



*Global Expansion Simplified*

## HR CONSIDERATIONS FOR YOUR GLOBAL WORKFORCE

HR leaders play a critical role in guiding their organizations through the complexities of expanding overseas. This includes making initial decisions about which model to use for hiring abroad and advising on how to attract and retain top talent while ensuring compliance in a remote work environment.

Whether you are taking your first steps towards global expansion or already have established your footprint abroad, understanding the key HR considerations will be key to your success.



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# International Expansion Considerations

When expanding globally, one of the first considerations companies will need to navigate is how to expand and manage their workforce—particularly which employment model (e.g., legal entity or EoR) to adopt. Making the right decision hinges on how thoroughly companies understand the legislative employment burdens (laws, regulations, and requirements) that each potential country presents.

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*When considering global expansion, the first question to ask is: How are we going to be present in that country or jurisdiction from a legal perspective?*

# Choosing the right employment model when expanding overseas

From EoR (Employer of Record) and PEO (Professional Employer Organization) to legal entities, each employment model comes with unique constraints, advantages, and challenges—all of which can differ depending on country and jurisdiction. If your organization is taking its first steps into global expansion, you'll need to evaluate the best vehicle for expansion, whether you hire and manage employees through an EoR, a PEO, or set up your own corporate entity overseas

Simply put, while both PEO and EoR offer HR services, they differ in scope and legal responsibilities. PEOs co-employ staff, sharing employer responsibilities with the client company. EoRs, however, become the primary legal employer, handling all employment tasks and liabilities for workers typically in foreign jurisdictions. In both cases, the management of employee's daily work remains the responsibility of the client company.

## How Professional Employer Organizations (PEOs) work:

PEOs are designed for companies operating in the US (or other jurisdictions) that already have an entity set up. PEOs typically establish a co-employment relationship with the client company, allowing it to cost-effectively outsource the administrative management of having employees. This model “shares” the risks and responsibilities of hiring and managing employees between the client company and the PEO—the PEO acts as the administrative employer, and the client company acts like the supervisor, managing and motivating employees and controlling their work.

## How Employers of Record (EoRs) work:

Unlike PEO, the EoR is the legal employer for all intents and purposes. They're used by companies that haven't established a legal entity.

In this case, the EoR has the entity, manages the payment of taxes, ensures local compliance, and bears all HR responsibilities for employees. Under this model, however, the EoR is only responsible for the administrative management of employees—the day-to-day tasks remain the responsibility of the organization.

## Choosing PEO versus EoR:

The PEO model is more commonly used for companies based domestically in the US and Canada. That's because these companies already have a legal entity set up domestically. There's no need for an EoR (which acts as the legal entity on a company's behalf).

Companies outside of the US and Canada, however, tend to use EoRs to sidestep the complexity of setting up a legal entity.

### *Key Takeaway*

Because the benefits and challenges of PEO, EoR, or legal entity vary by country, your approach depends on your company's unique goals. Choosing the right model depends on which country your organization wants to expand into, what you wish to achieve in the market, and your business strategy. Make sure you have the right expertise to evaluate the country-specific options available to you before making this critical decision.





## Understanding how employee legislation varies across countries

One of the most challenging areas for globally expanding companies to navigate is understanding the differences in employment legislation from one country to the next and then knowing how to comply with that legislation.

In contrast to the US, for example, most US employers are surprised at how employee-friendly EU legislation is (for example, the EU doesn't recognize employment at will). Other countries have strict processes, procedures, and employment rights that can extend from when a candidate enters the recruitment process through that individual's termination or separation from the company.

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*For HR managers, one of the top challenges related to employee legislation is being able to stay current and compliant with the unique laws of each jurisdiction, even as they continue to evolve.*

By way of example, in France, employees have the right to “disconnect” — to not engage with work-related digital communications, like emails and calls, outside of working hours. They also aren’t obligated to perform any discretionary hours above their contracted work hours. Whereas, Mexico has profit-sharing legislation where employers must give employees a percentage of their profits.

There are also headcount triggers where, as your headcount grows in a particular country, so do your employer obligations.

- In Japan, a company with ten or more employees must abide by local Japanese work regulations.
- In the UK, a company with five or more employees must comply with additional health care and salary obligations.

In addition to those examples, there are also supplementary frameworks that can apply. Europe’s collective bargaining agreements (CBAs) are a good example (France has hundreds of them across many industries and sectors). These can apply to your business as you expand.

## ***Key Takeaway***

**Make sure that you have a thorough understanding of all laws and requirements for employees in the country and specific jurisdiction that your company is considering for global expansion. Consider both your company’s short-term and long-term expansion plans to ensure that expansion into a particular country is feasible for you.**





# The Biggest HR Challenges in 2024

COVID was a huge catalyst for many HR practices at a global level, forcing HR professionals to quickly learn and adapt in ways that they had never anticipated. The pandemic also spurred an unprecedented increase in remote work and global expansion. In 2024, not only are more companies expanding their global footprint, but they are also being affected by geopolitical issues, from the war in Ukraine to the cost of living crisis to tensions in the Middle East. These tensions inevitably will affect people—the very employees that HR professionals need to manage and support.

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*In 2024, HR will have a seat at the table with CEOs and CFOs, all of whom will be working in concert to direct the company's growth and global business strategy to ensure that it stays viable and competitive.*



# HR's growing leadership role in managing talent acquisition and retention

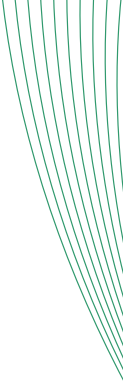
Driven in part by the explosive growth in current (and aspiring) expat employees, HR will help companies future-proof their organizations, ranging from succession planning to creating and deploying the talent acquisition and retention strategies necessary for today's highly competitive global market.

In particular, HR will play a key role in helping companies strike the right chord in balancing the wants and needs of employees (particularly expats and remote workers) versus those of leadership. HR managers have already proven themselves creative thinkers, from initiating a 4-day work week to providing benefits to encourage people to return to the workplace on a hybrid, if not full-time, basis.

Focusing on talent retention is particularly important in valuations related to mergers and acquisitions—ensuring that the right employees transfer as part of the acquisition. HR leaders need to be prepared to play a more significant role in managing complex negotiations with unions and work councils and have a solid understanding of the laws and regulations for each country. The burden of communicating these complex situations accurately and positively to employees and across teams (from finance to legal) will fall squarely on the shoulders of HR.

## **Key Takeaway**

**HR leaders need to prepare to play increasingly greater roles in managing high-stakes employer negotiations with unions and work councils. Success will depend on the HR professional's ability to thoroughly understand the country- and jurisdiction-specific laws and rights that govern how employees must be treated (many of which are more favorable to employees than those in the US).**



# The Effect of Digital Nomads on HR

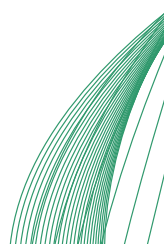
When COVID prompted many employees to move and work abroad on a permanent or semi-permanent basis—becoming “digital nomads”—companies lacked established conventions on how to manage these employees.

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*HR will continue to play a critical role in navigating which responsibilities, obligations, and benefits digital nomads should be given within a particular organization—striking a balance between the needs and wants of employees and those of leadership.*

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In many cases today, employers are still playing catch-up regarding where their employees live and work. They lack the means to accurately track where employees are working from and the understanding of how those locations can create compliance and tax liabilities for employers. HR leaders can mitigate this by developing an accurate picture of their employees (for example, by creating census policies that require workers to update where they reside).





## Potential risks and liabilities for companies who employ digital nomads

An employee's geographic location (where they live and work) can have huge implications for an employer's responsibilities to stay tax-compliant in a particular country. These laws and employer obligations for digital nomads are treated differently depending on the country in which they reside.

In Belgium, for example, employers must provide a home-working allowance for remote employees. In Italy, employers need to create a home-working agreement dictating the terms and conditions of that arrangement. In the US, each state has different provisions about which costs need to be reimbursed to employees who work from home.



*Countries themselves may complicate the issue of remote workers. Some countries saw revenue fall during the pandemic, and they may be particularly aggressive about enforcing tax liabilities for remote workers as they try to boost their taxable income.*



## **If you have digital nomads as employees, these risks may apply to you:**

- If a few senior employees reside and work in a revenue-generating role overseas, this may risk the Permanent Establishment for your organization and leave it liable to paying corporate taxes.
- Your company may also be required to pay into that country's social security fund.
- Depending on the country, you may be obligated to acquire work permits for those employees (or, as in the case of the UK and the Netherlands, a work sponsorship license for foreign nationals).
- Some fully remote employees may have dual tax requirements in their home country and the one in which they currently reside and work.

### ***Key Takeaway***

HR leaders will need to ensure that their organizations accurately understand where their employees reside and work. In many cases, they'll need to create internal policies that ensure this data is always current. To help their organizations stay compliant with digital nomad employees, HR professionals must also be well-versed in the laws and requirements of all countries where their employees reside.

# The Role of HR in Data Protection and Privacy Law Compliance

GDPR is the EU’s data privacy and protection law—one of the most stringent in the world. The UK has its own version, as do other countries ranging from China and Russia to Australia, Brazil, Mexico, and many more. Generally, these rights-based laws (where there is a “right” to own your data as a consumer) stand in contrast to those of the US, which has a more state-driven “harms prevention” approach that seeks to prevent harm by industry or sector (they vary by state). Only 13 states in the US currently have data privacy laws.

As the most stringent and thorough data protection law, the GDPR has been in effect since 2016 and continues to evolve. It’s important to note that we’re seeing other countries outside of the EU taking different pieces of the GDPR and adopting that into local legislation as well.

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*The key challenge for HR in 2024 will be to balance compliance (ensuring your organization is meeting the real robust standards of the law as well as other data protection) while continuing to be entrepreneurial and agile from a business perspective.*

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Because these two practices can sometimes be at odds with one another, it can be a tricky balance for HR to avoid getting caught in the middle.





## How HR can mitigate the employer burden of GDPR and data protection laws

One way HR can mitigate this risk is by mapping how data is collected and flows through an organization. Doing so allows you to create a system to ensure that the organization complies with all the data protection laws applicable to employees working abroad. In fact, many organizations set up an HRIS system (Human Resources Information System) to standardize and make employee data management more efficient, especially as employee locations change and the business grows.

Because HR professionals routinely see the flow of personal data from employees, they have an ideal line of sight for evaluating gaps and vulnerabilities in an organization's data protection compliance practices. This is particularly relevant for digital nomads in a non-EU-based company (e.g., the US), where employees may be residing and working from an EU country, but their personal data is transferred to servers housed in another country. Transferring that data from a country where GDPR is in effect to one where the laws are different can leave the company vulnerable to non-compliance.

### *Key Takeaway*

**HR will need to develop systems (including HRIS) that accurately capture the full breadth of all personal employee data that flows through the organization. HR leaders must have a robust understanding of all facets of data protection and privacy laws, from GDPR and beyond, with a particular emphasis on how those laws affect digital nomads.**



## GDPR and employee relations and terminations

GDPR and data protection laws also affect employee relations issues and terminations. Under GDPR, employees can submit a Subject Access Request, whereby the employer is obligated to furnish an employee with all of their personal information on file for that individual. This information is very broad, from emails and texts or private social media messages to everything in a personnel file. The employee has a right to use this material at a later stage through an employment tribunal or disciplinary and grievance termination proceedings.

HR should play a key role in educating managers on the impact that data protection laws can have on an organization's obligations to disclose even informal communications with employees, whether in the EU or another country.

GDPR obligations apply to any company, regardless of its size. We've seen significant fines levied on companies as large as Meta and Amazon to small businesses. Violations can result in severe penalties. Further, data protection laws go far beyond GDPR. For example, if your US-based company is transferring personal employee data between the UK and the US and vice versa, there may be other policies that your organization will need to adhere to if those individuals are European and based outside of Europe.



## ***Key Takeaway***

HR leaders need a direct line of sight into how managers communicate with their employees, from informal messaging (e.g., SMS or WhatsApp) to email and personnel file entries, and how data protection laws govern these communications. HR will then need to educate managers on the impact of those laws on an organization's obligations to disclose communications with employees.





# The Key to HR Success in 2024? Applying the Right Information to Increasingly Complex Global Challenges.

In 2024, HR leaders need to be prepared to tackle all types of legal and administrative challenges associated with unforeseen global growth, regulations, and employee mobility. To succeed, HR professionals will need to be creative and proactive in developing policies to manage growth, retain top talent, and stay in compliance in every country in which they have a footprint, from digital nomad workers to a legal entity. On top of it all, HR professionals will continue acting as trusted internal experts to organizational leaders and key stakeholders. But even HR experts can't do it all. Leveraging outside expertise will be key to staying on top of the evolving complexities of global expansion.

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Kathryn has over 15 years' experience as a Human Resources professional and has been advising international companies for over 13 years on their global strategic and operational HR matters.

She has extensive experience supporting clients through multi-country HR initiatives such as mergers and acquisitions, contentious terminations and scaling international teams. Her expertise extends to building HR processes, policies, talent management, reward and employee engagement support. Kathryn has a proven track record of successfully supporting both public and private sector organizations to build their international workforce and develop and align their global HR strategy to achieve their commercial goals.

## Get Started Today

**HSP Group** is an end-to-end global expansion solutions provider focused on helping companies scale their operations overseas effectively and efficiently. We are the only global expansion expert to offer growing companies a full suite of end-to-end solutions designed to help them scale to any size, in any country.

*Our in-country experts have delivered the full spectrum of global expansion solutions—from EoR to entity set-up and management—across more than 100 countries (and counting). HSP brings full payroll, accounting, tax, legal, compliance, and HR services to corporate teams, integrating with in-house staff to guide and execute across every domain.*

Contact us today so that we can start delivering your custom solutions.