

Dear Clients, dear Friends,

Although everybody seems to be complaining about the morose atmosphere of the labour world, the BCCC labour law team would like to share with you in this holiday season some of its **positive experiences** of the year 2011.

Needless to say that the year was challenging: new federal procedural codes, mass dismissal in galore, foggy economical climate and many complex and exciting proceedings with positive outcomes.

Out of all these challenges, the ones that captured most of our energy and involvement were the procedures linked to **gender discrimination**, as we are now regularly putting in practice our experience on the new Federal Act on Equality.

As 2011 has taught us, many executive women employees still seem to be submitted to the theory of the **Glass Ceiling** in Switzerland. The Federal Act provides a lightening of the burden of proof regarding the existence of discrimination whether during the hiring process, the promotion process or in case of termination. Furthermore this is the only Swiss law which allows reintegration of the employee. This legal tool is increasingly invoked by our clients and the Courts seem to be giving special attention to these claims.

The past year has also shown us that despite the strong Swiss Francs, many new foreign entities have established themselves in Switzerland in the course of the year, requiring our assistance for each of their employment steps including a general introduction to the Swiss labor regime and getting to know our – rather - slow authorities, as probably expected based on the Swiss reputation.

This being said all **implementations were achieved with success** and many foreign and Swiss employees are currently enjoying their employment relationships, if not yet skiing in the Swiss Alps!

On another note, the Swiss employment environment continues to distinguish itself from most of the European legislations: Switzerland has given up on adopting a specific **whistleblowing** regulation, and the Federal Court has recently ruled that whistleblowing will not be tolerated nor considered lawful unless the employees have consistently and systematically tried to change the employer's corporate behavior before alerting the press or the authorities.

Last but not least, recent case law has specified the employers obligations in relation to its **duty of information** in case of termination: dear Clients, dear Friends, an employer must now expressly inform in writing the leaving employee of its right to take over, at the employees own costs, the insurance policy, risking otherwise to be held liable for any resulting damages, which includes having to pay for healthcare, medical costs, loss of earnings and potentially moral distress.

Before wishing you all the best for the year to come and thanking you for your ongoing trust we would like to share one last thought:

**Christmas is a necessity. There has to be at least one day of the year to remind us that we're here for something else besides work!**

*The labour law team*