not expressly recognised as a distinct legal arrangement, nor are there specific statutory provisions regulating EoR relationships. As a result, EoR arrangements must often be considered through the lens of existing employment and labour law, tax and social security rules and, where applicable, legislation governing temporary agency work or similar forms of labour supply. This gives rise to important questions regarding the legal status of the arrangement and the respective rights, responsibilities and potential liabilities of the EoR and the client company.

This year's report, "Employers of Record: Input and analysis from 26 industry firms", examines how EoR arrangements are treated across different jurisdictions. It considers whether the EoR model is recognised under local law and the legal regimes that may apply, as well as the allocation of key employer responsibilities, including payroll, tax withholding and social security contributions, day-to-day management of employees, termination of employment and health and safety obligations. The report also considers the potential liabilities of client companies engaging an EoR, including the risk of reclassification and the possible creation of a permanent establishment or other tax exposure.

Given the considerable differences between national legal systems, the use of an EoR may have significantly different legal consequences from one jurisdiction to another. Against this background, this WSG report brings together insights from leading law firms worldwide, providing a comparative overview of the legal landscape surrounding EoR arrangements and highlighting the key legal and practical considerations for multinational organisations assessing whether and how to incorporate the EoR model into their international workforce strategies.

We extend our sincere gratitude to all contributors for their expertise and dedication in making this edition possible. We hope that this report will serve as a useful resource for legal professionals, employers and organisations navigating the evolving landscape of Employers of Record and cross-border employment."

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Austria

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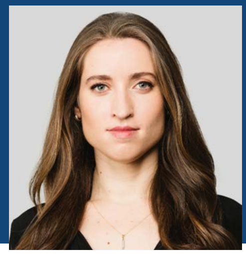
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1) Is the Employer of Record (EoR) model recognised under local law?

In Austria, there is no specific legislation governing the EoR model. In practice, EoR arrangements are typically structured as employee leasing (*Arbeitskräfteüberlassung*) and must therefore comply with the Austrian Employee Leasing Act (*Arbeitskräfteüberlassungsgesetz, "AÜG"*).

2) What is the legal regime applicable to EoRs under local law?

The EoR model falls within the scope of employee leasing rules. This means the EoR acts as formal employer/leasing entity (*Überlasser*), and the client company qualifies as lessee (*Beschäftiger*).

Under the AÜG, leased employees are entitled to the minimum compensation granted to the client's employees under statutory and collective rules, by company practice or policy. This includes both minimum wages, and any other benefits. The collective bargaining agreement applicable to the lessor remains applicable during this time.

The AÜG also provides information and documentation obligations for both the lessor and the client.

Employee leasing requires a special permit where employees are leased to or from a third country (i.e., outside the EU, EEA or Switzerland). Recent Austrian jurisprudence has clarified that this requirement also applies to purely virtual cross-border arrangements. The Austrian Supreme Administrative Court (*VwGH*) has confirmed that a leasing permit is required even where employees remain physically in Austria but perform services remotely for a foreign client company. This is particularly relevant for EoR models, where employees are formally employed by one entity but operationally integrated into another entity with its seat in a third country. Licences are granted only if no overriding labour market or economic concerns exist.

3) Who is responsible for payroll, tax withholding, and social security contributions?

The EoR, as formal employer, is responsible for payroll administration, wage tax withholding, and payment of social security contributions. These obligations cannot be shifted to the client.

4) What is the client company liable for when engaging a local EoR?

The client company may become jointly liable for compensation claims and social insurance contributions. If the client has fulfilled its obligations from the employee leasing agreement (in particular: payment of the EoR's fees), the client only acts as default guarantor (i.e., is only liable if claims cannot be enforced against the EoR).

For purposes of calculating the compensation owing to employees, clients must inform the EoR of relevant compensation rules; otherwise, they may become liable for resulting damages.

The lessee must grant leased employees access to its welfare facilities (e.g., company canteen, communal transport etc) and, for employees who have been leased to a client for more than four years, to certain company pension schemes; these entitlements are less relevant in practice in EoR scenarios.

Leased employees are subject to working time and annual leave rules applicable to the client, and the client is responsible for the health and safety of leased employees.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

Under Austrian employee leasing rules, the EoR remains the formal employer and is responsible for certain core employer functions (payroll, compensation), whereas day-to-day work instructions are issued by the client. The client is therefore best placed to evaluate the employee's performance and conduct. Unless there is a direct agreement between the client and the employee, the employee will not be reclassified as the client's employee.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

The EoR is authorised to terminate the employment contract and will usually initiate the termination procedure at the client's request.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

The use of an EoR does not automatically create a permanent establishment (PE) in Austria. However, a PE risk may arise if the employee acts on behalf of the client company in a way that creates a dependent agent PE (e.g., authority to conclude contracts), or the employee performs core business activities rather than merely auxiliary functions. A proper functional analysis of the employee's role is required in each case.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

The primary responsibility rests with the client company who is responsible for workplace health and safety at the employee's place of work. The client must ensure compliance with Austrian occupational safety laws and conduct risk assessments.

The EoR is responsible for general employer duties and ensuring that employees are properly informed of the main parameters of their engagement with the client.

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1) Is the Employer of Record (EoR) model recognised under local law?

The EoR model is not expressly recognised or legally defined under Belgian law. EoRs therefore operate in a legal grey area and must structure their activities carefully in order to comply with the existing Belgian labour law framework, in particular the Employee Lending Act of 24 July 1987 (the "Employee Lending Act").

2) What is the legal regime applicable to EoRs under local law?

The Employee Lending Act contains a general prohibition on employee lending. Under this prohibition, an employer may not make its employees available to a third-party user who exercises any part of the authority normally vested in the employer over these employees. Therefore, when an EoR puts an individual at the disposal of a client, then the client may not treat such an individual as its own employee and exercise employer's authority over this employee.

As an exception to this prohibition, employee lending is permitted in the case of temporary agency work. In such a case, the client is legally allowed to exercise (part of) the employer's authority over the employee.

However, to be able to present itself as a temporary work agency, an EoR must go through a burdensome and expensive procedure to obtain a licence as a temporary work agency. Moreover, the client is only permitted to call upon temporary agency work in a limited number of legally defined cases, such as the replacement of an employee, a temporary increase in workload, the performance of exceptional work or the "in-flow" of an employee. Therefore, in practice, this is not a workable and/or permanent solution.

Another, more workable, way to deal with the employee lending prohibition is the entering into a service agreement between the EoR as the service provider of HR-related services and the client as the service user. The scope of such an agreement is then to provide a certain service rather than the putting at the disposal of employees.

Provided that such a service agreement is in writing and lists in detail the exact operational instructions that the service user (the client) can give to the employees of the EoR, such instructions will not qualify as the exercising of employer's authority. However, such instructions can only be of a functional and operational nature, with the essential employer's authority remaining with the EoR at all times.

The Flemish Government is the only regional authority to have set out its position, stating that only entities holding a valid licence as a temporary work agency may provide EoR services in Flanders. However, it bases this position on the assumption that there would be too great of a shift of employer's authority from the EoR to the client. Therefore, a set-up in which the EoR retains effective employer's authority over its staff (with the client only giving operational instructions in the frame of an instruction clause), should remain possible.

3) Who is responsible for payroll, tax withholding, and social security contributions?

The EoR, as the legal employer, takes on all social law obligations, including the setting-up of a payroll, the payment of salary and the withholding and payment of social security contributions and tax withholding.

4) What is the client company liable for when engaging a local EoR?

If the arrangement between the EoR and the client company is found to constitute a prohibited employee lending (i.e., the client is deemed to exercise employer's authority over the EoR's employees beyond what is permitted), then both the client and the EoR face significant civil and criminal exposure.

The employees concerned will be deemed to have entered into an employment contract of indefinite duration directly with the client, and both the client and the EoR will be jointly and severally liable for the payment of social security contributions, remuneration and other employment benefits. In addition, the employee will be able to terminate the employment relationship that came into effect with the client without notice.

Besides these civil sanctions, criminal sanctions under the Social Penal Code may also be imposed. These include the payment of administrative fines or (but unlikely) criminal fines. The user (the client) can also be penalised for non-compliance with the obligation to proceed with an Immediate Declaration of Employment ("DIMONA").

The client could try to negotiate a warranty clause with the EoR. However, such a warranty clause can only protect the client against any civil damages, but not against any criminal proceedings.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

The essential employer's authority should remain with the EoR. This includes decisions relating to recruitment, evaluation, performance management, remuneration, working time, disciplinary action and dismissal, the justification of absences and leaves, etc. The client company may not exercise these functions without risking reclassification of the relationship as a prohibited employee lending.

The client company may, however, give functional and operational instructions pursuant to a valid written instruction clause. These can be instructions relating to technical requirements, deadlines, quality standards and access to the workplace. Instructions on health and safety and wellbeing at work are always permitted, regardless of any written agreement.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

The EoR, as the legal employer, holds the exclusive authority to terminate the employment contract. However, case law has already accepted that the termination of the client's assignment may, if properly structured as a valid resolutive condition in the employment contract, result in the end of the employment relationship.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

No specific published guidance is available from the Belgian tax authorities on whether the use of an EoR may give rise to a permanent establishment ("PE"). However, it cannot be excluded that an EoR structure in Belgium entails a PE risk for the client company under the general rules.

If a double tax treaty concluded by Belgium, which is aligned with the OECD Model Convention, applies, then two types of PE may generally be relevant in this context, namely a "material PE" or a "personal PE".

1. A material PE requires the existence of a fixed place of business in Belgium, which must be "at the disposal" of the client company.

   An employee of an EoR often works from their home office. Whether or not this home office can be considered as being at the disposal of the client company must be assessed on a case-by-case basis.

   In light of the 2025 OECD Commentary, it is relevant to assess whether the employee's presence in Belgium is driven by commercial needs of the client company or merely by personal convenience. Where homeworking is primarily for personal reasons, the home office should in principle not be regarded as a place of business. As an indication, no PE generally arises where the employee works from home 50% or less of their working time over a twelve-month period.

2. A personal PE is generally deemed to exist when the EoR's employee has and habitually exercises the authority to conclude contracts in the name of the client company or plays the principal role leading to the conclusion of contracts. In practice, this is rather unlikely in an EoR set-up.

If a PE exists, then Belgium will be tax competent for corporate tax purposes in respect of the profits attributable to that PE.

Separately, under Belgian domestic tax law, a foreign enterprise may qualify as having a "Belgian establishment" where activities are carried out in Belgium (e.g. through employees working in Belgium), triggering a non-resident corporate income tax filing obligation in Belgium (which would result in a nil-return in the absence of a PE).

8) How are health and safety obligations allocated between the Employer of Record and the client company?

The client must inform the EoR, as a service provider, of any specific risks for the EoR's employees at the client's premises and ensure that the employees have received the necessary information and training in this respect. Instructions to the employee(s) of the EoR relating to health and safety are always deemed permitted and do not constitute any exercise of employer's authority.

Moreover, the client is required to provide in the agreement entered into with the EoR that the latter undertakes to comply with the health and safety obligations that are specific to the client's premises.

The EoR, as the legal employer, must affiliate to an external service for prevention and protection at work, take out a work accident insurance and comply with its obligations under the Well-being at Work Act of 4 August 1996.

Cyprus

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1) Is the Employer of Record (EoR) model recognised under local law?

In Cyprus, there is currently no dedicated legislation specifically governing the EoR model. However, the arrangement is generally recognised by authorities when it meets all statutory employer obligations set out in existing employment, tax, and social insurance laws. The EoR, as the recorded employer, is responsible for ensuring compliance with all these legal requirements.

2) What is the legal regime applicable to EoRs under local law?

The EoR is treated as the legal employer of the employee. The structure is therefore generally accepted by authorities as long as the EoR entity fulfils all statutory employer obligations under existing labour, tax, and social insurance laws.

3) Who is responsible for payroll, tax withholding, and social security contributions?

The EoR is responsible for payroll, tax withholding, and social security contributions.

4) What is the client company liable for when engaging a local EoR?

The client company's primary liabilities in an EoR arrangement include the payment of agreed service fees and reimbursement of employee-related costs, such as salary, benefits, taxes, social insurance contributions and contributions relating to the General Healthcare System (Gesy). The client company may also be required to indemnify the EoR for any liabilities arising from its instructions or operational decisions. Additionally, the client company must ensure compliance with its operational responsibilities as set out in the services agreement, including providing safe working conditions, necessary tools, and workplace policies.

Moreover, in an EoR arrangement, the EoR, as the legal employer, is generally liable under the principle of vicarious liability for any torts or wrongful acts committed by the employee in the course of their employment. The client company, however, may become contractually liable if it agrees, for example through an indemnity clause, to assume responsibility for claims, damages, or liabilities arising from the employee's actions.

What is important, is that any arrangements between the EoR and the client company, are made in a way that the client company does not appear to exercise significant control or supervision over the employee's work and is not perceived as the true economic employer. Maintaining this distinction helps ensure that the client company is not exposed to reclassification risks under Cyprus employment law.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

Since the EoR model is not specifically regulated in Cyprus, authorities and courts will examine the substance of the employment relationship rather than relying solely on the contractual arrangements. If the client company exercises significant control over the employee's day-to-day work, it may be deemed the de facto employer. To mitigate this risk, the client company should avoid conducting performance evaluations, disciplinary actions, or other routine management tasks. At the same time, the EoR must ensure that it remains fully informed and up to date regarding the employee's work performance, disciplinary matters, and other day-to-day issues. This ensures that the EoR, as the registered legal employer, retains its formal supervisory and management responsibilities, making it clear that the client company does not maintain a substantive employment relationship and thereby reducing the risk of reclassification.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

In Cyprus, the EoR, as the formal legal employer, has the authority to terminate the employment contract because it is the entity that enters into the employment agreement with the employee and is responsible for complying with local employment laws.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

The engagement of an EoR means that the employee is legally employed by the EoR rather than the client company. If the employees engaged through the EoR do not carry out profit-generating activities for the client company and do not act on its behalf in a manner that generates revenue, there is no risk of a permanent establishment or other tax liabilities in Cyprus. To mitigate such risks, employees engaged by an EoR should perform only supportive or operational tasks and must not have authority to bind the client company. Major contracts should be negotiated and executed outside Cyprus, and all responsibilities should be clearly documented to demonstrate that the employees do not exercise final decision-making authority on behalf of the client company.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

The EoR, as the employer of the employees, is obligated to comply with the provisions of Safety and Health at Work Laws of 1996–2020. Any breach of these obligations can result in criminal liability for the EoR. This risk is particularly high for the EoR, as they do not have direct knowledge of the specific work environments and associated risks faced by their employees. To mitigate this risk, the EoR must have a comprehensive understanding of the employees' work environments, the nature of their work, and the potential hazards involved. This knowledge is essential to ensure compliance with the requirements of the Occupational Health and Safety Law and its Regulations.

Czech Republic

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1) Is the Employer of Record (EoR) model recognised under local law?

No. There is currently no legislation in the Czech Republic governing the concept of "Employer of Record" (EoR) and the EoR model has no direct equivalent under Czech law. The Czech Labour Code recognises two methods by which an employee may be temporarily assigned to perform work for another employer (user entity), namely:

1. "**agency employment**" through a licensed employment agency, which employs individuals for the purpose of their work for a user entity. Agency employment is provided for remuneration paid by the user entity to the employment agency.
2. "**temporary assignment**" of an employee to another employer based on agreement on temporary assignment. An employer may temporarily assign its employee to another employer only after 6 months from hiring. Remuneration for the assignment cannot be provided (only cost reimbursement is allowed).

Probably the closest equivalent to the EoR model is agency employment. However, the Czech agency employment model differs from the EoR model in several material respects:

- The agency must hold a specific licence issued by the Czech Labour Ministry;
- The arrangement is specifically designed for temporary allocation of workers by the agency to a user entity — it is not designed for a permanent or long-term primary employment relationship by the user employer;
- The agency employer is the legal employer, and the user entity exercises day-to-day direction and management, but strict conditions apply to equality of treatment, and the arrangements are strictly regulated;

As a general rule, the employment agency may not temporarily assign the same employee for performance of work to the same user for a period longer than 12 consecutive calendar months (subject to exceptions).

2) What is the legal regime applicable to EoRs under local law?

As noted in Question 1, there is no specific legal framework for EoR in the Czech Republic; the closest equivalent is the concept of agency employment. The relationships that are connected to it are between:

- Employment agency and employee - The relationship is governed by standard employment contract. The employment agency assigns the employee to user entity based on written instruction the minimum content of which is defined by the law.
- Employment agency and user entity – The relationship is governed by a written agreement on the temporary assignment of agency employees. The agreement has to specify the employee to be temporarily assigned to the user entity and the work to be performed by such employee, the place of work, duration and starting date of placement with the user entity and information on work and salary conditions of an employee of the user performing same work as the employee to be placed with the user entity, terms of termination of the employee placement with the user entity and number and date of the decision on granting the licence to the employment agency to act as an employment intermediary.
- User entity and employee – No direct legal contractual relationships exist between user entity and employee. The legal regulation of agency employment is primarily governed by Sections 307a et seq. of the Czech Labour Code and Act No. 435/2004 Coll., the Employment Act.

The agreement on the temporary assignment of an agency employee concluded between the employment agency and the user entity is entered into under Czech Civil Code; however, its substantive and formal requirements are governed by the Labour Code.

3) Who is responsible for payroll, tax withholding, and social security contributions?

In the case of agency employment, employee enters into an employment contract directly with the employment agency, which is the employee's legal employer. The employee is subsequently only temporarily assigned to perform work for another user entity; however, the responsibility for the payment of wages, the withholding of taxes, and the payment of social security contributions rests directly with the employment agency.

4) What is the client company liable for when engaging a local EoR?

In the case of agency employment, the "user entity" assigns tasks, organises, manages and controls work, gives instructions, creates favourable working conditions and ensures occupational safety and health, while being prohibited from making legal acts on behalf of the agency;

- The employment agency and the user entity must ensure that the assigned employee´s working and wage conditions are not worse than those of a comparable user employee; if conditions are worse, the agency must ensure equal treatment and the employee may seek redress from the agency.
- If the agency compensates the employee for damage incurred while performing tasks for the user entity, the agency has a statutory right to be compensated by the user entity (unless agreed otherwise).

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

The user entity may not perform legal acts on behalf of the employment agency as the formal employer, such as implementing formal changes to the terms and conditions of employment or issuing notices of termination.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

In the case of agency employment, only the employment agency, as the employee's formal (legal) employer, may terminate the employment relationship with the employee. As noted above, the user entity is not authorised to act legally on behalf of the employment agency and therefore cannot terminate the employment relationship of an employee assigned to it.

The temporary placement of the employee by the employment agency to the user entity may terminate prior to the expiry of the agreed period for which the employee was assigned to the user entity by termination of the underlying employment relationship, by a unilateral declaration of either the user entity or the temporarily assigned employee if such possibility was agreed in the agreement between the employment agency.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

The use of agency employment or assignment structure does not automatically eliminate risk of creating a permanent establishment (PE) in the Czech Republic.

Substance prevails over form: if the foreign entity, which is regarded as Czech tax non-resident, effectively controls the assigned employees, conducts business through them, or grants them authority to conclude contracts on its behalf, which is habitually exercised, a PE may still arise regardless of the formal employment structure. Other cases, when PE might arise (regardless of the structure) is existence of a fixed place of business (such as a construction site or an office) of the foreign entity being a tax non-resident in the Czech Republic, or provision of services by the aforementioned foreign entity in the Czech Republic.

For this reason, an analysis of the applicable double tax treaty between the Czech Republic and the country of the foreign client company together with the Czech tax law, is essential, as the definition of PE, service PE clauses and relevant thresholds vary from treaty to treaty.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

Czech law allocates workplace control to the entity actually running the workplace day to day. In the case of agency employment, the user entity ensures favourable working conditions and ensuring safety and health protections at the workplace.

If a temporarily assigned employee sustains an occupational injury, such employee shall claim compensation for the occupational injury against the employment agency as their employer. The employment agency may subsequently assert a right of recourse (regress) against the user entity.

Denmark

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1) Is the Employer of Record (EoR) model recognised under local law?

Danish employment law does not specifically regulate Employer of Record (EoR) models, and very limited case law addresses it. Whether an EoR will be recognised as the legal employer has therefore been a matter of debate.

The Danish Supreme Court provided some guidance in a judgment of 6 November 2024, albeit concerning bankruptcy law.

The case concerned a pilot engaged through an EoR - whose business was leasing flight crew to airlines - who sought to claim outstanding salary from the Employees' Guarantee Fund (in Danish: "Lønmodtagernes Garantifond", LG, a fund which covers lost wages, etc. for employees whose employer goes bankrupt) following the client airline's bankruptcy. LG refused, as the pilot had not demonstrated that the airline was his employer.

Under the arrangements, the pilot had contracted with the EoR but underwent training with and worked according to the schedules and rules of the airline. He received pay slips from the EoR, and the EoR's obligation to pay his salary was expressly contingent on receiving payment from the airline. The EoR terminated his contract immediately upon the airline's bankruptcy, as was permitted under the contract.

The Danish Supreme Court held that the pilot performed his duties pursuant to his EoR agreement, received salary and pay slips from the EoR, and that no circumstances provided sufficient basis to establish that the airline company should be regarded as his de facto employer.

The judgment indicates that the Danish courts will not necessarily disregard a setup where the EoR is the formal employer and performs the primary employer functions. However, as the case arose in a bankruptcy context, it remains to be seen whether the same outcome would follow in a direct employment law dispute.

2) What is the legal regime applicable to EoRs under local law?

As Danish employment law does not specifically regulate the EoR model, it is primarily governed by the employment contract between the EoR and the employee, the agreement between the EoR and the client company, and Danish employment law in general.

Depending on the circumstances of the EoR setup, there is a risk that the Danish Act on Temporary Work Agencies (in Danish: "vikarloven") may apply. If so, the EoR must ensure that employees supervised by the client company enjoy at least the same terms and conditions as they would if they were directly employed by the client company and must provide information on such terms upon request. Further, the client company must inform the employees of vacancies and ensure they have access to the same facilities as its own staff.

In addition, there is the above-described risk that the client company may be considered the de facto employer. If so, the employees may raise any employment law claims against the client company instead of the EoR.

Finally, although the EoR is the formal employer, questions may arise as to whether contractual clauses relating to IP rights, confidentiality, and restrictive covenants protect the EoR or the client company. These clauses should therefore always be carefully drafted.

3) Who is responsible for payroll, tax withholding, and social security contributions?

As a clear starting point, assuming the EoR structure is not challenged, the EoR, as the contractual employer, is responsible for all formal employer obligations, including payroll, tax withholding, and social security contributions. The agreement between the EoR and the client company may, however, allocate liability between the parties in the event of non-compliance.

4) What is the client company liable for when engaging a local EoR?

Assuming the EoR structure is not challenged, the client company's liability is determined principally by its contract with the EoR, including most notably payment to the EoR for its services. The client company may also retain liability under the Danish Working Environment Act to the extent it organizes and supervises the employee's day-to-day work (see question 8).

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

In the Supreme Court judgment described above, the Court found that the client company was not the formal employer despite the pilot being subject to its training, instructions, and procedures. A partial delegation of the managerial authority was considered necessary to carry out the work and was expressly regulated in the pilot's agreement with the EoR.

Whether a delegation of managerial rights results in the client company being reclassified as the de facto employer depends on a case-by-case assessment. The client company should therefore limit its operational day-to-day management to reduce this risk.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

As the employment contract is entered into between the EoR and the employee, the formal authority to terminate the employment lies with the EoR. The underlying agreement may, however, permit the client company to instruct the EoR to terminate an employee.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

The EoR concept is not legally defined under Danish tax law, and the Danish tax authorities have issued no specific guidance, although the model is used in practice in Denmark. The structure somewhat resembles the Danish temporary work agency model, where the agency is the formal employer and the user company directs the day-to-day work. Provided the EoR genuinely performs the formal employer functions, this characterization should generally be sustainable for Danish tax purposes. However, a reclassification risk cannot be excluded. In particular, the Danish Tax Council's decision in SKM2021.451.SR shows that, where an arrangement is, in substance, designed for workers to perform services on employee-like terms for the user company, the EoR may not be recognised as the rightful employer.

If the user company has no Danish legal entity, reclassification may also create a risk of a Danish permanent establishment, depending on the worker's functions and whether they form an integral part of the user company's core business in Denmark, including from a home office.

As the EoR is typically contractually responsible for Danish payroll, withholding tax (A-skat), labour market contribution (AM-bidrag) and social security contributions, the user company should not generally have direct exposure for these obligations. Any residual risk would mainly arise if the EoR fails to comply, for example due to insolvency or non-payment, in which case the Danish tax authorities may seek recovery from the user company as the economic employer.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

Under the Danish Working Environment Act, the employer must ensure a healthy and safe working environment. While the EoR is the formal employer, working environment obligations attach primarily to the entity that actually organises, plans, and supervises the work. In many EoR arrangements, this may likely be the client company, meaning it may bear these obligations regardless of the EoR's status as formal employer.

England

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1) Is the Employer of Record (EoR) model recognised under local law?

In the UK, there is no statutory definition of an EoR. Instead, arrangements are assessed based on contractual principles (i.e. who the contractual employer is) and employment law tests to determine who is the true employer in practice.

2) What is the legal regime applicable to EoRs under local law?

The EoR is the contractual employer and would employ and pay the individual and the client company would be the one exercising day-to-day supervision and control over the employee. This creates a triangular relationship, which UK is well used to for example with agency worker arrangements.

3) Who is responsible for payroll, tax withholding, and social security contributions?

The EoR. However, the services agreement with the client company may allocate cost risk relating to these items.

4) What is the client company liable for when engaging a local EoR?

The client company's primary liabilities include paying service fees and reimbursing employee-related costs (e.g. salary, benefits, taxes and social security contributions). It may also indemnify the EoR for liabilities arising from its instructions or decisions (e.g. employment claims).

However, liability cannot be fully excluded as against the employee, who may bring claims against the EoR and/or the client company (e.g. if deemed the employer or in discrimination cases).

The client company must also comply with its operational obligations under the services agreement, such as providing a safe working environment, necessary tools and applicable policies.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

UK courts look beyond labels to the substance of the relationship, considering factors such as control, integration, and mutuality of obligations. While the EoR will usually be treated as the legal employer where the documentation and operation align, there is a risk of dual or deemed employment if the client company exercises significant control and the EoR is effectively acting as a payroll provider.

EoR arrangements can resemble agency worker models, so the Agency Worker Regulations 2010 may apply, giving workers equal treatment rights after 12 weeks. While not identical, tribunals may look at substance over form and draw parallels.

Enforceability of confidentiality, intellectual property (IP) and post termination restrictions depends on who is the true employer and how the arrangement operates in practice:

- Confidentiality: The EoR employment contract should cover the client company's group and ideally include a direct confidentiality undertaking (or third party rights) in favour of the client.
- IP: IP created by the employee vests in the EoR under English law, so the services agreement should include an assignment to the client company.
- Post termination restrictions: These must protect the employer's legitimate interests. In EoR models, enforceability may be weaker as the EoR is the legal employer, but the client holds the real commercial interest that needs protecting.

From a UK immigration perspective, the EoR must carry out right to work checks and, where required, act as the sponsor. The Home Office will focus on whether the EoR has genuine oversight and compliance, even if day to day work is performed elsewhere.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

The EoR, as legal employer, has the ultimate right to terminate and bears primary statutory obligations (e.g. unfair dismissal and notice). In practice, commercial control often sits with the client company, which instructs the EoR to remove the employee, with the EoR then implementing its formal termination process.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

Use of an EoR can create permanent establishment (PE) and other tax risks, but this depends on the factual working arrangements:

- PE risk: May arise if the employee effectively acts for the client company (e.g. habitually concluding contracts or generating business in the UK) or if the client has a fixed place of business.
- Substance over form: Tax authorities will assess the arrangements in practice, not just the EoR structure.
- Other risks: In addition to potential exposure to UK corporation tax, other risks include employer tax obligations or transfer pricing scrutiny. EoR structures may fall within 'umbrella company' rules introduced in April 2026, which can result in a client company being liable for tax and social security liabilities of employees supplied by an umbrella company.

Proper structuring and limiting the employee's authority can help mitigate these risks. The impact of the umbrella company rules should be considered in respect of EoR structures.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

Health and safety duties are shared, but primary responsibility typically sits with the client company, which controls the workplace and activities, while the EoR focuses on pre-placement checks and ensuring safeguards are in place.

Estonia

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1) Is the Employer of Record (EoR) model recognised under local law?

The concept of EoR is not specifically addressed under Estonian law, but any arrangement under which the employee is employed by one entity and performs duties under the supervision of a different legal entity can be classified as temporary agency work under Estonian law. The EoR, as the recorded employer, is deemed temporary agency, while the client of the EoR qualifies as a user undertaking. Although the definition of "temporary agency work" refers to the limited-time nature of the arrangement, no statutory maximum period has been established under law and the arrangement can therefore also be long-term.

2) What is the legal regime applicable to EoRs under local law?

The EoR is treated as the legal employer of the employee. The structure is accepted by authorities as long as the EoR entity fulfils all statutory employer obligations under existing labour, tax, and social insurance laws.

3) Who is responsible for payroll, tax withholding, and social security contributions?

The EoR is responsible for payroll, tax withholding, and social security contributions.

4) What is the client company liable for when engaging a local EoR?

Under Estonian law the client company is deemed to be the user undertaking and as such, is liable for ensuring safe working conditions for the temporary agency employees (employees of the EoR) under occupational health and safety regulations together with the EoR. In case the employees of the EoR are non-EU/EEA nationals working in Estonia under residence permits or short-term employment registration, the client is also liable for ensuring that their immigration status allows them to work in Estonia.

Estonian law does not explicitly stipulate any other client company obligations. In practice, the client company would also have contractual liability for performance of the obligations stipulated in the agreement with the EoR.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

Since the EoR model is not specifically regulated in Estonia, there is no explicit regulation on this. As there is no contractual relationship between the EoR employees and the client company, the client company would not have formal authority to exercise the employer's rights vis-à-vis the employees apart from providing work instructions to the EoR employees and supervising their work. In practice, parties could agree that employee evaluations are carried out by the client company and reclassification risk would not arise for this. However, if there is a need to apply legal measures with respect to the EoR employees, only EoR would be authorized to do this.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

The EoR as the formal legal employer has the authority to terminate the employment contract.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

The engagement of an EoR means that the employee is legally employed by the EoR rather than the client company. If the employees engaged through the EoR do not carry out profit-generating activities for the client company and do not act on its behalf in a manner that generates revenue, there is no risk of a permanent establishment or other tax liabilities in Estonia. To mitigate such risks, employees engaged by an EoR should perform only supportive or operational tasks and must not have authority to bind the client company.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

Although the client company is also liable for ensuring safe working conditions for the EoR employees under Estonian law, the EoR as the employer also remains fully liable for the same. Any breach of these obligations can result in liability for the EoR (as well as the client company). This risk is particularly high for the EoR, as they do not have direct knowledge of the specific work environments and associated risks faced by their employees. To mitigate this risk, the EoR must have a comprehensive understanding of the employees' work environments, the nature of their work, and the potential hazards involved. It is also advisable to address the liability for occupational health and safety issues in the agreement between the EoR and the client and to ensure that the relevant liabilities are clearly covered and allocated in the internal relationship between the parties.

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1) Is the Employer of Record (EoR) model recognised under local law?

The EoR model has not been explicitly recognised or regulated under Finnish law. However, the arrangement is generally recognised, and employees engaged through EoRs typically qualify as leased employees (i.e. agency employees).

Labour leasing is permitted in Finland, and there are no statutory restrictions on the use of leased employees. Any employer may, with the employee's consent, assign the employee to work under the supervision and direction of a client. In such a case, the right to direct and supervise the work is transferred to the client, together with the employer obligations directly related to the performance of the work and its arrangement, while all other employer obligations remain with the actual employer.

2) What is the legal regime applicable to EoRs under local law?

In principle, the same labour law provisions that apply to other employment relationships also apply to agency work and, consequently, to EoR arrangements. The Employment Contracts Act (55/2001) is the primary source of law, but other employment-related legislation equally applies to EoR employees. In addition, an EoR may have the obligation to apply a collective bargaining agreement applicable to its own or the client's sector under the same conditions as other employers and staffing agencies.

3) Who is responsible for payroll, tax withholding, and social security contributions?

When an employee is engaged to the client company through an EoR, the formal employer of the employee is the EoR. Therefore, all obligations relating to payroll, tax withholdings and social security contributions and related reporting obligations are on the EoR.

4) What is the client company liable for when engaging a local EoR?

The employer obligations that are directly related to the performance of the work and its organisation are transferred to the client company. Furthermore, the client company is obliged to provide the EoR with the information that it needs to fulfil its employer obligations. Such information may include, among other things, details of hours worked, rest periods and their scheduling, a description of the key terms and conditions of employment.

As regards pay transparency, reporting obligations rest with the EoR as the legal employer. However, where the client company in practice determines the employee's salary, the client must also ensure compliance with equal pay requirements under the EU Pay Transparency Directive and Finnish law.

As the legal employer, the EoR would as a rule be primarily liable for damages caused by the employee to third parties in the course of their employment. In practice, however, the EoR agreement typically provides that the client company bears such liability.

The client company's liabilities towards the EoR are determined in the service agreement between the parties. Typically, the client is liable for the payment of the agreed service fees and reimbursement of employee-related costs to the EoR, and EoRs commonly pass all costs related to the employee, including termination costs, through to the client company, meaning that the client ultimately bears those costs.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

When an employee is assigned to a client company, the right to direct and supervise work, together with the employer obligations directly related to the performance and arrangement of the work, transfers to the client company. Accordingly, the client company is entitled to provide day-to-day instructions, feedback, and guidance on work performance. However, the EoR, as the actual employer, is responsible for conducting all discussions with the employee related to the terms of employment and the termination of employment (including related formal disciplinary acts). As a general rule, issuing a warning is a legal prerequisite for dismissal on personal grounds, and must be carried out by the EoR. If core employer functions belonging to the EoR, such as payroll administration or the issuance of formal warnings are effectively assumed by the client company, there is a risk that the arrangement will be reclassified as a direct employment relationship between the client company and the employee.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

The EoR as the employer holds solely the right to terminate the employment contract.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

The use of an EoR does not eliminate the risk of permanent establishment (PE) for the client company. There is no published tax case law or Finnish Tax Administration guidance specifically addressing the PE implications of an EoR structure, but guidance states that leased employees can create a permanent establishment for the client. Accordingly, clients should undertake a PE risk assessment before engaging employees through an EoR in Finland.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

In an EoR arrangement, occupational health and safety responsibilities are shared between the EoR and the client company. The EoR, as the formal employer, is responsible for general employer obligations, such as arranging occupational health care services and maintaining statutory insurance coverage.

The client company is responsible for workplace safety during the performance of work and for ensuring safe working conditions. Accordingly, the client company is responsible for those occupational health and safety measures that relate to the work environment under its control and to its exercise of managerial and supervisory authority. In particular, the client company is responsible for providing safe working conditions, work instruction and induction, and supervision of safe working practices. In the allocation of responsibility, actual control over the performance of work is more significant than formal employer status alone. Consequently, the client company cannot transfer its occupational health and safety responsibilities in their entirety to the EoR through contractual arrangements.

France

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Preamble – definition

An Employer of Record (EoR) is a legal entity that formally employs a worker and assumes all statutory obligations attaching to the status of employer — including payroll processing, income tax withholding, social contribution remittance, and disciplinary authority — while the economic benefit of the worker's services flows to a third-party client company (the "client"), which directs the worker's day-to-day activities within the scope of a separate commercial arrangement concluded with the EoR.

The EoR model rests on a structural dissociation between legal employment (de jure), vested in the EoR, and economic direction (de facto), exercised by the client. This tripartite structure distinguishes the EoR from a standard bilateral employment relationship and places it in proximity to temporary staffing and employee secondment, while remaining conceptually distinct: the EoR acts primarily as a compliance vehicle enabling a client to engage workers in a jurisdiction where it has no registered presence, without itself acquiring the status of employer under local law.

1) Is the Employer of Record (EoR) model recognised under local law?

The EoR model is not expressly recognised as such under French law. It can be operated through two existing legal frameworks: temporary staffing (*travail temporaire*, Articles L.1251-1 et seq. of the Labour Code) and employee secondment (*portage salarial*, Articles L.1254-1 et seq. of the Labour Code). Outside these frameworks, any for-profit tripartite arrangement whereby a company places workers at the disposal of a client is prohibited as unlawful provision of labour (*prêt illicite de main-d'œuvre*, Articles L.8241-1 et seq.), a criminal offence under French law. In practice, international EoR providers operating in France most commonly rely on the portage salarial framework, which is the closest legally recognised model.

2) What is the legal regime applicable to EoRs under local law?

The applicable regime depends on the framework used. Under portage salarial, the EoR must be a specifically authorised company holding a financial guarantee. The worker (the porté) is employed under a fixed-term or open-ended employment contract; the EoR concludes a service agreement with the client. The worker must be a qualified professional capable of sourcing their own assignments. The sector collective bargaining agreement (*Convention collective nationale du portage salarial* of 22 March 2017) applies and sets minimum remuneration thresholds. Temporary staffing is a more rigid alternative — subject to a closed list of permissible grounds for engagement and a maximum permitted duration — and is seldom used for international EoR arrangements.

3) Who is responsible for payroll, tax withholding, and social security contributions?

The EoR, as legal employer, bears full responsibility for: payroll processing and payment of wages; withholding and remitting income tax at source (*prélèvement à la source*) to the DGFiP pursuant to Articles 204 A et seq. of the French General Tax Code; calculating, declaring, and paying all employee and employer social security contributions to URSSAF, pension funds, unemployment insurance (France Travail), and complementary health insurance; issuing payslips compliant with French law; and filing periodic payroll declarations via the *Déclaration Sociale Nominative* (DSN) system. The client company bears no direct obligation to French payroll authorities with respect to the EoR's employees, unless joint and several liability is triggered.

4) What is the client company liable for when engaging a local EoR?

Under French law, the client company may incur three categories of liability. First, joint and several liability for wages and social contributions (*solidarité financière*): under Articles L.8222-1 et seq. of the Labour Code, the client must verify at contracting and every six months thereafter that the EoR is compliant with its social and tax obligations; failure to do so may expose it to joint liability for unpaid contributions or undeclared workers. Second, responsibility for the working conditions of the assigned worker during the assignment, including health and safety and non-discrimination obligations. Third, reclassification risk: if the arrangement does not comply with the applicable legal framework, French courts may requalify the relationship as a direct employment between the worker and the client, with all associated financial consequences (back pay, social contributions, dismissal indemnities).

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

This is a particularly sensitive area under French law, where the existence of an employment relationship is determined by the existence of a subordination relationship (*lien de subordination*), regardless of how the arrangement is labelled. Under the portage salarial framework, the EoR retains formal disciplinary authority. The client may direct the worker's day-to-day activities within the scope of the assignment — which is inherent to the model — but formal disciplinary measures (written warnings, sanctions, and dismissal) must be initiated and carried out exclusively by the EoR in accordance with the Labour Code (Articles L.1332-1 et seq.). Any direct exercise of disciplinary authority by the client constitutes evidence of a direct employment relationship and triggers reclassification risk. Performance feedback transmitted by the client to the EoR for assignment management purposes is permissible, provided the EoR alone formally acts on it.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

The EoR, as legal employer, holds exclusive authority to terminate the employment contract. Any dismissal must comply with French law requirements: a legitimate ground (personal or economic), the mandatory pre-dismissal procedure (invitation to a pretermination meeting, cooling-off period, notification by registered letter), and payment of applicable notice, dismissal indemnity, and accrued paid leave compensation. Early termination of the service agreement by the client does not automatically entitle the EoR to dismiss the worker, unless this constitutes a real and serious cause for dismissal. Any attempt by the client to terminate the employment relationship directly would be treated as a dismissal without cause, exposing both parties to significant liability.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?
Potentially — it all depends on the scope of the employee's activities. The use of an EoR in France may create permanent establishment (PE) risk for the foreign client, both under French domestic tax law and applicable tax treaties, particularly where the employee has authority to conclude contracts in the client's name (agency PE) or uses a fixed place of business in France at the client's disposal (fixed-place PE). France follows the OECD Model Tax Convention, and the 2017 MLI further expanded the agency PE definition. A compliant EoR structure does not automatically shield the client from PE risk: the substance of the worker's activities and authority are determinative. A case-by-case PE risk analysis is strongly recommended before engaging an EoR in France. If the EoR arrangement is requalified as a direct employment relationship, the client may additionally become liable for French payroll taxes and social contributions.

8) How are health and safety obligations allocated between the Employer of Record and the client company?
Health and safety obligations are shared, with primary operational responsibility resting with the client company during the assignment. The client must conduct a workplace risk assessment (*document unique d'évaluation des risques* — DUER), provide workstation-specific health and safety training, ensure compliance with applicable regulations during the assignment, and notify the EoR immediately of any workplace accident. The EoR, as legal employer, retains overall responsibility for ensuring that workers are not placed in situations that compromise their health. It is responsible for occupational health monitoring — including mandatory medical visits through the relevant occupational health service — and for managing work accident declarations to CPAM. This allocation is confirmed by Articles L.1254-17 et seq. of the Labour Code.

Germany

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1) Is the Employer of Record (EoR) model recognised under local law?

The Employer of Record (EoR) model is not expressly regulated under German law. However, it is generally permissible provided that the relevant labor, social security, and tax laws are complied with.

In practice, the Employer of Record assumes the role of the formal employer and enters into the employment contract with the employee and takes care of administrative duties. However, the employee regularly performs work for another company (client company), which manages the day-to-day work and issues professional instructions.

Depending on the specific structure, an EoR model may be classified as temporary employment within the meaning of the German Temporary Employment Act (AÜG). The decisive factor here is not merely the contractual designation of the model, but rather its actual implementation. If the client company performs essential employer functions and the employee is integrated into its operational organization, this generally indicates temporary employment.

If the German Temporary Employment Act applies, the statutory requirements for temporary employment must be complied with, including the requirement for a valid temporary employment permit.

2) What is the legal regime applicable to EoRs under local law?

Since the Employer-of-Record model is not specifically regulated by law, its legal assessment is based on the general provisions of labor law, social security law, and tax law.

Of particular importance are:

- the German Civil Code (BGB),
- the German Protection Against Unfair Dismissal Act (KSchG),
- the Part-Time and Fixed-Term Employment Act (TzBfG),
- the Working Hours Act (ArbZG),
- the Federal Vacation Act (BUrlG),
- the Social Code (in particular SGB IV),
- the Income Tax Act (EStG),
- and—in cases involving temporary agency work—the Temporary Employment Act (AÜG).

In addition, depending on the industry, collective bargaining agreements and works constitution regulations—in particular the works council's participation rights—may need to be taken into account.

Whether the AÜG applies depends largely on the actual implementation of the contractual relationship and the distribution of employer functions between the employer-of-record and the client company. The classification is always based on the circumstances of the individual case.

3) Who is responsible for payroll, tax withholding, and social security contributions?

In principle, the Employer of Record, as the formal employer, is responsible for proper payroll processing, the withholding and remittance of income tax, and the registration and payment of social security contributions.

The Employer of Record also serves as the point of contact for tax authorities and social security agencies and must fulfill all statutory reporting and documentation obligations.

Internally, costs and financial risks may be contractually transferred to the client company. However, the Employer of Record remains generally responsible to the authorities for fulfilling the employer's legal obligations.

4) What is the client company liable for when engaging a local EoR?

The scope of liability depends on the specific terms of the contract and the actual implementation of the model.

If temporary employment is involved, the client company is subject, in particular, to obligations under the German Temporary Employment Act (AÜG). If it uses an Employer of Record without the required temporary employment permit, it faces fines and other labor and liability law consequences. Furthermore, under certain conditions, an employment relationship may be deemed to exist directly between the employee and the client company.

In addition, the client company has regular occupational safety and health obligations toward the assigned employees. Depending on the circumstances, liability risks under social security or tax law may also arise, particularly if authorities assess the actual implementation of the model differently than the contracting parties.

Careful contract drafting and a clear allocation of the respective employer responsibilities are therefore of considerable practical importance in order to minimize liability risks.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

Legally, the Employer of Record should perform the essential employer functions. These include, in particular, personnel decisions, performance reviews, written warnings, labor law measures, and terminations.

In practice, the client company often assumes responsibility for the professional management of employees, for example by providing work instructions regarding daily tasks, performance goals, or work organization. This is generally permissible and consistent with the typical use of an EoR model.

However, the more the client company exercises all employer functions itself, the greater the risk that authorities or courts will classify the arrangement as temporary employment or even as a disguised employment relationship with the client company. Personnel measures with legal implications must then be carried out by the client company and should generally be closely coordinated with the Employer of Record.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

Since the Employer of Record is the legal employer, it is authorized to terminate the employment relationship. In case of a disguised temporary employment, the client company should (additionally) terminate the contract.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

The use of an Employer of Record does not automatically rule out tax risks.

Whether a permanent establishment is established for tax purposes depends on the actual circumstances of the individual case. Key factors include, in particular, the nature of the work performed, the scope of the decision-making authority of the assigned employees, and whether they are authorized to conclude contracts on behalf of the client company or to play a significant role in preparing them.

In addition, issues related to income tax and social security law may arise, particularly in the case of cross-border employment relationships or long-term work in Germany.

The tax assessment is made independently of the employment law classification of the EoR model. Companies should therefore seek both employment law and tax law advice before implementing such a model.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

Responsibility is typically shared between both parties.

As the legal employer, the Employer of Record remains fundamentally responsible for fulfilling general occupational safety and health obligations. These include, in particular, training, documentation requirements, and compliance with statutory employer obligations.

The client company, on the other hand, is generally responsible for the actual working conditions at the worksite. In particular, it must ensure a safe workplace, conduct risk assessments, implement appropriate protective measures, and comply with occupational safety and health regulations in day-to-day operations.

The specific division of responsibilities should be clearly defined in the contract. Regardless of this, both parties remain obligated to cooperate closely in the area of occupational safety and health.

Ireland

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1) Is the Employer of Record (EoR) model recognised under local law?

No, Irish law has not formally recognised the concept of an EoR. While such EoR arrangements are used in practice and, over the past number of years, have become more common, they are not governed by a specific statutory framework and have not been considered by the Irish courts. This means there is uncertainty as to how these arrangements will be classified and to what extent (if any) EoR clients will be insulated from employer obligations.

2) What is the legal regime applicable to EoRs under local law?

There is no standalone legal regime for EoRs in Ireland. Therefore, the general body of Irish employment, social security, and tax legislation applies to any such EoR arrangement.

While Irish law does not recognise the concept of an EoR, in practice, the services offered by an EoR are similar in nature to employment agencies. If, as anticipated, the Irish courts were to consider EoRs as a form of employment agency, a number of rights and obligations would automatically flow from such a classification:

- EoR arrangements would be governed by the Protection of Employees (Temporary Agency Work) Act 2012 (the Act). This Act provides, amongst other things, that agency workers are entitled to the same basic working terms and conditions of employment (e.g. pay, overtime, working time, annual leave, public holidays, rest breaks.) as if they were directly employed by the company for whom they are working (i.e. the EoR's client).
- In addition, the EoR would be required to comply with certain statutory requirements, including the requirement to obtain a licence to operate as an employment agency where they have a premises in Ireland.

It is also likely that the Irish courts would apply the well-established tests used in the context of contractor misclassification to assess whether the employee is in practice (regardless of the contractual documentation in place) employed by the client company.

3) Who is responsible for payroll, tax withholding, and social security contributions?

As the legal employer, the EoR is responsible for ensuring compliance with all applicable Irish legislation, including employment, social security, and tax laws. This encompasses obligations in respect of payroll, tax withholding, and social security contributions. If, however, the employee was deemed to be an employee of the client company (notwithstanding the contract in place with the EoR), the client company could be held responsible for whatever consequences flow from that (e.g. complaint under working time or employment equality legislation).

4) What is the client company liable for when engaging a local EoR?

The extent of the client's liability will principally depend on and be governed by the terms and liability provisions set out in the particular service agreement with the EoR.

While client companies are not the legal employer, they must comply with a number of Irish employment law obligations as would be applicable to end users in an 'agency worker type arrangements' including providing employees with access to certain collective amenities (e.g. canteen) and informing them of any vacancies, protecting employees from any discriminatory treatment and ensuring a safe working environment.

Clients should be aware that, from an employment / tax perspective, there is a risk that – irrespective of how the arrangement is described on paper - the Irish tax authorities (or Irish courts, if a claim is brought by an employee), could deem employees to in fact be directly employed by the client, not the EoR. In such a case, the client could then become liable for all employment-related rights and obligations. This 'deemed employment risk' is increased (considerably) if clients play an active role in the recruitment and day-to-day management of such employees, which in our experience, is common.

We therefore advise clients to review contracts with EoRs carefully, to ensure there is an appropriate sharing/apportionment of risk.

Also, issues like data protection, intellectual property and restrictive covenants should be expressly dealt with in the client company contract with the EoR, and the contract with the individual employee, to ensure that the client company has sufficient protection.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

Responsibility for day-to-day employment matters, including annual leave approval, managerial reporting, and performance and conduct issues, is a matter for negotiation between the EoR and the client, and should be documented within the relevant service agreement.

As above, where the client exercises significant day-to-day control (including performance management, evaluations, and disciplinary matters), this increases the risk that the employee may be deemed an employee of the client company rather than of the EoR.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

As the legal employer, the EoR has the contractual authority to terminate the employment relationship.

Where the client directs or controls the decision to dismiss (as is often the case in practice), this may further support an argument that the client is the true employer, increasing the 'deemed employment risk'.

Note also that, even where the client company may not have been directly involved in or carried out the dismissal, employees would likely bring a claim against both the EoR and the client company.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?
Potentially, depending on the activities performed by the employee on behalf of the client company. We recommend specialist tax advice be sought in advance of entering into any such EoR arrangement (particularly in the case of senior individuals).

8) How are health and safety obligations allocated between the Employer of Record and the client company?
Under Irish health and safety legislation, health and safety obligations are imposed on both the legal employer (i.e. the EoR) and any person under whose control and direction a person works (i.e. the EoR's client).

In practice, assuming the employee principally works under the day-to-day direction of the client, the client will be required to ensure a safe working environment (which applies even where the employee works remotely, from home).

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1) Is the Employer of Record (EoR) model recognised under local law?

The EoR model is not recognized nor lawful in Italy.

The activity carried out by the EoRs is, actually, a staff supply (i.e., the EoR formally hires the employees which, however, perform their working activity in favor of a user company de facto exercising hierarchical and directive powers) and staff supply, in Italy, must be carried out only by agencies authorized by the Ministry of Labour (authorization granted upon the satisfaction of several statutory requirements).

The provision of staff supply by companies that are not authorized employment agencies is unlawful.

2) What is the legal regime applicable to EoRs under local law?

Please refer to question 1) above.

EoRs are considered as unlawful staff supply agencies.

3) Who is responsible for payroll, tax withholding, and social security contributions?

Since EoRs are unlawful staff supply agencies, the matter is not specifically regulated. That said, EoRs act de facto as formal employer / supply agency and therefore are primarily responsible for payroll, tax withholding, and social security contributions, but the client company will be jointly liable for payment of salaries and social security contribution, in compliance with ordinary rules concerning staff supply and contractors' employees (with regard to tax withholding please refer to point 7) below).

4) What is the client company liable for when engaging a local EoR?

Since EoRs carry out staff supply activities without being an authorized employment agency, both the EoRs and the client company that engaged the EoR may be sanctioned as follows:

a. criminal sanction consisting of either imprisonment for up to 1 month or a fine of Euro 72.00 for each employee and for each day of work. In any event, the fine may not be less than Euro 5,000.00 and may not exceed Euro 60,000.00. Where the unlawful arrangement involves the exploitation of minors, the penalty is imprisonment for up to 18 months and the fine may be increased by up to 6 times;

b. where the unlawful staff supply is carried out with the specific purpose of circumventing mandatory provisions of law or collective bargaining agreements applicable to the employee, criminal sanction consisting of either imprisonment for up to 3 months or a fine of Euro 100 for each worker involved and for each day of work. In any event, the fine may not be less than Euro 5,000.00 and may not exceed Euro 60,000.00.

In addition to the above, employees hired by the EoRs but carrying out their working activity in favor and under the direction and organization of a client company may seek the establishment of an employment relationship directly with the client company, effective from the commencement of the unlawful labour supply arrangement. Where the court determines that such an employment relationship exists, in addition to the establishment of the employment, it shall order the client to pay compensatory damages ranging from 2.5 to 12 monthly instalments. Action to seek the declaration of an employment relationship with the client company must be brought within 60 days from the date on which the employee ceased providing working activity to the client company.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

Please refer to question 1), 3) and 4) above.

The possibility of reclassification is an inherent risk associated with this EoR structure, since the employees are hired and supplied by an unauthorized company and provide their work activities on a de facto basis for a different employer (i.e., even if from a formal standpoint the employees evaluations, reprimand and day by day issues are handled by the EoR, the model will still be unlawful, if de facto the actual employer deciding on employees' evaluations, reprimands and so on is the client company).

6) Who has the authority to terminate the employment contract in an EoR arrangement?

Please refer to question 1) and 3) above.

Since the EoR model is unlawful and not regulated, we are unable to refer to a common rule.

That said, as a formal employer, the termination of the employment relationship should be handled by the EoR.

However, for the purposes of the time limit within which the employee may seek a declaration that an employment relationship exists with the client company, what matters is the date on which the employee actually stopped providing working activity to the client company (e.g., as a result of the client company terminating its contract with the EoR).

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

Please refer to question 1) and 3) above.

In principle, the risk of a permanent establishment of the client company in Italy exists, either in the form of a personal permanent establishment (where the employee – although formally employed by the EoR – acts in Italy on behalf of the foreign company and habitually exercise authority to enter into contracts, or plays a decisive role in the conclusion of contracts that are then formally approved by the foreign company without substantial modifications) or in the form of a physical permanent establishment (where the employee's residence is regarded as a "fixed place of business" of the foreign client).

As regards the withholding tax liability, since the EoR model is unlawful and not regulated, there is no recognised allocation of responsibilities between the Employer and the client company. However, based on general provisions of Italian tax law, the Italian EoR would maintain the duty to withhold - even where the sums are materially paid by the third party - while the foreign client company could be held liable for withholding taxes if it's deemed to have a permanent establishment in Italy.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

Please refer to question 1) and 3) above.

Since the EoR model is unlawful and not regulated, there is no formal allocation of responsibilities.

As long as the arrangements are not challenged, from a purely formal perspective the EoR, in its capacity as the formal employer, will be "responsible" for complying with health and safety obligations (e.g., communication to competent bodies, insurance obligations etc.).

However, responsibility will rest with the client company, as the de facto employer and as the entity having actual control over the workplace where the employees perform their duties and/or, in any event, knowledge of the activities carried out by the employee and a corresponding duty of care towards that employee.

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1) Is the Employer of Record (EoR) model recognised under local law?

Latvian law does not recognise EoR as a separate legal category or model. A conventional EoR arrangement, where the provider employs the individual and the client directs the daily work, normally qualifies as regulated workforce supply. Under the Labour Law and Section 17 of the Support for Unemployed Persons and Persons Seeking Employment Law, the workforce supply provider is the employer that assigns an employee for a specified period to work for the client's benefit and under its management. The substance of the arrangement, rather than its commercial label, is decisive. For the purposes of this document, the term "EoR" is used as a commercial label; unless otherwise stated, it should be understood as referring to a regulated workforce supply arrangement within the meaning of Latvian law.

Latvian law sets no general maximum assignment period. The employment contract with the EoR may be indefinite, but the assignment to the client should remain temporary and have an identifiable duration, end event or review date.

2) What is the legal regime applicable to EoRs under local law?

A Latvian EoR performing workforce supply must hold a State Employment Agency (NVA) licence covering service type 2. An EU provider authorised in its home Member State may use the statutory prior-notification procedure; where employees are posted to Latvia, the Latvian posting rules also apply. The employment contract must identify the employer as a workforce supply provider and require compliance with the client's procedures and instructions, insofar as they do not conflict with the EoR's instructions. The EoR must inform the employee in writing of the client before the assignment.

Assigned employees are entitled to the same basic working and employment conditions as comparable direct hires of the client, including pay, working and rest time, equal treatment and statutory protection for protected groups. They must be informed of vacancies, generally have equal access to common facilities and transport, and cannot be prevented from joining the client directly. The EoR may not charge the employee for its services. If employment continues between assignments, the EoR must pay at least the national minimum monthly wage proportionately for that period.

Practical tip: check the exact provider in the NVA's active and annulled licence registers and confirm that its licence covers service type 2, not merely recruitment. Review the employment contract, assignment notice and services agreement together.

3) Who is responsible for payroll, tax withholding, and social security contributions?

As employer, the EoR is responsible for employee registration, payroll, salary payments, personal income tax withholding, social security contributions, payslips and ordinary employer filings. The client should provide timely and accurate data on working time, absences, variable pay, expenses and benefits. The services agreement should allocate responsibility for late or incorrect data and permit verification of statutory payments. Cross-border cases require a separate social-security and posting assessment. For third-country nationals, the employer, occupation, workplace and assignment structure must also align with the immigration authorisation.

4) What is the client company liable for when engaging a local EoR?

Contractually, the client normally pays the service fee and reimburses salary, benefits, taxes and agreed employment costs. It must also ensure safe working conditions, inform the employee of vacancies and grant access to common facilities unless objectively justified otherwise. To enable equal treatment, the client should provide the EoR with accurate information on comparable remuneration and working conditions. The client may also be liable to the employee for losses caused during the assignment. Indemnities may allocate commercial risk but cannot exclude mandatory duties or separate immigration, data-protection, regulatory and tax exposure.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

The client may direct daily work, set priorities, monitor performance and provide feedback. This operational management is an express feature of the Latvian model and does not itself cause reclassification. Formal employer decisions remain with the EoR. Contract amendments, salary changes, formal leave decisions, written reprimands, suspension and dismissal should be decided and documented by the EoR after reviewing the client's information and evidence. A written responsibility matrix is advisable.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

Only the EoR, as contractual employer, may terminate the employment contract or conclude a termination agreement. The client may end the assignment or request removal, but this does not automatically create a lawful dismissal ground; this position is confirmed by Latvian case law. The EoR must independently identify a statutory ground and observe applicable procedure, notice, redeployment, consultation, protected-category, severance and final-payment rules. The services agreement should allocate resulting costs and information duties.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

Using an EoR does not automatically create a permanent establishment, but it does not eliminate the risk. The analysis depends on the employee's activities, duration and workplace, available premises, core business functions and authority to negotiate or conclude contracts. Latvian law and the applicable double-tax treaty must be reviewed. Particular caution is required for country managers, senior sales staff, signatories and long-term local teams. VAT, transfer-pricing, regulated-activity and registration issues may also arise.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

During the assignment, the client has the express duty to ensure safe and healthy working conditions at the workplace, except that mandatory health examinations remain the EoR's responsibility. The client should assess risks, provide instructions, training, equipment and personal protective equipment, and report accidents or material risk changes. The EoR should arrange health examinations, verify qualifications and fitness, maintain records and coordinate accident reporting and investigation. The parties should exchange written risk and safety information before work starts, including for remote work.

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1) Is the Employer of Record (EoR) model recognised under local law?

In principle, the EoR model is not expressly regulated under Lithuanian law. However, based on its typical structure, it most closely resembles temporary agency work, which is a specifically regulated form of employment. For an EoR to operate in Lithuania, it would need to be included in the official list of temporary work agencies maintained by the State Labour Inspectorate, subject to confirmation of compliance with the relevant statutory criteria.

For the purposes of this analysis, the term "EoR" is used throughout for ease of reference, although the assessment is based on the Lithuanian legal framework applicable to temporary work agencies. Accordingly, the information provided below assumes compliance of the relevant EoR arrangement with the applicable requirements of Lithuanian law.

2) What is the legal regime applicable to EoRs under local law?

In order to operate lawfully in Lithuania, an EoR would need to meet the applicable statutory requirements, including the obligation to be established in Lithuania and to be included in the official list of temporary work agencies maintained by the State Labour Inspectorate, subject to confirmation of compliance with applicable financial, management, and operational criteria. If such criteria are met, EoR is treated as the legal employer of the employee.

3) Who is responsible for payroll, tax withholding, and social security contributions?

As the legal employer, the EoR is responsible for payroll administration, tax withholding, and the payment of applicable social security contributions in accordance with Lithuanian law.

4) What is the client company liable for when engaging a local EoR?

The client company (user of temporary work) remains responsible for ensuring that assigned employees are granted the same essential working and employment conditions as the client's own employees, including working time, rest periods, overtime, holidays, equal treatment and anti-discrimination protections, as well as protections applicable to pregnant employees, employees with young children, and minors.

Before the employee starts work, the client company must inform the employee about the working conditions, work rules, and other legal acts regulating their work for the client company.

Even though the EoR is responsible for ensuring that the assigned employee receives remuneration not lower than that which would be paid by the client company to a comparable employee in the same position, the client company bears subsidiary liability for compliance with this equal pay obligation and, upon the EoR's request, must provide information regarding the remuneration paid to comparable categories of its employees.

The client company also has workplace health and safety obligations, including ensuring a safe working environment. Further, the client company must grant assigned employees' equal access to workplace facilities and amenities (such as canteens, rest areas, transport and childcare facilities) on the same terms as its own employees, unless different treatment is objectively justified. The client company must inform temporary employees about available job vacancies, specifying the job function and the requirements applicable to it.

In certain cases, the client company is additionally required to provide the employee representative body with information on the use of temporary agency workers within the organisation, including the number of temporary employees, positions and, if there are more than two employees in a position group, average remuneration by position group and gender.

The client company may also be liable for damage caused to the employee during the assignment.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

Under Lithuanian law, the EoR remains the formal employer, while the client company is entitled to direct and supervise the employee's day-to-day work. Accordingly, the client company may manage operational matters such as task allocation, supervision, performance monitoring, and day-to-day feedback without this in itself resulting in reclassification consequences.

However, formal employment actions – particularly disciplinary measures and termination of employment – should generally be implemented by the EoR as the formal employer, even if based on the client company's instructions or assessment.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

Under Lithuanian law, the authority to terminate the employment contract rests with the EoR as the formal employer. The client company may request that the assignment be ended or that the employee be recalled from the assignment, but it does not itself terminate the employment contract with the employee.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

The use of an EoR in Lithuania does not in itself create a permanent establishment (PE) for the client company. The assessment depends on the actual activities carried out in Lithuania rather than the formal structure. If the EoR acts as an independent employer and the client company does not carry out business activities in Lithuania, a PE should generally not arise. However, the risk increases where employees engaged via the EoR are effectively controlled by the client company and perform core, revenue-generating activities or act on its behalf, for example by negotiating or concluding contracts. In such cases, the arrangement may be viewed as the foreign company operating in Lithuania through a dependent agent or local presence, which could trigger a PE and corresponding corporate income tax obligations. By contrast, if employees perform only supporting functions and do not have authority to bind the client company, the PE risk is typically low. The EoR remains responsible for payroll-related taxes in Lithuania, while the client company generally has no direct local tax obligations, provided the structure is properly implemented and reflects its actual substance.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

In principle, the client company is responsible for ensuring safe working conditions at the workplace and must inform the employee about all potential risks, specify the professional qualifications or skills and health requirements, and clearly indicate any specific increased risks that may arise while performing this work.

An assigned employee may not start work at the client company before being informed of the applicable occupational safety and health legal requirements, including existing and potential risk factors and the specific use of protective measures against them, and before being instructed on how to work safely at the specific workplace, even if the employee has already been duly instructed on occupational safety and health matters at the EoR.

At the same time, the EoR, as the formal employer, retains general employer obligations in relation to occupational health and safety under applicable employment laws.

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1) Is the Employer of Record (EoR) model recognised under local law?

No. Luxembourg law does not recognise the Employer of Record (EoR) as a distinct legal concept.

The only authorised frameworks for triangular workforce arrangements under the Luxembourg Labour Code are temporary agency work, temporary provision of workforce, provision of services under a service agreement, as well as transnational secondments.

Any arrangement that does not fit within one of these frameworks and under which an employer places workers at the disposal of a client company who exercises managerial authority over the assigned employees constitutes an illegal provision of workforce.

The temporary agency work regime is structurally the closest equivalent in Luxembourg to an EoR model.

2) What is the legal regime applicable to EoRs under local law?

Four frameworks may approximate an EoR model:

1. *temporary agency work*; a licensed work agency acts as the sole employer and assigns workers to a client under a hiring-out agreement and a separate assignment contract, subject to ministerial authorisation and limited to non-permanent tasks capped at twelve months.
2. *temporary provision of workforce*; an employer, with ministerial authorisation, temporarily lends workers to another employer in strictly limited economic circumstances, on a strictly non-profit basis.
3. *provision of services under a service agreement*; a service provider deploys its own personnel to a client, but only where it genuinely retains full managerial authority at all times.
4. *posting of workers*; a transnational secondment under which the posting employer retains all management authority and Luxembourg mandatory provisions apply.

None of these constitutes an EoR framework as such, and each imposes different requirements. The closer an arrangement resembles an EoR in practice, the greater the reclassification risk.

3) Who is responsible for payroll, tax withholding, and social security contributions?

Across all four frameworks, the formal employer (the work agency, the lending employer, the service provider, or the posting employer) bears exclusive responsibility for payroll, tax withholding, and social security contributions.

The client company has no payroll obligations toward deployed workers.

In posting arrangements, an additional obligation applies: the posting employer must ensure the posted worker receives at least the remuneration guaranteed under Luxembourg mandatory provisions, including the social minimum wage and any collectively agreed rates declared of general obligation.

Where reclassification as illegal workforce placement occurs, the client company and the formal employer become jointly and severally liable for all salary, social security, and fiscal charges.

4) What is the client company liable for when engaging a local EoR?

The client company bears no direct payroll or employment contract obligations toward deployed workers.

In temporary agency work and temporary provision of workforce, the client company is solely responsible, during the assignment, for on-site health, safety, and working conditions.

In service agreement and posting arrangements, the client company is responsible for the working environment at its premises.

The overriding employment law risk (aside from potential criminal sanctions) across all frameworks is reclassification: where an arrangement is found to constitute illegal provision of workforce, the client company is deemed to have employed the worker under an employment contract of indefinite duration from the commencement of services, with joint and several liability for salaries, and social and fiscal charges.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

In every framework, all employer prerogatives i.e. performance evaluations, disciplinary measures, and day-to-day work organisation, must remain with the formal employer.

In temporary agency work and temporary provision of workforce, the client company exercise of any share of managerial or administrative authority is the trigger for illegal provision of workforce.

In service agreement arrangements, the service provider must independently manage its personnel; the client company is limited to defining deliverables and functional coordination.

The same principle governs posting arrangements, where the posting employer retains full HR and disciplinary authority throughout.

Luxembourg courts apply a substance-over-form approach: sustained client involvement in day-to-day management creates reclassification risk regardless of contractual labelling. This means that the EoR model, whose commercial premise is precisely that the client company directs the work, operates in inherent tension with Luxembourg law.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

Only the formal employer may terminate the employment contract: the work agency in agency work, the lending employer in temporary provision of workforce, the service provider in service agreement structures, and the posting employer in secondment arrangements. The formal employer must comply fully with Luxembourg employment law, including requirements for real and serious grounds, applicable notice periods, and the pre-dismissal interview procedure where required.

The client company has no direct termination authority under any framework.

Where an arrangement is reclassified as illegal provision of workforce, the client company is deemed the employer from the outset and bears all termination-related liabilities directly.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

Using any above-described frameworks does not automatically create or eliminate permanent establishment (PE) risk for the client company. The analysis depends on the applicable double tax treaty, and on the actual pattern of activities carried out and the work location. In this context, PE exposure may arise on two grounds: a fixed place of business or a dependent agent.

The fixed place of business risk may arise where the client company is not established in the jurisdiction in which the employee operates. Where the employee works from the client company's own premises, this risk should be reduced.

A dependent agent PE may arise where the employee habitually plays a principal role for the client company from a jurisdiction in which it has no established presence, irrespective of the contractual structure in place (the substance-over-form approach).

By way of mitigation, it is essential to monitor and frame the activities performed by the employee for the benefit of the client company within the contractual arrangement in place, when said activities are carried out in a jurisdiction where the client company has no established presence.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

Obligations are shared but allocated differently by regime.

In temporary agency work and temporary provision of workforce, the client company bears sole responsibility during the assignment for on-site health, safety, and working condition compliance; the formal employer retains general employment and payroll obligations.

In service agreement arrangements, the service provider bears primary health and safety obligations as employer of its personnel, while the client is responsible for the working environment at its premises.

In posting arrangements, the posting employer bears general employment compliance, while the client company ensures the workplace meets Luxembourg standards.

Malta

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1) Is the Employer of Record (EoR) model recognised under local law?

While Maltese law does not expressly define the EoR model as a distinct legal concept, due to the nature and specific features of these arrangements, an EOR is likely to fall within the scope of the Employment Agencies Regulations (S.L. 452.130) and the Temporary Agency Workers Regulations (S.L. 452.133). The Regulations regulate “employment agencies”, including temporary work agencies (providing temping services) and outsourcing agencies. These two types of agencies assign, whether on a regular or an irregular basis, workers to user undertakings to work there temporarily. The key distinction between these two employment agencies lies in who retains effective supervision, direction and control over the worker. In the case of outsourcing, these elements remain with the agency, whereas in temping, they are effectively transferred to the user undertaking.

In both cases, however, as per the aforementioned Regulations, the agency remains the workers’ legal employer. Given that an EoR is typically not involved in the day-to-day control of the actual work carried out by the workers, the EoR is more commonly aligned with a temporary work agency, as opposed with an outsourcing agency where such control remains vested in the agency. Regulation 3 of the Temporary Agency Workers Regulations expressly state that: “*…the **temporary work agency shall be considered the employer of the temporary agency worker**, and such temporary agency worker shall be considered the employee of the said temporary work agency…and that notwithstanding anything to **the contrary, the user undertaking shall not be considered as the employer of the temporary agency worker.***”

2) What is the legal regime applicable to EoRs under local law?

Given that the EoR is the employer for all intents and purposes, the main applicable regime is the Employment and Industrial Relations Act (Chapter 452 of the Laws of Malta), together with any regulations issued under such Act, and other employment related laws such as health and safety legislation.

In line with the Employment Agencies Regulations (S.L. 452.130), if the EoR in question falls within the definition of a temporary work agency or outsourcing agency, such entity is required to obtain and maintain a licence issued by the Maltese Department of Industrial and Employment Relations in order to carry out any relevant activity in Malta. To ensure compliance with the licence obligations and adherence to the Regulations throughout the term of the licence, the relevant agency must, prior to the licence’s commencement date, provide a bank guarantee. Moreover, the licence is conditional upon the agency having suitable premises and a competent person who is available at all times to manage the agency.

3) Who is responsible for payroll, tax withholding, and social security contributions?

The EoR assumes primary responsibility for payroll administration, tax withholding and social security contributions vis-à-vis the relevant authorities and employees.

4) What is the client company liable for when engaging a local EoR?

Where the local EoR falls within the definition of an employment agency, the client company must ensure that the EoR holds and maintains the licence required under the Regulations. Failure to ensure that the EoR holds a valid licence may constitute an offence under Maltese law. Where the client company is not based in Malta, issues related to cross-border enforcement may arise in relation to ensuring compliance with this requirement. The same applies in relation to health and safety obligations of the client company.

5) Does the EoR handle employees’ evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

The allocation of day-to-day responsibilities in an EoR arrangement is determined by the contractual arrangements between the parties rather than by statute. However, where the EoR qualifies as a temporary work agency, the Regulations prescribe that the supervision, direction and control over the work performed by the workers rests with the client company. In any case, since in EoR arrangements, the client company is typically responsible for assigning tasks and overseeing their execution, it is best placed to evaluate issues such as performance.

Although the EoR is the legal employer, the risk of reclassification cannot be excluded entirely. In the event of a labour dispute, the Industrial Tribunal could potentially examine the substance of the relationship between the worker, the EoR and the client company and, depending on the factual circumstances, determine that the client company exercises such a degree of control as to justify attributing employer responsibilities to it, whether exclusively or jointly with the EoR.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

While the legal authority to terminate rests with the EoR, in practice such decisions are typically driven by the client company’s instructions.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

The use of an EoR does not, in itself, create a permanent establishment (“PE”). However, the way in which the arrangement is implemented in practice may potentially give rise to PE. Tax authorities generally assess the substance of the arrangement rather than the contractual structure, focusing on the nature of the workers’ activities. A PE risk may arise where the worker engaged through the EoR effectively acts under the direction and control of the client (as is the case in temping) and habitually concludes contracts or plays the principal role in their negotiation on behalf of the client in the host jurisdiction, thereby triggering a dependent agent PE. This risk may arise even if the EoR is the formal employer, where the worker is in substance acting as the client’s representative. Moreover, if the worker’s activities are core to the client’s business and are carried out on a continuous basis from a fixed location, a fixed place PE may also be created. Given that the notion of PE is fact-sensitive, a case-by-case analysis must be carried out, focusing on the arrangement’s substance and the nature of the activities carried out by the workers engaged through the EoR. The level of integration of the worker into the client's business, the degree of control exercised by the client, and whether the functions performed are revenue generating or strategic are all relevant considerations.

In addition to PE exposure, where workers are engaged in a jurisdiction other than the client company's country of tax residence, the arrangement may give rise to source taxation implications. This depends on the applicable domestic tax rules and the provisions of any relevant double tax treaty between the jurisdictions involved. Such implications may arise even where no PE is created, depending on the allocation of taxing rights under the treaty.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

As the legal employer, the EoR assumes the employer obligations imposed by law, including occupational health and safety ('OHS') duties. However, in terms of the Health and Safety at Work Act ('HSWA') (Chapter 646 of the Laws of Malta), an employer is defined as "*any person for whom work or a service is performed by a worker or other person who has an employment relationship with a worker*". Based on this definition, both the EoR, which has entered into an employment relationship with the worker, and the client company, for whose benefit the work is performed, may each be regarded as employers for the purposes of the HSWA. Consequently, both parties are subject to OHS obligations, albeit to varying degrees, which necessitates ongoing cooperation and coordination between them.

The EoR must ensure that the worker is provided with the necessary information and the required OHS protection at the workplace. The actual implementation of the necessary protective and preventive measures would generally fall within the client company's responsibility. However, where the client company is not based in Malta, practical issues related to the enforcement of the client company's OHS duties may arise, especially given that violations of the applicable laws may also be criminal in nature. In such cases, the EoR, as the legal employer, may have to answer for such violations.

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1) Is the Employer of Record (EoR) model recognised under local law?

In the Netherlands, the EoR model as such is not explicitly recognised. There is no specific legislation that defines or regulates the term “EoR”. In practice, however, the model is used and usually falls within existing legal frameworks, particularly those governing payrolling and agency work, which models are explicitly defined in Dutch law. The EoR, as the recorded employer, is responsible for ensuring compliance with the relevant employment, tax and social security laws.

2) What is the legal regime applicable to EoRs under local law?

The EoR is treated as the legal employer of the employee. The applicable legal framework depends on the precise structure of the EoR arrangement. The most relevant frameworks are agency work (where the EoR makes a worker available to the client to perform work under his supervision and direction) and payrolling (where the EoR makes a worker available without performing any allocation function or involvement in recruitment or selection). Mostly, EoR’s fall under the payrolling framework.

3) Who is responsible for payroll, tax withholding, and social security contributions?

The EoR is responsible for payroll, tax withholding, and social security contributions.

4) What is the client company liable for when engaging a local EoR?

The client company’s primary liabilities in an EoR arrangement include the payment of agreed service fees and reimbursement of employee-related costs, such as salary, benefits, taxes, and social security contributions. Under Dutch law, the client company can be held jointly and severally liable for the correct payment of salary and benefits to the workers placed with it, as well as the taxes and social security premiums due, if the EoR fails to pay. This is a significant statutory liability that exists regardless of contractual arrangements between the client company and the EoR. The risk can be partly mitigated by using an EoR that is certified/registered (which is in any case recommended to prevent possible fines) and/or making payments to a blocked account.

The client company may also be required to contractually indemnify the EoR for any liabilities arising from its instructions or operational decisions. Additionally, the client company must ensure compliance with its contractually agreed operational responsibilities, including providing safe working conditions, necessary tools, and workplace policies.

Moreover, in an EoR arrangement, the EoR, as the legal employer, is generally liable under the principle of vicarious liability for any wrongful acts committed by the employee in the course of their employment. The client company, however, may become contractually liable if it agrees, for example through an indemnity clause, to assume responsibility for claims, damages, or liabilities arising from the employee’s actions.

5) Does the EoR handle employees’ evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

Under Dutch law, employer’s authority (the right to give instructions, to supervise, and to direct work) is the central criterion for determining whether an employment contract exists. In an EoR arrangement, the exercise of day-to-day supervision and direction by the client company is inherent to the payrolling model and does not in itself constitute grounds for reclassification, unless it is deemed excessive and going beyond mere work direction. The worker is, by design, placed to work under the client’s supervision and direction.

However, regarding formal HR powers, the following applies:

- Performance reviews and appraisals: In practice, these are typically conducted by the client, but the outcomes take formal legal effect through the EoR as the legal employer.
- Disciplinary measures and formal warnings: These must formally be issued by the EoR, as it is the EoR that manages the employment contract as employer. If the client unilaterally takes disciplinary action without EoR’s involvement, this increases the reclassification risk.
- Day-to-day work instructions: The client may give daily work instructions; this is consistent with the statutory model.

It is generally advisable for the client and the EoR to agree on a clear protocol. This ensures that the EoR, as the legal employer, retains its formal supervisory and management responsibilities, making it clear that the client company does not maintain a substantive employment relationship and thereby reducing the risk of reclassification.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

In the Netherlands, the EoR, as the legal employer, has the sole authority to terminate the employment contract because it is the entity that enters the employment contract with the employee and is responsible for complying with Dutch dismissal rules. The EoR may usually require the client company to provide input for the substantiation of the proposed dismissal.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

The use of an EoR does not automatically exclude tax risks for the client company.

If the worker performs activities on behalf of the client that qualify as a permanent establishment within the meaning of the applicable tax treaty — for example because the worker habitually concludes contracts on behalf of the client or maintains a fixed place of business for the client in the Netherlands — the client may be deemed to have a permanent establishment in the Netherlands, with liability to corporate income tax as a consequence. The presence of an EoR as formal employer is not decisive in this assessment; the determining factor is the actual nature of the worker’s activities. If the worker acts as a dependent agent of the client, this may likewise give rise to a permanent establishment.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

The EoR, as the legal employer, is obligated to comply with the provisions of the Working Conditions Act, as is the client company.

The client company bears primary responsibility for the actual working conditions at the workplace and must ensure a safe and healthy working environment, carry out a risk inventory and evaluation and provide any necessary personal protective equipment. The client is liable to the worker for damages resulting from a workplace accident or occupational disease to the extent attributable to him. The EoR is obliged to inform the worker about the working conditions at the client company's premises before commencing the work. Also, the EoR must satisfy itself that the client company complies with the applicable obligations and remains responsible for compliance with the broader employer obligations relating to health and safety policy.

It is common practice to set out the allocation of health and safety responsibilities contractually in the agreement between the EoR and the client.

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Lill Egeland
Partner

1) Is the Employer of Record (EoR) model recognised under local law?

The EoR concept is relatively new in Norway and operates within an uncertain and evolving legal framework. There is no clear recognition of the model under Norwegian law, nor are there any statutory provisions specifically regulating EoR arrangements.

While EoR providers generally present the model as a compliant solution for engaging workers in jurisdictions where the client company does not have a legal presence, Norwegian law focuses on the actual substance of the relationship rather than the contractual labels chosen by the parties. Consequently, the fact that an arrangement is described as an "Employer of Record" arrangement does not determine its legal classification.

The key question under Norwegian law is who exercises employer functions in practice and whether the arrangement in reality constitutes hiring-out of labour. As a result, EoR arrangements are often analysed through existing legal frameworks governing temporary agency work, staffing agencies and employment relationships rather than as a separate legal category. This creates a degree of legal uncertainty, as the consequences of the arrangement depend on a factual assessment of how the relationship operates in practice.

2) What is the legal regime applicable to EoRs under local law?

The arrangement will most likely be classified as hiring-out of labour (temporary agency work), despite the EoRs' attempts to structure the contract as a delivery of services. Norwegian authorities and courts generally place emphasis on the actual substance of the arrangement rather than the contractual wording used by the parties.

Where the worker performs work under the direction and control of the client company, is integrated into the client's organisation, and does not deliver an independent service or result on behalf of the EoR, the arrangement is likely to fall within the scope of the rules governing temporary agency work.

Accordingly, the EoR may be considered a staffing agency and become subject to the statutory framework applicable to such businesses, including registration and approval requirements, equal treatment obligations and compliance with the restrictions governing temporary hiring. Depending on the circumstances, the client company may also be required to demonstrate that the statutory conditions for hiring labour from a staffing agency are satisfied.

3) Who is responsible for payroll, tax withholding, and social security contributions?

The EoR acts as the formal employer and is responsible for payroll administration, including salary payments, tax withholding and handling statutory employer obligations.

This generally includes reporting salary payments to the Norwegian tax authorities, withholding income tax, paying employer social security contributions and administering statutory employment-related benefits. The EoR will also normally enter into the employment contract with the employee and maintain the employment records required under Norwegian law.

4) What is the client company liable for when engaging a local EoR?

The client company may be exposed to several legal risks.

First, there is a co-employment or reclassification risk. If the worker is integrated into the client's organisation and is managed by the client in practice, the worker may argue that an employment relationship exists directly with the client company. Such claims may arise particularly in connection with disputes regarding termination, employment rights or long-term engagement.

Secondly, there is regulatory risk. If the EoR arrangement is considered temporary agency work, both the EoR and the client company may be exposed to consequences resulting from non-compliance with the rules governing staffing agencies and hiring of labour. This may include regulatory sanctions, orders from the Labour Inspection Authority and, in certain circumstances, administrative fines.

Thirdly, there are tax-related risks, including permanent establishment exposure. The use of an EoR does not automatically eliminate the possibility that the client company may be regarded as carrying on business in Norway through personnel working on its behalf.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

This depends on the agreement between the EoR and the client company. Our impression is that the parties generally agree that the EoR shall formally handle employee evaluations, disciplinary matters and other employment-related processes.

If the client company conducts performance reviews, manages disciplinary processes, determines working conditions and otherwise performs core employer functions, this may strengthen arguments that the client company should be regarded as the actual employer. Accordingly, the allocation of management responsibilities is a central factor in assessing legal risk.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

This depends on the agreement between the EoR and the client company. Our impression is that the authority to terminate the employment contract formally lies with the EoR, which is the contractual employer.

In practice, however, the decision to end the employee's engagement is often initiated by the client company. The EoR will then typically implement the decision and carry out the formal termination process.

From a Norwegian employment law perspective, this distinction may be important. If the client company effectively controls employment decisions, including hiring and termination, such circumstances may be relevant when assessing whether the client company should be regarded as the actual employer or whether the arrangement constitutes hiring-out of labour.

The EoR must also ensure that any termination complies with the mandatory requirements of Norwegian employment law, including the requirement for objective grounds for dismissal and compliance with procedural safeguards.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

Yes. Despite the EoRs' general allegation that the model eliminates local corporate tax exposure, our assessment is that an EoR arrangement may create permanent establishment risk for the client company.

The assessment will depend on the specific facts, including the nature of the employee's activities, the degree of authority exercised by the employee and the extent to which the employee performs functions on behalf of the client company in Norway.

The use of an intermediary employer does not in itself prevent Norwegian tax authorities from examining whether the client company has established a taxable presence in Norway.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

This depends on the agreement between the EoR and the client company. Our impression is that the parties generally agree that health and safety obligations formally rest with the EoR as the contractual employer.

Poland

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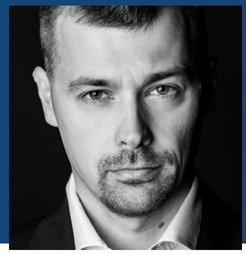

Marcin Wujczyk
Attorney-at-Law, Partner

1) Is the Employer of Record (EoR) model recognised under local law?

Polish law neither comprehensively addresses or recognises the EoR arrangement. Two related concepts are relevant:

The first is '**temporary work**', which is regulated by the Act of 9 July 2003 on Hiring Temporary Workers. In the model, one entity – the temporary work agency, which must be entered in a special registry – hires staff and manages all employment administration, while another entity – the user company, directs the work and benefits from it. Strict statutory time limits apply under this model: the same individual may not be directed to a single user company for more than 18 months within any 36 consecutive months. Although temporary work offers a clear and well-established legal framework, it is widely regarded as an outdated solution and is considerably less popular in Poland than outsourcing.

Outsourcing of services is a model in which a company separates certain functions from its organisational structure and transfers them to an external provider. The provider delivers those functions using its own qualified personnel. Although outsourcing is not regulated, it is recognised by courts and authorities. Unlike temporary work, the subject of the contract is the provision of specific services, not the supply of personnel, and the external staff remain under the sole supervision and management of the supplier. The absence of time restrictions and the possibility of settling fees on a time-and-materials basis make outsourcing attractive in practice. However, it carries a number of risks.

An EoR arrangement most closely resembles outsourcing in that it separates the legal obligations of the employer from the use of the employee's work. In this arrangement, the EoR is the formal employer, handling all employment administration, while the client company benefits from the services provided. This is a well-established and widely used arrangement on the Polish market.

2) What is the legal regime applicable to EoRs under local law?

There is no dedicated regime. Polish law neither recognises nor regulates the EoR arrangement or the outsourcing of staff. As there is no specific legal framework, the authorities and courts will evaluate the nature of the arrangement and will probably categorise it as either regulated temporary work or outsourcing. This model is not specifically regulated by statute, but is based on the parties' freedom of contract.

The key distinguishing features of outsourcing, to which a properly structured EoR arrangement will be assimilated, are: (i) the contract focuses on delivering a defined service rather than providing workers with specific skills (as reflected, for example, in fees calculated on a time-and-materials basis rather than per headcount); and (ii) external staff are supervised and managed by the EoR supplier rather than the client company.

It should also be noted that IP created by employees vests in the employer (i.e. the EoR) unless the service agreement expressly assigns all such rights to the client company. Therefore, the service agreement should include an express IP assignment.

3) Who is responsible for payroll, tax withholding, and social security contributions?

As the formal employer, the EoR is responsible for fulfilling all rights and obligations related to the employment relationship, as well as all public-law obligations. This includes registering as a contribution payer with the Polish Social Security Authority (ZUS), registering each employee with ZUS and withholding and remitting advances on personal income tax (PIT) and social security contributions. Under the EoR model, these costs are typically borne by the client company indirectly through service fees under the service agreement.

4) What is the client company liable for when engaging a local EoR?

In an EoR outsourcing arrangement, the client company is not usually subject to statutory employer obligations towards external staff or the Polish authorities in relation to the use of the EoR model. The client company also does not usually bear related liability. The client company's main obligations are contractual, such as paying the agreed service fees and reimbursing employment-related costs.

However, there are two reclassification risks that may expose the client company to additional liability:

- **Hidden temporary work (less likely)**: the arrangement is classified as agency work, which mainly exposes the client company to liability as a user company and a fine of as a rule up to PLN 30,000 (approx. EUR 7,000).
- **Direct employment claim (more likely)**: The Polish authorities (State Labour Inspectorate or ZUS) or the employee claim that the real employer is the client company. This mainly exposes the client company to liability regarding outstanding employment-related benefits, as well as fines of up to PLN 60,000 (approx. EUR 14,000) with effect from 8 July 2026, and social security and tax-related liability.

This risk is heightened where the client company exercises day-to-day supervision, where permanent and external staff perform identical or similar tasks, or where external staff are integrated into the client company's organisation. The practical risk is also heightened where the EoR terminates its relationship with the employee to the latter's detriment.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

The EoR should retain formal management and supervisory functions, including performance evaluations, disciplinary measures and decisions on employment terms and conditions. The client company should refrain from managing external staff on a day-to-day basis. They may provide general operational guidelines, but these must not amount to day-to-day supervision or binding instructions that the employee is obliged to follow.

In practice, however, it is common for the client company to take on many of the operational management functions, such as setting tasks, reviewing work and providing guidance, while the EoR focuses on formal employment administration. This significantly increases the reclassification risk. This is because whether reclassification risk materialises depends not on the service agreement, but also on how individuals' work is carried out in practice.

One recommended practical solution is for the EoR to appoint a dedicated on-site project manager who serves as the client company's direct point of contact for all matters involving the employee, and who is authorised to issue daily work instructions to EoR staff.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

As a party to the employment contract, only the EoR has the legal authority to terminate the employment relationship in accordance with Polish labour law. While the client company cannot dismiss an EoR employee directly, it can request that the EoR to terminate the engagement. Typically, this is done by terminating or amending the services agreement. Subject to the terms of the agreement between the EoR and the client company, the client company may be required to bear the costs of notice, statutory severance pay (where applicable) and other accrued benefits.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

Yes, the presence of an employee or contractor in Poland may result in the client company having a permanent establishment (PE) there, which would generate corporate income tax obligations. However, the risk is generally lower if the employee only performs preparatory or auxiliary activities, has no authority to negotiate or execute contracts on behalf of the client company, and does not constitute a fixed place of business for the client company. However, the risk is higher if the employee performs core business functions or acts as a representative of the client company towards external counterparties.

In the event of the EoR model being reclassified as direct employment between the client company and the employee, additional tax-related risks should be noted, including the obligation to pay overdue advance payments of personal income tax, disputes over tax-deductible expenses and the determination of additional income.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

As the formal employer, the EoR bears full responsibility for OHS in the workplace and must protect the health and life of employees by ensuring that working conditions are safe and hygienic. In particular, the EoR is responsible for pre-employment occupational medical examinations, OHS training before the employee commences work, and occupational risk assessments.

The client company is responsible for health and safety conditions at its own premises, where the employee works.

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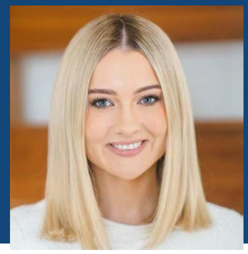
Neil Maclean
Partner, Head of the Employment Practice Group



Martyna Proczek
Solicitor

1) Is the Employer of Record (EoR) model recognised under local law?

There are no prohibitions on the use of EoRs to employ employees on a client company's behalf. There is no specifically designated legislative regime applicable to EoRs and EoR arrangements operate within standard employment and commercial law frameworks.

2) What is the legal regime applicable to EoRs under local law?

EoRs are direct employers of the individuals they engage and are therefore subject to UK employment laws. Those employed by EoRs enjoy the usual protections provided for under UK employment laws. In addition to the usual framework of UK employment laws, if the employee is engaged on a temporary basis to provide services to the client company, they may also fall within scope of the protections afforded by the Agency Workers Regulations 2010 – these involve day-one rights (such as access to collective facilities and amenities) as well as week 12 rights (the right to the same basic working and employment conditions as direct recruits).

Most EoRs will likely also fall within the scope of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (the "**Conduct Regulations**") which impose various administrative requirements on EoRs before an employee can be deployed to an end user as well as protections for employees around pay and no detrimental action relating to working elsewhere.

The Employment Rights Act 2025 (via further regulations) will subject EoRs to further restrictions and requirements, the details of which are not yet known but are expected to be similar to the existing Conduct Regulations.

3) Who is responsible for payroll, tax withholding, and social security contributions?

As the legal employer, the EoR is responsible for paying the employee's salary and making all required deductions and contributions. The EoR will withhold income tax, pay employer and employee National Insurance contributions (NICs) to HMRC (the UK's taxation body) and make any pension auto-enrolment contributions. New compliance measures were introduced in April 2026 which impose joint and several liability on the EoR and the client company for the income tax and NICs due on payments to the employee – HMRC now has the ability to pursue either party for the full amount.

4) What is the client company liable for when engaging a local EoR?

The client company remains responsible for day-to-day workplace duties such as maintaining a safe working environment (including one which is free from harassment and discrimination).

If the employee is being engaged by the client company on a temporary basis, the client company may also be subject to the provisions of the Agency Workers Regulations 2010 (see response to question 2). Infringements of these provisions can give rise to employment tribunal claims where compensation which the tribunal considers to be just and equitable can be awarded. Liability for such claims can be joint and several between the EoR and client company in some cases.

As per the answer to question 3, effective from April 2026, if the EoR fails to pay the required taxes or NICs, HMRC can pursue the client company for those taxes.

General employer liabilities can arise if the client company oversteps its responsibilities and makes employment decisions with respect to the employee: the EoR arrangement could be viewed as a sham by the Employment Tribunal and the client company labelled as the actual employer.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

To minimise the risk of employment claims against the client company, the EoR should retain authority over core employment decisions, with the client company supervising and directing the employee's daily tasks. It would be common practice for the client company to deal with informal/day-to-day performance management and minor reprimands. Any formal employment processes relating to performance, disciplinary, sickness etc. should be reserved for the EoR as the legal employer.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

In order to preserve the EoR structure, only the EoR as the legal employer can properly and validly terminate the employee's employment. If the client company wishes to end the assignment, it should instruct the EoR to withdraw (and potentially replace) the employee. If the EoR does not have other work for the withdrawn employee, then the EoR would formally terminate the employment contract with formal notice being given directly by the EoR (after following such fair process as may be required in the circumstances). If the client company acted directly, it could expose itself to arguments that it was the employer.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

Engaging a UK based EoR does not, by itself, create a UK permanent establishment for a foreign client company. A non-UK resident client company may have a permanent establishment in the UK if a person acting on behalf of the client company habitually concludes certain contracts or habitually plays the principal role leading to the conclusion of certain contracts (i.e. negotiation of contracts) in the UK. Any proposed EoR arrangements should be assessed from a tax perspective on a case-by-case basis, however, steps can be taken to minimise the risk of a permanent establishment being set up – for example, structuring the employee's role such that they are not involved in the conclusion of contracts.

As mentioned above, from April 2026 client companies are jointly and severally liable for any incorrect administration of income tax and NICs by the EoR.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

The client company is responsible for the health and safety of the individuals providing services to it, including those provided by an EoR. As an employer, the EoR is subject to the usual health and safety obligations, some of which may be difficult to satisfy directly (i.e. providing a safe workplace environment or supplying protective equipment) as the employee will be working on the client company's premises. Other employer health and safety obligations, such as consulting with the employee and providing information, should be satisfied by the EoR where possible in conjunction with the client company. Full discharge of health and safety obligations will require cooperation between the EoR and the client company.

Under the Conduct Regulations the EoR would be required to obtain information from the client company on any known risks to health or safety as well as confirmation of what steps the client company has taken to prevent or control such risks before the employee is provided to the client company.

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1) Is the Employer of Record (EoR) model recognised under local law?

Slovak law does not recognize the EoR model. Activities and the business model of the EoR overlap significantly and substantially with those of a temporary employment agency.

2) What is the legal regime applicable to EoRs under local law?

As EoRs are not recognised and not regulated under Slovak law, according to prevailing legal opinions, this business model would be most likely assessed as factual temporary assignment of employees, where the EoR would act as the formal employer assigning the relevant employee to a client of the EoR (client company), as the user employer. Under Slovak law, only temporary employment agencies (holding a relevant license) may conduct business constituting in temporarily assignment of employees to other (user) employers. Hence, according to prevailing legal opinions, if the client company actually manages the relevant employees, coordinates and organizes their work, supervises them and gives them work instructions, the EoR would have to be a temporary employment agency holding the relevant license, in order to be compliant.

Other entities (not having a license of a temporary employment agency) may temporarily assign employees to user employers only in limited cases. Namely:

a. temporary assignment of employees can be made between a controlling and controlled entity and for no consideration; or
b. there must be serious operational grounds for temporary assignment and at the same time the temporary assignment can be made only after expiry of three months of employment.

However, in general, temporary assignment of an employee to the same user employer must not exceed 24 months (a few exceptions apply). This significantly limits the business operation of EoRs in Slovakia.

3) Who is responsible for payroll, tax withholding, and social security contributions?

The formal employer, i.e., the EoR.

4) What is the client company liable for when engaging a local EoR?

As outlined above, the concept of the EoR is not legally recognized under Slovak law. If the client company engages an EoR that does not legally operate as a temporary employment agency, the main risk is that the legal relation between the client company and the relevant assigned employee shall be reclassified to direct employment between the client company and the relevant employee, resulting potentially into illegal employment. Also, sanctions imposed by relevant labour inspectorates due to incompliance with formal requirements concerning temporary assignment of employees may apply.

As regards the concept of a temporary employment agency, the client company, in its position of the user employer, would have several obligations. For example, if the temporary employment agency has not provided a temporarily assigned employee with wages at least as favourable as those paid to a comparable employee of the client company (as the user employer), the client company would be required to provide that employee with such wages or the difference between the wages of a comparable employee of the client company and the wages which was paid to the employer by the temporary employment agency.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

As outlined above, the concept of the EoR is not legally recognized under Slovak law. Handling employees' evaluations, reprimands and other day to day issues by the EoR might decrease the appearance of (hidden) temporary assignment, but – if it is the client company that actually manages the relevant employees, coordinates and organizes their work, supervises them and gives them work instructions, and work performed by the relevant employee falls within the business activities of the client company – the EoR's execution of the tasks specified in this question alone would not suffice to avoid the risk of (hidden) temporary assignment.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

Unless the legal relationship is reclassified to direct employment by the client company, the employment between the EoR and the relevant employee can be terminated by the formal employer, i.e., the EoR, or the employee.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

These concerns are valid and tax risks cannot be excluded.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

As outlined above, the concept of the EoR is not legally recognized under Slovak law.

In the concept of temporary assignment, the user employer (client company) shall create favourable working conditions and ensure occupational safety and health in relation to the assigned employee in the same manner as for other employees. The EoR would, however, not be released from its ultimate liability vis-à-vis the employee in relation to H&S, and the EoR could have regress claims against the client company.

Slovenia

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1) Is the Employer of Record (EoR) model recognised under local law?

Slovenian law contains no dedicated or express legislation governing the EoR model, and the EoR is not recognised as a distinct legal category. In our analysis, an EoR that engages staff in Slovenia to perform work for a client falls, in substance, within the regulated regime of temporary agency work (provision of workers to a user undertaking). On that basis, where the EoR's activity is treated as temporary agency work, the provider must operate as a licensed temporary work agency.

In practice, however, a number of EoR providers operate in Slovenia without a temporary work agency permit, taking the position that their model is not temporary agency work and needs no licence. To our knowledge this position has not been tested by the labour authorities or the courts.

The analysis below therefore describes the regime that would apply if an EoR's activity were treated as temporary agency work.

2) What is the legal regime applicable to EoRs under local law?

The applicable regime is temporary agency work, governed by the Labour Market Regulation Act (ZUTD) and Articles 59 to 63 of the Employment Relationships Act (ZDR-1), transposing Directive 2008/104/EC. Before supplying workers, the provider must obtain a permit from the Ministry responsible for labour and be entered in the relevant register; a client may use agency workers only from a licensed and registered agency.

Agency work is prohibited in defined cases, including the replacement of striking workers, where the client carried out collective dismissals in the preceding 12 months, and in hazardous workplaces identified by the client's risk assessment. A separate immigration limitation applies: under Article 7(5) of the Employment, Self-Employment and Work of Foreigners Act (ZZSDT), an agency may employ third-country nationals only where they already hold an EU Blue Card or a single permit, or otherwise have free access to the Slovenian labour market.

Performing the activity without the required licence and registration is a misdemeanour under ZUTD (Articles 178 and 179): the provider and its responsible person are fined, as is a client that accepts workers from an unlicensed provider; the activity is also unlawful and may lead to refusal or withdrawal of registration.

3) Who is responsible for payroll, tax withholding, and social security contributions?

The temporary work agency, as the legal employer that concludes the employment contract, is responsible for payroll and for calculating, withholding and paying wage taxes and social security contributions for the worker.

This applies regardless of whether the EoR holds an agency licence: as the contracting employer, the EoR bears these obligations in every case.

4) What is the client company liable for when engaging a local EoR?

The client acts as the user undertaking. It owes the agreed service fee and must ensure equal treatment of agency workers, whose working and employment conditions must be at least those applying to comparable workers directly employed by the client. The client directs the work, provides safe working conditions and keeps working-time records, and must observe the statutory prohibitions on the use of agency workers. The client is also subsidiarily liable for the agency worker's wages and other employment benefits, including any termination payments, for the period of the posting, and is responsible for the accuracy of the remuneration information it provides to the agency.

Where the EoR is not licensed, the worker may in addition claim recognition of an employment relationship directly with the client.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

Within a licensed agency arrangement the client may lawfully direct and supervise the worker's day-to-day work and assess performance, as this is inherent in the model. Disciplinary measures and other formal employer acts, however, remain with the agency as the legal employer, and the client should channel performance or conduct concerns to the agency rather than act on them directly. Outside a licensed agency arrangement, the exercise of such control by the client increases the risk that the relationship is recognised as direct employment with the client.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

The agency, as the legal employer that concluded the contract, has the authority to terminate it, on statutory grounds and following the procedure under ZDR-1. The client cannot terminate the employment; it may only end the assignment and return the worker to the agency.

This applies regardless of the licensing position: the EoR is the sole employer, and only the EoR may terminate the employment contract.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

The use of an EoR does not, in itself, create a permanent establishment or other tax liabilities for the client company. However, it does not eliminate such risks. A permanent establishment may arise where the activities carried out by the employee meet the conditions that would ordinarily give rise to a permanent establishment under the applicable tax treaty and Slovenian domestic law. The fact that the employee is formally employed by an EoR should not, in itself, affect this assessment, which is based on the actual functions performed and the factual circumstances rather than the legal form of the employment arrangement, in line with the OECD Model Tax Convention Commentary. Other tax risks are generally limited and depend on the specific facts and circumstances of the arrangement rather than on the use of an EoR itself. To mitigate the risk of a permanent establishment, employees engaged through an EoR should perform only supporting or operational functions, should not have authority to bind the client company, and strategic decision-making and contract execution should remain outside Slovenia.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

Before the worker starts, the client must inform the agency of the conditions for performing the work and provide a risk assessment. Primary responsibility for health and safety at the actual workplace rests with the client as user undertaking, including the workplace risk assessment, safe working conditions, working time, breaks and rest periods, and on-site instruction. The agency retains employer-level health and safety duties under the Health and Safety at Work Act (ZVZD-1), including ensuring that the worker undergoes the required preventive medical examinations and is properly trained. The cost of mandatory medical examinations must be borne by the employer and may not be charged to the worker (Article 14 ZVZD-1; Article 28 ZDR-1). The allocation should be set out in the agency-client agreement, and the agency must have adequate knowledge of the actual work environment and its hazards in order to comply.

Where the EoR does not use the temporary agency work model, there is no separate user undertaking to share these duties, and the EoR, as the sole employer, is in principle responsible for all health and safety obligations.

Spain

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1) Is the Employer of Record (EoR) model recognised under local law?

There is no dedicated legislation governing EoR arrangements, and the Spanish legal system does not contain a legal concept equivalent to the "Employer of Record" as understood in common law jurisdictions. The model has emerged in recent years as a business practice driven by outsourcing, business decentralisation and international mobility, but it has no express legal framework in Spain.

The legal analysis must therefore proceed by analogy with existing figures, primarily: illegal assignment of employees, temporary employment agencies (Empresas de Trabajo Temporal, "ETTs"), service contracts, subcontracting and the doctrine of the "real employer."

The absence of specific regulation creates significant legal uncertainty and risk for both the EoR entity and the client company.

2) What is the legal regime applicable to EoRs under local law?

In the absence of specific legislation, the EoR arrangement is primarily analysed through the lens of Article 43 of the Workers' Statute ("WS"), which prohibits the hiring of employees for the purpose of temporarily assigning them to another company, except through duly authorised ETTs.

Article 43(2) WS provides that illegal assignment of employees occurs when: (a) the object of the service contract between the companies is limited to a mere provision of employees; (b) the assigning company lacks its own stable activity or organisation, or the means necessary to carry out its activity; or (c) the assigning company does not exercise the functions inherent to its status as employer.

The EoR model is structurally similar to the activity reserved by law to ETTs, which requires prior administrative authorisation. An EoR typically hires employees, manages payroll, social security and tax compliance, and assigns them to work under the direction and control of the foreign client company — which is precisely the function that the law reserves to authorised ETTs. Nonetheless, the Supreme Court has consistently held that using an intermediary to cover permanent structural needs constitutes illegal assignment under Article 43 WS.

By analogy, an EoR operating without ETT authorisation and covering permanent structural needs faces the same characterisation.

3) Who is responsible for payroll, tax withholding, and social security contributions?

In an EoR arrangement, the EoR entity, as the formal employer, assumes responsibility for payroll processing, tax withholding (IRPF), and social security registration and contributions. However, if the arrangement is later recharacterised as an illegal assignment of employees under Article 43 WS, both the EoR and the client company will be held jointly and severally liable for all employment and social security obligations incurred during the period of illegal assignment.

4) What is the client company liable for when engaging a local EoR?

The primary risk for the client company is recharacterisation of the EoR arrangement as an illegal assignment of employees. If so declared, the client company faces: (a) joint and several liability with the EoR for all employment and social security obligations; (b) very serious administrative sanctions, with fines ranging from EUR 7,501 to EUR 225,018 per company; (c) the employee's right to claim permanent employment status with either the EoR or the client company, at the employee's election, with seniority computed from the start of the illegal assignment; (d) potential disqualification from public sector contracts; and (e) potential criminal liability with prison sentences.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

This is the critical area of risk. In an EoR model, the client company typically exercises day-to-day direction and control over the employee — assigning tasks, setting schedules, evaluating performance, and integrating the employee into its organisational structure. The EoR's role is limited to administrative and payroll management.

Under Spanish law, this separation is the very hallmark of an illegal assignment: when the formal employer does not exercise the functions inherent to its status as employer and the employee is integrated into the client's organisation under its direction and control, Article 43 WS is triggered. Spanish case law treats the exercise of day-to-day control by the client company as a strong indication of illegal assignment. Even if the EoR formally approves vacations or sets schedules, such formal acts by the assigning entity do not, in themselves, exclude a finding that the employee was in fact under the direction and control of the client company.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

The EoR, as the formal employer, has the contractual authority to terminate the employment relationship.

However, if the arrangement is recharacterised as illegal assignment, the client company may also bear responsibility for the consequences of the termination.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

While the EoR model is primarily an employment law concern in Spain, it can also trigger tax risks.

If the activities performed by the EoR-assigned employees on behalf of the client company in Spain constitute a fixed place of business, or if the employees habitually conclude contracts on behalf of the client company, a permanent establishment may be deemed to exist.

Each case must be assessed individually, but the risk is particularly acute where the client company has no other physical presence in Spain and relies entirely on EoR-assigned employees to carry out its core business activities in the country.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

Under Spanish law, occupational health and safety obligations are primarily the responsibility of the employer. In an EoR arrangement, the EoR as formal employer bears these obligations.

However, since the employee performs services at the client company's workplace or under its direction, the client company also has duties as regards coordination of business activities.

If the arrangement is recharacterised as an illegal assignment, the client company assumes full employer obligations in health and safety matters. Practically, the EoR often lacks direct knowledge of the employee's specific work environment and associated risks, making effective compliance challenging and requiring close coordination between both entities.

Sweden

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1) Is the Employer of Record (EoR) model recognised under local law?

Yes, the EoR model is recognised under Swedish law. In short, the EoR will be considered as the formal employer and must follow applicable laws regarding, for example, employment, tax and social insurance. It should be noted that the Agency Workers' Act *(Sw. Lagen (2012:854) om uthyrning av arbetstagare)* will most likely apply to the EoR model, given that it covers situations where employees are employed for the purpose of being temporarily assigned to work for a client company under the latter's supervision and direction. Both the EoR and the client company must thus follow the Agency Workers Act.

2) What is the legal regime applicable to EoRs under local law?

The same laws apply to an EoR as for any other Swedish employer. Three of the most significant pieces of legislation to be aware of are the Employment Protection Act *(Sw. Lag (1982:80) om anställningsskydd)*, the Co-Determination Act (Sw. Lag (1976:580) om medbestämmande i arbetslivet) and the Work Environment Act *(Sw. Arbetsmiljölag (1977:1160))*. The Agency Workers' Act noted above also applies specifically to the EoR model.

3) Who is responsible for payroll, tax withholding, and social security contributions?

The EoR bears full legal responsibility for these obligations. That said, it is common for the client company to fund these costs indirectly through the service fee payable to the EoR.

4) What is the client company liable for when engaging a local EoR?

In the first instance, the client company must comply with the terms and conditions of the agreement with the EoR. Further, the client company must comply with its obligations under the Agency Workers' Act. For example, when an agency worker has been assigned to the client company at the same operational unit for more than 24 months during a 36-month period, the client company must either (i) offer a permanent position with the client company, or (ii) pay a compensation to the agency worker equivalent to two months' current salary. The EoR and the client company may, of course, agree in advance who is to bear the ultimate responsibility for any such compensation. Please also refer to question 8 regarding health and safety obligations.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

The client company can handle the day-to-day work direction such as assigning tasks, setting working hours and supervising performance, without giving rise to a risk of reclassification. However, any formal HR actions such as issuing warnings or performance reviews with potential legal consequences, changes to the employment terms or parental leave, or initiating a formal disciplinary process, should be taken by the EoR as the employer. If the client company were to take such actions, the risk of re-classification would increase.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

The employment contract can only be terminated by the EoR, as the legal employer. However, if the client company decides to terminate the agreement with the EoR, this could lead to a redundancy situation with the EoR and, provided that there are no redeployment possibilities, the EoR could then initiate a termination process. Such termination process must comply with the applicable Swedish rules on termination of employment.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

Whether an EoR arrangement gives rise to a permanent establishment depends on the circumstances of each case. However, as the employees will be employed by the EoR and if the client company has no employees in Sweden, the risk is low. To mitigate the risk, the client company should ensure that it does not have a fixed place of business from which its activities are conducted, and that it does not have a person in Sweden that has been granted a power of attorney that is regularly used to enter into agreements on behalf of the client company.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

The EoR has the main and overarching responsibility for the work environment of its employees. However, since the client company is responsible for the day-to-day work direction and supervision, it is also responsible to ensure that an engaged worker is not exposed to any risk of ill-health or accident (both from a physical and psychosocial perspective), and is obliged to carry out systematic health and safety work to prevent this. Accordingly, it is a shared responsibility between the EoR and the client company.

Switzerland

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1) Is the Employer of Record (EoR) model recognised under local law?

The term "Employer of Record" is not expressly defined or regulated under Swiss law. However, the EoR model is addressed in the guidelines and explanatory notes issued by the State Secretariat for Economic Affairs (SECO) in the context of staff leasing. In these guidelines, SECO outlines that where an EoR makes employees available to a third-party company for the performance of work, and thereby transfers essential supervisory and directive powers to that third-party company, such arrangement is generally regarded, from a Swiss law perspective, as staff leasing within the meaning of the Federal Act on Employment Services and the Hiring Out of Personnel (ESA).

2) What is the legal regime applicable to EoRs under local law?

Where the provision of employees by an EoR to a third-party company is deemed to constitute staff leasing within the meaning of the ESA, the law imposes certain minimum content and form requirements for both the employment contract and the staff leasing agreement. Furthermore, if the staff leasing conducted by the EoR is of commercial nature, the EoR is generally required to obtain a permit from the competent cantonal employment authority. Moreover, in the case of cross-border staff leasing from Switzerland to abroad, an additional permit from SECO is required. This being said, it should be noted that cross-border staff leasing into Switzerland is not permitted. Accordingly, an EoR established abroad is generally not permitted to assign employees to work in Switzerland on behalf of a Swiss client company.

Should an EoR engaged in commercial personnel leasing fail to hold the required permit(s), both the employment contract and the staff leasing agreement are void from the outset under civil law. Under criminal law, such an EoR may incur a fine of up to CHF 100,000. Furthermore, third parties knowingly making use of services from an employee of an EoR without the required permit(s) may face fines of up to CHF 40,000.

Finally, the generally binding collective bargaining agreement for staff leasing must be taken into account. It applies to all companies and business units holding a staff leasing permit under the ESA, where staff leasing constitutes their main activity, i.e. more than 50% of total turnover. Employees whose salaries exceed the maximum insured earnings under SUVA (currently CHF 148,200) are however excluded from its scope of application.

3) Who is responsible for payroll, tax withholding, and social security contributions?

As the legal employer, the EoR is responsible for payroll, tax withholding, and social security contributions.

4) What is the client company liable for when engaging a local EoR?

The client company's primary obligations in an EoR arrangement include the payment of the agreed service fees and the reimbursement of employee-related costs, such as salaries, benefits, and social security and pension contributions.

In addition, the client company may be held liable for damage caused to third parties by employees engaged through an EoR in the course of performing their duties. The EoR, on the other hand, is liable towards the client company only for the proper selection of the employees.

In any event, the client company remains responsible, pursuant to Article 9 of the Ordinance 3 to the Labour Act (OLA 3), for compliance with occupational health regulations, and pursuant to Article 10 of the Ordinance on the Prevention of Accidents and Occupational Diseases (OPA), for compliance with safety requirements.

However, the obligations for which the client company is liable when engaging an EoR are not comprehensively regulated by Swiss law and therefore depend primarily on the terms agreed between the client company and the EoR in the staff leasing agreement.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

In practice, the client company may generally handle the employees' day-to-day management without, on that basis alone, creating reclassification risks. This includes supervising performance, providing feedback, conducting operational performance reviews, addressing performance deficiencies, and managing other day-to-day employment matters.

However, measures that are closely linked to the employment relationship itself should generally remain with the EoR as the legal employer. This includes, in particular, decisions regarding formal disciplinary measures and other actions that may directly affect the employees' employment status. While the client company may identify performance or conduct issues and recommend action, formal warnings intended to form the basis for a potential termination should generally be issued by the EoR. A reclassification risk may arise where the client company effectively assumes the role of the employer by exercising control over employment decisions that should remain with the EoR.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

The EoR, as the legal employer, has the authority to terminate the employment contract in an EoR arrangement. However, pursuant to SECO guidance, the right to terminate may be delegated by the EoR to the client company.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

The use of an EoR does not automatically create a permanent establishment or give rise to other tax risks for the client company. However, neither does it eliminate such risks. Engaging an employee through an EoR will therefore not, in itself, mitigate any permanent establishment risk, as the competent authorities will assess the factual circumstances of the arrangement rather than its contractual structure. Hence, the assessment of any permanent establishment risk primarily depends on the client company's actual activities and presence in Switzerland.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

Both the EoR and the client company owe health and safety obligations to employees.

The EoR is required to protect employees' health, ensure their safety, and implement the necessary measures to that effect. These obligations arise under the Swiss Code of Obligations and the Swiss Labour Act.

At the same time, pursuant to Article 9 OLA 3 and Article 10 OPA, a client company engaging employees through an EoR by means of staff leasing owes such employees the same occupational health obligations as well as the same safety obligations as it owes to its own employees.

In practice, liability for breaches of health and safety obligations is often contractually allocated between the EoR and the client company such that the client company assumes liability and indemnifies the EoR, given that the EoR is generally not in a position to effectively monitor compliance with the relevant requirements.

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1) Is the Employer of Record (EoR) model recognised under local law?

Ukrainian law does not expressly regulate the Employer of Record (EoR) model. However, arrangements that are functionally similar to an EoR are generally possible under Article 39 of the Law of Ukraine 'On Employment of Population' (the 'Law'), which governs the hiring of employees by one employer for their subsequent assignment to perform work for another employer in Ukraine. This arrangement is commonly referred to as outstaffing and is subject to specific employment, payroll, tax, and social security requirements. As Ukrainian legislation provides a specific legal framework for employee assignment through the outstaffing model, it is generally understood that EoR arrangements that do not comply with the requirements of Article 39 of the Law may not be recognized as lawful under Ukrainian law.

2) What is the legal regime applicable to EoRs under local law?

The EoR acts as the formal legal employer of the employee. The applicable legal framework mainly consists of the Labour Code of Ukraine, the Law, the Tax Code of Ukraine, and the applicable social security regulations. Under Article 39 of the Law, an EoR arrangement is only permitted if:

- it is allowed under the client company's collective bargaining agreement;
- the primary trade union of the client company has granted its consent; and
- a formal commercial services agreement has been entered into between the EoR and the client company.

Furthermore, the Law expressly prohibits EoR arrangements with respect to client companies that:

- have reduced their workforce during the preceding year,
- have failed to comply with the statutory minimum number of employees in core occupations engaged in the principal production process; or
- intend to use assigned employees to perform hazardous, dangerous, or heavy work or work in core occupations forming part of the principal technological production process.

3) Who is responsible for payroll, tax withholding, and social security contributions?

The EoR, as the formal employer, is responsible for payroll administration, including the withholding and remittance of personal income tax and the military levy, as well as the calculation and payment of unified social security contributions.

Importantly, Article 39 of the Law requires the EoR to pay the assigned employee a salary that is no lower than the statutory minimum wage and no lower than the remuneration paid by the client company to its own employees performing the same or equivalent work.

4) What is the client company liable for when engaging a local EoR?

The client company is generally liable under the commercial services agreement entered into with the EoR, including for the payment of service fees and the reimbursement of employee-related costs. Ukrainian legislation does not impose any specific statutory obligations on the client company in connection with the EoR arrangement.

5) Does the EoR handle employees' evaluations, reprimand, and other day to day issues, or is the client company able to do so without reclassification consequences?

In practice, the client company usually supervises the employee's day-to-day work activities. Provided that the EoR arrangement is properly structured and documented, the risk of reclassification is generally low.

However, under Ukrainian law, the EoR, as the formal employer, should retain responsibility for formal employment functions, including performance evaluations, disciplinary measures, reprimands, and other employment-related decisions.

6) Who has the authority to terminate the employment contract in an EoR arrangement?

Only the EoR has the authority to terminate the employment contract, as it is the formal party to the employment relationship. The client company may terminate its commercial services agreement with the EoR or request the replacement of a particular employee, but it cannot directly terminate the employee's employment.

7) Does the use of an EoR create permanent establishment or other tax risks for the client company?

Ukrainian law permits employee assignment arrangements only where both the EoR and the client company are established in Ukraine. Provided that this requirement is satisfied, the use of such an arrangement should not, in itself, give rise to permanent establishment or other Ukrainian tax risks for the client company.

8) How are health and safety obligations allocated between the Employer of Record and the client company?

Under Ukrainian law, the employer is generally responsible for compliance with occupational health and safety requirements. Accordingly, the EoR, as the formal employer, bears the primary statutory health and safety obligations in relation to the employee. The client company is generally responsible for ensuring a safe working environment and compliance with workplace health and safety requirements at the premises where the employee performs their work.

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