

**August 2014**

## **In focus: Law on Amendments and Supplements to the Labor Law**

The National Assembly of the Republic of Serbia on July 18<sup>th</sup>, 2014 adopted the Law on amendments and supplements to the Labor Law, which has been published in the Official Gazette of the Republic of Serbia no. 75/2014 and entered into force on July 29<sup>th</sup>, 2014 (hereinafter referred to as: the “**Amendments to the Law**”), except the provisions of Article 54 of the Amendments to the Law regulating the statement of account of salary and compensation of salary, which shall be applied upon 30 days from the date of entering of the Amendments to the Law into force, i.e. from August 29<sup>th</sup>, 2014.

Among the most significant novelties adopted by the Amendments to the Law, we emphasize the following:

### **1. Rulebook on the organization and systematization of jobs**

The Amendments to the Law envisages that the obligation of rendering the Rulebook on the organization and systematization of jobs has an employer who employs ten or more employees. At the same time, the provisions regulating the content of such Rulebook have been changed.

### **2. Employment Agreement**

The provisions that stipulate the mandatory content of the Employment Agreement have been amended so that an employment agreement does not need to include elements for determining the basic earnings, working performance, compensation of salary, increased salary and other income of the employee, time limits for the payment of salary and other income the employee is entitled to, the duration of daily and weekly working hours, if they are set forth labor rulebook or other employer’s act in accordance with the law. In this case, an employment agreement has to contain information on the employer’s act by which those elements are set forth at the moment of concluding the employment agreement.

The employer is obliged to keep the employment agreement i.e. another contract in accordance with the Labor Law or their copies in his seat or other business premises or another place depending on where the employee or engaged person works.

### **3. Employment relation for a definite period of time**

The Amendments to the Law prolong the period of employment relation for a

definite period of time, so that, instead of the previously prescribed 12 months, now there is the possibility of concluding one or more employment agreements for a definite period of time on the basis of which the employment relation with the same employee, intermittently or continuously, cannot be longer than 24 months.

The Amendments to the Law introduce new exceptions to the abovementioned rule so that now there is the possibility of concluding an employment agreement for a definitive period of time lasting more than the legally prescribed maximum of 24 months in case of entering into an employment agreement with a foreign citizen, for work on a project whose time is predetermined, for work with a newly founded employer, as well as if the employment agreement is concluded with an unemployed person who lacks no more than five years for fulfilling one of the conditions for retirement.

#### **4. Employment relations for work done outside the employer's premises and employing household help**

The Amendments to the Law stipulate that the employment relation for performing jobs outside the employer's premises, besides work at home, includes distance work.

Also, the obligation of registering the employment agreement for performing jobs outside the employer's premises and jobs of household help with the local government body has been repealed.

#### **5. Working hours**

The Amendments to the Law introduce the possibility for the employer and employee to reach an agreement that the employee shall perform jobs from home for one period of the working hours within the contracted working hours.

In addition, certain changes have been made regarding the schedule and re-scheduling of working hours (introduction of sliding working hours, the possibility of determining the average weekly working hours on a monthly basis, etc.).

#### **6. Rest periods and leaves**

Provisions regulating annual leave have been amended in view of the terms for getting the right to use annual leave, using annual leave in parts, the right to a proportional part of annual leave, as well as the manner and deadlines for delivering the decision on annual leave.

Also, the Amendments to the Law explicitly prescribe the impossibility of substituting the right to annual leave with monetary compensation, except in the event of termination of the employment relation. The employer's obligation to issue the certificate on used days of annual leave to the employee in case of termination of employment has been repealed.

The length of the total duration of paid leave has been reduced from 7 to 5 working days in the course of a calendar year.

#### **7. Salary, compensation of salary and other incomes**

The Amendments to the Law repealed the mandatory increase of salary for work in shifts.

The Amendments to the Law bring novelties concerning the relevant period for calculating the increased salary for years of service and severance for redundancy, so that now the only relevant time is time spent at work with a present employer, the preceding employer in case of status changes, i.e. change of the employer and time spent at work with entities related to the employer. Also, the Amendments to the Law stipulate that the amount of severance pay cannot be less than the sum of one third of the salary of an employee for each full year of employment service within the relevant period.

In addition, the provisions concerning the base for calculating the compensation of salary have been amended, in such a way that the same shall be calculated based on the amount of average salary of an employee for the 12 preceding months.

The minimum retirement severance pay has been reduced and now amounts to two average salaries in the Republic of Serbia. For the purpose of enabling more efficient realization of employees' rights, the Amendments to the Law stipulate that a statement of account of salary and compensation of salary represents an executive title in terms of enforcement.

## **8. Amendments to the employment agreement**

The Amendments to the Law prescribe the possibility for temporary transferring an employee to another corresponding job on the basis of a decision, without offering the employee an annex to the employment agreement. There are also other cases in which there is no obligation of implementing the procedure for offering to an employee an annex to the employment agreement.

## **9. Termination of employment relation**

- The Amendments to the Law bring many novelties concerning termination of the employment agreement, such as:
- Limitation of the notice period determined by the general act or the employment agreement in the event of cancellation of the employment by an employee, to 30 days;
- Defining specific cases of violation of work duty and work discipline;
- Introducing the possibility of imposing disciplinary measures instead of terminating the employment agreement, in case of violation of work duty or work discipline or in case that the employee does not achieve satisfactory work results or does not have necessary knowledge and abilities for performing the jobs he/she is employed for (temporary suspension from work without compensation of salary, a monetary fine, a termination warning notice);
- Changes to the provisions on the minimum time limit for an

- employee's response to a termination warning notice, so the same is 8 days instead 5 working days;
- Defining the preliminary procedure and conditions for the imposition of disciplinary measures and termination of the employment agreement in case that the employee does not achieve satisfactory work results or does not have necessary knowledge and abilities for performing the jobs he/she is employed for;
  - Shortening of the period during which an employer cannot employ another person to perform the same job in case that the employment agreement was terminated due to redundancy, to 3 months;
  - Extension of the subjective and objective limitation period for termination of the employment agreement by the employer in case the employee does not achieve satisfactory work results or does not have necessary knowledge and abilities for performing the jobs he/she is employed for, violation of work duty or work discipline, to 6 months and one year, respectively;
  - Shortening of the notice period in case of termination of the employment agreement due to unsatisfying work results, i.e. lack of qualifications and skills for performing the jobs the employee is employed for, so that the same cannot be shorter than 8 nor longer than 30 days;
  - Stipulating that if the court, while acting on an employee's claim of

unlawful employment termination, determines that there was a legal basis for termination of employment, but that the employer acted contrary to the provisions

- Regulating the procedure for termination of employment, shall reject the employee's claim for return to work, and award to the employee the amount of up to 6 salaries of the employee as compensation of damage;
- Shortening of the time limit for initiating the proceeding before the competent court against the decision that violates an employee's right to 60 days.

#### **10. Supervision and penalty provisions**

The Amendments to the Law regulate in more detail the competencies of an inspector in his surveillance, as well as the obligations of an employer, responsible person with the employer and employee in connection to this. Also, the maximum amount of fines for offences has been increased and new offences have been introduced.

#### **11. Harmonization with the Amendments to the Law**

Employers are obliged to harmonize the rulebook on organization and systematization of jobs with the provisions of the Amendments to the Law within 60 days as of the date of its entering into force, i.e. until September 28th, 2014.

With employees who have established employment relations up to the date of entering into force of the Amendments to

the Law, employers may conclude employment agreements or annexes to employment agreements within 60 days as of the date of entering of the Amendments to the Law into force. Otherwise, the existing employment agreements shall remain in force in those parts which are not contrary to the Amendments to the Law.

The provisions of the collective agreement i.e. the employer's labor rulebook that are in effect on the date of entry into force of the Amendments to the Law, and which are not in conflict with them, remain in force until their expiration date, or until the conclusion of a collective agreement, or rendering of the labor rulebook, but in any case no longer than 6 months as of the date of entry into force of the Amendments to the Law.

Having in mind all the above said, it is necessary for employers to, within the aforementioned terms, harmonize their general acts and employment agreements with the Amendments to the Law.

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