

Sabbatical leave in Slovakia

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Sabbatical leave is a relatively unknown term to many people in Slovakia. It was introduced here in its formal sense by international companies but as yet has not been given any legal status in Slovak legislation. It is an opportunity offered by an employer to employees as a reward for the loyalty and dedication they have demonstrated to that employer. It enables the employees to take a well-earned break and to recharge batteries or pursue personal interests.

In Europe, the sabbatical concept first appeared in ordinary employment relationships in Finland in 1996; then in 2002 Sweden adopted the practice for State employees in a nationwide trial which lasted until 2005. Currently, sabbaticals are popular in Nordic countries, though it is not expressly regulated in their legislation. Its regulation in legislation in Western countries varies. The UK, for example, does not provide for a sabbatical in any statute while France does provide for it (congé sabbatique), permitting a duration of five to 11 months, but with an obligation to continue contributions to the country's social security system during that time. The length of a sabbatical varies, but is typically anywhere from one month up to one year. Slovak legislation does not expressly provide for this employee benefit. The employer can provide for sabbatical leave in internal regulations, whereby it informs employees well in advance of the conditions attached. For example, those who have worked for a company for five years are entitled to a one month paid sabbatical. For those who have worked for the company for 15 years, the paid sabbatical leave increases to six weeks and for 20 years' service employees are entitled to three months' paid leave. Some employees may request to trade paid sabbatical leave for cash, but companies offer sabbatical leave as a way for employees to

recuperate, so there is no cash alternative.

At the same time, employers need to remember to not discriminate when deciding whether to grant a sabbatical – the decision must be made objectively. Objective criteria provided for by the employer may include length of employment or seniority of the employee. Remember that a policy based on length of service may be vulnerable to allegations of indirect age discrimination, though we think that it would generally be justifiable and therefore ultimately lawful.

Alternatively, it may be agreed as a one-off measure to help an employee to address health or family issues or to start a transition into retirement. The key point for employers must be to retain the sabbatical as a

discretionary benefit, at least as to its timing, so they are not left without key personnel at difficult or pressured times or with too many people off at once.

In any case, the conditions of the sabbatical must be agreed upon by the employee and the employer in advance to avoid unnecessary disputes. If not agreed in advance, the employee is not entitled to wages during sabbatical. It is also advisable to agree in advance on the use of employee benefits such as company cell phone, computer, company car, parking space, free fitness center pass, etc. What will be the impact on pay or promotion or bonus processes? What right will there be to the same job on his return? What if there isn't one available by then?

In addition, the duty to pay national insurance contributions in Slovakia is not necessarily suspended during a sabbatical. In the case of paid leave, the payment duty still applies for social security insurance purposes and so the employer will continue to make contributions to Sociálna poisťovňa (the Social Insurance Agency). In the case of unpaid leave, the employer must inform the Social Insurance Agency of an interruption in insurance payments, (though the termination of social security insurance by the employer does not prevent employees from becoming voluntary self-payers if they wish to maintain their contributions record).

The situation is similar with health insurance prepayments. Paid leave is subject to health insurance prepayments under the Slovak Act on Health Insurance – an insuree does not cease to be the employee under the Act just because he is on sabbatical leave and the employer has an obligation to continue to pay contributions for him. In unpaid leave, employees are obliged to register as self-payers with the health insurance company within eight days from the commencement of unpaid leave and to pay the insurance prepayments themselves if they wish to retain coverage.

