

New government grant to preserve jobs

Slovak authorities have a new tool to help employers who, in spite of experiencing economic problems, decided not to cancel jobs. The official name of this new “weapon” is “grant for support of maintenance of working positions”. Who is eligible?

Recent law number 96/ 2013 Coll. in effect as of May 1, 2013, empowers the Labor, Social Affairs and Family Agency (Úrad práce, sociálnych vecí a rodiny - hereby the “Agency”) to support businesses that suffer serious economic problems for three or more months by means of “a grant for support of maintenance of working positions” (hereby the “Grant”). A significant obstacle seems to be the need for the existence of an employee representative organ in the receiving company of such a Grant.

A receiver of the Grant may only be an employer fulfilling certain conditions. However, even if all conditions are fulfilled, there is no obligation for the Agency to provide the Grant. The employer does not have any direct legal entitlement for its provision. It is up to the Agency to decide.

According to law, an employer needs to meet and prove several legal conditions in order to be entitled to apply for the Grant. Conditions are:

1. Existence of an agreement between employer and employee representatives about serious operating reasons entitling the employer not to pay full, but (minimum) 60% of employee salaries.

The term “serious operating reason” is not defined by law. It is up to the parties to decide which reasons are “serious” enough. What is serious enough is relative to the company, market situation, and industry branch. Seriousness will eventually be evaluated by the Agency. That is why cautiousness rather than “creativity” in defining the serious operating reason is advisable in order to successfully apply for the Grant.

The new law does not expressly state that there needs to be employee representatives active in the receiving company of the Grant. It appears, however, that in order to receive a Grant the company must have some labor force representation in place, either in the form of labor unions or a labor council/ trustee.

According to some legal opinions, the agreement between the representatives of the employees and employer can be substituted by individual agreements between the employer and each of the employees. This idea is not only complicated to materialize (imagine tens or hundreds of individual agreements), but it contains also the risk that the

Agency might consider this violation of the law and decline provision of the Grant.

2. Actual presence of serious operating reasons (see point 1) for a period of at least three months prior to filing the application for the Grant.
3. Preservations of working places i.e. non-cancellation of working places in spite of serious operating reasons.
4. The Grant may not be provided to support the working place, in case some other kind of public financial assistance was provided in relation to the working place in question.
5. Filing an official application for the Grant.
6. The application must be accompanied by a so called “realization plan for elimination of work restrictions” as well as a declaration of the expected end of the provisional period. This condition implies that the Grant may only be provided in cases that restoration of the standard operation of an enterprise seems possible.

If the serious operating reasons still continue and the above conditions are met, the Agency may decide to provide the Grant. The Grant is provided on the basis of a contract between the employer and the Agency.

Following conclusion of the contract between the employer and the Agency:

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1. The employer may decide to shorten the working time by a minimum of 6% and maximum of 20% of the total hours worked in a week (i.e. the weekly working time may be reduced by approximately two to eight hours for a 40 hour working week).
2. The Agency shall refund 50% of the salary compensation for the time the employees did not work due to the above decision of the employer (however at most 50% of the average Slovak salary).
3. The Grant may only be provided:
 - during a maximum period of 12 months (the actual length of the period depends on the agreement between the employer and the Agency)
 - within 12 months, the Grant will be provided only for a maximum of 60 work days
 - in relation to days when the employee was paid salary compensation due to operational restrictions

In case no labor representation is present, an employer may consider initiation of its presence. Each employer should, however, consider advantages as well as potential problematic areas (the need to create and then to tolerate and cooperate with employee organs – labor unions, employees council).

The above article is of an informative nature only. It does not constitute a comprehensive legal opinion. For further details please contact us at www.masnyklegal.sk.



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