

The new labor law: Wake-up call to employers!



On August 23, 2012, the latest amendment to the Labor Code was presented to the National Council of the Slovak Republic. Several provisions of this amendment reflect the legal status before September 1, 2011, when the major amendment to the Labor Code became effective. The proposed changes to the Labor Code mainly affect employers.

Legal Framework

As of January 1, 2013, an amendment to Act No. 311/2001 Coll. of the Labor Code (the "Labour Code Amendment" or the "Amendment") will go into effect. As the legislative procedure has not been concluded yet, it is possible that the final wording of the Amendment will change, however, major changes are unlikely.

It must also be noted that Act No. 461/2003 Coll. on Social Insurance (the "Social Insurance Act") has been revised and amended, which has a significant impact on employers and employees as well as on those who work outside of an employment relationship under the Labor Code.

Significant changes

Severance payment - According to the current wording of the Amendment, the parallel application of the termination period and the severance payment shall again return to the Labor Code.

The amount of an employee's severance payment claim will be graded according to the number of years the employee has worked for the employer. Employees who have worked for the same employer for several years (the Labor Code Amendment even stipulates the upper limit of 20 years and more), will be entitled to a higher severance payment. There are also slight differences

in the amount of the severance payment depending on the means of termination of the employment relationship. Those given a notice of termination for organizational or health reasons will be treated differently than those with an agreement of termination for organizational or health reasons.

The reintroduction of the dual application of the claim for severance payment together with the notice period shall increase the costs employers must pay when terminating the employment relationship.

Notice period

The length of the notice period will not change. The standard notice period is one month, and two or three months respectively in cases of a termination by notice for organizational or health reasons. However, it will be possible to agree on a longer notice period than stipulated by the Labor Code.

Participation of the employees' representatives at the termination of the employment relationship

Under the Amendment, any termination of the employment relationship by the employer, including a termination with immediate effect, must be discussed with the employees' representatives in advance. If the employer does not fulfil this obligation, the termination of the employment shall be considered invalid.

Employment for a definite period of time

Under the Amendment, employment for a definite period of time may be concluded for a maximum period of two years, instead of the current three years. Further, the extension of the employment for a definite period of time will be possible only twice within two years, instead of the current possibility to extend three times within three years.

Wage compensation in case of invalid termination

The Amendment increases the amount of wage compensation granted by the court in cases of an invalid termination of employment from the current maximum of 9 months to 36 months. This increase presents a higher risk for employers in cases of court proceedings initiated by employees after invalid termination of employment. However, the Amendment incorporates the provision of the Labor Code effective before September 1, 2011. According to this provision, the employer may ask the court to decide whether the employer's obligation to provide wage compensation for more than 12 months will be decreased or denied.

Change of the Social Insurance Act

One of the significant changes is the new definition of the term "employee" for the purposes of the social insurance. As an employee is also considered,

amongst others, a natural person who is in a legal relationship on the basis of a specific work agreement and on the basis of a work activity agreement. On the other hand, a natural person who is in a legal relationship on the basis of a temporary student work agreement and a natural person who is a receiver of certain types of pensions and is in a legal relationship on the basis of a specific work agreement and work activity agreement are not considered as employees for the purposes of the social insurance. This change goes into effect on January 1, 2013.

The amendment to the Social Insurance Act also introduces a new assessment basis for the purposes of social insurance, which results in higher contributions from employees, employers and self-employed workers.

Conclusion

Primarily, the changes to the labour law will strengthen the position of employees, which is likely a result of a socially-oriented government. These changes mainly impact employers by increasing the costs connected with the termination of employment as well as with the wage compensation in case of an invalid termination of employment. Despite the fact that the changes outlined above are rather for the benefit of employees, the main aim of the Amendment presented by the Ministry is to support a balance of rights and corresponding obligations between the employer and the employee.



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