La Kanzlei

A heart attack, the symptoms of which have already occurred before the working time, is to be considered as an occupational accident

Arbeitsrecht



The employer of a salesman denied the existence of an occupational accident because he suffered a heart attack before starting work in the shop and died a few days later in hospital. The employer claimed in court that from a medical point of view the incident had started before he arrived in the shop and the employee hadn't started work at this point. What was at stake was the special working health insurance coverage and compensation for occupational accidents and illnesses.

However, the judgment of the Court of Cassation of 29 May 2019 dismissed those arguments: Based on the provisions of the Social Security Code, which state that any accident occurring as a result of or during work constitutes an accident at work in the sense of the social security provision, and on the principle already established by the European Court of Justice in 2015 that working time can also begin before the actual start of work, the judges ruled that : Since the employee had already arrived at the shop, should actually have started work, and was in principle already under the supervision of the employer, this accident could indeed be qualified as an occupational accident.

Practical advice:

Since employers' liability for accidents at work is very strict in France, it is strongly recommended that these risks be covered by appropriate insurance. A French insurer is required for this purpose, as German insurance companies (and also the professional associations) do not cover such risks for occupational accidents in France.

Qivive
Rechtsanwalts GmbH

qivive.com

Köln[D]
Konrad-Adenauer-Ufer 71
D – 50668 Köln
T + 49 (0) 221 139 96 96 - 0
F + 49 (0) 221 139 96 96 - 69
koeln@qivive.com

Paris[F]
50 avenue Marceau
F – 75008 Paris
T + 33 (0) 1 81 51 65 58
F + 33 (0) 1 81 51 65 59
paris@qivive.com

Lyon[F]
4 Pl. Amédée Bonnet
F – 69002 Lyon
T + 33 (0) 4 27 46 51 50
F + 33 (0) 4 27 46 51 51
lyon@qivive.com

Strasbourg[F]
10 Pl. Gutenberg
F – 67000 Straßburg
T + 33 (0) 3 92 12 02 20
F + 33 (0) 3 92 12 02 21
strasbourg@qivive.com